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POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

Reasonable Accommodation and Sheltered Workshops for People with Disabilities: Costs and Returns of Investments

STUDY

Abstract

This Policy Department A study aims to provide the Employment and Social Affairs Committee (EMPL) with an overview of developments on costs and returns of investments for reasonable accommodation, sheltered workshops and labour policies for people with disabilities together with an economic analysis of selected measures.

This document was requested by the European Parliament's Committee on Employment and Social Affairs.

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LIST OF ABBREVIATIONS

ALMP	Active Labour Market Policy
ANED	Academic Network of European Disability
AWPIH	Agence Wallonne pour l'Emploi de Personnes Handicapées
BCR	Benefit-Cost Ratio
BHPS	British Household Panel Survey
CAD	Computer-Assisted Design
CBA	Cost-Benefit Analysis
CEN	European Committee for Standardisation
CENELEC	European Committee for Electronic Standardisation
DAC	Disability Access Certificate
DALD	Day-to-Day Limitation Disability
DDA	Disability Discrimination Act
EASPD	European Association of Service Providers for Persons with Disabilities
EDeAN	European Design for All e-Accessibility Network
EDF	European Disability Forum
ESA	Employment and Support Allowance
ESAT	Etablissement et Services d'Aide par le Travail
ESF	European Social Fund
EU	European Union
EUSE	European Union of Supported Employment
GDP	Gross Domestic Product
GVA	Gross Value Added

HUF	Hungarian Forint
IES	Institute for Employment Studies
IGOS	Interest Group on Occupational Services
ILO	International Labour Organisation
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
PES	Public Employment Services
PFRON	Polish State Fund for Rehabilitation of Disabled People
PLMP	Passive Labour Market Policy
PWD	People with Disabilities
RA	Reasonable Accommodation
SEK	Swedish Krona
SGB	German Social Code
SROI	Social Return on Investment Analysis
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UPIAS	Union of the Physically Impaired Against Segregation
VET	Vocational Education and Training
WAI	Web Accessibility Initiative
WEAG	Workplace Equipment Adaptation Grant
WHO	World Health Organization

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EXECUTIVE SUMMARY

This study provides an overview of the **policy measures in place to encourage and support the employment of people with disabilities** and in particular: sheltered workshops; reasonable accommodations; alternative labour market policies; and Universal Design. It provides information on developments on costs and returns of investment for these measures, detailed descriptions of the situation in six Member States (Belgium, Germany, Hungary, Spain, Sweden and the United Kingdom) and an economic analysis of selected measures. Costs and returns of investments consist of the **costs** associated with the intervention, their **effects** (the extent to which the objectives have been achieved), and their **benefits** (the monetary value of the effects) – this may include intangible benefits such as quality of life as well as financial returns.

The employment of people with disabilities

The rate of unemployment of people with disabilities (18.3 %) is almost twice that of the general population (9.9 %).

There are essentially two main definitional models of disability in the EU. According to the 'medical model', disability is a condition which concerns the person. The 'social model' of disability, on the other hand, is based on the idea that society is responsible for disabling people by designing the world to suit the majority of people rather than people with disabilities. A further difficulty when assessing the interventions relating to the employment of people with disabilities is the wide scope of disabilities and their differences.

Sheltered workshops

Beyond the fact that they are organisations which specifically employ disabled people, **there is no common definition of sheltered workshops in the EU**. There are two main types of sheltered workshops: traditional sheltered workshops are long-term permanent places of employment for people whose disabilities preclude them from entering the open labour market. Transitional sheltered workshops aim to provide people with disabilities with the support and skills needed to access non-sheltered employment.

The analysis conducted during this study indicates that **traditional sheltered workshops are effective at achieving the objective of providing employment for disabled individuals. However, the value created from sheltered workshop employment in terms of productive output is outweighed by the (ongoing) costs of its operation.** Thus sheltered workshops appear not to be cost-beneficial when **the intangible benefits that go along with employment are excluded**. These benefits may be significant and could lead a sheltered workshop to be deemed cost-beneficial.

There is a move towards the transitional model of sheltered workshops in the EU, which has increased during the financial crisis. **Those increasingly focus on Vocational Education and Training, and if effective at getting people into employment in the open labour market are likely to be more cost beneficial than the traditional model.** However, **only 3 % of people in transitional sheltered workshops move on to the open labour market.**

Reasonable accommodation

Reasonable accommodation are the adjustments made to accommodate the needs of people with disabilities in order to ensure they have access to the workplace on an equal footing with others. The individual nature of the reasonable accommodation provision is well represented in public policy and legislation. Trends across the EU are moving towards greater focus on the abilities of the people with disabilities as opposed to lost working capacity.

All Member States offer grants or subsidies to employers to provide reasonable accommodation. These incentivise employers to adapt the workplace in order to hire people with disabilities. They also serve as an incentive for employers to provide the accommodations required by law, therefore reducing the potential cost of enforcement.

Evidence suggests that investments in reasonable accommodation are cost beneficial and provide a return in terms of increased productivity and reduced absenteeism.

Alternative labour market services

Alternative labour market services are very heterogeneous and include the following measures.

Active labour market policies (ALMP), which equate to positive action, refer to interventions in the labour market to support more people with disabilities getting into employment. **Cost-benefit analyses conducted on two schemes have shown that well designed and managed ALMPs are likely to be cost-beneficial.** This is partly because they involve an initial investment in training support for workers rather than requiring ongoing support.

Passive labour market policies (PLMP) such as tax breaks or cash incentives are more controversial. In some Member States, they do not appear to have a positive impact on assisting people with disabilities access employment. However, **PLMPs appear more efficient where a large spectrum of policies are accessible to people with disabilities and when they are provided for a limited period of time.**

The most common type of specific measure in the EU is employment quotas for people with disabilities. **An analysis of the German quota system performed as part of this study shows that quotas can be cost effective, but that the penalty structure plays an important role in the effectiveness of the policy.**

In a similar vein, all Member States have introduced anti-discrimination legislation (a type of **general measure**). An analysis of the **UK** Disability Discrimination Act demonstrates that this type of legislation has a positive effect on the employment rate of people with disabilities. **It is reasonable to assume that these benefits outweigh any enforcement costs associated with the legislation and thus effective anti-discrimination legislation can be deemed cost-beneficial.**

Universal Design

Based on the social definition of disabilities, **Universal Design seeks to ensure that the needs of people with disabilities are taken into account in the design of creating working surroundings.** This applies to the built environment as well as ICT systems, transport and so on. At the EU-level, Universal Design has been introduced in the 2004 Public Procurement Directive as 'Design for All'.

Adoption of Universal Design standards will gradually supplant the need for many ad hoc accommodations which are currently required to facilitate employment of people with disabilities.

European Social Fund

The European Social Fund Regulation for 2007-2013 increased the emphasis on the employment situation and social inclusion of people with disabilities compared to the previous programming period. The Regulation's rhetoric encouraged the increased involvement of economically inactive people, such as people with disabilities, in the labour market with the target of combating social exclusion. This resulted in a number of key ESF

priority themes and shared actions with the potential to positively impact people with disabilities.

Some of the most interesting examples identified by this study were funded by the ESF. However, **it is not possible to verify the implementation of this EU-wide support for people with disabilities due to a number of key issues**, including issues regarding data collection and reporting. The ESF also played a positive role in mitigating the effects of the economic crisis in most Member States.

Policy recommendations

Each of the policy responses assessed complement each other and have merits in their own right. The European Parliament could encourage the development of a common typology of measures. This would facilitate the collection of **comparable data on the return on investment of these measures**. Additionally, Member States should be encouraged to build monitoring and evaluation systems to create an evidence-base on which future policy decision can be made.

In conjunction, scientific studies which provide robust data on the specific interventions could also be financed and encouraged through programmes such as Horizon 2020.

The Parliament could continue to encourage anti-discrimination policies and funding supporting employment for people with disabilities. It could encourage the use and adoption of the social model of disabilities. This would have the advantage of fostering innovation in the field of Universal Design, ultimately helping to share the costs of adaptations to be made through society as a whole rather than simply by employers or governments.

Where firms are required to pay financial penalties for failing to employ enough people with disabilities, such as under quota systems or anti-discrimination legislation, **the European Parliament could encourage Member States to use income from non-compliance fines to ease the financial burden of measures facilitating the employment of people with disabilities.**

1. BACKGROUND

KEY FINDINGS

- **The rate of employment of people with disabilities in EU Member States is under 50 %, compared to over 70 % for the general population.** The rate of unemployment of people with disabilities is almost twice that of the general population (18.3 % v. 9.9 %).
- There are **variations in definition of disability across Member States.** Definitions fall into two main classes: those which focus on a '**medical model**' of disability where disability is perceived as a condition which concerns the person rather than society as a whole, and those which focus on the '**social model**' of disability which is based on the idea that society is responsible for disabling people by designing the world to suit the majority of people.
- There is a robust legal framework at international level and in the EU to ensure the equal treatment of people with disabilities with regards to access to employment. These are enshrined in the Treaties (Articles 10 and 19 TFEU) and in specific legislation (Directive 2000/78/EC).
- The main types of policy responses target different populations and problem drivers. They include: sheltered workshops, reasonable accommodation, alternative labour market services and Design for All. This typology forms the basis for the structure of this report.

1.1. Policy context

The employment of people with disabilities poses a significant challenge for Member States. **Employment rates for persons without disabilities in the EU Member States are above 70 % whereas, in the majority, the employment rate for disabled persons is under 50 %¹.** This is further reinforced by unemployment rates across Member States. Within the active population, the number of unemployed persons with disabilities in the EU is approaching double that of persons without disabilities (18.3 % and 9.9 % respectively²).

The issue of the employment of people with disabilities also suffers from a lack of reliable data. For example, the EU Labour Force Survey provided an ad hoc module on the employment of disabled people in 2002. The key findings of the survey were that **78 % of severely disabled people aged 16-64 are outside of the labour force** as compared to 27 % of those without a long-standing health problem or disability³. Furthermore, only 16 % of those surveyed who face work restrictions were provided with assistance to work⁴.

The overall lack of support for disabled people to access the labour market has been exacerbated by the economic recession. This has led some Member States to reduce national expenditure on people with disabilities and therefore to rely more on EU

¹ Priestley, M. (2012). Targeting and mainstreaming disability in the context of EU2020 and the 2012 Annual Growth Survey: Synthesis Report. Academic Network of European Disability experts (ANED).

² Ibid. p. 9.

³ Dupré, D., Karjalainen, A. Employment of disabled people in Europe in 2002. Populations and Social Conditions. Eurostat. 2003. http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-NK-03-026/EN/KS-NK-03-026-EN.PDF.

⁴ Ibid. p. 1.

funds to support inclusion measures. For example, by the end of 2012, there were 3 349,165 European Social Fund (ESF) interventions targeted at disabled people⁵.

One of the fundamental difficulties in addressing this issue is the inherent heterogeneity of individuals who are classed as disabled persons and the variation in the definition of disabilities both intra-EU and internationally. This disparity in definitions⁶ is accentuated by the ongoing debate regarding the relative merits of the social vs. medical models as concepts which should underpin the definition of disability. The social model, first proposed by the Union of the Physically Impaired Against Segregation (UPIAS⁷) in 1976, requires the provision of relevant support systems to assist the inclusion and participation within physical and social environments. In contrast, the medical model, historically epitomised by the World Health Organization (WHO)'s 1980 definition⁸, focuses on addressing the impairment and therefore views disability as a personal issue⁹. It is important to note that the WHO now sees disability as 'a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives' and therefore supports the inclusion of social aspects in its definition¹⁰.

There are variations in definitions of disability across Member States. According to the 'medical model', disability is a condition which concerns the person rather than society as a whole. Accordingly, any accessibility issue is seen as being a result of the disability or its related circumstances. For instance, if an employee using a wheelchair cannot access the workplace because of stairs, this model would identify the wheelchair as the issue.

On the other hand, the social model of disability is based on the idea that society is responsible for disabling people by designing the world to suit the majority of people (i.e. the non-disabled population). According to this model, the issue of accessibility to the workplace would be the stairs rather than the wheelchair.

This debate is exemplified by the discussions that took place in Germany in the period leading to the introduction of the Section of the German Social Code dealing with disabilities (Neunte Buch Sozialgesetzbuch - SGB IX). Within German social law, for example, a special Forum of Disabled Lawyers (Forum behinderter Juristinnen und Juristen - FbJJ) disagrees with the definition provided by the 2001 SGB IX¹¹. This legislation was followed in 2002 by the Act on the Equalization of Disabled Persons¹². Drafted by the FbJJ, the new definition was based on the social model of disability. However, the government significantly altered the draft before its adoption¹³, reusing the definition found in SGB IX. This definition, like many globally, leans towards the medical model of disability. There are,

⁵ ESF Expert Evaluation Network. Final synthesis report: Main ESF achievements, 2007-2013. P. 24.

⁶ See Annex 1 for example definitions stated below (i.e. UPIAS 1976, WHO 1980, Germany: SGB IX 2001, Ireland: Irish Employment Equality Act 1998).

⁷ The Union of the Physically Impaired Against Segregation (UPIAS), founded in 1972, was an organisation promoting the rights of people with disabilities in the UK.

⁸ World Health Organization. (1980). International Classification of Impairments, Disabilities, and Handicaps: A manual relating to the consequences of disease. Geneva, World Health Organization.

⁹ Brunel University (2002). Definitions of Disability in Europe: A Comparative Analysis. Report prepared for the European Commission.

¹⁰ World Health Organization (WHO). View on disabilities. Accessed on 21/01/2014: <http://www.who.int/topics/disabilities/en/>.

¹¹ SGB IX, section 2, para. 1. Disabled people are defined as persons whose physical functions, mental capabilities or psychological health are highly likely to deviate, for more than six months, from the condition which is typical for the respective age and whose participation in social life is therefore impaired. Kock, M. Disability Law in Germany: An Overview of Employment, Education and Access Rights. http://www.germanlawjournal.com/pdfs/Vol05No11/PDF_Vol_05_No_11_1373-1392_Private_Kock.pdf.

¹² Act on the Equalization of Disabled Persons (BGG).

¹³ Degener, T. (2004), Germany Baseline – Study. Evangelische Fachhochschule RWL, Bochum, p. 6.

however, examples of a more expansive approach, for example in Ireland¹⁴. Alongside comprehensive coverage of impairments, it also includes coverage of previously existing or future disabilities and disabilities which are imputed to a person. **More recently, these myriad national definitions of disability have been complemented by anti-discrimination legislation in some Member States. Such legislation often enlists a more social model.** An example of this is in the UK, where the Equality Act 2010 includes the section 'Duty to make adjustments (for disabled persons)'.

1.2. Legal framework

At present, it is widely recognised that disabled persons in the EU are likely to be disadvantaged to some extent socially, economically or otherwise. **Concepts of equal treatment and non-discrimination are at the heart of the Treaties.** Article 10 of the Treaty on the Functioning of the European Union (TFEU) refers to the Union's aim of combating discrimination based on [...] disability; Article 19 TFEU further grants the Council the right to take any appropriate action to combat these discriminations after receiving consent by the European Parliament.

The Charter on Fundamental Rights of the European Union prohibits discrimination on the basis of a number of grounds, including disability (Article 21). Finally, in Article 26 of the EU Charter, the Union "*recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational and participation in the community*".

The Employment Equality Framework Directive (2000/78/EC)¹⁵ of 2 December 2000 included specific provisions for people with disabilities. Article 5 directly discusses reasonable accommodation for disabled persons, stating that:

'employers shall take appropriate measures...to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned'. **Article 5 – Directive 2000/78/EC**

Failure to provide reasonable accommodation is therefore seen as a *sui generis* form of discrimination. This article is further supported by Article 7(2), regarding positive action in the treatment of disabled persons, and Article 2(b)(i), concerning indirect discrimination of disabled persons.

Following the Directive and the European year of people with disabilities in 2003, '*Equal opportunities for people with disabilities: a European action plan (2003-2010)*'¹⁶ was drawn up. It stated three main aims for EU Member States: (1) to fully implement the Directive; (2) to reinforce mainstreaming of disability issues in national policies; (3) to improve accessibility for all disabled persons. Specific initiatives included increased financial support measures regarding ESF programmes (developed in the specific section relating to the ESF below), EQUAL (an initiative co-funded by the ESF and Member States focused on supporting innovative, transnational projects aimed at tackling discrimination and disadvantage in the labour market), and Member State governments.

¹⁴ Degener, T. (2006). The Definition of Disability in German and Foreign Discrimination Law. *Disability Studies Quarterly*, 26: 2.

¹⁵ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000.

¹⁶ Equal opportunities for people with disabilities: a European action plan (2003-2010), COM/2003/0650.

The *European Disability Strategy*¹⁷ for the years 2010-2020 and the *UN Convention on the Rights of Persons with Disabilities (UNCPRD)*¹⁸ are two recent attempts to reduce inequalities for disadvantaged disabled persons, and promote social and economic inclusion and independence.

During this action, the *UNCPRD* was adopted by the UN general assembly and signed by all EU Member States. **The Convention includes definitions of 'Reasonable Accommodation', 'Universal Design' and 'Discrimination on the basis of disability' as well as key articles on 'Habilitation and rehabilitation – Article 26' and 'Work and employment – Article 27'**. It also declares that each State Party should submit a report every four years outlining the implementation measures put in place (Article 35), alongside the formation of independent national monitoring mechanisms (Article 33) and data collection strategies (Article 31). Ratified by the EU as a whole on 23rd December 2010, the *UNCPRD* represents the first time the EU became a party to an international human rights treaty. While all Member States have individually signed the Convention, Finland, the Netherlands and Ireland are still to ratify it¹⁹.

Taking into account both the *UNCPRD* and the previous action plan, the European Commission released the renewed *European Disability Strategy 2010-2020: 'A Renewed Commitment to a Barrier-Free Europe'*²⁰ in November 2010. Among the key areas earmarked for increased action was employment. The objectives of the Strategy are included in Table 1.

Table 1: Main objectives regarding employment outlined by the European Disability Strategy 2010-2020

Employment – in cooperation with / support of national efforts:
Analysis of the labour market regarding disabled persons.
Fight disability benefit cultures and traps.
Help integration of disabled persons into the labour market – using ESF.
Develop active labour market policies (ALMPs).
Make workplaces more accessible.
Develop services for job placement, support structures and on-the-job training.
Promote the use of the General Block Exemption Regulation ²¹ .

¹⁷ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM/2010/0636.

¹⁸ UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106.

¹⁹ Sixth Disability High Level Group Report on the implementation of the UN Convention of the Rights of Persons with Disabilities.

²⁰ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM/2010/0636.

²¹ Commission Regulation (EC) No 800/2008 (OJ L 214, 9.8.2008, p. 3) allows state aid to be granted without prior notification of the Commission.

1.3. Typology of interventions and definitions

This report is focused on four main types of policy response which all have specific aims and rationales. Some interventions focus more on the employment environment attempting to make it more 'disability-friendly' and reduce barriers to employment (including anti-discrimination policies). Others focus on the disabled people themselves by attempting to increase their employability. This document is divided into four main policy sections covering each of the types of measures assessed, namely:

- **Sheltered workshops** cater for the population of people who would not otherwise have access to the open labour market. They are workplaces where at least half the workforce is comprised of people with disabilities.
- **Reasonable accommodation** refers to an employer's legal requirement to alter the workplace to accommodate the specific needs of a person with disabilities, as long as it does not place a disproportionate burden on the employer.
- **Alternative labour market policies** or services refers to a number of policy measures aimed at the improvement of the beneficiaries' prospect of finding employment. These can be active labour market policies (ALMPs), passive labour market policies (PLMPs), specific measures or general measures.
- **Universal Design / Design for All** is a more general measure whose concept is to provide a holistic approach and aims to accommodate the needs of people with disabilities, including the changes that people experience in the course of life.

The distinction between types of interventions is not always clear-cut. Evolving trends and definitions also mean that some policy responses would be considered as different types of intervention in different Member States.

Sheltered workshops are organisations which specifically employ disabled people by creating employment opportunities that would not exist without the intervention. They receive subsidies in compensation for the reduced productivity of its disadvantaged workers. Better suited to working with persons with high support needs, they have also been earmarked to play an important role in supporting and training disabled persons aiming towards the open labour market²². Whilst they seem to be very helpful for some disabled people, they do have limitations. Employment participation is only one aspect of societal integration, and workshops may not facilitate social inclusion.

Definitions of **reasonable accommodation**, also known as reasonable adjustments, are clear cut, with both the United Nations²³ and European Union²⁴ providing similar definitions. **Employers are expected to take appropriate measures to enable disabled persons equal employment opportunities, where such measures do not impose a significant burden on the employer**, and where the burden can be reduced by measures directed by the Member State. Essentially, the aim of these policy measures is to ensure that barriers to the employment of people with disabilities are reduced. In other words, reasonable accommodation measures seek to provide equal opportunities for existing employment. Due to the inherent heterogeneity of people with disabilities, reasonable accommodation is always specific to the individual. As such, a list of types of accommodation in legislation would affect their individual appropriateness.

²² EASPD, Ferraina, S. (2013). SWOT Analysis: Sheltered work provision in the EU.

²³ UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106.

²⁴ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000 P. 0016 – 0022.

Alternative labour market policies aim to increase employment levels. Measures covered include training, quotas, guidance, general anti-discrimination measures and policies. Overall, these measures seek to (i) help people with disabilities gain employment and (ii) ensure that equal opportunities are respected. They include:

- **Passive measures** - often cash benefits provided as funding or a subsidy, making it inexpensive to hire disabled persons.
- **Active labour market policies** (ALMPs) include guidance and counselling, training and education, and job placements.
- **Specific measures** include quotas systems making it mandatory for employers above a certain size to employ people with disabilities.
- **General measures** which include anti-discrimination legislation as well as some accessibility measures.

At the widest level, Universal Design / Design for All seeks to make the design and composition of different environments, products, communication, information technology and services accessible and understandable to, as well as usable by, everyone, preferably without the need for adaptation or specialised solutions. This policy measure thus seeks to create a situation where some of the barriers to employment of people with disabilities either disappear at the design or conception stage. The main impact of this policy will be felt over the long term, by essentially shifting some of the burden currently borne by employers towards society as a whole.

DRAFT

2. SHELTERED WORKSHOPS

KEY FINDINGS

- Beyond the fact that sheltered workshops are organisations which specifically employ disabled people, there is **no common definition of sheltered workshops** in the EU Member States.
- **Two main types of sheltered workshops** exist. The first, traditional sheltered workshops, primarily employ people with severe disabilities who cannot be integrated into the open labour market. The second, transitional sheltered workshops, aim to transition people from sheltered into non-sheltered employment.
- Some Member States define sheltered workshops as part of a strong legal framework, particularly in countries where the UNCRPD has been ratified. In this respect, the **UNCRPD provides a legal basis for sheltered workshops** regardless of whether they are economically profitable. Other Member States define sheltered workshops as part of general support schemes, which are not underpinned by law.
- The **employment status and remuneration of sheltered employees varies across the EU**. Some Member States grant employee status to disabled people in sheltered workshops, which entitles them to minimum wage. However, the majority of sheltered workers do not have employee status and receive varying levels of remuneration.
- It is **not possible to collect comparable data on the nature and scale of sheltered workshops** for the EU as there is no common definition at national level. This is primarily due to the differences that exist in the names, structures and legal frameworks which implement sheltered workshops in the Member States.
- Our economic analysis shows that **from a purely financial perspective, traditional sheltered workshops are not cost beneficial** (i.e. they do not create value), although there are intangible benefits, such as quality-of-life benefit to sheltered employees and their families, which have greater positive economic impacts. Furthermore, if compared to the alternative of being in care, sheltered workshops do create value.
- The evidence shows that throughout the EU **there is a move towards the transitional model of sheltered workshops**. These types of workshop provide a holistic approach to sheltered employment, which often includes vocational education and training (VET) programmes as well as support for transition to the regular labour market.

2.1. Definitions

Sheltered workshops are organisations which specifically employ disabled people.

They receive subsidies in compensation for the reduced productivity of their workforce. Better suited to working with persons with severe disabilities, they also play an important role in supporting and training disabled persons aiming to join the open labour market²⁵. They operate throughout the EU to varying degrees²⁶.

²⁵ EASPD, Ferraina, S. (2013). SWOT Analysis: Sheltered work provision in the EU.

²⁶ Shima, I., Zólyomi, E. & Zaidi, A. (2008). The labour market situation of people with disabilities in EU25. European Centre for Social Welfare Policy and Research, 1-18.

Sheltered employment is defined by the European Commission as 'employment in an undertaking where at least 50 % of workers are disabled'²⁷. A comprehensive definition of sheltered workshops has been developed by the Interest Group on Occupational Services (IGOS):

Sheltered workshops are services 'offered to persons with a disability who due to their impairment are currently not able to work in the open labour market. The disability hinders them to cope with the demands in a competitive open labour market. Due to the type and degree of their disability, those persons rely partly on sustainable, structured and lasting support schemes. In some Member States, a special labour status is recognised. Common for all is the need for a daily structured support which employers on the open labour market are not able to supply. This support is very often not limited to the work place, but very often contains therapeutic and other additional supports to stabilise and further develop social and personal skills'²⁸.

This more descriptive definition outlines and emphasizes that the particular needs of a disabled person are taken into account in sheltered workshops, as well as stating that this is often due to the inability of open labour market entities to provide this support and / or the inability of the disabled person to work in the open labour market.

There are two main types of sheltered workshop placed at opposite ends of a spectrum ranging from traditional to transitional models:

- **traditional sheltered workshops** primarily employ people with severe disabilities who cannot be integrated into the open labour market;
- **transitional sheltered workshops** aim to transition people from sheltered into non-sheltered employment.

2.2. Legal framework of sheltered workshops in the EU

At the national level, there are many different definitions of sheltered workshops, reflecting different behaviours, cultures, traditions and history. In some countries, the definitions of sheltered workshops are part of a strong legal framework. In others, they are defined as part of general support schemes and are not underpinned by law. A report²⁹ published by IGOS on the 'Quality Work Settings for All Project' compared the national definitions of sheltered workshops in eight Member States.

It found that in countries where the UNCRPD has been ratified, the human right of people with disabilities to be offered the same employment rights as non-disabled people is often featured in national disability legislation. This provides a legal basis for sheltered workshops regardless of whether they are economically profitable, as is the case in **Austria, Belgium, France, Germany, Greece, Ireland, Italy and Portugal**³⁰.

In terms of the strength of legal provisions for sheltered workshops, most of the countries that were analysed had established strong legislation at the national level. The exceptions were **Austria** and **Belgium** where, given the federal nature of their administration, robust

²⁷ Article 2 (21) Commission Regulation (EC) No 800/2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

²⁸ European Association of Service Providers for Persons with Disabilities, Sheltered Workshops in the EU: Factsheet. Accessed online on 04/04/2014 at: http://www.easpd.eu/sites/default/files/sites/default/files/factsheet_sheltered_workshops_in_the_eu.pdf.

²⁹ IGOS. Partnership Project: "Quality Work Settings For All". 2011. Interest Group on Occupational Services, p.26.

³⁰ IGOS. Partnership Project: "Quality Work Settings For All". 2011. Interest Group on Occupational Services, p.34.

legislation covering sheltered workshops had been adopted at the federate state level, which is responsible for the competency.

Where sheltered employment is understood to be aimed at populations who are unable to gain employment in the open labour market, there are significant differences in the employment status and level of remuneration for sheltered employees in the EU. For example, in **Austria** people in sheltered employment are defined as service users, consequently not subject to employment protection laws, nor entitled to independent social security. As the majority of workshops across the EU are not party to the obligations and rights of the Labour Code, disabled participants do not have 'employee status'³¹. This situation often results in payment below the minimum wage, which could potentially result in increased risk of poverty. However, sheltered employment is often provided with other support mechanisms, which provide intangible benefits to the users.

Other Member States define people in sheltered workshops as employees. For example, in **France** and **Germany** people in sheltered employment have a legal status similar to that of employees. Although sheltered employees in **Germany** are paid a small refund for their work rather than the minimum wage, they are entitled to elect a representative body to uphold their interests in each sheltered workshop. In **Belgium** (Flanders), sheltered workshop employees have the right to earn the minimum wage. The employee status of people with disabilities working in sheltered workshops also exists in **Greece, Ireland, Italy** and **Portugal**³².

2.3. Types of sheltered workshops in the EU

Turning to the characteristics of sheltered workshops in the EU, it is interesting to observe that although there are certain similarities among the Member States, there are significant differences with regard to the names, structures and legal frameworks they use to implement sheltered workshops. Table 2 contains a comparative analysis of sheltered workshops in the Member States for which a case study is presented.

Table 2: Characteristics of sheltered workshops in Member States covered by this study (2012)³³

Member State	Nr of legal entities providing sheltered workshops	Nr of people in sheltered workshops	Specific name of sheltered workshop type of structures	Legislative framework
BE	67	16,000	Sheltered workshops	Labour Code
DE	724	297 670	Workshops for adapted work	Social Code
ES ³⁴ (1998 data)	14 000	11 000	Sheltered employment centres, collaborating companies	Royal Decree 1441/1983 of 11 May

³¹ EASPD, Ferraina, S. (2013). SWOT Analysis: Sheltered work provision in the EU.

³² IGOS. Partnership Project: "Quality Work Settings For All". 2011. Interest Group on Occupational Services. p.35.

³³ European Association of Service Providers for Persons with Disabilities, Sheltered Workshops in the EU: Factsheet. 2012. Accessed online on 04/04/2014 at: http://www.easpd.eu/sites/default/files/sites/default/files/factsheet_sheltered_workshops_in_the_eu.pdf.

³⁴ Visier, L. Sheltered employment for persons with disabilities. Sheltered employment for persons with disabilities. P 349-350. <http://www.oit.org/public/english/revue/download/pdf/visier.pdf>.

Member State	Nr of legal entities providing sheltered workshops	Nr of people in sheltered workshops	Specific name of sheltered workshop type of structures	Legislative framework
HU	N/A	N/A	Sheltered workshops	Government Decree 327/2012 (XI.16.)
SE	370 ³⁵	20,000	Sheltered workshops	Act concerning Support and Service for Persons with Certain Functional Impairments
UK	64 ³⁶	N/A	Remploy Employment Services	Department for Work and Pensions

Source: European Association of Service Providers for Persons with Disabilities, Optimity Matrix research.

It is not possible to collect comparable data on the nature and scale of sheltered workshops for the EU as there is no common definition at national level. However, Table 2 illustrates that there is a wide variation in the numbers of legal entities providing sheltered workshops. In **Belgium** for instance, there are 67 legal entities providing the sheltered employment, compared with 92 in the **Netherlands** and 1 345 in **France**. Another example showing the difficulty of comparing the situation in different Member States is **Italy**, where the number of legal entities (6,982)³⁷ includes social cooperatives, which do not provide services exclusively for people with disabilities.

While the Member States use different criteria to assess whether a person qualifies for sheltered employment, there are some similarities in the threshold of reduced work capacity. For example, to be considered for sheltered employment in **Hungary, Italy and Greece**, applicants must be assessed to have a reduced work capacity of 50 %. In **France**, participation in *Etablissement et Services d'Aide par le Travail* (ESATs) depends on a person with disabilities being considered to have a working capacity of less than one third of a non-disabled person. In **Germany**, sheltered workshops are mostly utilised by people with intellectual disabilities (around 77 % in 2012) and mental disabilities (around 19 % in 2012). Other Member States, such as the **UK**, refer to the type and amount of social welfare received by the applicant when deciding whether a person with disabilities is entitled to enter sheltered employment³⁸.

The *European Association of Service Providers for Persons with Disabilities* (EASPD) has identified the following types of work in sheltered workshops:

- **on-site work:** work which is performed in a given workplace which can be open to

³⁵ Samhall Annual and sustainability report. 2013. <http://www.samhall.se/In-English/About-Samhall/>.

³⁶ McGuinness, F. Remploy. Economic Policy and Statistics. UK Parliament. 2014.

³⁷ European Association of Service Providers for Persons with Disabilities, Sheltered Workshops in the EU: Factsheet. 2012. Accessed online on 04/04/2014 at: http://www.easpd.eu/sites/default/files/sites/default/files/factsheet_sheltered_workshops_in_the_eu.pdf.

³⁸ Organisation for Economic Co-operation and Development (OECD) (2010). *Sickness, Disability and Work: Breaking the Barriers*, p. 155.

the general public, places such as restaurants, laundries, garden centres etc., outside the open labour market;

- **secondment:** temporary or permanent transfer of a person to another assignment or location outside the open labour market;
- **outplacement:** placement in the open labour market environment under the conditions of sheltered workshops;
- **mobile units:** small teams of workers hired by external organisations or by public institutions to take care of various community services (e.g. gardening in public areas, cleaning in public or private entities, etc.) under the conditions of sheltered workshops³⁹.

The typology of sheltered employment programmes in Table 3 is based on data published by the Organisation for Economic Co-operation and Development (OECD), which cover 19 Member States for which information is available. It categorises sheltered employment programmes according to the extent that they focus on preparing sheltered employees for transition to the open labour market. In this table, the OECD's category of 'Strong focus, but largely permanent employment' is equivalent to what this study refers to as the transitional model. It should be noted that the transitional model is also covered by the OECD category 'strong focus with significant transition rates', however none of the countries examined by the OECD were listed in this category.

Table 3: Typology of sheltered employment programmes⁴⁰

Member State	Strong focus, with significant transition rates	Strong focus, but largely permanent employment	Intermediary focus, with some 'new' attempts	Intermediary focus, 'traditional' programme
AT				✓
BE				✓
CZ			✓	
DK				✓
FI			✓	
FR		✓		
DE			✓	
EL			✓	

³⁹ European Association of Service Providers for Persons with Disabilities, Sheltered Workshops in the EU: Factsheet.

⁴⁰ Organisation for Economic Co-operation and Development (OECD) (2010). *Sickness, Disability and Work: Breaking the Barriers*, p. 102. http://ec.europa.eu/health/mental_health/eu_compass/reports_studies/disability_synthesis_2010_en.pdf.

Member State	Strong focus, with significant transition rates	Strong focus, but largely permanent employment	Intermediary focus, with some 'new' attempts	Intermediary focus, 'traditional' programme
HU				✓
IE				✓
IT				✓
LU			✓	
NL		✓		
PL		✓		
PT				✓
SK			✓	
ES			✓	
SE			✓	
UK				✓

Source: OECD

Using the typology in Table 3, the various models of sheltered workshops can be placed on a spectrum ranging from traditional to transitional models, which are more flexible and have a strong focus on transitioning people with disabilities into the open labour market. Transitional and flexible sheltered workshops often encompass elements of VET together with supported employment services. In some Member States these types of sheltered workshop are accompanied by financial incentives for employers where sheltered employment takes place in private sector companies.

An interesting example of a transitional model is the **Swedish** state owned group, Samhall AB, which provides permanent on-site employment for people with severe disabilities, but also aims to transition employees into non-sheltered employment. Samhall AB targets long term unemployed people with socio-medical disabilities and people with a history of chronic and severe mental illness. Samhall AB is also available for people who are entitled to measures under national disability legislation⁴¹. Samhall AB is highly devolved and operates 370 workshops that provide sheltered employment along with other operations managed by county councils, municipalities and other authorities. In 2013, the company employed 20 000 people in 200 localities throughout Sweden and had an estimated annual turnover

⁴¹ Act Concerning Support and Service for Persons with Certain Functional Impairments. Swedish Code of Statutes SFS 1993:387.

of EUR 7 644 091⁴². The number of people employed by Samhall AB who successfully applied to transition from sheltered employment to unsheltered employment in the period 2008-2012 has increased from 2 156 to 2 755⁴³.

In **Spain**, sheltered workshops include semi-sheltered employment in the regular labour market and sheltered employment centres. The country has a quota system (see Chapter 3) according to which private companies with more than 50 employees are required to maintain an employment quota of 2 % for people with disabilities. Spanish companies providing semi-sheltered employment receive financial support from national authorities (i.e. subsidies, discounts to companies' social security contributions, subsidies to adapt workstations and aids of other kinds) depending on the type of contract that people with disabilities are employed under⁴⁴.

On the other hand, Spanish sheltered employment centres also contain aspects of traditional sheltered workshops, in the sense that sheltered employees are recognised as not being part of the open labour market⁴⁵. However, sheltered employment centres can enter into contracts with 'collaborating companies', which enables sheltered employees to be exposed to the open labour market. A key difference between Spanish sheltered employment centres and traditional sheltered workshops, is that the former allows so-called 'employment enclaves' to be established. These 'enclaves' form bridges between the sheltered employment centres and the regular labour market, whereas traditional sheltered workshops, generally, do not aim to integrate sheltered employees into the regular labour market.

In **France**, approximately 118 211 disabled workers are based in 1 345 ESATs. These organisations offer work activities, adapted to the needs of people with disabilities, outplacements in the open labour market; and opportunities to gain experience and facilitate a transition into the open labour market. Only 3 % of ESAT employees move into the open labour market. There is also a reluctance to cooperate fully with the open labour market; financial difficulties threaten these organisations, and replacement payments are offered in lieu of salaries⁴⁶.

Hungary is another Member State where national legislation recognises two types of sheltered workshops⁴⁷. The law defines sheltered employment as employment by an accredited employer who provides 'transit employment' or 'long-term supported employment' for people with work capacity under 50 %. The two types of employment are defined as follows⁴⁸:

- **Transit employment** prepares those employees who can be rehabilitated (with the classification 'employable with rehabilitation') in protected circumstances to work in the open labour market.
- **Long-term supported employment** is the preservation and development of working skills, health condition, physical and mental capabilities of people with disabilities in protected labour circumstances.

⁴² Samhall Annual and sustainability report. 2013. <http://www.samhall.se/In-English/About-Samhall/>.

⁴³ Arbetsförmedlingen Annual Report. 2012. p 40. http://www.arbetsformedlingen.se/download/18_3f8eb9ad140aabd13a13a3c/ar2012eng.pdf.

⁴⁴ Cachon, L. Report on Measures to Combat Discrimination: Spain. p.42.

⁴⁵ Cachon, L. Report on Measures to Combat Discrimination: Spain. p.42.

⁴⁶ EASPD (2013). SWOT Analysis: Sheltered work provision in the EU. Publication sponsored by BAG:WfbM and Unapei.

⁴⁷ Government Decree 327/2012 (XI.16.).

⁴⁸ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

People with changed working capacity are placed in one of these groups as a result of an individualised occupational rehabilitation test. This test takes into account medical, occupational and social aspects and is judged by a certification committee consisting of social and vocational rehabilitation experts and a physician⁴⁹. In addition, both the employer and employee can receive financial support from the government in the form of wage subsidies and rehabilitation pensions respectively.

Box 1: Cost-benefit analysis of a sheltered workshop in Hungary

The Civitan Help Association (Civitan) in Hungary is an example of the **traditional type of sheltered workshop**, targeted at people with severe mental disabilities who would otherwise not be in employment. Optimity Matrix conducted a cost-benefit analysis of Civitan to assess the costs and benefits of the workshop for individuals and for the government. A full description of this case study is available in Appendix 1. **The CBA does not value intangibles, such as the quality-of-life benefit** to sheltered employees (and potentially caregivers) from the sheltered workshop, in terms of participation. Additionally, the impact on sheltered employees' families that would occur if they were at home instead, as well as on family caregiver time, should be valued as effectively unpaid work. Caregivers may also have to miss paid employment opportunities to care for the disabled individual.

The CBA shows that **from a purely government financial perspective the sheltered workshop is not cost-beneficial**. The return for each EUR 1 spent is about EUR 0.20 (so EUR 0.20 is the benefit-cost ratio), which comes in the form of disability benefit avoided and tax revenue received. On an annual basis the Hungarian government pays about HUF 43 million for a return of about HUF 9 million.

Individual sheltered employees benefit marginally from the income they receive, which is HUF 20 000-100 000 more than disability benefits. This is largely due to the fact they only work 25 hours a week for minimum wage. From a societal economic perspective, the benefit-cost ratio of sheltered workshops in Hungary is even lower than that for the government, e.g. the societal return is about EUR 0.06 for every EUR 1 spent.

The CBA of sheltered workshops in Hungary indicates that while the government is spending money on this programme (as opposed to investing for a return) and participants' benefit, society as a whole is not 'creating value' by supporting sheltered employment. Ordinarily, this would suggest that it is not a worthwhile thing to invest in, and certainly compared to a programme getting participants into the open labour market, which if it is run effectively and does not require large ongoing support, should create value in the long-term if individuals remain employed.

Unlike the other types of interventions described in this study, a sheltered workshop such as this should be seen as more of a welfare programme, equivalent to disability benefits but also giving the opportunity for participants to work within a supportive environment. Consequently, it should not be judged purely on economic terms, but also take into account issues of equity, and fundamental rights.

As such, **quantitative conclusions are difficult to draw, but the exercise highlights the motivations for a sheltered workshop programme for those unable to work in the regular market beyond the cost-benefit analysis conducted, and illustrates areas for further economic research into programmes such as this.**

⁴⁹ Ibid.

2.4. Trends in sheltered employment

In the past 15 years there has been an expansion of initiatives to help disabled people integrate into the open labour market. Reasons for this change of approach include:

- A feeling by some Member States that **traditional sheltered workshops** perpetuate the segregation of people with disability and hinder their integration into the regular employment;
- **Economic pressures** on government to make short-term savings and therefore withdraw support to traditional sheltered workshops.

The debate on what the aim of sheltered workshops should be is illustrated by the case of Remploy in the **UK**.

Box 2: Remploy⁵⁰

Remploy was one of the longest running traditional sheltered workshops in Europe. It operated sheltered workshops from 1945 to 2013. Until 2013, Remploy Enterprise Businesses (a factory network) operated sheltered employment across a network of 54 local business sites spread across the UK, and employed around 2 500 people, of which around 2 200 were disabled. In 2005, a National Audit Office report concluded that many of **Remploy's factories were not economically sustainable**. It also found that Remploy Employment Services, another of the organisation's programmes which **supports disabled people into work** with mainstream employers, offered a more cost-effective service. In 2007, a five-year modernisation plan was agreed; it aimed to increase substantially the numbers of disabled people in work at a much lower cost per person.

In **Belgium** (Wallonia), the situation appears relatively similar. The *Agence Wallonne pour l'Emploi de Personnes Handicapées* (AWIPH) has based its priorities on experience from Scandinavia. It has drawn up criteria on which the target group of beneficiaries must be based. These include 'those most in difficulty facing employment' (but capable of working within the framework of the labour market in Belgium⁵¹).

Other Member States have also developed new forms of sheltered employment closer to the regular labour market, such as social enterprises in **Finland** and **France**, which have a stronger focus on transition into the open labour market. Emphasis is given to workers' professional development and the skills learned while in sheltered work. In the **Netherlands**, reforms emphasize the right to tailor-made sheltered employment which can also be offered by regular companies⁵². **Germany** has also experienced a shift towards integrating sheltered employees into the open labour market. This is evidenced by the general increase in the number of integration projects, which increased by 7 % in the period 2007-2010 with 684 projects in operation⁵³.

Several other Member States have shifted the onus of sheltered employment to serve as an instrument of rehabilitation. For example, **Poland** and **Hungary** introduced accreditation

⁵⁰ Sayce, L. (2011). Getting in, staying in and getting on: Disability employment support fit for the future. A review to the Department for Work and Pensions, UK.

⁵¹ *Le soutien dans l'emploi pour les personnes handicapées*, AWIPH, March 2013 - Les personnes handicapées qui en ont le plus besoin, parce qu'elles sont les plus en difficultés face à l'emploi (mais capables de travailler dans le cadre du marché de l'emploi en Belgique - on pense à l'existence d'un contrat de travail et aux exigences en termes horaires et de rémunération).

⁵² Organisation for Economic Co-operation and Development (OECD) (2010). *Sickness, Disability and Work: Breaking the Barriers*, p. 80.

⁵³ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). *Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf*.

systems (as a prerequisite to receiving subsidies) to guarantee that the working environment is suitable for people with disability⁵⁴. These examples clearly illustrate a shift in policy towards a more transitional model of sheltered workshops.

2.5. Rehabilitation and vocational education and training

The trend of considering sheltered workshops as pathways towards more regular employment has developed alongside an increased focus on vocational education and training (VET) measures to increase disabled employees suitability for the labour market.

Box 3: Rehabilitation and VET measures in Poland and Germany

In **Poland** the State Fund for Rehabilitation of Disabled People (PFRON) provides funding for vocational activity workplaces, which employ people with moderate and severe disabilities⁵⁵. The purpose of vocational activity workplaces is to provide vocational activities and employment opportunities aimed at enabling people with disabilities to lead a relatively independent life in the community. Moreover, these workshops provide vocational rehabilitation in the form of occupational therapy workshops, which focus on restoring the capacity of disabled people to gain employment in the open labour market.

PFRON also subsidises the salaries of sheltered employees as well as the salaries of disabled people who are in transition from sheltered to non-sheltered employment. In 2013, PFRON provided co-financing for 77 vocational activity workplaces which in turn employed 3,067 people with disabilities. This was an increase of 1,844 people since 2005.

Sheltered workshops in **Germany** also provide vocational and educational training for up to 2 years, together with support for the transition of sheltered employees into the regular labour market. Additionally, *integration projects* are funded through the Compensatory Levy on firms who do not fulfil the quota of employed people with disabilities⁵⁶. These projects include integration workshops, integration companies and integration departments which employ between 25-50 % of severely disabled people. They are part of the open labour market and offer work, vocational support, advanced vocational training and ongoing employment support across the open labour market. The numbers of these projects are continuously increasing with 684 in operation in 2011, a rise of over 7 % on 2010⁵⁷.

In addition to VET and transition-to-work opportunities, sheltered workshops often provide a diverse range of therapeutic/rehabilitation measures. For example, in **Belgium** (Flanders), a number of 'rehabilitation through employment' initiatives have been established in cooperation with adapted work enterprises, sheltered workshops, psychiatrists and social protection bodies to assist people with disabilities in day centres⁵⁸. **Although sheltered workshops in Flanders are not conceived as medical rehabilitation centres, they do offer opportunities for vocational rehabilitation and development.** They are required to put in place personal development plans for their

⁵⁴ Organisation for Economic Co-operation and Development (OECD) (2010). *Sickness, Disability and Work: Breaking the Barriers*, p. 80.

⁵⁵ Majewski, T. Employment of blind and partially sighted people in Poland. Academy of Special Education. http://www.pfron.org.pl/ftp/dokumenty/EQUAL/Per_Linguas/APS/APS_Good.pdf.

⁵⁶ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sqb_9/.

⁵⁷ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). *Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf*.

⁵⁸ United Nations: Committee of the Rights of Persons with Disabilities (2013). *Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under Article 35 of the Convention: Belgium*.

employees which contain actions to advance their competencies and, in some cases, also to prepare the transition to a regular working environment⁵⁹.

A recent comparative assessment⁶⁰ of rehabilitation measures provided by sheltered workshops in the EU identified a number of similarities in eight Member States. In particular, some sheltered workshops offer technical programmes to enable people with disabilities to work in professions such as woodwork, metalwork, gardening, packaging and textiles. These services also include interpersonal training through group activities, personal development and team building exercises. Other sheltered workshops provide rehabilitation through social and cultural programmes, as well as programmes focusing on elderly people with disabilities⁶¹.

2.6. Conclusions

There are significant differences with regard to the definitions, activities, structure and legal frameworks of sheltered workshops across the EU, which predominantly stem from differing views of their aims. There are also significant differences in the employment rights of people with disabilities employed in sheltered workshops, and remuneration is generally low, which puts sheltered employees at increased risk of poverty.

Traditional sheltered workshops aim to provide an alternative for people with severe disabilities who have no or little chance of being employed in the open labour market. However, some Member States have changed the way they deliver sheltered workshops, focusing on ways to prepare people with disabilities for integration into the open labour market (transitional sheltered workshops).

A cost-benefit analysis conducted on a traditional sheltered workshop, Civitan in **Hungary**, shows that while individuals do achieve some financial benefit from being employed (versus unemployment), **the ongoing costs of operating sheltered workshops outweigh both the financial return to the government and the economic benefit to society. However, no economic analysis has yet taken into account the intangible benefits that are likely to result from becoming employed**, such as quality of life gains to the individual, as well as wider benefits to third parties, e.g. family members who would otherwise have had to care for the disabled individual during the day. There are also equity considerations (in terms of access to employment) that support providing employment opportunities for disabled individuals.

However, the current trend in the EU regarding sheltered workshops is an increasing movement towards the transitional model, whereby sheltered workshops are intended to train and support people with disabilities to enter the open labour market. This difference is the basis for a number of variations between Member States, such as the criteria used to assess whether an individual is entitled to enter sheltered employment. In some Member States sheltered employees are required to have a reduced work capacity of at least 50 % (**DE, HU, IT** and **EL**), while other Member States also provide sheltered employment for people with specific types of disability (**DE** and **IT**) and/or for people receiving social welfare support (**PL, CZ** and the **UK**).

Transitional workshops increasingly focus on Vocational Education and Training, and if effective at getting people into employment in the open labour market are likely to be more cost-beneficial than both the traditional model and doing

⁵⁹ EASPD, Ferraina, S. (2013). SWOT Analysis: Sheltered work provision in the EU. p. 18.

⁶⁰ IGOS. Partnership Project: "Quality Work Settings For All". 2011. Interest Group on Occupational Services.

⁶¹ IGOS. Partnership Project: "Quality Work Settings For All". 2011. Interest Group on Occupational Services. p 122.

nothing, on the basis that while initial costs may be higher than the traditional model, these are short-term and eventual open labour market employment is cost-beneficial to society. People with disabilities also tend to express a preference for open labour market employment.

However, effectiveness appears to be low – only 3 % of people in transitional sheltered workshops move on to the open labour market (including supported employment). A study carried out in the US comparing supported employment in the open labour market with sheltered workshops suggests that, at least in a US context, transitioning people with disabilities into 'regular' employment through training and support 'on the job' is more cost-beneficial than sheltered workshops.

For those individuals whose disabilities are so severe that they have no opportunity to achieve open labour market employment, and particularly for those who would otherwise require care during the day, traditional sheltered workshops may be a cost-beneficial option. For individuals who have the potential to access open labour market employment, however, programmes that enable this are likely to be more cost-beneficial. At present, there appear to be more effective options for this than transitional sheltered workshops.

DRAFT

3. REASONABLE ACCOMMODATION

KEY FINDINGS

- **The concept of reasonable accommodation exists in all Member States.** There are three aspects to the definition of reasonable accommodation: (i) the right to necessary and appropriate adaptations; (ii) the stipulation that these adaptations should be particular to the disabled individual (both of which are comprehensively included in national legislation); and (iii) that the adaptations should not impose a disproportionate burden on the employer. The latter aspect is not fully elaborated nor clearly defined in many Member States.
- **The definition and interpretation of what is reasonable accommodation is still extremely heterogeneous.** This results in a vast array of types of reasonable accommodation alongside a wide range of frameworks within which the accommodations can be provided. Evidence suggests that the most commonly required adaptations surround an individual's working arrangements; meaning the adaptation of work tasks, hours or location to the needs of the disabled individual. In this regard **it is difficult to compare the situation between Member States.**
- **All Member States offer some grants or subsidies to employers to provide reasonable accommodation.** They protect the demand for labour and serve as a cost-effective incentive for employers to follow the law compared to other types of enforcement, given the enforcement of the legislation is often ad hoc, and follows complaints and court cases. Pre-empting some of those cases by providing support for employers is therefore a way of ensuring that the legislation is abided by in practice. Again, the provision of financial support and the funding mechanisms for reasonable accommodation differ greatly across the EU28.
- **The individual nature of the reasonable accommodation provision is well represented** in public policy and legislation. Trends across the EU are moving towards greater focus on the abilities of the people with disabilities as opposed to lost working capacity. This is demonstrated by the fact that many Member States have recently adapted the focus of classification methods, alongside the increasing presence of the development of personal employment plans or career plans across the EU.
- **In many Member States the concept of 'disproportionate burden', as stipulated in the UNCRPD and Directive 2000/78/EC, has not been fully elaborated or defined.** In some Member States (e.g. Spain) the concept has been comprehensively covered in legislation; however, the majority of Member States (including Germany and Hungary) have left room for interpretation within the definition.

3.1. Definitions

Reasonable accommodation are the adjustments made to accommodate the needs of people with disabilities in order to ensure they have access to the workplace on an equal footing with others. There are three main aspects to the legal requirements for reasonable accommodation outlined at EU level:

- that necessary and appropriate adaptations should be made to the working environment to ensure equality in that environment for people with disabilities;

- these adaptations should be particular to the disabled individual; and
- these adaptations should not impose a disproportionate burden on the employer.

These require that the perspectives of both the employer and employee are taken into account. From the perspective of the employee, these requirements state that steps must be taken to understand the particular needs of the individual disabled person before adapting the working environment accordingly. From the perspective of the employer, the concept of 'disproportionate burden' should be considered. This requires that the accommodation measures should be deemed proportionate in light of the '*financial and other costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or any other assistance*'.

Different factors are involved in the provision of reasonable accommodation: the personnel involved in the provision process; the relevant accommodations required; and the funding mechanism. A number of players are often involved in the provision of reasonable accommodation. As people with disabilities are entitled to work in any environment without discrimination, public and private entities, social enterprises, non-governmental organisations (NGOs), and sheltered work environments are often involved, and cooperate, along the reasonable accommodation pathway. These interactions can include financial support (e.g. wage subsidies from government entities) and / or social support (e.g. NGO organised awareness-raising exercises). Together these organisations work to provide the funding to implement an individualised and appropriate set of accommodations for the individual and the working environment.

3.2. Legislation at EU level

The concept of reasonable accommodation did not have any legal implementable definition until 2000. The Framework Employment Directive 2000/78/EC⁶² is the first attempt to create an obligation of employers to provide reasonable accommodation for people with disabilities. This is a practical example of the shift from the medical model of disabilities to the social model which puts the onus on society (i.e. employers) to meet the needs of people with disabilities.

Article 5 of the Directive defines reasonable accommodations as follows:

'This means that employers shall take appropriate measures, [...] to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned'.

Additionally, within **Directive 2000/78/EC** the definition is supported by Article 7 which discusses positive action, and encourages Member States to adopt additional provisions aimed at supporting and promoting people with disabilities in the working environment⁶³.

An important characteristic of this article is that it specifically mentions the situation of people with disabilities. This sets an important precedent at European level and further reinforces a commitment to the development of facilities and provisions as a means of ensuring that disabled people are successfully integrated into the workplace without discrimination.

⁶² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000.

⁶³ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000.

Furthermore, while not legally binding, Recitals 16, 17, 20 and 21 support the inclusion of reasonable accommodation and its meaning within the Directive:

- **Recital 16** establishes the role of reasonable accommodation in **combating discrimination**, thereby setting one of the key objectives of the Directive.
- **Recital 17** qualifies the **use of reasonable accommodation** for employers.
- **Recital 20** outlines the **types of measures deemed appropriate** with regards to reasonable accommodation while ensuring that the work environment is adapted to the individual; and
- **Recital 21** provides a basic **interpretation of the term disproportionate burden** with regards to reasonable accommodation as mentioned in Article 5.

Following the introduction of the 2000/78/EC Directive and the European Year of People with Disabilities in 2003, '*Equal opportunities for people with disabilities: a European action plan (2003-2010)*'⁶⁴ was drawn up. **One of the main aims of the action plan was to oversee the full implementation of the Directive. This included specific focus on the implementation of reasonable accommodation and its implications for employers**⁶⁵. As a result, a number of awareness-raising activities were undertaken under the action plan and funded through the 'Community Action Programme to Combat Discrimination 2001-2006'. Examples of actions taken include a summer school teaching legal practitioners, NGOs, and disabled persons about disability discrimination and the relevant legislation, and awareness-raising conferences with NGOs and relevant experts⁶⁶.

Subsequently, in November 2010, the European Commission released the *European Disability Strategy 2010-2020: 'A Renewed Commitment to a Barrier-Free Europe'*⁶⁷. Among the key areas earmarked for increased action was employment. Regarding reasonable accommodation, the Strategy follows two main objectives under the employment banner. In cooperation with and in support of national efforts, EU action aims to make workplaces more accessible and develop services for job placement, support structures and on-the-job training for people with disabilities⁶⁸.

3.3. Reasonable accommodation in the UNCRPD

In 2006, the United Nations adopted the Convention on the Rights of Persons with Disabilities and its Optional Protocol (UNCRPD). **It marked a paradigm shift from viewing people with disabilities as "objects" of treatment and charity (the medical definition of disabilities) to "subjects" with rights and the capacity to make life decisions as per the social model of disability.** In particular, the UNCRPD⁶⁹ reiterates the importance of reasonable accommodation throughout the document. Alongside the inclusion of the definition of reasonable accommodation, the Convention instructs State Parties to '*ensure that reasonable accommodation is provided to persons with disabilities in the workplace*' (Article 25)⁷⁰; to provide reasonable accommodation to persons with

⁶⁴ Commission of the European Communities, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, *Equal opportunities for people with disabilities: A European Action Plan*. Brussels 30.10.2003. COM/2003/0650.

⁶⁵ Ibid p.15.

⁶⁶ European Commission (2009). Mid-term Evaluation of the European Action Plan 2003-2010 on Equal Opportunities for People with Disabilities, p.25.

⁶⁷ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM/2010/0636.

⁶⁸ Ibid p.7.

⁶⁹ UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106.

⁷⁰ UN General Assembly, Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106

disabilities to ensure they are 'able to access...vocational training, adult education and lifelong learning without discrimination and on an equal basis with others' (Article 24)⁷¹; and 'to promote equality and eliminate discrimination' (Article 5)⁷². To further validate this commitment to reasonable accommodation and the overarching aim of unhindered inclusion for people with disabilities in the open labour market, Article 4 states that research and development of assistive technologies suitable for people with disabilities should be undertaken and promoted, alongside promoting the availability and affordability of such technologies⁷³.

Article 2 of the Convention also provides a definition of reasonable accommodation which is similar to that provided by Directive 2000/78/EC:

'Reasonable accommodation' means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.'

All Member States have not yet ratified the Convention, nor even signed the Optional Protocol as shown in the following table.

Table 4: The status of Member States with regard to the UNCRPD and its corresponding Optional Protocol⁷⁴

	Signed	Not signed	Ratified	Not ratified
UNCRPD	All Member States	N/A	AT, BE, BG, HR, CY, CZ, DK, FI, FR, DE, EL, HU, IT, LV, LT, LU, MT, PL, PT, RO, SK, SI, ES, SE, UK	EE, IE, NL
UNCRPD: Optional Protocol	AT, BE, BG, HR, CY, CZ, EE, FR, DE, EL, HU, IT, LV, LT, LU, MT, PT, RO, SK, SI, ES, SE, UK	DK, FI, IE, NL, PL	AT, BE, HR, CY, EE, FR, DE, EL, HU, IT, LV, LT, LU, MT, PT, SK, SI, ES, SE, UK	BG, CZ, DK, FI, IE, NL, PL, RO

3.4. Types of reasonable accommodation

The needs of individuals vary significantly across the diverse population of people with disabilities. A typology of reasonable accommodation is therefore not included in legislation. However, an analysis of the provision of reasonable accommodation across 30 countries by the Austrian Institute for SME Research (KMU Forschung Austria) distinguished several criteria which can be used to differentiate between types of workplace accommodation⁷⁵:

- difference between **technical solutions** and **social support**;

⁷¹ Ibid p.18.

⁷² Ibid p.7.

⁷³ Ibid p.6.

⁷⁴ Information retrieved from the United Nations Enable website. Accessed on 09/07/2014 at: <http://www.un.org/disabilities/countries.asp?navid=12&pid=166>.

⁷⁵ KMU Forschung Austria (2008). Providing reasonable accommodation for persons with disabilities in the workplace in the EU – good practices and financing schemes. Report prepared for the European Commission.

- difference between **investment measures** and **continuous efforts**;
- difference between **targeting the disabled person** or the **working environment**;
- Difference surrounding the **types of disabilities** being targeted.

The types of reasonable accommodation provided can be categorised using these criteria and vary greatly, from a one-off investment in an assistive technology (such as Braille keyboards) to continuous investments in an awareness-raising training programme. Table 5 outlines the most common types, and provides some examples, of reasonable accommodation.

Table 5: Types of reasonable accommodation

Types of reasonable accommodation
<p>Technical Solutions:</p> <p>Assistive technologies help increase employee productivity by making technologies more accessible. They are often targeted at people with sensory disabilities.</p> <p><i>Examples include Braille keyboards; electronic voice response systems; talking microwaves; strobe smoke detectors etc.</i></p> <p>Physical adjustments are used to accommodate a range of disabilities, from people with lost limbs to those with spinal injuries, by increasing the accessibility of the workspace and adapting work equipment.</p> <p><i>Examples include installing accessible lifts and door handles; building access ramps; providing ergonomic chairs or adjustable workbenches etc.</i></p>
<p>Social Support:</p> <p>Adjusted working hours / locations / tasks include the possibilities of part-time or flexible working hours; working from home; or redistribution of work tasks. This allows for a more flexible work life and can help disabled individuals who experience reduced mobility; require ongoing rehabilitation work, special assistance or treatment; or suffer from stress. These benefits can also be derived from increased rehabilitation or vacation time.</p> <p>Work assistance includes the provision of an assistant who can support the disabled individual acclimatise to the working environment. This requires the assistant to aid the individual in daily tasks, work procedures etc. It is noted that these measures are often targeted at individuals with intellectual and mental disabilities.</p> <p>Training is often provided to facilitate the successful integration of the disabled individual into the work environment. This can take the form of awareness training for incumbent employees or the personal development and training of the disabled individual.</p>

3.5. Legislation and policy at Member States level

All Member States have legislative provisions that cover the duty of reasonable accommodation (as shown in Table 6). In **Croatia** for instance, the right to reasonable accommodation is enshrined in the Law on Professional Rehabilitation and Employment of Persons with Disabilities; and Chapter V of **Romanian** Law 448/2006 outlines mandatory measures for workplace adaptations.

However, it has been recognised, most notably in the European Disability Strategy 2010-2020, that **reasonable accommodation has been interpreted inconsistently across**

the EU⁷⁶. The Commission sent out reasoned opinions to Member States regarding the incorrect transposition and implementation of the definition of reasonable accommodation included in the Directive⁷⁷. For example:

- in **Estonia** the Commission deemed that a number of provisions stipulated had not been properly implemented by the transposition deadline; including the right to reasonable accommodations for disabled employees. In turn, the Equal Treatment Act was passed in Estonia in 2008. It ensured the correct implementation of the Directive and resulted in the Commission closing its case against Estonia;
- the Commission stated that **Italian** legislation did contain provisions aimed at facilitating the work of people with disabilities; however, they are not fully inclusive and only referred to certain disabilities⁷⁸. This resulted in a case being brought against Italy where it was determined that Italy had failed to correctly implement Directive 2000/78/EC⁷⁹. Consequently, Legislative decree no. 216/2003 (Article 3, para. 3-bis) was amended in 2013 to accurately reflect the definition of reasonable accommodation found in the UNCRPD and the Directive⁸⁰.

Furthermore, some definitions contain caveats that could limit the positive impact of reasonable accommodation: e.g.

- the **German** legal definition only applies to those people classified as severely disabled; and
- disabled people in **Slovenia** only have the right to reasonable accommodation if they have undertaken a vocational rehabilitation procedure.

Although a precise definition of reasonable accommodation was not initially included in the legislation and policy documents of some Member States, other Member States have transposed more comprehensive and appropriate definitions of reasonable accommodation. The **UK** Equality Act 2010⁸¹ for instance, outlines three requirements where the duty to make *reasonable adjustments*, as it is known in the UK, is applicable⁸². The duty is required in the following situations:

- where a provision, criterion or practice applied by or on behalf of the employer puts the **person with a disability at a disadvantage compared with a person without a disability**.
- where a **physical feature results in the discrimination** of a person with a disability compared to a person without a disability.
- where a **person with a disability is disadvantaged by the lack of an auxiliary aid** compared to a person without a disability⁸³.

⁷⁶ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁷⁷ European Commission (2009). Employment equality rules: case closed for Estonia; reasoned opinions to Germany and Italy. IP/09/1620. Accessed on 03/04/2014 at: http://europa.eu/rapid/press-release_IP-09-1620_en.htm.

⁷⁸ Report on the employment of disabled people in European countries: Italy (2009) ANED VT/2007/005.

⁷⁹ Case C-312/11 *Commission v. Italy*, judgement of 4 July 2013.

⁸⁰ European network of legal experts in non-discrimination – News Report: Reasonable accommodation for people with disabilities: National law's amendment to implement CJEU's judgment. Accessed on 09/07/2014 at: <http://www.non-discrimination.net/content/media/IT-29-Reasonable%20accommodation.pdf>.

⁸¹ Equality Act 2010.

⁸² Ibid p.10.

⁸³ Government Equalities Office (2010). Equality Act 2010: Duty on employers to make reasonable adjustments for their staff.

Alongside this explanation of when the provision of reasonable accommodation is necessary, the Equality Act 2010 states that an employer with a duty to provide a reasonable adjustment cannot request any payment from the disabled person for the appropriate accommodations⁸⁴. It also defines both the physical features and the auxiliary aids⁸⁵ and establishes that the denial of reasonable adjustments constitutes discrimination⁸⁶.

Alongside the inclusion of reasonable accommodation in national legislation, Member States have implemented myriad policies and strategies to ensure the law is carried out. Table 6 aims to capture some of the key instruments utilised in this respect. It demonstrates how:

- all Member States have implemented state funding mechanisms for the provision of reasonable accommodation;
- 50 % of Member States have a dedicated authority in place to ensure the provision of reasonable accommodation; and
- 61 % of Member States have a recognised disability-specific aspect to their public employment services (PES).

Table 6: Reasonable accommodation and public employment services in the Member States

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Dedicated authority for ensuring RA Yes – ○ No – ●	Disability specific aspect to PES provision: Yes – ○ No – ●	Legal obligation on employer for RA Yes – ○ No – ●	State funding available for RA Yes – ○ No – ●	Additional information on state funding (non-exhaustive): ⁸⁷
AT	●	●	○	○	<ul style="list-style-type: none"> • Workplace adaptation funding • Personal assistance at the workplace • Wage benefit
BE	○	○	○	○	N/A

⁸⁴ Equality Act 2010 p. 11.

⁸⁵ Ibid p.11.

⁸⁶ Ibid p.12.

⁸⁷ Waddington, L. (2010). Disability benefits and entitlements in European countries: Mutual recognition and exportability of benefits: A synthesis of evidence provided by ANED country reports and additional sources.

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Dedicated authority for ensuring RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Disability specific aspect to PES provision: Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Legal obligation on employer for RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	State funding available for RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Additional information on state funding (non-exhaustive): ⁸⁷
BG	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Personal assistance allowance • Adaptation of workplace for people with disabilities (PWD) • Employment of PWD
CY	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Financial assistance for technical equipment and other assistive means • Vocational training scheme for PWD • Employment support scheme for PWD
CZ	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Discount tax for employers who employ PWD • Contribution for modification and maintenance of a workplace for
DE	<input type="radio"/>	<input type="radio"/>	<input type="radio"/> *	<input type="radio"/>	<ul style="list-style-type: none"> • Wage subsidies

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Dedicated authority for ensuring RA Yes – ○ No – ●	Disability specific aspect to PES provision: Yes – ○ No – ●	Legal obligation on employer for RA Yes – ○ No – ●	State funding available for RA Yes – ○ No – ●	Additional information on state funding (non-exhaustive): ⁸⁷
DK	○	○	○	○	<ul style="list-style-type: none"> • Personal assistance at the workplace • Mentor at the workplace scheme
EE	○	○	○	○	<ul style="list-style-type: none"> • Rehabilitation allowance • Work allowance • In-service training allowance
EL	●	○	○	○	<ul style="list-style-type: none"> • Technical aids funding
ES	●	●	○	○	<ul style="list-style-type: none"> • Personal assistant subsidy • Financial benefits for employers who employ PWD
FI	●	●	○	○	<ul style="list-style-type: none"> • Work activities for people with learning disabilities • Vocational special education and training for PWD
FR	○	○	○	○	N/A

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Dedicated authority for ensuring RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Disability specific aspect to PES provision: Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Legal obligation on employer for RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	State funding available for RA Yes – <input type="radio"/> No – <input checked="" type="radio"/>	Additional information on state funding (non-exhaustive): ⁸⁷
HR	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	N/A
HU	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Benefit to remove barriers for PWD • Supported employment allowance
IE	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Workplace equipment adaptation grant (WEAG) • Wage subsidy scheme • Employee retention grant • Assessment of need for PWD
IT	N/A	N/A	<input type="radio"/>	<input type="radio"/>	<ul style="list-style-type: none"> • Contributions for the removal of architectural barriers • Personal assistance support • Technical equipment allowance • Vocational training allowance

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Dedicated authority for ensuring RA Yes – ○ No – ●	Disability specific aspect to PES provision: Yes – ○ No – ●	Legal obligation on employer for RA Yes – ○ No – ●	State funding available for RA Yes – ○ No – ●	Additional information on state funding (non-exhaustive): ⁸⁷
LT	○	●	○	○	<ul style="list-style-type: none"> • Subsidy for the creation of workplaces for PWD • Partial reimbursement of wages • Adaptation of workplaces for PWD
LU	●	○	○	○	N/A
LV	●	●	○	○	N/A
MT	●	○	○	○	<ul style="list-style-type: none"> • Assistive apparatus fund and / or tax refund
NL	○	○	○	○	<ul style="list-style-type: none"> • Reintegration of PWD in the labour market fund including adaptation of workplaces
PL	●	●	○	○	<ul style="list-style-type: none"> • Elimination of architectural barriers fund • Monthly subsidy to employ PWD • Elimination of communication barriers in the workplace fund

Title	Public employment services (PES)		Responsibility for reasonable accommodation		
	Member States	Dedicated authority for ensuring RA Yes – ○ No – ●	Disability specific aspect to PES provision: Yes – ○ No – ●	Legal obligation on employer for RA Yes – ○ No – ●	State funding available for RA Yes – ○ No – ●
PT	○	○	○	○	<ul style="list-style-type: none"> Adaptation of workplaces and elimination of architectural barriers Supported employment fund
RO	●	●	○	○	<ul style="list-style-type: none"> Tax deductions for costs of workplace adaptations
SK	○	○	○	○	<ul style="list-style-type: none"> Direct payment for personal assistance and purchasing devices Allowance to maintain PWD in jobs Personal assistance allowance
SI	●	○	○**	○	N/A
SE	●	○	○	○	<ul style="list-style-type: none"> Wage subsidy Assistive devices, technical aid fund
UK	●	○	○	○	<ul style="list-style-type: none"> Employment and support allowance

* German legislation only includes the obligation for the provision of reasonable accommodation to those people classified as severely disabled.

** Slovenian legislation only includes the obligation for the provision of reasonable accommodation if a disabled individual has already undergone a vocational rehabilitation procedure.

3.6. Funding and provision of reasonable accommodation

While state funding of reasonable accommodation exists throughout the EU, there are numerous variations in the type and mechanisms of financial support. One strategy is to channel funds through employment agencies; an example is the support for reasonable accommodation shown in **Belgium** by the Walloon Agency for the integration of disabled people (AWIPH). AWIPH operates in Wallonia and directs most of its work on reasonable accommodation through a project called *Ergojob* which has been described as a best practice example⁸⁸. It started in 2009 and provides employers with funds for reasonable accommodation. In 2012, 172 grants for reasonable accommodation were provided by the four Disability Community Agencies in **Belgium**⁸⁹. Another strategy is the use of funds gathered from penalties for non-compliance with quotas (e.g. the State Fund for Rehabilitation of Disabled Persons in **Poland**). Other Member States fund reasonable accommodation directly through government entities (e.g. the Federal Office for Social Affairs controls the provision of financial support for technical or assistive equipment in **Austria**; and a separate entity - the Fund for Professional Rehabilitation and Employment of Persons with Disabilities - controls the funding and provision of reasonable accommodation in **Croatia**).

In order to assess the impact of reasonable accommodation, the **Dutch** Ministry of Social Affairs and Employment funded a study to carry out cost-benefit analyses on ten examples of reasonable accommodation. **It found that companies in the public and private sector benefit as a result of investments in reasonable accommodation**⁹⁰. The accommodation examples included the provision of assistive equipment that allows a person with a disability to mount window panes. It was found that the additional costs for this adaptation were EUR 840 per year yet the additional gains, due to increased productivity and decreased absenteeism, were EUR 6 895 over the same period⁹¹. Additional financial benefits encountered include lower operational costs and improved competitiveness. Furthermore, the intangible benefits, although not easily quantifiable, should not be understated: for the company these include increased awareness of the company's values and standards; and for the disabled individuals they include increased economic and social inclusion, improved self-esteem and greater personal satisfaction.

Only 50 % of Member States have a dedicated authority that ensures the provision of reasonable accommodation. When this provision is available it can come in various forms. In **Sweden**, for example, the PES coordinates reasonable accommodation using labour market programmes such as Special Introduction and Follow-up Support (SIUS). SIUS specifically supports the provision of reasonable accommodation for people with disabilities in a number of ways: they use supported employment methods, which help 74,000 people per month in Sweden⁹²; offer work aids, which could be assistive technologies or adjustments to the physical environment; and provide support for a personal assistant to help a disabled individual.

Reasonable accommodation support is also the responsibility of part of the PES in **Denmark**: the Special Function Job and Disability (SJH) implement and regulate the

⁸⁸ Agence Wallone pour l'integration des Personnes Handicapees (AWIPH) (2012). Rapport Annuel : Rapport d'activités 2012. Retrieved from http://www.awiph.be/pdf/documentation/publications/revues_rapports/rapport_annuel/rapport_annuel_AWIPH_2012.pdf.

⁸⁹ Ibid.

⁹⁰ Koningsveld, E. A. P. et al. (2003). Een pilotstudy naar kosten en baten van oplossingen in het kader van Design for All en Disability Management.

⁹¹ Ibid.

⁹² The labour market situation for people with disabilities 2013 Statistics Sweden. 2014. http://www.scb.se/Statistik/Publikationer/AM0503_2013A01_BR_AM78BR1401.pdf.

provision of any accommodations required by a disabled person⁹³. However, in the **Netherlands** an entity distinct from the PES - the Employee Insurance Agency (Uitvoeringsorgaan Werknemers Verzekeringen - UWV) - is responsible for the provision of reasonable accommodation⁹⁴. Aside from the fact that the international legislative obligation to provide reasonable accommodation has been transposed in national legislation, it is not known how reasonable accommodation is currently delivered and regulated in the other Member States.

In the **UK**, support for reasonable accommodation/adjustments is delivered through the Access to Work programme, which provides advice and support to people with disabilities and their employers, to help them to overcome work-related obstacles resulting from disability. It provides funding towards the additional disability-related costs of special equipment, adaptations to the workplace, personal assistance, travel to work, etc. The employer normally pays for the additional support required and receives a grant towards these costs (up to 100 % of the costs for those entering a new job or self-employment)⁹⁵.

Employers share the costs of some elements for applicants who have been in a job for more than six weeks, with larger employers paying more than smaller employers. No contribution is required from very small employers or from self-employed people⁹⁶. An initial analysis of the costs and return of the Access to Work programme showed that for every GBP 1 spent on the programme there was a net return of GBP 1.48 to the Treasury. This figure originated from a 2004 report from the Royal National Institute of Blind People and has been widely used by the Department for Work & Pensions and quoted in the literature for a number of years. More recently, British civil servants have started using the figure of GBP 1.18 of net return, although no exact source can be found⁹⁷. **This debate highlights the difficulty of assessing the costs and returns on investment of reasonable accommodation in the UK.**

The case study on supported employment in the US (in section 8) also highlights the difficulties in assessing the returns of investment in supported employment. While the definition of supported employment is wider than that of reasonable accommodation, Cimera⁹⁸ highlights the fluidity of the cost-accounting analyses he reports on. The figures reported are based on a US context, so although they are valid in a US context, it would be difficult to assess whether such programmes would be cost efficient in the EU.

3.7. Necessary and appropriate adaptations

The funding, legislation and policy, detailed above, interact to provide a framework within which the integration of people with disabilities into the open labour market is facilitated. This framework ensures that necessary and appropriate adaptations are available in the working environment for people with disabilities. In this respect there are essentially three types of adaptations offered. The following examples seek to illustrate the types of

⁹³ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁹⁴ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁹⁵ Roulstone A, Prideaux S, Priestley M. Page 4.

⁹⁶ Disability employment support: fulfilling potential Government's response to the consultation on the recommendations in Liz Sayce's independent review: Getting in, staying in and getting on. Presented to Parliament by the Secretary of State for Work and Pensions. 2012. Page 17. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184948/dis-employ-support-response.pdf.

⁹⁷ Melanie Brown, Centre for independent living, the Fed: 'The Concerns over government's use of new Access to Work figures', June 2014.

⁹⁸ Cimera, R.E. (2012). The economics of supported employment: What new data tells us. *Journal of Vocational Rehabilitation* 37:109-117.

reasonable accommodation being supported across the EU. It is important to note, however, that they **only represent a part of each Member State's approach to providing reasonable accommodation for people with disabilities**. In practice, a combination of legislative instruments, policy measures and actions look to aid the integration of individual disabled people in the open labour market:

- **Workplace adaptation / assistive equipment** – technical or assistive equipment that is a necessity for the disabled worker can be funded up to 100 % in **Austria**⁹⁹. The **Estonian** Unemployment Insurance Fund may only compensate a company for up to 50 % of the cost of the workplace adaptation or assistive technology¹⁰⁰. The **Irish** government, however, offers a set grant up to EUR 6 348.70 towards the cost of adapting or purchasing equipment¹⁰¹.
- **Personal assistance** – in **Slovakia**, the Office of Labour pay the salary of a Disability Officer, whose role is, among other things, the specific management of disabled employees¹⁰². In **Austria**, two types of employment specialist are available to people with disabilities: the 'Employment Assistant' and the 'Job Coach'.
- **Wage subsidies** are common across Member States: for instance this is the most extensively used mechanism for covering the loss of productivity from employing a disabled person in **Sweden** – wage subsidies are available for a maximum of four years at a maximum of 80 % of SEK 16 700¹⁰³. Wage subsidies in **Germany** have reduced in amount and duration recently¹⁰⁴; and they are rarely used in the open labour market in the **Czech Republic** due to the bureaucratic processes surrounding the provision of wage subsidies¹⁰⁵.

Table 7, below, provides examples of the provision of reasonable accommodation across the EU. This includes accommodations such as adjusted working hours / tasks / locations and personal assistant schemes.

Table 7: Examples of the provision of reasonable accommodation across the EU

Reasonable accommodation across the EU: examples

Wage subsidy schemes: e.g.

Czech Republic (CZ) – *within sheltered work environments, the Czech government offers easily accessible wage subsidies. However, regarding employment of people with disabilities in the open labour market, the possibility of wage subsidies exists but they are not often utilised due to complications, such as the bureaucratic processes surrounding its provision*¹⁰⁶.

⁹⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹⁰⁰ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹⁰¹ Report on the employment of disabled people in European countries: Ireland (2009) ANED VT/2007/005.

¹⁰² European Blind Union: Slovakia: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/134>.

¹⁰³ European Commission (2011). Supported employment for people with disabilities in the EU and EFTA-EEA: good practices and recommendations in support of a flexicurity approach.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ European Commission (2011). Supported employment for people with disabilities in the EU and EFTA-EEA: good practices and recommendations in support of a flexicurity approach.

Reasonable accommodation across the EU: examples

Netherlands (NL) – an innovative temporary law was introduced at the height of the economic crisis when small and medium enterprises were financially stretched. This law both supported employers by supplementing wages, therefore allowing them to pay disabled workers less than minimum wage, and demonstrated a commitment to the integration of people with disabilities in the open labour market¹⁰⁷.

Sweden (SE) – wage subsidies are the most extensive mechanism of government financial support for the participation of people with disabilities in the open labour market in Sweden. These subsidies are regulated in the Ordinance on Certain Support for Persons with Work Impairment (Förordning 2000:630 om särskilda insatser för personer med funktionshinder som medför nedsatt arbetsförmåga) and are paid for a maximum of four years¹⁰⁸. The maximum available payment is 80 % of SEK 16 700 per month (equivalent to EUR 1 819¹⁰⁹) but this depends on the productivity of the disabled person¹¹⁰.

Workplace adaptation: e.g.

Estonia (EE) – the Estonian Unemployment Insurance Fund (Eesti Töötukassa) may compensate a company for up to 50 % of the cost of the adaptation of work premises and equipment required when employing a person with a disability¹¹¹.

Ireland (IE) – people with disabilities can apply to their local Employment Services Office for a Workplace Equipment Adaptation Grant (WEAG)¹¹². These can offer up to EUR 6 348.70 in grant aid towards the cost of adapting or purchasing equipment – including both physical adjustments (e.g. modified toilets) and assistive technologies (e.g. voice synthesisers for computers)¹¹³.

Lithuania (LT) – funding is also available for workplace adaptation. However, employers must pay at least 35 % of the total cost of the adaptations and retain the employee for at least 36 months¹¹⁴. In addition to these requirements, the Lithuanian government offers one-off bonuses to employers offering people with disabilities permanent contracts¹¹⁵.

Personal assistance: e.g.

Austria (AT) – two types of employment specialist can be utilised regarding the supported employment of people with disabilities in **Austria**: the 'Employment Assistant' (arbeitsassistent) and the 'Job Coach'. The former can support the disabled person for up to 12 months, whereas the latter provides more intensive assistance with a shorter timescale. Both of these support mechanisms aim to increase job retention among disabled workers but have no formal training or education relevant to this role.

¹⁰⁷ Report on the employment of disabled people in European countries: Netherlands (2009) ANED VT/2007/005.

¹⁰⁸ Report on the employment of disabled people in European countries: Sweden (2009) ANED VT/2007/005.

¹⁰⁹ Accurate equivalent value in Euros calculated on 09/09/2014

¹¹⁰ European Commission (2011). Supported employment for people with disabilities in the EU and EFTA-EEA: good practices and recommendations in support of a flexicurity approach.

¹¹¹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹¹² Report on the employment of disabled people in European countries: Ireland (2009) ANED VT/2007/005.

¹¹³ Department of Social Protection, Ireland website, Accessed on 03/04/2014 at: <http://www.welfare.ie/en/Pages/Workplace-Equipment-Adaptation-Grant.aspx>.

¹¹⁴ European Blind Union: Lithuania: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/130>.

¹¹⁵ Ibid.

Reasonable accommodation across the EU: examples

Slovakia (SK) – a particularly novel scheme to help socially integrate and support people with disabilities in the workplace. The Office of Labour will pay the salary of a Disability Officer, whose role is the specific management of disabled employees – aiding integration into the work environment, offering guidance to disabled employees and raising awareness among non-disabled employees¹¹⁶.

Denmark (DK) – under this measure people with mental or physical disabilities are entitled to personal assistance at work for up to 20 hours a week¹¹⁷.

Adjusted working hours / locations / tasks: e.g.

Portugal (PT) – the Portuguese Labour Code recognises the right of people with disabilities to:

- benefit from flexible working hours;
- not perform extra working hours or night work that could be considered dangerous for health or safety reasons¹¹⁸.

Germany (DE) – alongside being exempt from working overtime, people with severe disabilities are entitled to an extra week of vacation each year¹¹⁹.

Estonia (EE) – under the Occupational Health and Safety Act it is required, among other things, that the work tasks for people with disabilities must be customised according to their physical and mental capabilities¹²⁰.

The reasonable accommodation examples mentioned in Table 7 are implemented and funded, in some Member States, by specific entities. Certain examples of these organisations are outlined below in Table 8.

Table 8: Examples of organisations that provide and fund reasonable accommodations across the EU

Organisations that fund or provide reasonable accommodation: examples

Government entities offering funds and grants: e.g.

Austria (AT) – the Federal Office for Social Affairs provides financial support to make the workplace, vocational training and toilets accessible to people with disabilities¹²¹, technical or assistive equipment that is a necessity for the disabled person to carry out an occupation can be funded up to 100 %¹²².

Belgium (BE) – four Disability Community Agencies support the different Regions and

¹¹⁶ European Blind Union: Slovakia: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/134>.

¹¹⁷ Report on the employment of disabled people in European countries: Denmark (2009) ANED VT/2007/005.

¹¹⁸ European Blind Union: Portugal: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/132>.

¹¹⁹ European Blind Union: Germany: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/125>.

¹²⁰ Report on the employment of disabled people in European countries: Estonia (2009) ANED VT/2007/005.

¹²¹ Report on the employment of disabled people in European countries: Austria (2009) ANED VT/2007/005.

¹²² Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

Organisations that fund or provide reasonable accommodation: examples

Communities (VDAB for Flanders; AWIP for Wallonia; Service Bruxellois-Phare for Brussels; and the Service for Persons with a Disability in the German speaking community)¹²³. These agencies provide funding for workplace adaptations, work clothing and equipment, and transport costs for people with disabilities¹²⁴.

Poland (PL) – the State Fund for Rehabilitation of Disabled Persons (Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych, PFRON) uses penalties from the non-compliance of the Polish quota for people with disabilities to fund employment and rehabilitation programmes¹²⁵. This includes funding workplace adaptations, grants to promote entrepreneurship within the disabled community, and wage subsidies¹²⁶.

Public employment services: e.g.

Bulgaria (BG) – the Bulgarian Employment Agency currently offers two sets of programmes and projects specifically for people with disabilities¹²⁷. The first of these, 'Employment and training of people with disabilities', mainly provides active labour market policies. With regard to reasonable accommodation, the second, 'Assistants for people with disabilities', plays a major role in providing personal assistants to promote the employment of disabled workers¹²⁸.

Spain (ES) – the Public Service of State Employment (SEPE), working under the Ministry of Work and Immigration, offers employment advice and support services to disabled people in mainstream employment. Each autonomous Spanish Community has its own Public Service of Employment¹²⁹.

Hungary (HU) – the Rehabilitation Offices, established within municipality government offices, are tasked with examining and classifying people with disabilities. The process involves an individualised occupational rehabilitation test which assesses medical, occupational and social aspects in equal measures. A certification committee, consisting of a physician, a social rehabilitation expert and a vocational rehabilitation expert, then establishes the 'changed working capacity' of the individual disabled person. This results in a more detailed assessment of the working capacity and reasonable accommodation needs of the individual¹³⁰.

3.8. Individual needs

After the obligation to provide necessary and appropriate adaptations, the second element of the legal obligations relating to providing reasonable accommodation is the focus on the particular needs of each individual disabled person. This is done in a number of ways across the EU including developing individual career plans; assessing

¹²³ Report on the employment of disabled people in European countries: Belgium (2009) ANED VT/2007/005.

¹²⁴ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹²⁵ Report on the employment of disabled people in European countries: Poland (2009) ANED VT/2007/005.

¹²⁶ Information retrieved from the Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych (State Fund for Rehabilitation of Disabled Persons) website. Accessed on 10/07/2014 at: <http://www.pfron.org.pl/>.

¹²⁷ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹²⁸ Information retrieved from the Bulgarian Ministry of Labour and Social Policy: Employment Agency website. Accessed on 10/07/2014 at: <http://www.az.government.bg/pages/nacionalna-programa-ahu/>.

¹²⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹³⁰ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

the reasonable accommodations that would be needed prior to entry into the open labour market; adequately classifying the abilities of people with disabilities; and using trained professionals to support people with disabilities during the employment cycle.

In **Hungary**, for example, this is demonstrated by the fact that it is required under government decree No. 327/2012 for employers to develop, and annually renew, a personal rehabilitation plan for each disabled employee. This is the responsibility of a rehabilitation advisor, assisted by a rehabilitation mentor. It is based on the individual classification of the disabled person and elaborates the employment characteristics of that disabled person. This includes an outline of the remaining working abilities, supported by details of suitable activities or jobs, and a personalized career progress plan. The progress plan takes into account the interests, working ability and personality of the disabled person, as well as the current needs of the labour market. It is also required that the rehabilitation plan describes the employment conditions and the measures necessary to identify and remove barriers to employment, alongside the elements and forms of assistance¹³¹.

Additionally, the classification system in **Hungary** is focused on the individual. Since July 2012 it emphasizes the remaining working ability of the disabled person as opposed to determining the disability rate through lost skills, as was previously the case. This 'changed working ability' is assessed through an individualised occupational test which is equally informed by medical, occupational and social reviews by relevant experts in the three areas.

The development of a rehabilitation plan for disabled individuals is also current practice in the **Netherlands**, also due to a change in the focus of disability classification. In the Wajong Act (2010) the emphasis is placed on what young disabled people (i.e. Wajongers) can do rather than what they cannot do. As a result of this, Wajongers now receive an individual participation plan at the age of 18, which states any available assistance they might need and includes the provision of vocational training. The Wajongers and their individual participation plan are then reassessed at the age of 27¹³².

There is also a strong focus in **Germany** on the individual needs of each disabled person. The integration offices and the integration services, which both aim to increase the participation of people with disabilities in the open labour market, are required to take into account the individual needs of every disabled person they work with. This commitment is met primarily through the employment of professionals who have experience working with disabled people – the integration services currently employ around 1,400 psychosocially trained professionals at federal level. Additionally, the legal stipulations regarding supported employment state that the individual needs of the disabled person must be met, and that only professionals with an appropriate qualification can work alongside the disabled people (i.e. psychosocially trained with an additional pedagogical qualification)¹³³.

3.9. Disproportionate burden

The third, and final, aspect enshrined within the legislative right of people with disabilities for reasonable accommodation is the concept of a 'disproportionate burden'. In 2011, the International Labour Organisation (ILO) developed an

¹³¹ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

¹³² UWV (2010). Wajong monitor: first report, An analysis of the new Wajong Act (the Invalidity Insurance Act for Young Disabled Persons) in the first half of 2010.

¹³³ Bundesministerium der Justiz (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

education and training guide¹³⁴, which illustrates the three conditions under which an employer can be exempt from providing a reasonable accommodation:

- **Cases where the employer was not aware of the need for an individual accommodation.** For example, a worker who suffers from depression, but who failed to tell his employer, then has a breakdown requiring several months' hospitalization and asks the employer for an accommodation by holding his job during his absence.
- **An effective accommodation, enabling the applicant or worker with a disability to perform the essential functions of a job that is not available.** For example, an engineer whose primary job involves doing computer-assisted design (CAD) becomes blind as a result of diabetes. He asks the employer for an accommodation, but the employer cannot comply because the worker can no longer do the primary functions of his job and that is the only kind of work the company does.
- **The requested accommodation imposes a 'disproportionate burden' on the employer.** In this last situation, an example would be if, because of an accident, a worker now uses a wheelchair and his employer is in a building that does not have an elevator. It might prove a disproportionate burden to expect the employer to move his facility or install an elevator.

According to the ILO's guidelines, employers should draft their 'defence' or justification for not accommodating a disabled person carefully, to prevent unscrupulous employers from avoiding any obligation and this may lead to increased litigation. The ILO considers the fact that the workplace or work schedule would be inconvenienced by accommodating a disabled person does not amount to a 'disproportionate burden'. However, the guidelines note that, **in practice, the question as to what constitutes a disproportionate burden very much depends on the context of the case concerned, and is not merely dependent on the financial costs of an accommodation or financial compensation schemes.** Other factors are taken into account, such as practical implications, effects on the overall work process, number of disabled workers already employed and length of the envisaged employment contract.

As stated above, the UNCRPD and Directive 2000/78/EC require that any accommodation should be deemed proportionate in light of the '*financial and other costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or any other assistance*'. The assessment of disproportionate burden upon the employer is covered under Recital 21 of the Directive, although this remains vague.

Some business/employers' organisations have complained that the concept of disproportionate burden is not clearly defined and therefore presents high risks for wrong interpretations at national level and legal uncertainties. BUSINESSEUROPE has called on the European Parliament and the Council to leave it to the Member States to define what is a 'disproportionate burden', in full consideration of the diversity of national contexts in this regard¹³⁵. For its part, the European Trade Union Confederation (ETUC), considers it crucial to ensure that staff representatives are consulted when deciding within a company what a disproportionate burden is.

¹³⁴ Achieving Equal Employment Opportunities for People with Disabilities through Legislation: An Education and Training Guide. International Labour Organization. 2001.

¹³⁵ Business Europe: Position Paper. Commission Proposal For A Directive On "Implementing The Principle Of Equal Treatment Between Persons Irrespective Of Religion Or Belief, Disability, Age, Or Sexual Orientation". 2008. <http://www.buinessurope.eu/DocShareNoFrame/docs/3/EPJOLHHAGEKGDGOGKBOHEHBGGPDBW9DP6C19LTE4Q/UNICE/docs/DLS/2008-02385-E.pdf>.

The European Disability Forum (EDF) also offered an opinion on the concept of 'disproportionate burden', when in consultation with the United Nations during the drafting of the UNCRPD. The EDF stated that *'in the context of a human rights convention, it is hard to see that an obligation which will ensure the full enjoyment of human rights can be qualified by the concept of undue hardship or disproportionate burden'*. This dissatisfaction at the concept is not further elaborated, nor are any solutions put forward. However, the EDF goes on to state that if the concept is to be included, it should take into account a number of factors, including the size and type of the entity, any available financial subsidies which could compensate the cost, and the implications of the accommodation on the entity¹³⁶.

The lack of clear definition of reasonable burdens is reflected in some Member States' legislation. In **Germany**, for example, the concept appears in §81(4) SGB IX, yet does not go beyond stating that the implementation of reasonable accommodation must be reasonable¹³⁷. Furthermore, Hungarian Act XXVI on the Rights and Equal Opportunities of Persons with Disabilities, notes that disproportionality is synonymous with impossibility although no further criteria to determine this impossibility are mentioned¹³⁸.

In contrast, other Member States concretely outline criteria that should be used to determine if an accommodation is reasonable. **Spanish** legislation, for example, outlines the criteria to be taken into account when determining whether an accommodation results in a disproportionate burden. Article 7.c of Law 51/2003 states that 'In order to determine whether a burden is proportionate, the following shall be taken into account: the cost of the measure, the discriminatory effects for disabled persons if it is not adopted, the structure and characteristics of the person, entity or organisation required to put it into practice, and the possibility of obtaining official funding or any other aid. To this end, the competent public authorities may establish a public aid plan to help cover the costs arising from the obligation to make reasonable accommodation'¹³⁹.

3.10. Conclusions

Reasonable accommodation describes the adjustments made to accommodate the needs of people with disabilities in order to ensure they have access to the workplace on an equal footing with others. There are three aspects to the definition of reasonable accommodation (i) the right to necessary and appropriate adaptations, (ii) the stipulation that these adaptations should be particular to the disabled individual, and (iii) that the adaptations should not impose a disproportionate burden on the employer. The individual nature of the reasonable accommodation provision is well represented in public policy and legislation. Trends across the EU are moving towards greater focus on the abilities of the people with disabilities as opposed to lost working capacity.

The measures follow the social model of disability and are targeted at removing the barriers which make the working environment inaccessible for people with disabilities.

The costs and returns of investment for reasonable accommodation for people with disabilities are difficult to establish. Due to the individual nature of many reasonable accommodations, no robust study was found which assessed this, nor was it possible to

¹³⁶ 3rd Session of the Ad Hoc Committee: NGO comments at the 3rd session – European Disability Forum. Accessed on 08/07/2014 at: <http://www.un.org/esa/socdev/enable/rights/ahc3comedf.htm>.

¹³⁷ Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

¹³⁸ Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED) and the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

¹³⁹ Cachón, 2009, p.36.

find an illustrative example for which a cost-benefit analysis could be performed. Instead, individual programmes or types of accommodation should be evaluated, as has been done by the **Dutch** Ministry of Social Affairs and Employment. These difficulties are also illustrated by the debate on the return of the Access to Work programme in the **UK** for which no figure has been agreed upon.

In general, research on supported employment reported in Section 8 suggests that at least in a US context, transitioning disabled individuals (where possible) into 'regular' employment through training and support is more cost-beneficial than sheltered workshops, although the exact figures, based on US costs and programmes are not directly transposable to the European context. However, it is likely that programmes with a transitional aim are likely to be more cost-beneficial from all perspectives than those which individuals rely on permanently, due to decreased ongoing costs and (potentially) higher wages in the open labour market, providing these programmes are effective in that aim, for those individuals whose disabilities are not so severe that reasonable accommodations cannot be made for them.

Despite the need for further research, economic analysis and evaluation, evidence suggests that investments in reasonable accommodation are cost beneficial and provide a return in terms of increased productivity and reduced absenteeism.

DRAFT

4. ALTERNATIVE LABOUR MARKET SERVICES

KEY FINDINGS

- **Alternative labour market services are very heterogeneous** and include: (i) active labour market policies such as guidance, counselling, training and education; (ii) passive labour market policies such as cash benefits; (iii) specific measures such as quota systems; and (iv) general measures which are not specifically targeted at employment but more generally at anti-discrimination and accessibility.
- **Active labour market policies, which relate to positive action, are often not in a way that allows for the detailed identification of aspects relevant to people with disabilities.** Consequently, two economic analyses have been conducted to assess their impacts. Both are cost beneficial in helping people with disabilities to attain employment.
- **Passive labour market policies such as cash incentives are generally not considered to be efficient.** They also do not appear to have a positive impact on assisting people with disabilities access employment.
- **The most common type of specific measure is quota systems which exist in 21 Member States** including Germany. A cost-benefit analysis of the German quota system has been performed as part of this study. The analysis shows that a recent reform lowering the quota, but changing the penalty structure, resulted in an increase of between 2.2 and 3.5 % in the share of employed people with severe disabilities, as a percentage of the total working-age population with severe disabilities.
- **All Member States have some form of anti-discrimination legislation (part of general measures).** A cost-benefit analysis of the UK Disability Discrimination Act demonstrates this type of legislation has a positive effect on the employment rate of people with disabilities, with an estimated additional 180,000 registered disabled people in employment, compared to the counter-factual scenario.

4.1. Definitions

The term alternative labour market services can refer to a number of different policy strategies. These can be:

- **Active labour market policies** (ALMPs) include guidance and counselling, training and education, and job placements.
- **Passive labour market policies** (PLMPs) - often cash benefits provided as a funding or subsidy making it inexpensive to hire disabled persons.
- **Specific measures** include quota systems, making it mandatory for employers of firms above a certain size to employ people with disabilities.
- **General measures** which include anti-discrimination legislation as well as some accessibility measures.

Table 9, below, outlines how some of these strategies are represented across the EU. First, it notes whether anti-discrimination legislation is stipulated in the Member State's own legislative document ('Mainstream'), or whether it is covered in a number of different legislative documents ('Fragmented'); second, it notes which Member States have quotas in place; and third, it outlines the role played the PES in the provision of ALMPs. These strategies will be further discussed throughout this chapter.

Table 9: High level summary of the existence of anti-discrimination legislation and quotas across the EU28 alongside information on active labour market policies^{140,141}

	Anti-discrimination legislation	Specific Measures - quotas	Active Labour Market labour market policies (ALMPs) with PES responsible for:	
			Providing advice	implementing ALMP measures
AT	Mainstream	Yes	Yes	No
BE	Mainstream	Yes	Yes	Yes
BG	Fragmented	Yes	Yes	Yes
CY	Mainstream	Yes	Yes	Yes
CZ	Mainstream	Yes	Yes	Yes
DE	Mainstream	Yes	Yes	Yes
DK	Mainstream	No	Yes	Yes
EE	Mainstream	No	Yes	Yes
EL	Mainstream	Yes	Yes	Yes
ES	Mainstream	Yes	Yes	No
FI	Mainstream	No	Yes	Yes
FR	Mainstream	Yes	Yes	Yes
HR	Mainstream	Yes	Yes	Yes
HU	Mainstream	Yes	Yes	Yes
IE	Mainstream	Yes	Yes	Yes
IT	Mainstream	Yes	N/A	N/A

¹⁴⁰ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹⁴¹ Greve, B. (2009). The labour market situation of disabled people in European countries and implementation of employment policies: a summary of evidence from country reports and research studies. Report prepared for the Academic Network of European Disability experts (ANED).

	Anti-discrimination legislation	Specific Measures - quotas	Active Labour Market labour market policies (ALMPs) with PES responsible for:	
			Providing advice	implementing ALMP measures
LT	Fragmented	Yes	Yes	Yes
LU	Fragmented	Yes	Yes	No
LV	Fragmented	No	Yes	Yes
MT	Mainstream	Yes	Yes	Yes
NL	Mainstream	No	Yes	Yes
PL	Mainstream	Yes	Yes	Yes
PT	Mainstream	Yes	Yes	Yes
RO	Mainstream	Yes	Yes	No
SK	Mainstream	Yes	Yes	Yes
SI	Mainstream	Yes	Yes	Yes
SE	Mainstream	No	Yes	Yes
UK	Mainstream	No	Yes	Yes

4.2. Active labour market policies (ALMPs)

Taken in a general sense, **active labour market policies (ALMPs) are designed to increase employment levels through positive action**. ALMPs can be aimed at any population not currently in employment. Authors of this study have found it extremely challenging to identify literature on ALMPs specifically targeted at people with disabilities at the EU level. Consequently, this section presents general ALMPs before providing examples of specific policies, including two economic analyses of specific projects for people with disabilities.

Funding for ALMPs in the EU is distinguished via a number of actions and services. Although some of these actions and services will be used to target people with disabilities, it is important to note that disaggregation of data for people with disabilities is rare. ALMPs can be divided into 8 categories; one service and 7 labour market policy measures presented below:

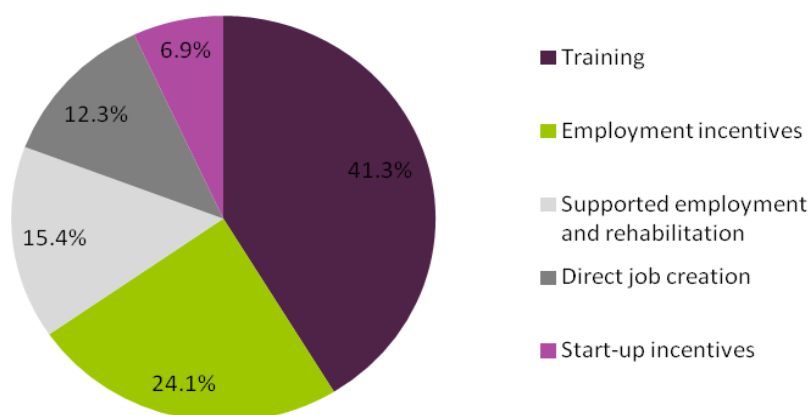
- *Category 1 - Public Employment Services (PES)* together with any other publicly funded services for job-seekers.

And seven **labour market policy measures**:

- *Category 2* - Training services.
- *Category 3* - Job rotation and job sharing.
- *Category 4* - Employment incentives.
- *Category 5* - Supported employment and rehabilitation.
- *Category 6* - Direct job creation.
- *Category 7* - Start-up incentives.

Funding of general ALMPs is well documented across Member States, with an estimated EUR 63 626 million spent on measures (categories 2-7) across the EU in 2009. The priorities, as shown in Figure 1, are training measures (41.3 %) and employment incentives (24.1 %). Regarding specifically people with disabilities, the only category where data are collected on these individuals, is 'supported employment and rehabilitation', which commands the third highest average public expenditure across EU Member States (15.4 %).

Figure 1: Public expenditure on labour market policy measures (categories 2, 4, 5, 6, 7) across the EU in year 2009 (% of total)¹⁴²



Source: Eurostat

General labour market policy trends are not coherent throughout the EU, as different measures are prioritised in different Member States. For example, in the Netherlands, where approximately EUR 3 897 million (0.65% of GDP) was spent on categories 2-7 in 2012, training measures received over 75 % of this funding. This is a common trend amongst some Member States such as the **Czech Republic, Poland** and **Denmark**; who prioritise training measures (over 40 % of all categories 2-7 AMLPs).

In other Member States no distinct trend can be discerned. **Estonia**, for instance, has invested more heavily in training and employment incentives since the economic crisis. Contrastingly, **Bulgaria** uses the majority of its funding for direct job creation. It is important to note that since the economic crisis these Member States have been the most severely affected regarding labour market policy expenditure. **Romania**, for example, reduced their spending on categories 2-7 by nearly 30 % between 2007 and 2011.

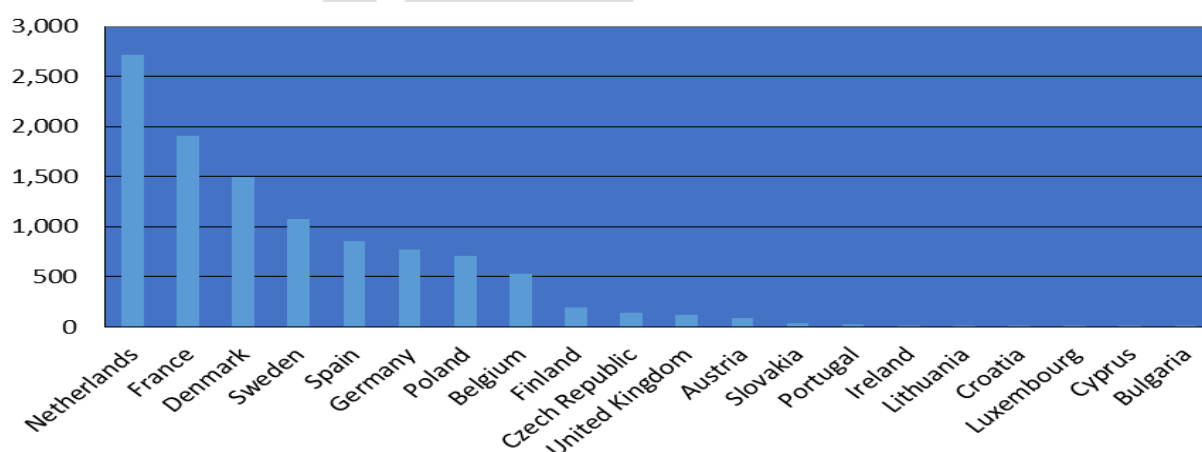
¹⁴² Data compiled by Eurostat on 'Public expenditure on labour market policy measures, by type of action' (source: DG EMPL). Accessed on 07/04/2014 at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tps00077>.

These data represent general trends in expenditure on active labour market policies across the EU; however, with specific regards to people with disabilities, it is harder to discern any trends because of the lack of disaggregated data for this population. Data on expenditure in the 'supported employment and rehabilitation' category can shed some light on this aspect of labour market support across the EU (Figure 2), but cannot represent the diversity of measures used by Member States to increase the participation of people with disabilities in the open labour market.

Figure 2 and Figure 3 outline the expenditure trends across the EU for supported employment and rehabilitation and shows how much is spent on this category across the Member States in millions of Euros. Netherlands have the highest expenditure, spending over EUR 2 700 million on supported employment and rehabilitation, with **France** (EUR 1 905 million), **Denmark** (EUR 1 500 million) and **Sweden** (EUR 1 073 million) following. In contrast, 40 % of the 20 Member States where data on supported employment and rehabilitation expenditure is available, spend less than EUR 35 million – just over 1 % of **Dutch** expenditure. This suggests a divide in the priorities of these countries with regard to active labour market policies and may also reflect the difference in wealth between Member States, cost of intervention and GDP per capita.

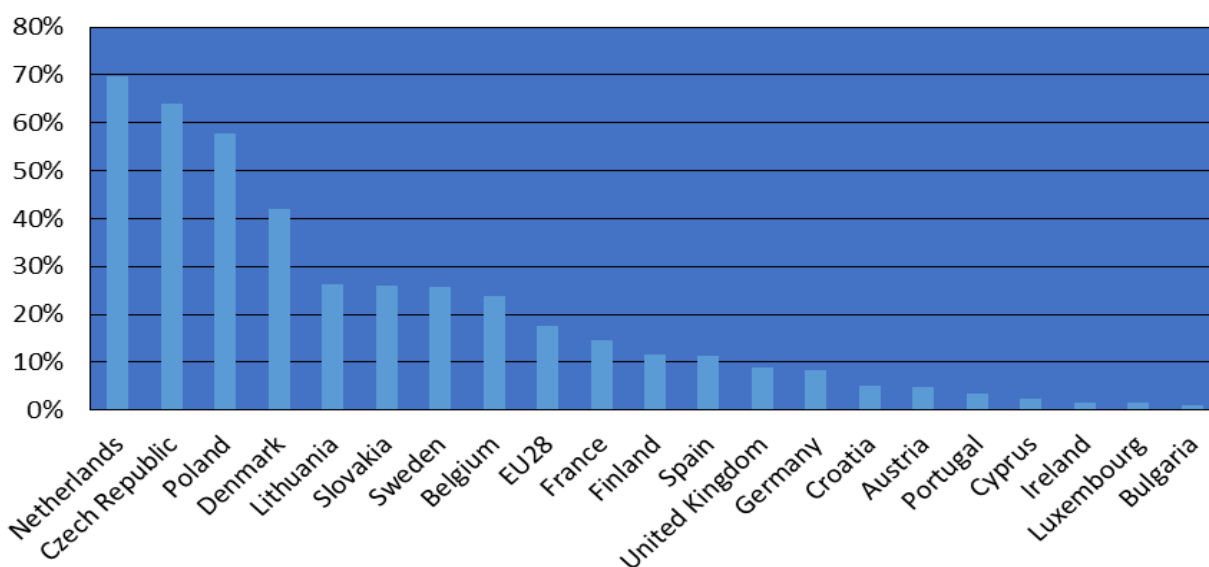
Figure 3 serves to add context to these data by stating the expenditure on category 5 as a proportion of active labour market services as a whole (categories 2-7). It shows that, within the active labour market services spectrum, supported employment and rehabilitation for people with disabilities are priorities in the Netherlands and Denmark – with spending of 70 % and 42 % respectively on category 5. The **Czech Republic** (64 %) and **Poland** (58 %) also spend a large amount of their ALMP budgets on supported employment and rehabilitation for people with disabilities. Although total expenditure on category 5 is high in **Sweden** (26 %) and **France** (15 %), it is not a relatively large proportion of their total budget for active labour market services – France are even below the EU28 average of 18 %. On the whole, Figure 3 suggests that the provision and expenditure of supported employment and rehabilitation varies widely across the EU28.

Figure 2: Expenditure (EUR million) on supported employment and rehabilitation (Labour market policy 5) in 20 Member States¹⁴³



¹⁴³ Data on CY, IE, LU, PL, ES and the EU average are from 2011 and data from the UK are from 2010. There is no available data from EE, EL, IT, HU, LV, MT, RO, SI.

Figure 3: Percentage of total expenditure in 2012 on labour market policy measures (categories 2-7) spent on category 5 'supported employment and rehabilitation'¹⁴⁴



The three main policy measures used to aid the inclusion of people with disabilities in the open labour market are:

- guidance and counselling;
- training and education; and
- job placements.

The following table provides examples of initiatives taken in different Member States under those categories.

¹⁴⁴ Data for the EU28 average, IE, ES, CY, LU, PL from 2011, UK from 2010. No available data for EE, EL, IT, LV, HU, MT, RO, SI.

Table 10: Active labour market policies targeting people with disabilities**Active labour market policies targeting people with disabilities****1. Guidance and counselling: e.g.**

All Member States have Public Employment Service which offers guidance and advice to both employers and people with disabilities and aims to improve the integration and participation of people with disabilities in the open labour market.

Luxembourg (LU): Service des travailleurs Handicapés (STH) offers guidance to private employers about the specific measures and benefits available to them to facilitate the social integration and employment of people with disabilities¹⁴⁵.

Germany (DE): the Integration Offices (Integrationsämter) and Integration Services (Integrationsfachdienste) in Germany work together to integrate people with disabilities in the open labour market. One of the four key responsibilities of the Integration Offices is to provide seminars and carry out awareness-raising campaigns. Additionally, they collaborate with rehabilitation agencies, employers' organisations and trade unions to ensure people with disabilities get the opportunities in the open labour market that they deserve¹⁴⁶.

Sweden (SE): the Swedish PES provides supplementary guidance, information and personal extra assistance to schools where young people with disabilities are in need of information.

2. Training and education: e.g.

Active labour market services in the form of training receive the greatest expenditure across the EU – 41.3 % of total expenditure. Although data is not disaggregated for people with disabilities, training and education is still a vital part of all EU Member State disability employment policies.

Hungary (HU): vocational training services are provided in Hungary by regional training centres under the framework of the National Employment Service. Furthermore, vocational rehabilitation in Hungary can be a financially beneficial investment. A social return on investment analysis (SROI) on the work of the Salva Vita Foundation - an organisation that promotes integrated employment for people with intellectual disabilities - noted a return to society of HUF 4.77 over 5 years for every Hungarian Forint spent.

Greece (EL): Law 2648/98 on the 'Development of the National System of Social Care and other provisions' and managed by the Institute of Social Protection and Solidarity, sets out over 20 specialised Centres of Vocational Training for people with disabilities which span most Greek municipalities¹⁴⁷.

Spain (ES): the PES in Spain provides information about training opportunities, as well as providing training courses and programmes for people with disabilities, with the support of Spain's two largest employers' organisations (Confederación Española de Organizaciones Empresariales - CEOE & Confederación Española de la Pequeña y Mediana Empresa - CEPYME), two main unions (Comisiones Obreras - CCOO & Unión General de Trabajadores - UGT) and the government. Additionally, the charity Caritas is a significant partner in Spain with regards to the use of the ESF. In this respect, it provides projects which train excluded job-seekers, such as those with disabilities.

¹⁴⁵ Report on the employment of disabled people in European countries: Luxembourg (2009) ANED VT/2007/005.

¹⁴⁶ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen - BIH. (2013). Aufgaben. Retrieved 31.10.2013, from <http://www.integrationsaemter.de/aufgaben/53c147i1p8/index.html>.

¹⁴⁷ Report on the employment of disabled people in European countries: Greece (2009) ANED VT/2007/005.

Active labour market policies targeting people with disabilities

3. Job placement: e.g.

Germany (DE): the active labour market programme Job4000 seeks to promote the participation of persons with disabilities in the open labour market and started in 2007. One of the programme's targets was to create at least 1,000 new jobs for severely disabled people in the open labour market. When this programme was evaluated in 2012 it was found that 2141 new jobs were in fact created – a success rate of 214 %. Additionally, two-thirds of these created jobs were maintained after the end of the programme.

Hungary (HU): under the Act of 2007 on Rehabilitation Allowances, those accessing rehabilitation allowances are also entitled to rehabilitation services. These can consist of the implementation of a rehabilitation plan, in cooperation with the Labour Centre, for the disabled individual which can result in job profiling and job matching services.

It is interesting to note, however, that within this system, people born with disabilities who have not yet entered the labour market cannot receive rehabilitation allowances or services, as it is linked to the social insurance legal status which is only registered when first employed¹⁴⁸.

In order to assess the impacts of ALMPs in more detail, two economic analyses are presented in Section 8.

The first one refers to the 'Towards Work' programme run in Lithuania between March 2009 and December 2012, with the aim of assisting people with hearing disabilities find work. The programme was funded by the ESF¹⁴⁹. The programme involved trained recruitment agents, based in approximately 15 employment centres throughout Lithuania, who could communicate in sign language and act as mediators, helping people with hearing disabilities look for work. These recruitment agents stayed in touch with their contacts for six months (including visits at work), providing support as they search for and start in employment. Career counselling and work placements were also available, as was a series of short video advertisements promoting the employment potential of people with hearing disabilities. The analysis found that while there was not enough data to make significant conclusions and recommendations on whether this programme is cost-beneficial, some initial conclusions could be drawn. First of all, **the intervention is likely to be cost-beneficial, and given that the programme is ongoing (albeit at a smaller scale) and funded by the Lithuanian government, data collection to inform a more rigorous analysis should be funded and undertaken. Additionally, the study has found that the intervention had a positive impact on the clients compared to the lack of intervention, with an additional 68 people achieving employment compared to the counter-factual.**

Another interesting example of ALMP is Individual Placement and Support (IPS) sheltered employment for people with severe mental illness. The programme is interesting in that it was the subject of the EQOLISE study, a randomised control trial on 312 patients in six European cities: Groningen (NL), London (UK), Rimini (IT), Sofia (BG), Ulm-Günzburg (DE) and Zurich (CH). Exactly half of the patients received traditional vocational services, while

¹⁴⁸ Report on the employment of disabled people in European countries: Hungary (2009) ANED VT/2007/005.

¹⁴⁹ <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=504>.

the other half received IPS. IPS provides supported employment for people with severe mental disabilities according to eight principles¹⁵⁰:

- every person with severe mental illness who wants to work is eligible for IPS supported employment;
- employment services are integrated with mental health treatment services;
- competitive employment is the goal;
- personalized benefits counselling is provided;
- the job search starts soon after a person expresses interest in working;
- employment specialists systematically develop relationships with employers based upon their client's preferences;
- job supports are continuous;
- client preferences are honoured.

Patients were subsequently followed for a period of 18 months. Patients receiving IPS were supported by IPS-trained workers. The role of these workers is to build a network of potential employers willing to accept patients. As shown in more detail in Section 9.7, the EQOLISE study confirmed findings from other similar studies carried out – that **IPS interventions appear much more effective and cost-effective than existing traditional vocational interventions. The fact they also function in widely differing labour markets and welfare contexts, confirms this service is an effective approach for vocational rehabilitation in mental health and deserves investment and further investigation.**

4.3. Passive labour market policies (PLMPs)

Passive labour market policies consist of policies that provide income replacement or measures offsetting loss of income to unemployed populations or those at risk of unemployment. They include cash benefits to the employer or the provision of income replacement benefits for the employee. Examples range from the disability benefit schemes in place in all Member States to tax exemptions for employers:

- **Bulgaria:** the law sets out that the level of income a person with disabilities can earn before paying taxes is double that of a person without disabilities. Additionally, corporate tax relief (of up to 30 %) is offered to employers in proportion to the number of people with disabilities hired¹⁵¹.
- **Italy:** Law no. 68 of 1999 on the Regulation on the Right to Employment for Persons with Disabilities outlines various bonuses available to employers who hire people with disabilities, including reduced social security tax fees and financial bonuses. These are funded by the National Fund for the Right to Work of People with Disabilities and are based on the disability level of the employee.
- **Sweden:** the Act on Social Insurance, which was amended in 2008, governs a wide range of disability and sickness-related benefits, among other support mechanisms¹⁵².

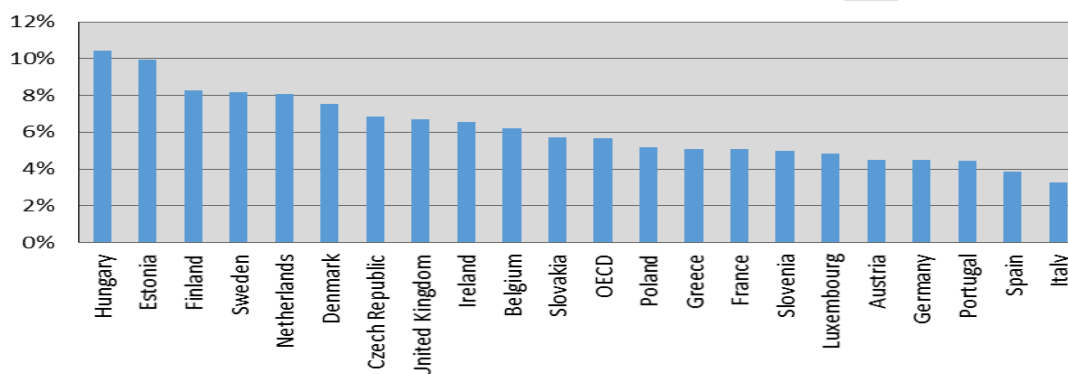
¹⁵⁰ Bond, Gary (2004). "Supported employment: Evidence for an evidence-based practice". *Psychiatric Rehabilitation Journal* 27 (4): 345–359.

¹⁵¹ Report on the employment of disabled people in European countries: Bulgaria (2009) ANED VT/2007/005.

¹⁵² European Blind Union: Sweden: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/136>.

Figure 4 shows how the percentage of the working-age population receiving disability benefits differs significantly across the EU. **These data suggest that the western and southern European countries generally have a lower proportion of the population receiving disability benefits** – 8 of the lowest 10 hail from central or southern Europe. In contrast, the northern European nations and some of the central and eastern EU Member States provide a relatively large proportion of their working-age population with disability benefits – 9 of the highest 10 countries fit into these categories with **Hungary** (10.5 %) and **Estonia** (10 %) leading the way.

Figure 4: Percentage of working-age population (20-64) receiving disability benefits in EU Member States with OECD average (most recent data)¹⁵³



Source: OECD; data is from 2010 or the latest available year. 2005 - LU; 2007 - FR, IT, PL; 2008 - AT, EL, SI; 2009 - DE, NL, SK; 2011 - EE; 2012 - UK.

When used to support other policies, PLMPs can help make employment a more financially enticing option. However, a number of criticisms surround the provision of benefits. They are criticised for being overly generous; too easily accessible for those who should not qualify; and too complex to operate¹⁵⁴. Alongside this, the inherent passivity of benefit schemes results in ineffective movement of people with disabilities into employment or, more simply, off benefits¹⁵⁵. These schemes can result in the so-called 'benefit trap' in a number of ways:

- when employment for a person with a disability is less financially beneficial than receiving social benefits; or
- when the laws on the receipt of these benefits do not allow for participation in the labour market by the recipients.

A pertinent example of this can be found in the **United Kingdom**. The UK has seen a significant increase in sickness-related benefit claimants over the last 25-30 years¹⁵⁶ to a point where more than 2.5 million people in 2012 were unemployed and claiming disability benefits¹⁵⁷. Additionally, **long-term reliance on these benefits can result in poorer health¹⁵⁸ and increased risk of poverty¹⁵⁹**. In this respect, and on the back of the welfare reform Green Paper 'A new deal for welfare'¹⁶⁰, which recommended a move to a more active welfare system¹⁶¹, the **UK** replaced the Incapacity Benefit with the Employment and Support Allowance (ESA). Both employed and unemployed people with disabilities are eligible for ESA, which aims to offer financial support for those unable to

¹⁵³ Information retrieved from the OECD statistics website. Accessed on 13/07/2014 at: <http://www.oecd.org/statistics/> - Data are from 2010 or the latest available year. 2005 - LU; 2007 - FR, IT, PL; 2008 - AT, EL, SI; 2009 - DE, NL, SK; 2011 - EE; 2012 - UK.

¹⁵⁴ Lindsay, C. and Houston, D. (2013). Fit for work? Representations and Explanations of the Disability Benefits 'Crisis' in the UK and Beyond. Disability Benefits, Welfare Reform and Employment Policy.

¹⁵⁵ OECD (2010). Sickness, Disability and Work: Breaking the Barriers (Paris:OECD).

work, as well as active, personalized help to integrate those who are able to work, into the labour market¹⁶². Alongside this commitment, applications for ESA require a Work Capability Assessment to ascertain the capability of the disabled person¹⁶³. This demonstrates an innovative response to the 'benefit trap' which was seen to be an issue in the **UK**.

A second example outlining a system where eligibility for disability benefits impacts on the employability of the disabled person comes from **Slovenia**. Under the Social Care of Mentally and Physically Disabled Persons Act of 1983, people with moderate, severe or profound intellectual disabilities or severe physical disabilities, which occurred before they left the education process, are classified as disabled¹⁶⁴. On the one hand, this entitles them to a disability allowance and a care allowance, alongside the right to institutional care. However, on the other hand, it marks them as unemployable, removes any entitlement to vocational rehabilitation and means these disabled people can only work in sheltered workshops.

Contrastingly, however, a **more generous welfare system does not act as a disincentive for people with disabilities looking to participate in the open labour market**¹⁶⁵. This is exemplified by the Nordic countries, which have relatively high generosity and entitlement to benefits, yet do not have high levels of people with disabilities opting out of work¹⁶⁶.

4.4. Specific labour market measures

To complement the abovementioned labour market policies, specific measures, such as quotas, are employed across the Member States. These are legislatively implemented and, in most cases, relevant for both public and private sector employers. Twenty-one EU countries currently have quota systems in place and these fit into three quota models¹⁶⁷.

¹⁵⁶ Institute for Employment Studies (2010). Employment and Support Allowance: Early implementation experiences of customers and staff. Carried out for the Department for Work and Pensions. P.7.

¹⁵⁷ Lindsay, C. and Houston, D. (2013). Fit for work? Representations and Explanations of the Disability Benefits 'Crisis' in the UK and Beyond. Disability Benefits, Welfare Reform and Employment Policy.

¹⁵⁸ Brown, J. et al. (2009). Mental Health as a Reason for Claiming Incapacity Benefit – A Comparison of National and Local Trends. *Journal of Public Health*, 31 (1), 74-80.

¹⁵⁹ Kemp, P. and Davidson, J. (2010). Employability Trajectories among New Claimants of Incapacity Benefit. *Policy Studies*, 31 (2), 203-221.

¹⁶⁰ Department for Work and Pensions (2006). A new deal for welfare: Empowering people to work, Cm 6730, HMSO.

¹⁶¹ Institute for Employment Studies (2010). Employment and Support Allowance: Early implementation experiences of customers and staff. Carried out for the Department for Work and Pensions. P.8.

¹⁶² Employment and Support Allowance: UK Government website. Accessed on 04/04/2014 at: <https://www.gov.uk/employment-support-allowance>.

¹⁶³ Ibid.

¹⁶⁴ Report on the employment of disabled people in European countries: Slovenia (2009) ANED VT/2007/005.

¹⁶⁵ Holland et al. (2011). How do macro-level contexts and policies affect the employment chances of chronically ill and disabled people? Part II: The impact of active and passive labour market policies. *International Journal of Health Services*, 41:3, p415-430.

¹⁶⁶ Ibid.

¹⁶⁷ Gundersen, Tonje (2008). Kvoteordninger i europeiske land for personer med nedsatt funksjonsevne. Rapport nr. 8/08. Oslo, Nova. Here is no quota system in Denmark, Estonia, Finland, Latvia, the Netherlands, Sweden and the UK.

Table 11: Examples of quotas models

Quota models
<p>1. Legislative recommendations (voluntary); e.g.</p> <p>Netherlands (NL) – There is no mandatory quota in place for the hiring of people with disabilities. The Dutch government instead encourages companies to include hiring quotas in new labour agreements¹⁶⁸.</p>
<p>2. Legislative obligations, without effective sanctions; e.g.</p> <p>Portugal (PT) – An employment quota is in place for the hiring of people with disabilities in both private and public entities (2 % and 5 % of all workers respectively)¹⁶⁹. However, the fines in place to deter non-compliance are not effectively enforced¹⁷⁰.</p>
<p>3. Legislative obligations backed by effective sanctions; e.g.</p> <p>Italy (IT) – Under Article 18 of the 68/99 Act 'Law for the Right of Employment for Disabled People', companies are required to:</p> <ul style="list-style-type: none"> • Hire 1 disabled person if the company is between 16 and 35 workers. • Hire 2 disabled people if the company is between 35 and 50 workers. • 7 % of the workforce must consist of disabled persons if a company employs over 50 people. <p>Under Article 15, private companies that do not meet the requirements must pay a fine of EUR 52 per day for each disabled worker not employed. Public entities are subjected to penal sanctions¹⁷¹, although there is no information on the extent to which this quota is enforced.</p>

As part of this study, the research team has carried out a cost-benefit analysis on the effectiveness of the **German** quota system, in particular with regard to the change in the quota system implemented in 2000 (see the section on the CBA below in Section 8). Prior to 2000, every company with at least 16 employees had to employ people with disabilities to constitute at least 6 % of its workforce. Following the change, every company with 20 employees or more has to employ only 5 % of people with disabilities. The non-compliance fine was altered in relation to the percentage of disabled staff employed by the firm. This fee was previously set at EUR 105 per month, and remains unchanged for companies employing up to 40 employees. For companies with up to 60 workers, the fee is EUR 360 per month if they do not employ anyone with disabilities and EUR 150 if they only employ one instead of two. All other employers employing less than 2 % of people with disabilities pay EUR 260 per month and employers who employ 2-5 % people with disabilities must pay EUR 180 per month.

The findings of the cost-benefit analysis suggest that the share of employed people with severe disabilities as a percentage of the total working-age population with severe disabilities, increased between 2.2 and 3.5 % as a result

¹⁶⁸ Report on the employment of disabled people in European countries: Netherlands (2009) ANED VT/2007/005.

¹⁶⁹ Report on the employment of disabled people in European countries: Portugal (2009) ANED VT/2007/005.

¹⁷⁰ Council of Europe, Committee of Social Rights (2012). European Social Charter (revised): Portugal Conclusions 2012: Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter.

¹⁷¹ Report on the employment of disabled people in European countries: Italy (2009) ANED VT/2007/005.

of the reform. This is arguably the result of the increase in the fines for non-compliance rather than the fall in the quota. Further to the discussion on social benefits, there are also the effects of the increased employment of disabled people affecting public budgets. These arise from greater income tax revenues and national insurance contributions per period.

Monetary benefits were also estimated, with the disabled population netting an additional EUR 2 566 million per year, and the public budget receiving an additional EUR 1 644 million per year, due to increased tax revenue and reduced benefit payments.

The public budget impacts do not constitute benefits to society as a whole because they are purely re-distributional. However, if the long-term impact of increased employment of disabled people on public budgets, resulted in reductions in the marginal taxation because overall benefits would be paid less often, a related change in real wages on labour markets could alter the overall level of employment, again affecting the GVA created in the economy. Obviously such inter-temporal effects, as well as further identifiers, cannot be included in the valuation as they would be subject to great uncertainty.

Similarly, the analysis does not include the 'intangible' benefits of increased employment for those with disabilities. These relate to the multiple potential quality of life and wellbeing gains that may result from both being employed (feeling productive, social interaction, routine and structure, etc.) and – for the disabled population more generally – from increased opportunities for employment, and a reduction in barriers to achieving one's chosen career. These intangible benefits can be measured, quantified and monetised, through survey data, studies which measure the value of wellbeing, and so on, but this was beyond the scope of this analysis. However, increased employment of disabled individuals can be expected to lead to increased quality of life for disabled individuals, thus adding to the benefits of the intervention.

Some Member States also offer alternatives to the hiring of people with disabilities. In the case of **Slovakia**, for example, the Act on Employment Services¹⁷² stipulates a 3.2 % quota for the hiring of people with disabilities for any public or private entity with more than 20 employees. However, there are three ways in which to meet this requirement:

- directly **hiring** people with disabilities;
- **subcontracting work** from the sheltered sector; self-employed disabled workers; or outsourcing goods or services to a company that hires disabled employees;
- **paying a contribution fee** which goes into a public fund to finance supported and sheltered employment for people with disabilities.

According to the Statistical Office of the Slovak Republic, 12,465 employers fulfilled the statutory obligation in the first half of 2009 and 45.5 % directly hired people with disabilities as opposed to outsourcing work or paying a contribution fee¹⁷³.

Additionally, they also use the funds for the further integration of people with disabilities in the labour market. Funds levied from the sanctions for non-compliance with the quota requirements are often placed in a national fund for the integration of disabled people in the labour market. Examples include **Slovakia** (as mentioned above), **Austria, Poland, France** and **Hungary**. These acquired funds are put towards, among other things, supported and sheltered employment, the costs of workplace adaptation, and job

¹⁷² Act No.5/2004 Coll.on employment services, §63.

¹⁷³ Report on the employment of disabled people in European countries: Slovakia (2009) ANED VT/2007/005.

placement for people with disabilities¹⁷⁴. In Hungary, for example, the rehabilitation fund has almost quintupled in recent years and provides financial support to non-governmental organisations (NGOs) which run sheltered workshops or other employment services. In addition, the Hungarian model includes bonuses for those employers who fulfil the quota obligations. These employers can receive State Support for Increased Rehabilitational Employment and tax allowances to cover some of the costs of employing people with disabilities.

Overall, the statutory mandatory quota model is effective for increasing the employment rate of disabled people. However, these quota systems cannot always guarantee the inclusion of people with disabilities in the open labour market¹⁷⁵, a finding that is supported by our own analysis of the German quota model, where a reduction in the percentage of the quota actually increases the likelihood of a disabled person being employed.

4.5. General labour market measures

In addition to the policies discussed above, a range of general measures targeting people with disabilities but not specifically targeted at the labour market are also in place. The most prominent of these measures are:

- **equality and anti-discrimination legislation** – stipulate against the maltreatment of people with disabilities in the workplace through direct or indirect discrimination;
- **accessibility measures** – these can take a number of forms (legislation / national action plans etc.) and aim to promote the right of people with disabilities to take part in all forms of society by making buildings, technologies, communications etc. more accessible.

At European and international level, anti-discrimination legislation for the equal treatment of people with disabilities in employment, is governed by Directive 2000/78/EC and the UNCRPD, supported in numerous ways such as Convention No 111 of the International Labour Organisation (ILO) and the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁷⁶.

In 24 Member States, specific anti-discrimination legislation or disability-specific equal treatment acts, are in place to protect people with disabilities from discrimination. In Belgium, for example, the Anti-Discrimination Law ('Loi du 10 mai 2007 adaptant le Code judiciaire à la législation tendant à lutter contre les discriminations et réprimant certains actes inspirés par le racisme ou la xénophobie') is the main federal legislation on discrimination. It clearly addresses and defines both direct and indirect discrimination, while outlining the two entities with authority over this issue: the Equality Centre ('Le Centre pour l'égalité des chances et la lutte contre le racisme') and the Social Inspection Service ('Contrôle des lois sociales')¹⁷⁷.

¹⁷⁴ Greve, B. (2009). The labour market situation of disabled people in European countries and implementation of employment policies: a summary of evidence from country reports and research studies. Report prepared for the Academic Network of European Disability experts (ANED).

¹⁷⁵ European Commission (2012). Supported Employment for people with disabilities in the EU and EFTA-EEA: good practices and recommendations in support of a flexicurity approach. Publications Office of the European Union, Luxembourg.

¹⁷⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Official Journal L 303, 02/12/2000.

¹⁷⁷ European Blind Union: Belgium: Country Information on the Implementation of Article 27 of the UNCRPD. Accessed on 03/04/2014 at: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/87>.

In **Sweden**, the Anti-discrimination Act of 2008¹⁷⁸ replaced the Equal Opportunities Act and six other more fragmented anti-discrimination laws. It concerns people with disabilities alongside other vulnerable and disadvantaged groups and applies to most areas of society including, among others, working life, education, goods and services, housing, social services, the social insurance system and health care. The Office of the Equality Ombudsman has been given the responsibility for implementing and ensuring compliance with this Act.

In four Member States, however, this legislation is fragmented throughout a number of different legislation. In a number of Member States, such as **Bulgaria**, for example, most legislation passed after 1990 has anti-discrimination provisions within them. This is the case in employment regulation where Article 2 of the Employment Protection Act stipulates that 'when this law is implemented no direct or indirect discrimination on the grounds of...physical or mental disabilities, is allowed'¹⁷⁹. Additionally, in **Latvia** the discrimination with regard to employment is discussed in numerous laws - the Labour Law, the Law on Prohibition of Discrimination of Natural Persons-Economic Operators, the Law on Social Security, the Law on the Support to Unemployed Persons and Job Seekers and the Consumer Rights Protection Law - as opposed to a specific anti-discrimination legislation.

In order to assess the economic impacts of general labour market measures, the research team has carried out a cost-benefit analysis of the 1995 Disability Discrimination Act (DDA) in the **UK** (see Section 8.2). Using data from the British Household Panel Survey (BHPS) from 1991-2000, which contains a wide array of information about individual socio-demographic characteristics, family background and labour market situation, the team have estimated the impact of the DDA on the employment rate of registered disabled people¹⁸⁰ and those with day-to-day limitation disabilities (DALD).

The results of the analysis suggest that there was a significant increase in the employment rate of registered disabled people, which is partially explained by an increase in the share of the working population who are registered as disabled. **The impact of the DDA in 2001 shows an observed employment rate of 25.1 % compared with a counter-factual employment rate of only 17.1 % had the DDA not been passed** - this equates to an additional 180,000 registered people with disabilities in work.

A monetary valuation of the impact of the DDA was also carried out. It showed that the DDA was worth an additional GBP 278 million in gross earnings in 2001 (approximately GBP 361 million in 2013) to the registered disabled population. In addition, the Exchequer also benefitted substantially from the Act, since it resulted in an estimated GBP 100 million increase in tax revenues and a GBP 41 million reduction in Incapacity Benefit payment (total benefits of GBP 141 million in 2001 and GBP 184 million when adjusted to 2013 prices).

As discussed above in relation to the German quota analysis, there are also intangible benefits resulting from increased employment of people with disabilities that could add to the benefits covered in the analysis. These relate to quality of life gains that result from increased employment and employment opportunities. Although it was not possible to value these benefits in the current study, they should be borne in mind in any assessment of the value for money of the legislation.

¹⁷⁸ Sweden Discrimination Act: SFS 2008:567. <http://www.government.se/content/1/c6/11/81/87/36dc60a5.pdf>.

¹⁷⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

¹⁸⁰ Responding to the question: 'Can I check, are you registered as a disabled person, either with Social Services or with a green card?'

4.6. Conclusion

Alternative labour market services take a number of different forms. What unifies these labour market services is the aim to promote the participation and increase the integration of people with disabilities in the open labour market.

Our analysis has found that active labour market policies are extremely heterogeneous in nature and, therefore, Member State policies represent a context specific range of policies and programmes which take into account, among other things, local labour market conditions and the existence, and delivery, of social security benefits. In addition, **the majority of data on the use of active labour market policies across the EU are not disaggregated for people with disabilities making any analysis of the provision of these services difficult.** However, one category (#5 – ‘supported employment and rehabilitation’) in the ‘Labour market policy statistics’ (Eurostat methodology 2013), does refer to the employment situation of people with disabilities with regard to supported employment and rehabilitation. This category is strongly promoted across the EU and it received the third highest average public expenditure on ALMPs across EU Member States in 2009 (15.4 %). The Netherlands spent the greatest amount (EUR 2 700 million – 0.45 % of GDP) on this category. Other countries with large expenditure on this category include **France** (EUR 1 905 million – 0.094 % of GDP), **Denmark** (EUR 1 500 million - 0.612 % of GDP) and **Sweden** (EUR 1 073 million – 0.263 % of GDP). In contrast, 40 % of the 20 Member States (**SK, PT, IE, LT, HR, LU, CY** and **BG**) with available data spend less than EUR 35 million on this category – just over 1 % of the **Dutch** expenditure. This suggests important differences in the priorities of these countries with regard to ALMPs. No trends can be discerned from expenditure on this category, with the results suggesting that the provision and expenditure on supported employment and rehabilitation varies widely across the EU28.

With regards to other categories of active labour market services, Member State policy is context specific and responds to variables such as the local labour market conditions and the provision of social security benefits. In this respect, the following three policy measures are used in conjunction with each other across the EU28.

- **Guidance and counselling:** all Member States utilise a PES which offers guidance and advice to both employers and people with disabilities (e.g. the Integration Offices in Germany).
- **Training and education:** training programmes received 41.3 % of the total expenditure on ALMPs in the EU in 2011. (E.g. the 20 Centres of Vocational Training for people with disabilities that span most Greek municipalities).
- **Job placement schemes:** direct job creation receives funding across a number of Member States including Germany, where the programme Job4000 created 2 141 new jobs for people with disabilities between its beginning in 2007 and its evaluation in 2012. This was a success rate of 214 % on the original target of 1 000 new jobs.

All Member States offer passive labour market services in some respect. The main delivery mechanisms for these are the disability benefit schemes in place in all Member States. The percentage of the working-age population receiving disability benefits differs significantly across the EU. Although a more generous welfare system does not act as a disincentive for people with disabilities looking to participate in the open labour market, a number of issues have been determined with regards to the provision of benefits. Benefits can risk being overly generous; too easily accessible for those who should not qualify; and too complex to operate resulting in two ‘benefit trap’ scenarios:

- when employment for a person with a disability is less financially beneficial than receiving social benefits; and

- when the laws on the receipt of these benefits do not allow for participation in the labour market by the recipients.

These scenarios can often result in the exclusion of people with disabilities from the open labour market. There are three prevailing models of quota systems: voluntary legislative recommendations; legislative obligations without effective sanctions; and legislative obligations backed by effective sanctions. Our analysis has found that the last of these quota models is the most effective for increasing the employment rate of disabled people; however, it is difficult to assess the role of quota systems alone. In **Germany**, for example, a reduction in the quota, alongside an increased penalty, saw the likelihood of being employed as a disabled person increase by 2.2-3.5 %.

All Member States have some form of anti-discrimination legislation. In 24 Member States this is represented in specific anti-discrimination legislation or disability-specific equal treatment acts. In four Member States it is fragmented across numerous different legislative documents. Additionally, the research team conducted a cost-benefit analysis of the impact of the UK Disability Discrimination Act on the participation of people with disabilities in the open labour market. The analysis has demonstrated that the introduction of anti-discrimination legislation in the UK in 1995 increased the employment rate of people with disabilities, with an additional 180,000 disabled people in work. Additionally, there were significant financial benefits for both the disabled population and the government.

DRAFT

5. UNIVERSAL DESIGN

KEY FINDINGS

- **The concept of Universal Design originated in the USA disability movement and is formalised in seven principles** developed in 1997 by the Centre for Universal Design.
- **Universal Design is defined at the Council of Europe (CoE) level by the 2001 Tomar Resolution.** This definition applies to the integration of policies and planning in all areas of society and it highlights that Universal Design can be used as a methodology to help prevent and eliminate barriers to integration, such as psychological, educational, family-related, cultural, social, professional, urban or architectural barriers.
- **At the EU-level, Universal Design has been introduced in the 2004 Public Procurement Directive as 'Design for All'.** Accounting for 19 % of the EU's GDP, public procurement was identified as a key sector to drive the concept of Design for All. Following on from this, the European standard organisation CEN-CENELEC has been mandated with developing standards for Universal Design in 2014.
- **Universal Design/Design for All principles have been adopted in different ways at the national level** such as national plans, strategies and legislative acts. Some Member States have introduced national monitoring systems and awareness programmes, while others have incorporated Universal Design into procurement policy and structure dialogue with industry groups.
- **Some Member States implement Universal Design principles in line with the European Disability Action Plan 2006-2015, which recommends the general implementation of Universal Design into all aspects of society,** including the built environment, ICT networks, transport, services, tourism, products and goods, information, employment and education.
- **In Member States, where Universal Design is not specifically defined in legislation, existing national law may, nonetheless, provide a foundation for the implementation of Universal Design principles.** National disability strategies and programmes often include accessibility and barrier-free access to administration facilities and other buildings.
- **The impact of Universal Design on the employment of people with disabilities is likely to be felt only in the long term** and could almost be considered to replace the need for some types of reasonable accommodation in the long run.

5.1. Definitions

The term Universal Design (UD) originated in the USA disability movement and is formalised in seven principles developed in 1997, by the Centre for Universal Design in collaboration with a consortium of Universal Design researchers and practitioners from across the United States. The purpose of the principles is to guide the design of environments, products and communications¹⁸¹. These principles are:

¹⁸¹ The Principles of Universal Design. The Centre for Universal Design. http://www.ncsu.edu/ncsu/design/cud/about_ud/udprinciples.htm.

- equitable Use;
- flexibility in Use;
- simple and Intuitive Use;
- perceptible Information;
- tolerance for Error;
- low Physical Effort;
- size and Space for Approach and Use.

The definition of Universal Design provided in the Tomar Resolution was elaborated on in the Council of Europe's 2009 report entitled 'Achieving full participation through Universal Design'¹⁸².

Box 4: Universal Design definition

Universal Design is a strategy which aims to make the design and composition of different environments, products, communication, information technology and services accessible and understandable to, as well as usable by, everyone, to the greatest extent in the most independent and natural manner possible, preferably without the need for adaptation or specialised solutions.

The aim of the Universal Design concept is to simplify life for everyone by making the built environment, communication, products and services equally accessible, usable and understandable.

The Universal Design concept promotes a shift to more emphasis on user-centred design by following a holistic approach and aiming to accommodate the needs of people with disabilities, including the changes that people experience in the course of life.

An important feature of the above definition is that it extends beyond the issues of accessibility of buildings for people with disabilities and applies to the integration of policies and planning in all areas of society. It also highlights that **Universal Design can be used as a methodology to help prevent and eliminate barriers to integration, such as psychological, educational, family-related, cultural, social, professional, urban or architectural barriers.**

5.2. Legislative and policy context

In 2001, the Council of Europe adopted the Tomar Resolution¹⁸³, which recommended the inclusion of the principles of Universal Design into the curricula and training of all vocations working on the built environment, in particular architects, engineers and town planners. The Resolution provides an overview of various terms used to define the concept of Universal Design¹⁸⁴. Eighteen CoE countries (17 of which were also EU Member States) adopted non-legally binding recommendations (called 'resolutions')¹⁸⁵. These resolutions

¹⁸² Søren Ginnerup. Achieving full participation through Universal Design. Council of Europe Publishing. 2009. p 7.

¹⁸³ Council of Europe Resolution ResAP(2001)1 on the introduction of the principles of universal design into the curricula of all occupations working on the built environment ("Tomar Resolution").
[http://www.coe.int/t/e/social_cohesion/soc-sp/ResAP\(2001\)E%20.pdf](http://www.coe.int/t/e/social_cohesion/soc-sp/ResAP(2001)E%20.pdf).

¹⁸⁴ For example integral accessibility, Design for All and inclusive design within the same meaning as the term Universal Design, barrier-free design, trans-generational design and accessibility.

¹⁸⁵ Partial agreement member states: Austria, Belgium, Bulgaria, Cyprus, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland, United Kingdom. Denmark was a member from 1997 to 2005.

are particularly important to the development of Universal Design in the European context. For example, resolution ResAP (2001)3¹⁸⁶ recommends drawing up national strategies to ensure that people with disabilities benefit from the opportunities of new technologies, rather than being excluded due to newly created barriers caused by inappropriate technology design or provision.

Following these CoE actions, the European Commission and Member States, taking into account the integration of the elderly and people with disabilities into the information society, established the European Design for All e-Accessibility Network (EDeAN) as one of the specific goals of the eEurope 2002 Action Plan¹⁸⁷.

The aim of e-Accessibility was to raise the profile of Design for All and emphasize its importance in achieving greater accessibility to the information society for as many people as possible¹⁸⁸. e-Accessibility stands for the access which new information and communication technologies (ICTs) can provide to people, with regard to access to the real world and to the internet.

Technical specifications on Design for All were introduced for public service contracts through the **2004 Public Procurement Directive¹⁸⁹**. The Directive highlighted the need to ensure that technical specifications take into account accessibility criteria for people with disabilities. Accounting for 19 % of the EU's GDP, public procurement was identified as a key sector to drive the concept of Design for All (DfA). **Building on the Directive, the European standards organisations European Committee for Standardization (CEN), European Committee for Electrotechnical Standardization (CENELEC) and European Telecommunications Standards Institute (ETSI) were given two mandates by the European Commission.** A mandate is a request made by the European Commission, the EFTA secretariat and the European Standards Organisation to develop and adopt European standards.

The first **Mandate M376¹⁹⁰** requires the three European standards organisations CEN, CENELEC and ETSI to harmonise and facilitate the public procurement of accessible information and communication technologies (ICT) products and services within Europe. In 2012, CEN-CENELEC created a Working Group on 'Design for All'. The Working Group's aim is to ensure that the ethos of DfA is mainstreamed into the development of standards rather than considered an add-on. This has resulted in the creation of a new Mandate M/473 'to include 'Design for All' in relevant standardisation initiatives'¹⁹¹.

The second **Mandate M/420** relates to the built environment and supports disability policies and concerns European accessibility requirements for public procurement in the built environment. The work under this mandate is structured in two phases. The first phase established an inventory and feasibility of European and international accessibility

¹⁸⁶ Resolution ResAP(2001)3. Towards full citizenship of persons with disabilities through inclusive new technologies. [http://www.coe.int/t/e/social_cohesion/soc-sp/ResAP\(2001\)3E.pdf](http://www.coe.int/t/e/social_cohesion/soc-sp/ResAP(2001)3E.pdf).

¹⁸⁷ COM(2001) 140. Commission Communication of 13 March 2001 on eEurope 2002: Impact and Priorities A communication to the Spring European Council in Stockholm, 23-24 March 2001. http://europa.eu/legislation_summaries/information_society/strategies/l24226a_en.htm.

¹⁸⁸ European Design for All e-Accessibility Network (EDeAN). [https://www.ics.forth.gr/pdf/brochures/About%20EDeAN%20\(brochure%20in%20English\).pdf](https://www.ics.forth.gr/pdf/brochures/About%20EDeAN%20(brochure%20in%20English).pdf).

¹⁸⁹ Article 23.1. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:0114:0240:EN:PDF>.

¹⁹⁰ Mandate M376. 2005. Standardisation Mandate to CEN, CENELEC and ETSI in Support of European Accessibility Requirements for Public Procurement of Products and Services in the ICT Domain. http://www.ictsb.org/Working_Groups/DATSCG/Documents/M376.pdf.

¹⁹¹ CEN-CENELEC call for tender for ten experts and Task Groups' Coordinator within the framework of the EC mandate M/473 Standardization mandate to CEN, CENELEC and ETSI to include "Design for All" in relevant standardization procedures.

standards in the built environment together with feasibility studies to explore missing areas. The second phase will lead to the development of a European Standard at the level of common functional accessibility requirements of the built environment as well as Technical Requirements on technical performance criteria and conformity assessment¹⁹².

The **Council of Europe Disability Action Plan 2006-2015**¹⁹³ states that Universal Design principles should be implemented in new developments in the following areas by Member States: ICT, transport, the built environment and product research. The new developments should be promoted by specifically established centres. Additionally, the Action Plan is supported by resolution (2007)1¹⁹⁴, which recommends a more general implementation of Universal Design into 'all aspects of society', including the built environment, ICT networks, transport, services, tourism, products and goods, information, employment and education.

5.3. Universal Design in the Member States

Table 12 provides an overview of the relevant national legislation on Universal Design for Member States for which the information was available¹⁹⁵.

¹⁹² <http://www.cenelec.eu/standards/Sectors/Accessibility/PublicProcurement/Pages/M420.aspx>.

¹⁹³ Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015.
http://www.coe.int/t/e/social_cohesion/soc-sp/Rec_2006_5%20Disability%20Action%20Plan.pdf.

¹⁹⁴ Resolution ResAP(2007)1 on the classification of medicines as regards their supply (superseding Resolution ResAP(2000)1 on the classification of medicines which are obtainable only on medical prescription).
<https://wcd.coe.int/ViewDoc.jsp?id=1118485&Site=CM>.

¹⁹⁵ Søren Ginnerup. page 20.

Table 12: Overview of Universal Design/Design for All in selected European countries

Universal Design/Design for All	BE	DK	DE	HU	IE	LU	NL	PL	PT	ES
UD/DFA on the political agenda	Yes	Yes	Yes*	Yes	Yes	Yes*	Partly	Yes	Yes	Yes*
National UD/DFA plan	No	No	Yes*	Partly	Yes	Yes*	No	Yes	No	Yes*
Legislation on UD/DFA	No	Partly	Yes*	No	Yes	Yes*	No	Yes	Yes	Yes*
Disability Discrimination Act	No	No	Yes*	Yes	Yes	No	Yes	No	No	Yes
National monitoring system on UD	No	Yes	Yes*	No	No	No	No	No	No	No
Awareness programmes on UD/DFA	No	Yes*	Yes*	Yes	No	Yes	Yes	Yes	No	Yes*
Public procurement policies include UD/DFA	No	Partly	Yes	Yes	Yes*	No	No	Yes	No	Partly
Disability organisations take part via a structured dialogue	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industry participation via a structured dialogue	No	No	Yes*	No	No	No	Yes*	Yes	No	Partly

* Yes, but under different name

5.4. Universal Design legislation and programmes

Some Member States have adopted specific legislation setting out the definition of Universal Design and its role in relation to increasing access to the labour market for people with disabilities.

For example, **Spain** adopted Law 27/2007, which recognises the right of deaf people to use sign language and speech aid systems. It also guarantees support for communication by deaf, hearing-impaired and deaf-blind people. More specifically, the Law covers the use of sign-language interpreters for deaf, hearing-impaired and deaf-blind people, and the provision of communication aids in the following public and private spheres:

- publicly provided goods and services (education, training and employment, health, culture, sport and leisure);
- transport;
- relations with public administration;
- political participation; and
- the media, telecommunications and the information society. The Law also establishes a Centre for the Linguistic Standardisation of Spanish Sign Language. The purpose of this body is to investigate, promote and disseminate this language and to supervise its use¹⁹⁶.

In **Hungary**, the concept of Universal Design first appeared in national legislation when the Convention on the Rights of Persons with Disabilities (CRPD) was ratified by Act XCII in 2007. Article 2 states that¹⁹⁷: "*Universal Design*" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or special design. "*Universal design*" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed. The principle of Universal Design is also defined in the National Disability Programme 2007-2013 and receives greater focus in the National Disability Programme for the period 2014-2020¹⁹⁸.

The concept of Universal Design is covered in the provisions of Act LXXVIII of 1997 on the formation and protection of the built environment (the Built Environment Act)¹⁹⁹, together with the amended 'Technical Guide to Realize an Accessible Built Environment'. From an academic standpoint, Universal Design is also an integral part of tertiary education for a number of branches of engineering in Hungary²⁰⁰.

In **Ireland**, the 2005 Disability Act defines Universal Design as: *The design and composition of an environment so that it may be accessed, understood and used; to the greatest possible extent, in the most independent and natural manner possible, in the widest possible range of situations, and without the need for adaptation, modification, assistive devices or specialised solutions, by any persons of any age or size or having any particular physical, sensory, mental health or intellectual ability or disability, and means, in*

¹⁹⁶ Cachón, 2009, p.79.

¹⁹⁷ Act XCII of 2007 on the promulgation of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol. Internet references of specific legal regulations of Hungary are in Hungarian language. Accessed on 24/06/2014 at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=110932.157855.

¹⁹⁸ Government of the Republic of Hungary (2006). The Draft Resolution of the Parliament No 10/2006. (II.16.) on the New National Programme of Disability Affairs.

¹⁹⁹ Act LXXVIII of 1997 on the shaping of the built environment. Accessed on 24/06/2014 at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=30337.255893.

²⁰⁰ Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED).

*relation to electronic systems, any electronics-based process of creating products, services or systems so that they may be used by any person*²⁰¹.

The Ireland Disability Act also contains specific legal requirements for public sector bodies to ensure that goods and services are accessible to people with disabilities. Furthermore, the Act requires that public procurement procedures highlight accessibility as a criterion to be considered throughout the entire tendering process (from drawing up and running tender competitions through tender evaluation and placing the contract to final debriefing)²⁰². Moreover, it is a legal requirement²⁰³ in Ireland for accessibility considerations to be taken into account in the technical specifications of the contract documentation for public procurement.

In other Member States, where Universal Design is not specifically defined in legislation, national law may in any case provide a foundation for the implementation of Universal Design. For example, in **Germany** the National Disability Equality Act (2002)²⁰⁴ ensures accessibility and barrier-free access to federal administration facilities and other buildings. In addition, German authorities publish information and advice for visually impaired people as well as providing barrier-free information technology. Furthermore, these measures are supported by standards on accessible architecture, as defined by the German Institute for Standardisation and accessibility requirements for ICT technologies set out in the Regulation on Barrier-Free Information Technologies²⁰⁵.

Bulgaria has not adopted specific legislation on Universal Design. However, the government is implementing a long-term national disability strategy for the period 2008 – 2015, which aims to adapt the working environment to the needs of people with disabilities. The strategy supports Universal Design by promoting accessible IT, training parties involved in promoting accessibility and through the development of scientific actions for the creation of goods and services in line with the concept of Universal Design.

5.5. Universal Design and the built environment

The permanent nature of buildings means that **Universal Design in the built environment is a critical issue** with regard to access for people with disabilities to the labour market.

Half the countries reviewed in the Council of Europe's report have introduced Universal Design into the curricula of professions working on the built environment. Member States also mentioned that they had adopted research programmes to promote Universal Design, while others have developed guidelines and standards for the implementation of Universal Design.

In the **UK**, the term Inclusive Design is one of many terms currently in use in built environment professions, the building industry, and in the wider arena of local and central government. It shares a similar background and has similar aims to many other terms such as Universal Design, Design for All, lifespan design, as well as 'respect for people' and

²⁰¹ Ireland. Disability Act 2005. <http://www.irishstatutebook.ie/pdf/2005/en.act.2005.0014.pdf>.

²⁰² Section 27. Ireland. Disability Act 2005. <http://www.irishstatutebook.ie/pdf/2005/en.act.2005.0014.pdf>.

²⁰³ 2006 Procurement Regulation. Ireland. <http://www.irishstatutebook.ie/2006/en/si/0329.html>.

²⁰⁴ Behindertengleichstellungsgesetz vom 27. April 2002 (BGBl. I S. 1467, 1468), das zuletzt durch Artikel 12 des Gesetzes vom 19. Dezember 2007 (BGBl. I S. 3024) geändert worden ist. <http://www.gesetze-im-internet.de/bundesrecht/bgg/gesamt.pdf>.

²⁰⁵ Barrierefreie Informationstechnik-Verordnung. 2011. http://www.gesetze-im-internet.de/bundesrecht/bitv_2_0/gesamt.pdf.

designing for diversity²⁰⁶.

In **Hungary**, a number of other documents stipulate the requirements for an accessible and barrier-free society with specific regards to people with disabilities. In particular, Government Decree No. 253/1997 (XII.20.) on national town planning and building requirements²⁰⁷, although not a legally binding document, serves as a checklist for the inclusion of Universal Design within the built environment²⁰⁸. It states that the needs of disabled people should be considered during the design and implementation of all aspects of a building as well as for elevators, escalators and moving walkways²⁰⁹. The concept of accessibility is also included under the Built Environment Act and the 'Technical Guide to Realize an Accessible Built Environment' published by the Ministry of Interior. However, it has been noted that disabled people are not always consulted in these processes, therefore their effectiveness is limited²¹⁰.

The **Ireland** Building Control Act 2007²¹¹ established a requirement that building regulations address access for people with disabilities. It applies to new buildings, extensions, material alterations and changes of use of buildings. This Act also introduces a new Disability Access Certificate (DAC) required for new public buildings to ensure compliance at the planning stage. A detailed document (Building Regulations Technical Guidance Document M²¹²) has been drawn up to set out the technical requirements to ensure a building is 'designed for all'. It includes chapters relating to access to the building, circulation in the building (including lifts), sanitary facilities and so on.

In **Spain**, there are significant challenges, particularly in regard to the built environment and provision of public and private services, e.g. lack of available information in Braille and provision of sign language. In response to these, Spain implemented the first National Accessibility Plan from 2004 to 2012, which aimed to ensure that new environments, products and services are designed to be accessible to the largest possible number of citizens and that those already existing are suitably adapted.

To meet the objectives of the first National Disability Strategy, Spain adopted 18 strategies and implemented 58 specific actions. In 2004, a cooperation agreement was signed between the Ministry of Labour and Social Affairs and the ONCE Foundation to promote the social integration of disabled people with a view to developing a universal accessibility programme.

Some Member States have established **co-ordinated information databases on products and assistive** technologies that can be used for Universal Design purposes. For example, Web Accessibility Initiative (WAI) guidelines under the World Wide Web Consortium - W3C²¹³ have been implemented in mainstream websites in many Member States, although there is no information to date on their effectiveness and the level to which they are enforced.

²⁰⁶ Building and sustaining a learning environment for inclusive design: A framework for teaching inclusive design within built environment courses in the UK. Special Interest Group in Inclusive Design for Centre for Education in the Built Environment. p 1. http://cebe.cf.ac.uk/learning/sig/inclusive/full_report.pdf.

²⁰⁷ Government Decree No. 253/1997 (XII.20.) on national town planning and building requirements. Accessed on 24/06/2014 at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700253.KOR.

²⁰⁸ Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED).

²⁰⁹ Government Decree No. 253/1997 (XII.20.) on national town planning and building requirements. Accessed on 24/06/2014 at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700253.KOR.

²¹⁰ Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED).

²¹¹ Ireland Building Control Act 2007. <http://www.irishstatutebook.ie/pdf/2007/en.act.2007.0021.pdf>.

²¹² Building Regulation 2010, Technical Guidance Document M – Access and Use, accessible at <http://www.environ.ie/en/Publications/DevelopmentandHousing/BuildingStandards/FileDownload,24773,en.pdf>.

²¹³ WAI Guidelines and Techniques. <http://www.w3.org/WAI/guid-tech.html>.

5.6. Conclusion

In some ways, the concept of **Universal Design is the extension of reasonable accommodation at the societal level**. A society where UD / DfA is fully implemented would be one where the need for reasonable accommodation is greatly reduced, as what is now considered to be an accommodation would be built in a system or building at the design stage. While there are difficulties in assessing the full scale of Universal Design in the EU because of the varying availability of information on the concept across the Member States, this section has highlighted some positive examples where Member States have adopted definitions of Universal Design under national legislation. A number of Member States have included Universal Design within action plans and initiatives targeting people with disabilities. In order for these plans to be successful it is important to ensure that Member States implement them over the long term.

At the national level, **there are signs that Universal Design is starting to become more widespread** in the education field. To the extent that Universal Design courses exist, they are helping to promote the concept among children and students in mainstream schools and universities. Moreover, while there are many different definitions of Universal Design applied to professions working on the built environment, the assessment in this section suggests they often have similar aims.

The real impact of Universal Design will be felt in the long run when the gaps the policy sets out to close are tackled. In this context, it is likely that national legislation will be required to foster sufficient shifts towards the inclusion of Universal Design in building practices. Most importantly, the housing industry will need to challenge existing practices and demonstrate that Universal Design is profitable.

DRAFT

6. EUROPEAN SOCIAL FUND

KEY FINDINGS

- **The European Social Fund (ESF) sets out positive intentions with regard to the employment situation and social inclusion of people with disabilities** in its Regulation. The Regulation's rhetoric encouraged the increased involvement of economically inactive people, such as people with disabilities, in the labour market with the target of combating social exclusion. This resulted in a number of **key ESF priority themes and shared actions with the potential to positively impact people with disabilities**.
- In this regard, **a number of Member States pledged to promote the inclusion and facilitate the employment situation of people with disabilities**: the needs of people with disabilities were addressed in the operational programmes of a significant majority of Member States (93 %); and two-thirds of the total operational programmes included people with disabilities as a target group.
- Within these pledges, **some Member States devoted large amounts and large proportions of their budgets to measures that had the potential to positively impact people with disabilities**; but some earmarked no funds for these types of measures. In this respect, no pan-European trends could be distinguished suggesting that ESF spending depends largely on local context and Member State priorities.
- However, **it is not possible to verify the implementation of this EU-wide support for people with disabilities because of a number of key issues**. First, it is difficult to ascertain the real situation, with regards to the impact of the ESF on people with disabilities, because of issues regarding data collection and reporting. Second, the economic crisis has been noted as a significant constraint to the successful implementation of measures.
- A number of obstacles have been found regarding the reporting of data. **The lack of disaggregated data significantly restricts the ability to evaluate the impact of the ESF on people with disabilities**; and inconsistent collection and reporting of data across and within Member States prevents comparisons between interventions as well as between Member States. Furthermore, the horizontal approach to intervention and operational programme design results in interventions targeting numerous groups; as well as interventions that span numerous ESF areas. However, a number of good practice examples regarding the collection and use of data have been noted in this section.
- The economic crisis was also identified as a key issue in all Member States. **As the majority of interventions were designed prior to the economic crisis, implementation and attainment of results were negatively impacted**. This is illustrated, for example, by the fact that in Germany it was found that employers were more reluctant to invest in or recruit disadvantaged groups due to the economic crisis.
- **A more coherent picture of the impact of the ESF programming period 2007-2013 on people with disabilities will appear following the publication of the ex-post evaluation**. However, it should be noted that the identified issues will still be present.

6.1. Overview

The **ESF** is the oldest of the European Union's Structural Funds. From 2007 to 2013 the ESF funded EUR 76 billion worth of projects across all Member States – akin to approximately 10 % of the EU's total budget²¹⁴.

The ESF Regulation for the period 2007-2013 contained an increased emphasis on the employment situation and social inclusion of people with disabilities compared to the previous programming period. The 2007-2013 ESF programme includes specific references to people with disabilities which did not exist in the previous regulation. Article 2.2 of the ESF Regulation states that, in the provision of ESF-funded tasks, 'the relevant priorities and objectives of the Community' shall be considered regarding 'increasing the participation of economically inactive people in the labour market [and] combating social exclusion – especially that of disadvantaged groups such as people with disabilities'. Article 3.1.c (i) further supports this, stating that social inclusion of disadvantaged people and combating all forms of discrimination should be promoted, in particular, with regards to 'pathways to integration and re-entry into employment for disadvantaged people, such as [...] people with disabilities [...] through employability measures, [...] access to vocational education and training, and accompanying actions and relevant support, community and care services that improve employment opportunities'²¹⁵.

Over the 2007-2013 programming period, tens of thousands of employment-related projects benefited from ESF funding under a number of priority themes. 'Equal opportunities in the labour market for people with disabilities', for example, is an aim stated under numerous shared actions including 'improving quality of life of people with a disability'; 'employability of vulnerable groups'; 'equal opportunities for vulnerable groups'; and 'social inclusion / integration of disadvantaged'²¹⁶.

In a large proportion of the projects carried out under these banners it is not possible to disaggregate data for people with disabilities even in light of Article 10.d of the ESF regulation, which discusses reporting data for people with disabilities. However, the 2010 report 'ESF and Disability' states the proportion of a Member State's operational programmes, priority axes and ESF budget that was earmarked for actions that can target people with disabilities²¹⁷. It is important to note that some of these may cover many target groups and may not specifically represent people with disabilities. Additionally, they are not necessarily employment specific. The key findings are that:

- **93 % of Member States addressed the needs of people with disabilities** in their operational programmes (OP);
- **two thirds of the total OPs include people with disabilities** as a target group;
- **a quarter of the priority axes are relevant to the disabled population;** and
- **42 % of the total ESF budget was allocated to priority axes** in which people with disabilities participate.

The **United Kingdom** (EUR 7 455 million), **France** (EUR 6 827 million), **Spain** (EUR 5 790 million) and **Italy** (EUR 5 067 million) pledged the largest amounts to

²¹⁴ European Commission Press Release (2008). 'European Social Fund 2007-2013: investing in people'. MEMO/08/302. Accessed on 04/04/2014 at: http://europa.eu/rapid/press-release_MEMO-08-302_en.htm?locale=en.

²¹⁵ Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999.

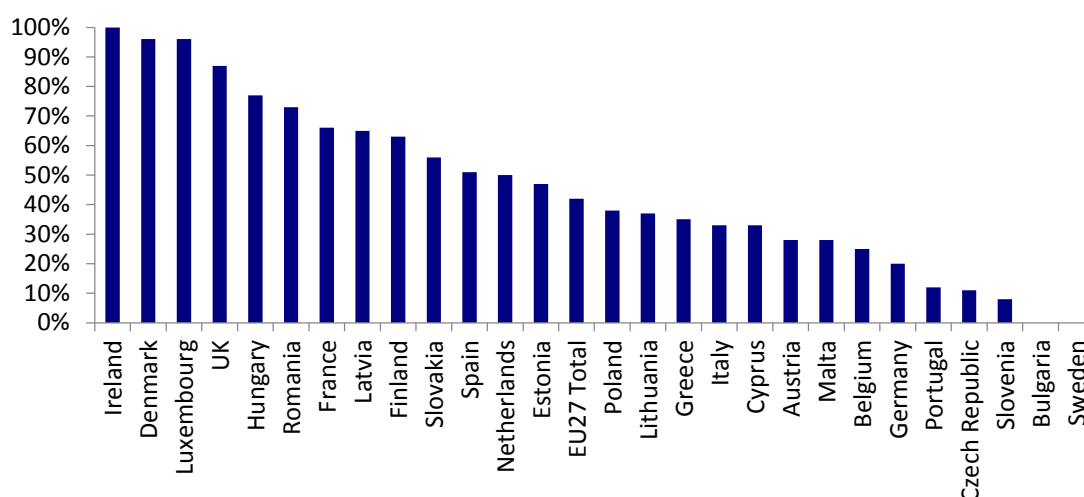
²¹⁶ Ibid p.71-72.

²¹⁷ European Commission (2010). The European Social Fund and Disability.

activities in which disabled people participate. In real terms, however, Figure 5 shows that only 42 % of the total EU27 ESF budget was pledged to interventions in which people with disabilities can participate. **Ireland** (100 %), **Denmark** (96 %), **Luxembourg** (96 %) and the **UK** (87 %) devoted the largest portions of their total ESF budgets to priority axes relevant to people with disabilities. Contrastingly, the report states that **Sweden** and **Bulgaria** earmarked no funds for these priority axes.

In this respect, it is difficult to distinguish any pan-European trends suggesting that ESF spending in this area depends on local context and Member State priorities. Ireland's high utilisation of its budget for activities that may be relevant to people with disabilities, for example, could be due to the complementary role it will play in implementing the ambitious 'A Better Quality of Life for All' project which, over seven years, aims to contribute EUR 49.6 billion to social inclusion measures in Ireland for, among others, people with disabilities²¹⁸. On the other hand, Sweden did not pledge any of its ESF budget to the priority axes relevant to people with disabilities. In reality, however, numerous projects have supported people with disabilities. An example is the ALFA2 project, which had a total budget of EUR 676 375 and provided coaching and lectures to targeted groups in society, including employers, with the aim of changing attitudes towards people with disabilities.

Figure 5: Proportion of total ESF budget pledged to priority axes that are relevant to the disabled population²¹⁹



Source: 'The European Social Fund and Disability'²²⁰. - Does not include Croatia.

Additionally, data are available for most Member States on the percentage of participants of ESF-funded projects that are people with disabilities. The **Czech Republic**, as can be seen in Figure 6, has the largest proportion of disabled participants (16 %), with the **UK** second (15 %) and **Austria** third (14 %). Interestingly, however, no other Member State has greater than 6 % disabled participants. **Ireland**, for example, pledged 100 % of its ESF budget to priority axes that might include people with disabilities, but only has 46 436 (5.5 %) disabled participants out of a total of 848 254 participants²²¹.

²¹⁸ The European Social Fund in Ireland 2007-2013 website. Accessed on 14/07/2014 at: http://www.esf.ie/en/about_esfinireland.aspx.

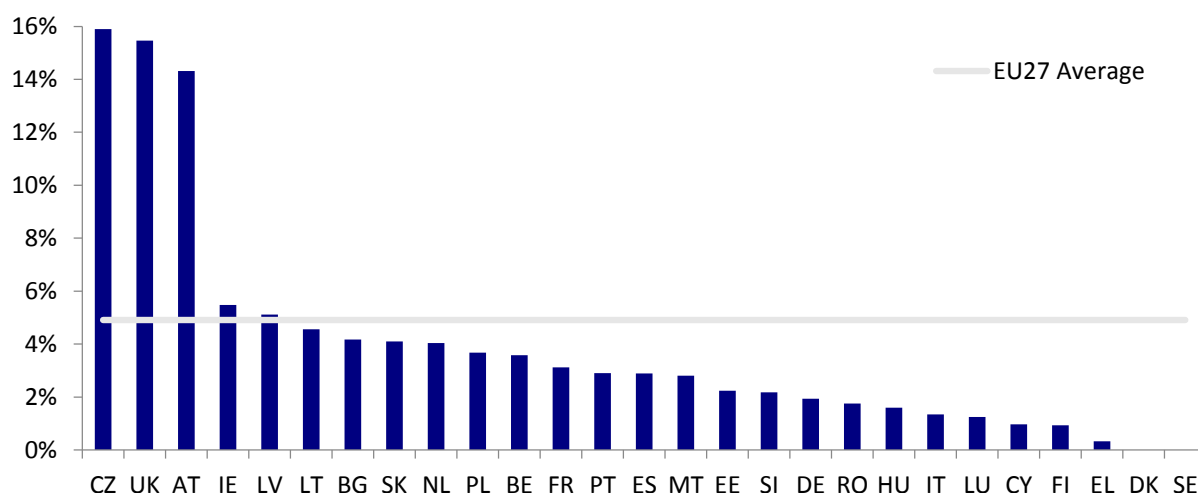
²¹⁹ European Commission (2010)., The European Social Fund and Disability.

²²⁰ European Commission (2010). The European Social Fund and Disability.

²²¹ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

Furthermore, comparisons between the 2007-2013 programming period and the previous programming period are inconsistent in this respect. The **UK**, for example, reported a substantial increase from 7.7 % to 16 % disabled participants, whereas **Ireland** reported a small increase from 4.6 % to 5 %; and **Spain** reported stable involvement of people with disabilities – around 3 % in both programming periods. Contrastingly, a number of Member States reported significant decreases in the proportion of disabled participants involved in ESF funded interventions (e.g. Luxembourg reported a reduction from 60 % to 1 % and **Portugal** reported a reduction from 31 % to 3 %)^{222,223}. However, issues regarding the reliability of these data mean that they should be interpreted with care: for instance some of the percentages, including the 60 % reported in Luxembourg in the 2000-2006 period, have been calculated on the basis of relatively small numbers.

Figure 6: Percentage of all ESF 2007-2013 project participants that are disabled



Source: 'Final synthesis report: Main ESF achievements 2007-2013' (EU27 data from end of 2012)²²⁴

These data suggest that it is difficult to ascertain the real situation, with regards to the impact of the ESF on people with disabilities across the EU, due to the scarcity of disaggregated data on the participation of this target group. This being said, it is possible to identify projects that represent good practice in the targeting of the employment and employability of people with disabilities.

6.2. Access to employment & social integration

In the final synthesis report on access to employment (A2E), a more detailed look into the ESF funding in this area, it was noted that 'the prioritisation of ESF-funded A2E measures focused principally on disabled people'²²⁵, among other groups. This report noted that, overall, around EUR 23 billion of combined ESF and Member State funding was committed to helping 12.5 million recipients under the access to employment banner.

Figure 7, below, states the percentage of the participants in each Member State that were people with disabilities. In this respect, Italy (21 %) had reported the highest proportion of participants that were people with disabilities by the end of 2012; with the UK second (18 %). Interestingly, 17 of the 21 Member States for which data were available reported

²²² European Commission (2010). The European Social Fund and Disability.

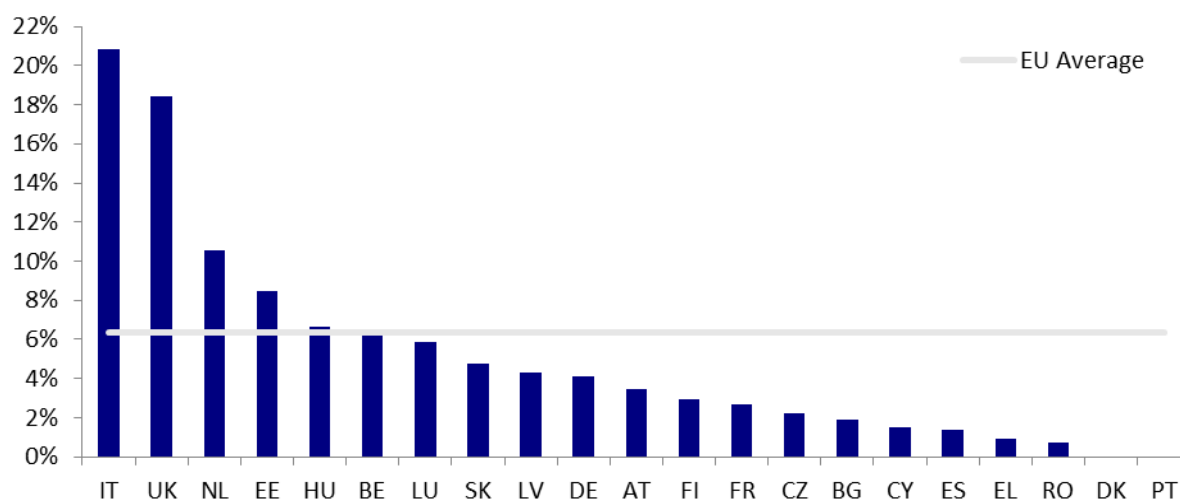
²²³ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²²⁴ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²²⁵ Metis and University of Glasgow (2012). Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

proportions of below 7 %; and only 5 Member States reported proportions above the EU average (6.3 %). **These data suggest that although people with disabilities were earmarked as an important target group within the access to employment area, their prioritisation was not implemented in the majority of Member States.**

Figure 7: Percentage of all access to employment project participants that are disabled – ESF period 2007-2013



Source: 'Final synthesis report: Main ESF achievements 2007-2013' (Data from end of 2012)²²⁶.

However, the measures that were funded in this area and targeted people with disabilities were adjudged to fit into three categories, all of which reflect active labour market policies (as outlined in Section 4); these three categories are²²⁷:

- enhancing recipient employability;
- supporting the creation and retention of employment; and
- building the capacity of public employment and training service organisations.

Table 13, below, provides further details on some of the projects in these categories being implemented across the EU.

Table 13: Examples of projects funded by the ESF from across the EU.

Examples of projects funded by ESF

1. Enhancing recipient employability: e.g.

Bulgaria – A project run by the Chernomorka cooperative aims to assist the social integration of disabled people; improve their employability; reduce their reliance on state benefits; and increase their self-esteem. With financial support from the ESF, Chernomorka set up training sessions for people with disabilities in order to teach particular sewing techniques that are best suited to their needs and how to operate new technologies. As of 2012, the cooperative had just over 100 people in its employ; 57 % of which have disabilities.

The cooperative pride themselves on the quality of their clothes, as well as the use of 100 % natural ingredients – something that is passed onto the participating people with

²²⁶ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²²⁷ Ibid p.8.

Examples of projects funded by ESF

disabilities. Additionally, they have been awarded 5 Gold Medals at the International Fair of Consumer Goods and Technologies in Plovdiv, Bulgaria.

ESF Funding: EUR 17 500

Total Funding: EUR 20 800²²⁸

2. Supporting the creation and retention of employment: e.g.

Hungary – A project run by the Konszenzus Foundation in Fejer County worked with 212 participants and sought to foster cooperation between non-governmental, public and private organisations to ensure sustainable and inclusive job creation for people with disabilities. In collaboration with Grundfos (a pump manufacturer), the Foundation put a previously developed employment rehabilitation model into practice.

Out of 212 applicants, 51 people with disabilities were offered a job and professional support for at least 12 months of employment. Additionally, training programmes and a mentor service was implemented to help develop key skills; help integration; and ultimately guide participants back to work. 29 disabled individuals also completed computer literacy courses. Furthermore, applicants that were not offered a job or were not involved in any training could still attend weekly motivational training.

ESF Funding: HUF 65,306,279

Total Funding: HUF 71,758,286²²⁹

3. Building the capacity of public employment and training service organisations: e.g.

Poland – A project run by the Polish arm of the A4e (Action for employment) British welfare to work organisation helped set up integration employment centres in the Zachodniopomorskie region with ESF support.

These centres offered support to 378 people facing difficulty accessing the labour market, including people with disabilities, between July 2008 and August 2009. Participants were able to improve their qualifications and skills through training courses, while simultaneously boosting their employability and learning new technical and personal skills, such as preparing job applications and using IT systems. In addition, the integration employment centres provided each job-seeker with a personal advisor who offered guidance and helped them develop an action plan to get into the labour market.

178 participants were involved in further vocational training or had a permanent job by the end of the project. However, there is no data on this project disaggregated for people with disabilities.

ESF Funding: EUR 512 000²³⁰

Total Funding: N/A

²²⁸ European Commission online: European Social Fund: Teaching disabled people new sewing techniques (2012). Accessed on 04/04/2014 at: <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=412>.

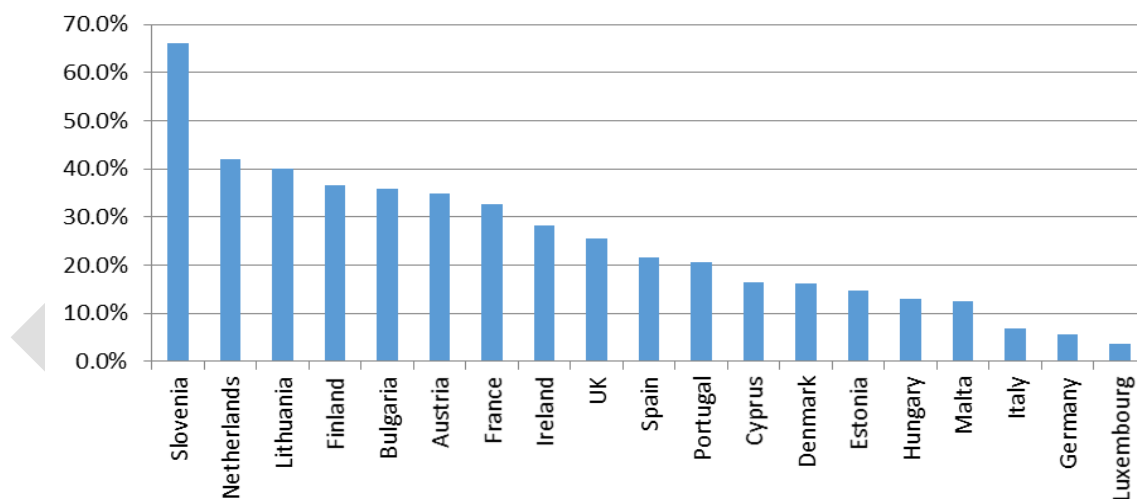
²²⁹ European Commission online: European Social Fund: Inclusive model boosts employment (2012). Accessed on 04/04/2014 at: <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=761>.

²³⁰ European Commission online: European Social Fund: First of all work! (2012). Accessed on 04/04/2014 at: <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=329>.

The access to employment report also collected employment results from across Europe. On the one hand, it was stated that, in most country reports where there was available data, targets were hit, or close to being hit²³¹. On the other hand, however, employment results were seen to vary greatly across measure types and target groups (see Figure 8)²³². For example, in **Germany** only 5.7 % of participants received employment results, compared with 66 % in **Slovenia**. It was also possible to ascertain the cost per employment result in Euros for some Member States. **Germany** recorded spending of EUR 136 593 per employment result as opposed to EUR 1 483 for **France** and EUR 2 845 for **Slovenia**. These results, however, include all participants and do not solely represent people with disabilities. Additionally, it is difficult to understand or analyse these differences in performance variation for two main reasons: (i) there is too much missing information; and (ii) there is uncertainty about the accuracy of the measures.

It was found that, although people with disabilities are stated as a priority target group in all Member States (EU27 considering the data dates from 2012), measures specifically targeted at this group under access to employment were only found in 14 Member States (**BE, BG, CY, CZ, DK, EE, HU, IT, LT, LV, MT, PL, SE, UK**). This group of countries includes a number of Member States with lower GDP per capita, potentially reflecting the current lack of services for people with disabilities in these countries²³³. A significant finding regarding the success of these measures stated that people with disabilities tended to have comparatively poor employment results across the EU, although this statement was not qualified²³⁴. It was noted in the ESF expert network's final synthesis report that this was due to difficult decisions having to be taken regarding the scarce resources and diversity of perspective across Member States²³⁵.

Figure 8: Percentage of measure recipients achieving an employment result in 19 Member States 2007-2010



Source: 'Final Synthesis Report on Access to Employment' carried out by the ESF Expert Evaluation Network²³⁶.

The synthesis report on ESF measures in social inclusion states that nearly EUR 24 billion of total public sector financial support was committed and that over 14.5 million individuals partook in ESF-funded programmes, although it is noted that this will include double or

²³¹ Metis and University of Glasgow (2012). Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

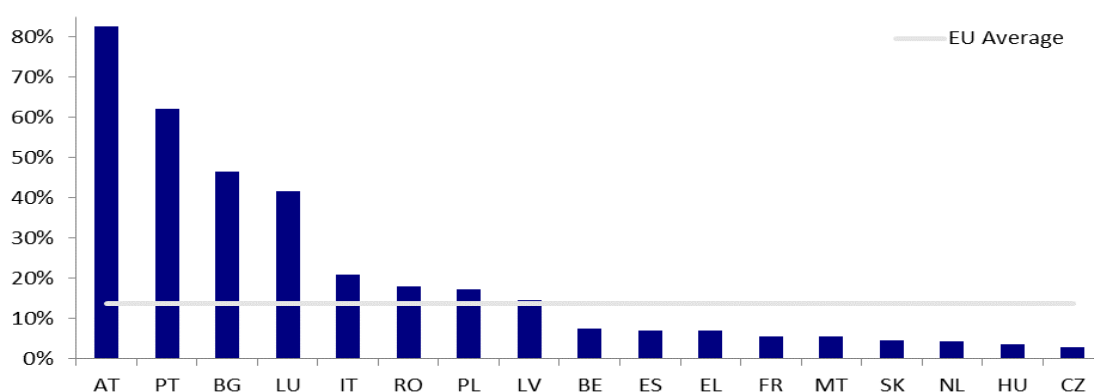
²³⁵ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²³⁶ Ibid.

triple counting as social integration participants will engage in different interventions encompassed under different themes.

This report states that people with disabilities are a priority in all Member States and the ESF expert evaluation network's final synthesis report, which outlines the main ESF achievements in the programming period 2007-2013, provides a breakdown of final recipients by target group, including people with disabilities. Figure 9 shows that, **within the social inclusion theme, disabled participants make up a significant proportion of total participants in Austria (83 %)**. Additionally, a large proportion of total participants in ESF projects in **Portugal (62 %)**, **Bulgaria (47 %)** and **Luxembourg (42 %)** are people with disabilities; however, none of the remaining 13 Member States, with available data, provided interventions to a proportion of disabled people above 21 %²³⁷.

Figure 9: Percentage of all social inclusion project participants that are disabled – ESF period 2007-2013



Source: 'Final synthesis report: Main ESF achievements 2007-2013' (Data from end of 2012)²³⁸

Many of the interventions across these two themes developed their aims prior to the economic crisis and, therefore, any employment results also need to be considered against the background of the economic crisis and subsequent labour market deterioration – a factor earmarked in as a significant constraint on the successful implementation of measures²³⁹. This is supported by the fact that in Germany for example, the economic crisis was said to make employers more reluctant to invest in or recruit disadvantaged groups.

Alongside the challenge of the economic climate, a number of issues were raised regarding the reporting on ESF-funded measures. These include inconsistent collection of data; inconsistent definitions across both Member States and operational programmes; poor indicators for specific target groups; and data protection legislation regarding data collection on specific target groups. All of these factors affect the reporting of ESF support afforded to people with disabilities, resulting in insufficient and incomparable data. A number of these issues were further exacerbated by the horizontal approach taken in many Member States to intervention and OP design. **The use of mixed target groups for interventions and the implementation of interventions that span multiple ESF**

²³⁷ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²³⁸ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²³⁹ Ibid.

target areas (i.e. access to employment, social inclusion), have resulted in inconsistent data reporting for both target groups and target areas²⁴⁰.

However, a number of good practice examples were included on data availability, quality and reliability. These are outlined below, alongside good practice examples for other criteria including important services which can support ESF-funded projects; awareness-raising; and added value through partnerships and collaboration²⁴¹.

Table 14: Good practice examples of criteria related to the provision of ESF-funded interventions^{242 243}

Good practice examples
<p>Data availability, quality and reliability: e.g.</p> <p>Belgium (BE): three different methods for collecting information on ESF-funded programmes are available to evaluators in Belgium.</p> <ul style="list-style-type: none"> • Crossroads Bank for Social Security – identifies whether an individual is on benefits, in paid employment etc. in any given quarter of the year. • PES Database – shows monthly data on employment status of an individual. • Surveys of individual recipients. <p>Poland (PL): two systems of data collection are available to monitor the effectiveness of ESF-funded projects in Poland.</p> <ul style="list-style-type: none"> • Monitoring sub-system of ESF 2007 (PEFS) – gathers data for monitoring the attainment of goals including data on final recipients. • National Information System (SIMIK) – collects data on OPs, payment applications, non-compliance etc.
<p>Services to support social integration: e.g.</p> <p>Italy (IT): some ESF-funded projects in Italy have included the provision of facilities including transport services and learning supports. In addition, a voucher system has been introduced, with the support of public and private suppliers, as a way for disabled individuals, in particular, to access services.</p> <p>Sweden (SE): interventions targeted at individuals who are unemployed and have a long-term illness also focus on the health of the individual as well as the employment goals. Collaboration between key groups of professionals has been effective in ensuring sustainable employment for people with disabilities on their return to the open labour market.</p>
<p>Raising awareness, and changing attitudes and behaviours: e.g.</p> <p>United Kingdom (UK): a lot of work in the UK has gone into raising awareness among employers with regards to reasonable accommodations for people with disabilities and it is seen as an extremely effective approach. Additionally, this can be combined with temporary work positions to help both participants and employers overcome any negative perceptions.</p>

²⁴⁰ ESF Expert Evaluation Network (2014). Final Synthesis Report: Main ESF achievements, 2007-2013.

²⁴¹ European Commission (2014). Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

²⁴² Metis and University of Glasgow (2012). Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

²⁴³ Metis and University of Glasgow (2012). Final Synthesis Report on Social Inclusion. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

Value added by partnership working: e.g.

Austria (AT): Due to the number of problems faced by people with disabilities, pathway or modular approaches are most effective in providing effective interventions (e.g. training, work experience, guidance etc.). This can be further aided through increased cooperation and coordination between support structures, with particular concentration on avoiding gaps between different stages of support to prevent participants falling through the net of supports.

Ireland (IE): the vast range of collaborations and partnerships in the Irish provision of ESF-funded projects was highlighted as adding significant value to those projects. Labour Market Activation Fund (LMAF) 2010 states that the added value of this holistic approach is due to a 'mix of core and specific industry and occupational focused skills, the inclusion of a work placement aspect, the provision of wider forms of support addressed to needs of individual participants' and it was further noted that 'the focus on progression rather than education and training courses per se were identified as key characteristics of success'.

6.3. Conclusion

It is difficult to fully assess the impact of the ESF projects in promoting the participation and increasing the integration of people with disabilities in the open labour market. A more coherent picture will appear following the planned ex-post evaluation of the ESF 2007-2013.

In the ESF Regulation for the programming period 2007-2013, there is an increased emphasis on the employment situation and social inclusion of people with disabilities compared with the previous period (2000-2006). Additionally, people with disabilities are a priority target group in all Member States for these themes. Prior to the start of the programming period, Member States outlined their goals for the use of the ESF in operational programmes and priority axes. In this respect, 93 % of Member States addressed the needs of people with disabilities in an OP; two-thirds of OPs included people with disabilities as a target group; 26 % of priority axes were relevant to the disabled population; and 42 % of the total ESF budget was earmarked for priority axes which may impact people with disabilities. The countries which pledged the largest amount for activities in which people with disabilities can participate were the **UK, France, Spain** and **Italy**. Furthermore, **Ireland, Denmark, Luxembourg** and the **UK** pledged the largest proportion of their ESF budget for activities that might support this target group.

In practice, however, this is not represented in the data collected for these themes. The percentage of participants was reported by some Member States after two years of the programming period. The **Czech Republic**, the **UK** and **Austria** had the highest proportion of disabled participants with 16 %, 15 % and 14 % respectively. No other Member States had over 6 % disabled participants. In addition, comparisons with the 2000-2006 period proved inconsistent, although data reliability issues perhaps go some way to explaining this. **Within the access to employment theme, only 14 Member States actually undertook concrete measures for people with disabilities.** These were separated into three main categories: enhancing recipient employability; supporting the creation and retention of employment; and building the capacity of public employment and training service organisations. All of these categories represent active labour market policies and, therefore, look to actively increase the integration of people with disabilities in the labour market. This report stated that the employment targets for most interventions were achieved, or close to being achieved; however, it was also stated that these results vary greatly. The employment result for **Slovenia**, for example, was 66 % whereas it was only 5.7 % for **Germany**. Additionally, costs per employment result were extremely varied.

Germany, for example, spent EUR 136 593 per employment result whereas **France** spent only EUR 1 483 per employment result.

Within the social inclusion theme, only 18 Member States disaggregated final recipients by people with disabilities. The highest proportions of disabled recipients were seen in **Austria, Portugal, Bulgaria** and **Luxembourg**; however, none of the remaining 13 Member States provided interventions for a proportion of people with disabilities greater than 21 %.

There are two main issues which serve to exacerbate these inconclusive results on ESF funded projects and their impact on people with disabilities:

- **Economic crisis:** the majority of the interventions during this programming period were designed during the years prior to the economic crisis. In this respect, implementation and attainment of results was made harder. All Member State country reports noted the significant constraint of the economic climate on the successful implementation of measures.
- **Reporting of data:** even in light of Article 10.d of the ESF Regulation, a number of issues were raised with regard to the reporting of data. These include inconsistent collection of data; inconsistent definitions across both Member States and operational programmes; poor indicators for specific target groups; and data protection legislation regarding data collection on specific target groups. All of these factors affect the reporting of ESF support afforded to people with disabilities in the period 2007-2013.

DRAFT

7. CONCLUSIONS AND POLICY RECOMMENDATIONS

7.1. General conclusions

There are a number of available policy responses in the EU to either support or encourage people with disabilities to attain employment or help and support them to ensure they remain in employment. These policy responses range from sheltered employment for people with severe disabilities which prevent them from participating in the open labour market, to reasonable accommodation which can include the adaptation of the workplace for a wheelchair user. It is therefore unsurprising that the number and types of policy responses are so wide and varied.

This report showcases how different interventions seek to tackle diverse issues relating to the employment of people with disabilities. Employment policies relating to people with disabilities are heavily dependent on the local context. Strategies to provide funding for reasonable accommodation, for example, differ significantly across the EU. On top of that, the provision of reasonable accommodation spans a vast array of adaptations to the working environment and working lifestyle, and may be delivered through a number of different means. The variety in welfare systems across the EU and the different models of employment quotas for people with disabilities suggests that these policies cannot be decided at an EU level.

Legislative definitions of disability across the EU, particularly regarding employment legislation, differ significantly. One of the fundamental difficulties in addressing this issue is the inherent heterogeneity of individuals who are categorised as disabled. This disparity in definitions is accentuated by the ongoing debate regarding which model disability definitions should be based on – the social model or the medical model. In the latter model, disability is defined as a condition which concerns the individual rather than society as a whole. Accordingly, any accessibility issue is seen as being a result of the disability. The social model, however, is strongly supported by disability associations and is based on the idea that the design of society is the reason for any accessibility or participation issue. This is particularly relevant in employment, with levels of disability or working capacity used in many Member States to evaluate the employability of people with disabilities. It also fits within the holistic Universal Design / Design for All approach. Both of these models are currently in use across the EU, although there have been recent movements from the medical model to the social model, particularly when defining the working capacity of a disabled individual.

These factors affect the cost and returns of investments for the policy interventions. While comprehensive and robust analyses have demonstrated the benefits of quotas with effective penalties (in the case of **Germany**) or the positive impact of anti-discrimination legislation (in the **UK**), the situation is far less clear for other policies. The smaller scale of some of the other projects analysed do not allow for conclusions and generalisations to be drawn. Some initial conclusions and best practices have nevertheless been identified and are presented below for each type of policy response.

There is a lack of clear and comparable definitions and common understanding of the measures implemented in the EU. For example, while there is a clear and comparable understanding of alternative labour market services in the EU, many different definitions of sheltered workshops exist.

The availability and comparability of data has also proved to be a deterrent to developing a thorough grasp of the situation. The most pertinent example comes from the reports looking at the ESF 2007-2013 programming period. They highlight a number of issues relating to data, including inconsistent collection of data; inconsistent definitions across

both Member States and operational programmes; poor indicators for specific target groups; and data protection legislation regarding data collection on specific target groups. All of these factors impact the evaluation and, therefore, the full comprehension of the effect of employment measures on the employment situation of people with disabilities. In addition, 2002 was the last time Eurostat undertook an ad-hoc module examining the employment situation of people with disabilities across the EU.

The lack of common definitions and data has often led to research being carried out in different areas, which is not always comparable. In particular, there is a lack of recent research into areas such as disproportionate burden, Universal Design and sheltered workshops.

Twenty one Member States currently have employment quotas in place for people with disabilities; however, not all of these state where penalties for non-compliance will be re-invested. A wide range of disability-specific employment measures targeting people with disabilities could be positively impacted by the targeted re-investment of these funds. The traditional strand of sheltered workshops, in particular, would significantly benefit as they strongly rely on external funding. In this respect, any additional source of financial support would greatly increase the number of people with disabilities these workshops are able to employ. Other employment measures that could benefit from this source of funding include grants and financial support for reasonable accommodation; wage subsidy schemes; and training schemes. A number of Member States, such as **Germany**, already use these funds for the integration of people with disabilities in the workplace; however, all Member States should be encouraged to utilise these funds to further increase the participation of people with disabilities in employment.

Box 5: Best practice examples – General

A - A number of Member States have implemented changes to disability classification systems, which have been long called for by disability associations. The new basis – what an individual can do as opposed to what they cannot do – signifies a more concrete move towards the social model of disability and away from the medical model. Furthermore, this has increased the focus on the needs of the individual disabled person and therefore the provision of appropriate adaptations. A best practice example of this change is the new classification system in place in **Hungary**. Since July 2012, the network of Rehabilitation Offices has been working within the government offices of the Hungarian municipalities with the aim of examining and classifying people with disabilities. The new approach determines the 'changed working ability' of an individual, focusing on the remaining working ability, as opposed to a disability rate, which focuses on lost skills. Furthermore, the new system is assessed through an individualised occupational test, with equal input from reviews by social, occupational and medical experts.

B - One of the key pan-European difficulties is the availability, quality and reliability of data. In this respect, good practice examples come from Member States that collect appropriate data in multiple systems with robust methodologies. In **Belgium**, for example, evaluators can utilise three different methods of data collection: Crossroads Bank for Social Security; the Public Employment Service Database; and surveys of individual project recipients. Another example is **Poland** which has two systems of data collection which contribute to monitoring the overall effectiveness of ESF-funded projects. These are the specific ESF 2007 monitoring sub-system (PEFS) and the National Information System (SIMIK).

C - The study carried out by the EQOLISE group and funded by the EU's Quality of Life (QoL) and Management of Living Resources Programme, is a best practice example of how to conduct a randomised controlled trial in different locations to develop a solid

evidence base on the efficiency of a programme. Beyond the results of the project, the methodology used, which included a control group, and a medium-term follow-up of the clients could be a model on which to build further research.

7.2. Sheltered workshops

To a large extent the development of sheltered workshops is influenced by the legal and cultural environment of each Member State. This is demonstrated by different understandings of sheltered workshops at the national level. In some Member States, the definition of sheltered workshops is provided in law. In others, no common definition exists and they are defined as part of general support schemes and are not underpinned by law. Furthermore, sheltered workshops are often bound by legal frameworks covering social security, minimum wages, social inclusion and anti-discrimination. In Member States where sheltered workshops are located in proximity of or within enterprises (e.g. **Spain, France**), national or regional laws may require state authorities to compensate employers for the costs of providing reasonable accommodation for people with disabilities. Additionally, the UN Convention on the Rights of Persons with Disabilities (UNCRPD) provides a legal basis for sheltered workshops regardless of whether they are economically profitable.

With regard to the financial environment for sheltered workshops in the EU, sheltered workshops rely heavily on public funding, central government, or local and regional authorities. In **France** for instance, sheltered workshops are open to people with disabilities whose productive capacity is deemed to be below 33 % of that of a person with no disability. In parallel, the State, who part-finances the Etablissements et services d'aide par le travail ESATs, cannot provide more than half the wage for a participant. At least 5 % (with a target of 20 %) of the total wages must be made up of costs made by the sale of goods and services. Again, this example is one where sheltered workshops should be compared to the alternative of being in care and or receiving government benefits, rather than other types of economic employment.

Some Member States finance sheltered workshops through funds originating from penalties paid by companies who fail to comply with the legal obligation to implement employment quotas for people with disabilities.

Given the heavily-subsidised nature of sheltered workshops, the employment status and level of remuneration for sheltered employees varies considerably across the EU. For example, in situations where sheltered workshops are not party to the obligations and rights of the Labour Code, sheltered employees do not have 'employee status'. In other countries, sheltered employees, have full labour rights (such as being members of trade unions or electing representatives), even if their remuneration can legally be under the minimum wage.

The analysis shows that while sheltered workshops cater for the most severely disabled persons, they address the needs of people with different degrees and types of disability, making them difficult to compare. On one hand, there are **traditional workshops**, which primarily employ people with severe disabilities who cannot be integrated into the open labour market through transitional workshops. These organisations seek to provide alternatives to care and welfare, while increasing the standard of living for their employees with disabilities (and their families). On the other hand, there are **transitional workshops**, which are designed to move people with disabilities into unsheltered employment by engaging them in skills training and work experience. While there is no

overall figure available for the rate of transition from sheltered employment to the open labour market, a 3 % rate is generally seen as realistically describing the situation²⁴⁴. Of course, the mere existence of sheltered workshops with no or little prospect of moving into supported employment and gradually into the open labour market, can create the risk of having some people's capacity to move into the open labour market unfulfilled.

In some Member States sheltered workshops include VET measures to increase disabled employees suitability for the labour market. For example, in **Poland** the State Fund for Rehabilitation of Disabled People (PFRON) provides funding for vocational activity workplaces, which employ people with moderate and severe disabilities. Sheltered workshops in **Germany** also provide vocational and educational training for up to 2 years. Rehabilitation measures also feature prominently among transitional sheltered workshops. The most prominent types of rehabilitation measures are technical programmes, which are designed to enable people with disabilities to work in professions and participate in team building exercises or social/cultural programmes.

Based on the cost-benefit analysis conducted for this study, from a purely financial perspective, sheltered workshops do not deliver a net positive return on investment for governments and may only benefit sheltered employees marginally (based on the assumption that they would have received welfare payments without the programme). From a societal economic perspective, they are unlikely to produce positive net gains in terms of 'output created' versus the costs of running the programme (if they were, they would become de facto a private business, no longer in need of government support). However, this is in comparison to a 'do nothing' counterfactual. **If a sheltered employment programme replaces care during the hours of work (either paid or unpaid) and/or allows a family member or friend to go back to employment or increase their working hours, the economic benefits of the programme will increase, potentially to the extent that it is economically cost-beneficial to society.** Given the differences in the types of sheltered workshops in operation in the EU, more research is required as to what the actual counterfactual is for a given programme.

Even when taking into account subsidies received, sheltered workshops experience difficulties to break even. In **France** in 2009 for instance, 51 % of ESATs activities made a profit, and almost a quarter of them were in deficit (24 %)²⁴⁵. Moreover, in 2010, a study pointed towards a structural deficit of between 5 % and 7 % for ESATs which could not always be plugged by other types of economic activities. These findings strengthen the conclusion that **sheltered workshops are not economically viable without public subsidies, although this does not necessarily mean that they are not cost beneficial to society.**

However, this purely intervention-focussed assessment perhaps misses the key aim of sheltered workshops, which is to provide productive activities for disabled individuals who are unable to access the open labour market. As such, the potential intangible benefits, such as the quality of life benefit to sheltered employees, should be measured and included in a full economic assessment of the value of sheltered workshops. If the gain is positive, this would again increase the economic benefits of a given programme, and the programme may be cost-beneficial. Further research is also required here.

²⁴⁴ See ANED report 2005, p.15 and Unapei's director Thierry Nouvel's intervention at European Parliament on the evolving concept of sheltered workshops in the EU, March 2013.

²⁴⁵ DCSG Opus 3survey, 2009 – the survey from which these figures are taken relate to activities rather than organisations. On average, each ESAT was performing 4 activities.

The added value of sheltered workshops depends on whether they are successful in meeting their objectives. For instance, a sheltered workshop that is oriented towards long-term sheltered employment for severely disabled people may provide a highly valuable service for people who would otherwise rely on alternative types of support. Whereas, the added value of a transitional sheltered workshop might be measured by the number of sheltered employees who learn new skills or who succeed in gaining employment in the open labour market. In this respect, both traditional and transitional sheltered workshops are equally valuable.

Sheltered workshops share a number of characteristics with work integration social enterprises. However, their characteristic is to receive subsidies in order to function. As stand-alone organisations and without other forms of income, they cannot function without subsidies as they would otherwise become self-sufficient entities. However, in some cases social enterprises use benefits or income from different part of the entity to internally subsidise sheltered workshops. The tangible and intangible benefits of sheltered workshops must be looked at within the general framework of the pathways to employment of people with disabilities.

A holistic approach can go some way to make sheltered workshops viable within the context of the employment of people with disabilities. In **Germany** for instance, workshops are funded by the Compensatory Levy for Severely Disabled People (i.e. non-compliance payments for the quota system in place for severely disabled employees).

The analysis conducted during this study appears to show that **traditional sheltered workshops are effective at achieving the objective of providing employment for disabled individuals. However, the value created from sheltered workshop employment in terms of productive output is outweighed by the (ongoing) costs of its operation.** Thus sheltered workshops appear not to be cost-beneficial.

This conclusion excludes the intangible benefits that go along with employment, such as improved quality of life as a result of being employed, that form the equity considerations underpinning sheltered workshops. These benefits may be significant and could lead a sheltered workshop to be deemed cost-beneficial.

The evidence shows that there is a move towards the transitional model of sheltered workshops in the EU, which has increased during the financial crisis. **Transitional workshops increasingly focus on Vocational Education and Training, and if effective at getting people into employment in the open labour market are likely to be more cost beneficial than the traditional model.** However, only 3 % of people in transitional sheltered workshops move on to the open labour market (including supported employment).

Box 6: Best practice example – Sheltered workshops

A particularly novel sheltered workshop is the **Swedish** state-owned group, Samhall AB, which provides permanent on-site employment for people with severe disabilities, but also aims to transition employees into non-sheltered employment. The workshop is associated with high transition rates for sheltered employees. One reason is that everyone who makes a transition to an employer outside Samhall AB is entitled to return within 12 months. This allows people with disabilities to move between sheltered and unsheltered employment while also allowing Samhall AB to monitor their transition to the open labour market.

7.3. Reasonable accommodation and Universal Design

The concept of reasonable accommodation has largely been developed from the social model of disabilities according to which society is (at least partly) responsible for creating barriers to employment for people with disabilities. Reasonable accommodation was designed to ensure that ad hoc adaptations are made to remove some of the existing barriers. Universal Design goes beyond this approach by seeking to create a society where the needs of people with disabilities are catered in at the design phase of technologies or the built environment. Consequently, **the gradual adaptation of Universal Design should in the medium to long term reduce the need for reasonable accommodations to be made.**

Reasonable accommodation measures fit into five broad groups: (i) assistive technologies, which help make technologies more accessible to people with disabilities; (ii) physical adjustments, which consist of adaptations to the physical working environment; (iii) adjusted working life, which encompasses work hours, location and tasks; (iv) work assistance, which could be the provision of a personal assistant or work mentor; and (v) training measures, which aim to facilitate the successful integration of the disabled individual into the working environment.

The first two groups mentioned above – encompassed under the banner of technical solutions – closely relate to the concept of Universal Design. Universal Design is a concept in which the design and composition of environments, products, information technology, communication and services is made accessible to all. In this regard, certain accommodations, from both of these groups, that are currently only implemented under the right to reasonable accommodation, could soon be permanently incorporated into the working environment under the auspices of Universal Design.

It is difficult, however, to assess the full scale of Universal Design across the EU due to the varying availability of information on the concept. There are signs that awareness of Universal Design is growing across Europe as there is legislation and policy at EU level promoting Universal Design; a few Member States have included definitions of Universal Design; and other Member States have made reference to the concept in national action plans, policy documents and initiatives targeting people with disabilities. With regard to the majority of Member States, though, there is no evidence that Universal Design is part of the political agenda.

In general, reasonable accommodation has been comprehensively transposed into Member State legislation. This has led to the successful provision of reasonable accommodation measures across the EU, as well as the development of instruments to ensure the needs of the disabled individual are taken into account and respected.

The concept that the accommodation must not impose a disproportionate burden on the employer is not uniformly understood nor comprehensively defined in the majority of Member States' legislation. Additionally, the use of the concept of 'disproportionate burden' in the 2000/78/EC Directive and the UNCRPD has received criticism from organisations representing various stakeholders, such as employers, employees and people with disabilities.

In practice, **a number of factors need to be taken into account when providing reasonable accommodation.** The most important factor, when considering the implementation of the first two aspects of this legislative obligation, is ensuring that the relevant and appropriate type(s) of accommodation is/are provided. This is due to the fact that the wide variety of potential disabilities results in a wide array of potential adaptations

and accommodations; and on many occasions requires that more than one accommodation is implemented.

The funding mechanism is also an important factor for the successful implementation of reasonable accommodation. The mechanisms by which accommodations are funded vary significantly across the EU, although it should be noted that the governments of all Member States provide some sort of funding for reasonable accommodation. Additionally, different organisations will require different levels of funding and support, as people with disabilities have the right to work in any environment, including private and public entities, non-governmental organisations, social enterprises, and sheltered workshops.

The combination of these factors and how they interact makes it very difficult to compare and contrast the strategies of particular Member States and ascertain pan-European trends in the provision of reasonable accommodation.

The research suggests that public grants and investments into reasonable accommodation partly stem from the realisation that there is some worth in encouraging employers to provide it, rather than rely on a repressive approach. Given the complex nature of reasonable accommodation (and in particular the lack of agreed definition of disproportionate burden), enforcement of the legislation is often ad hoc, and follows complaints and court cases. Pre-empting some of those cases by providing support for employers is therefore a way of ensuring that the legislation is abided by in practice.

The analysis conducted during this study suggests that private and public entities benefit from investments in reasonable accommodation. A social return on investment analysis (SROI) on the work of the **Salva Vita Foundation in Hungary, noted a return to society of HUF 4.77 over five years for every HUF 1 spent to improve access to the labour market for people with disabilities.** This Foundation provides ongoing support for employers to cover the costs of providing reasonable accommodation.

Another example supporting the claim that public money invested in reasonable accommodation is likely to be beneficial, is the **UK's** Access to Work programme. It supported 37,300 persons with disabilities, an estimated 45 % of whom would otherwise be unemployed. For every GBP 1 spent on the programme there was a net return of GBP 1.48 to the Treasury.

Going beyond public investment, a study analysing ten cases of reasonable accommodation in the **Netherlands** concluded that companies in the public and private sector benefited in a number of ways from private investment in reasonable accommodation. Among the research findings were that provisions for reasonable accommodation resulted in a number of measurable benefits to the employer. These included increased productivity, lower operational costs, improved competitiveness and improved awareness among disabled employees of the company's values and standards.

Overall, the evidence gathered throughout this study suggests that reasonable accommodation measures are cost-beneficial.

Box 7: Best practice examples – Reasonable accommodation and Universal design

A - In the provision of reasonable accommodation it is important to ensure the necessary and appropriate adaptations are made for the specific needs of the individual disabled person. In this respect, a pertinent best practice example is the Ergojob²⁴⁶ project, organised by AWIPH, in the Wallonia region of **Belgium**. Ergojob started in 2009, with the support of the ESF, and aims to support employers in the implementation of accommodations for people with disabilities. Actions include using a professional ergonomist to train AWIPH staff; creating a database with advice for reasonable accommodation for employers; and providing funds for these accommodations. It was stated that 123 people with disabilities benefited from Ergojobs and since the project began the number of reasonable accommodation interventions provided by AWIPH has doubled²⁴⁷.

B - Another positive note is the legal environment surrounding reasonable accommodation in **Spain**. There are two sections of Spanish legislation which are particularly important for the successful implementation of reasonable accommodation. The first is found in Law 49/2007, which establishes sanctions for non-compliance with the reasonable accommodation obligation. Companies may be fined up to EUR 1 million if they fail to provide reasonable accommodation for people with disabilities. The second is the comprehensive way in which Spanish legislation regulates the concept of a 'disproportionate burden' to the employer. Unlike many Member States, where this concept is not elaborated, Spanish Law 51/2003 states a number of criteria that should be taken into account when considering if an accommodation is disproportionate, including: 'the cost of the measure, the discriminatory effects for disabled persons if it is not adopted, the structure and characteristics of the person, entity or organisation that is to put it into practice, and the possibility of obtaining official funding or any other aid'²⁴⁸.

7.4. Alternative labour market services

Alternative labour market services cover a wide range of different policy instruments; it is therefore difficult to provide overarching conclusions covering each of them. In order to assess the cost and returns on investments of the various policies, this study has developed cost-benefits analyses of specific instruments. The first was carried out on the German quota system (an example of specific labour market policy) and found that **the probability for people with disabilities of being employed increased between 2.2 % and 3.5 % following legislative changes to the quota system**. However, the example illustrates how this was a result of new incremental fines replacing the flat fine in case of non-compliance. Interestingly, this analysis was conducted to assess the impact of quotas on the target population and resulted in showing the importance of well-developed incremental and enforceable fines.

In the case of the UK's 1995 Disability Discrimination Act, used to represent general measures, not specifically targeted at employment, it **showed a positive effect in that its introduction led to an observed employment rate of 25.1 % compared with a counterfactual employment rate of only 17.1 % had the Act had not been passed** – this equates to an additional 180,000 registered people with disabilities in work. This exercise tends to demonstrate the effectiveness of such general policies.

These two types of measures are extremely interesting in that their cost to the tax payer is almost non-existent (beyond costs of introduction and enforcement) and they appear to

²⁴⁶ Agence Wallone pour l'intégration des Personnes Handicapées (AWIPH) (2012). Rapport Annuel: Rapport d'activités 2012. Retrieved http://www.awiph.be/pdf/documentation/publications/revues_rapports/rapport_annuel/rapport_annuel_AWIPH_2012.pdf.

²⁴⁷ Information provided by the National Focal Point for the implementation of the UNCRPD in Belgium via AWIPH.

²⁴⁸ Cachón, 2009. p.36.

have wide-ranging benefits. The mainstreaming of people with disabilities is an additional advantage of those policies, creating a system which breaks down barriers to their employability.

The **European Social Fund** has financed a range of collaborations and partnerships in Ireland to guarantee the cooperation of employers in the transition of people with disabilities into the open labour market. The collaborations used a holistic approach, which included a mix of core and specific industry and occupational skills, a work placement aspect, and the provision of support tailored to the needs of individual participants. A reason for the collaborations' success was that they focused on disabled people's progress towards the open labour market.

Active labour market policies are of a smaller scale than general nationwide interventions (such as the general measures described above). They can therefore be **more targeted at a specific population**. One particular project studied in detail during the preparation of this report is the '**Towards Work**' programme funded by the ESF and run in Lithuania between March 2009 and December 2012, with the aim of assisting people with hearing disabilities find work. The analysis found that while data were scarce, the intervention was likely to be cost-beneficial and had a positive impact on the clients compared to the lack of intervention, with an additional 68 people achieving employment compared to the counterfactual.

Another particularly interesting example is that of **Individual Placement and Support (IPS)** which was the subject of a rare randomised control trial in six European cities, the EQOLISE project. The study's result confirmed what had been found elsewhere, namely that IPS interventions appear much more effective and cost-effective than existing traditional vocational interventions. The fact they also function in widely differing labour markets and welfare contexts, confirms this service is an effective approach for vocational rehabilitation in mental health and deserves investment and further investigation. As an aside, the robustness of the findings of the study also highlight the strength of developing a strong scientific evidence-base to establish which are the most effective interventions.

A number of other positive examples of ALMPs were identified during this study and presented in the appendices, suggesting that these types of intervention are particularly effective in helping the transition of people with disabilities into work.

Despite some clear positive signs, some of the policies mentioned above appear to have a negative motivational impact on people with disabilities. Policies such as wage subsidies or tax breaks appear to have obtained mixed results. In general, the available literature and research points towards the negative aspect of such schemes, as they can cause displacement and make people with disabilities feel 'locked-in' in their employment. There is no definitive judgement of wage subsidies in the available literature, but other negative effects of wage subsidies include the stigmatisation of a group or population in the workplace (i.e. the feeling that a person has gained employment solely as result of her disability). However, given the importance of the local context for this type of intervention, positive examples exist, such as in Belgium (Flanders)²⁴⁹ or in Sweden, where there is a wage subsidy for people with disabilities, which is available for four years at a maximum of 80 % of SEK 16 700. These policies should however clearly complement other existing policies, take the local context into account, and should be limited in time.

²⁴⁹ Samoy, E. & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

Box 8: Best practice example – Alternative labour market services

A particularly successful active labour market measure is the **Job4000 programme in Germany**. This programme started in 2007 and seeks to promote the participation of persons with disabilities in the open labour market. Since its inception, Job4000 has recorded impressive success rates in comparison with their initial targets. An evaluation undertaken in 2012 found that 2141 new jobs were created for people with disabilities – a success rate of 214 %; 668 in-company training places were created – a success rate of 134 %; and 4345 people with disabilities received support from the integration services – a success rate of 174 %. Additionally, two-thirds of the created jobs were sustained beyond the end of the programme and 40 % of those who partook in training schemes were working in the open labour market after the end of the programme.

7.5. European Social Fund

It is difficult to fully assess the impact of the ESF projects in promoting the participation and increasing the integration of people with disabilities in the open labour market. A more coherent picture will appear following the planned ex-post evaluation of the ESF 2007-2013.

The ESF Regulation for 2007-2013 encouraged the increased involvement of economically inactive people, such as people with disabilities, in the labour market with the target of combating social exclusion. Accordingly, the needs of people with disabilities were addressed in the operational programmes of a significant majority of Member States (93 %), and two-thirds of the total operational programmes included people with disabilities as a target group.

The ESF supported a number of alternative labour market measures, which targeted people with disabilities in the period 2007-2013. For example, under the priority to enhance recipient employability, the ESF provided EUR 17 500 to a project in **Bulgaria** to set up training sessions for people with disabilities to learn sewing techniques and how to operate new technologies. The ESF also funded (HU 6 30 279) a project in **Hungary** with the priority to support the creation and retention of employment. In **Poland**, the ESF provided EUR 512 000 to a project in support of building the capacity of public employment and training service organisations.

The **lack of disaggregated data** significantly restricts the ability to evaluate the impact of the ESF on people with disabilities; and inconsistent collection and reporting of data across and within Member States prevents comparisons between interventions as well as between Member States. The **economic crisis** also affected the way in which ESF funds were allocated and ultimately spent. As the majority of interventions were designed prior to the economic crisis, their implementation was impacted. This is illustrated, for example, by the fact that in Germany, employers were more reluctant to invest in or recruit disadvantaged groups due to the economic crisis.

While it is difficult to draw conclusions from the available data, funds from the ESF appear to have played an important role in ensuring that resources were allocated to assisting with the employment of people with disabilities during the financial crisis. Looking at individual projects, the ESF appears to have had a very positive effect on the employment of people with disabilities. **A number of the success stories, best practice examples and examples used in this study to assess the cost-benefit ratio of interventions have been funded by ESF. These projects often have an effect which is longer lasting than the intervention itself.** This is the case of the 'Towards work' project in **Lithuania**, which trained mediators to assist people with hearing disabilities to access employment. A number of those mediators are still working and can use the skills they acquired through ESF funding. The situation is similar for the Empléate project in **Spain**, which included an

important *train the trainer* element which will continue benefitting people with disabilities in the future.

ESF projects also appear to bring a level of innovation in the policy responses available. These include Ergojob (mentioned above) and Job&Co in **Belgium**, a programme focussing on overcoming obstacles faced by people with disabilities, such as a lack of confidence or motivation and low qualifications.

7.6. Policy recommendations

This study has demonstrated the heterogeneity of the costs and returns of investments for the policy responses to helping people with disabilities either gain or retain employment.

Encourage the development of clear and comparable definitions to foster comparable data and research

The Parliament could encourage efforts to ensure that all Member States clarify the concept of disproportionate burden in the context of reasonable accommodation. This would allow the impact of the measures to be more easily compared. Developing a typology of measures based on (i) what they seek to achieve, and (ii) the population they wish to target would go a long way in facilitating the understanding and comparability of the policy interventions.

Furthermore, one way to stimulate the growth of comparable data in these areas could be to introduce the employment situation of people with disabilities as a research theme in the work programme of the Horizon 2020 Programme. This would make more research available to Member States on what types of interventions work better and allow them to compare the costs and benefits of a wider variety of investments designed to support people with disabilities.

The European Parliament could encourage the consistent collection of data and could work to ensure these data are of a good standard. This could include a new ad-hoc data collection module looking at the employment situation of people with disabilities, particularly with regard to the provision of reasonable accommodation; the role of sheltered workshops; and the amount of active labour market policy funding spent specifically on people with disabilities. Additionally, Member States could be encouraged to put in place monitoring and data collection systems. There is also scope to increase the level of funding for local and regional assessments of the effectiveness of disability policy measures.

One of the common barriers to improving the situation with regards to the costs and returns of investment for policy interventions, is the lack of available information on the activities and outputs of policy measures across the EU. One suggestion might be to establish SMART²⁵⁰ social indicators to assess the effectiveness of sheltered workshops in different national settings. These indicators could form the basis of further research into and benchmarking of the wider social impacts of the interventions on society and individual participants.

The identification of measures and policies that function should also be the prerogative of the organisations involved in providing the responses. One simple solution could be to identify and share best practices. This can be done by the organisations themselves, or be built in the monitoring and evaluation mechanisms of their activities over the short, medium and long term.

²⁵⁰ Specific, Measurable, Acceptable, Relevant and Time-related.

The European Parliament could encourage further research, in particular robust scientific studies and Randomised Control Trials to collect data and identify measures that have specific impacts.

One of the best examples of study conducted to assess the costs and return of investment of specific measures during this research was the EQILSE project. Based on the above recommendation, the Parliament could encourage similar studies to be conducted. One of the greatest merits of EQLISE is that it has provided comparable data collected from different locations in a Randomised Control Trial. This has provided robust data on the cost-benefits of the intervention.

The European Parliament could use its budgetary powers and influence to encourage the financing of such projects either as ad hoc pieces of research or as part of existing financing structures such as Horizon 2020.

Encourage the use of a social model of disability definition as opposed to a medical one

The global trend is for the development of the social model of disabilities to be adopted. In this respect, the European Parliament could encourage this trend and engage more Member States in a move towards defining disability using the social model. This would have the advantage of fostering innovation in the field of Universal Design, ultimately helping to share the costs of adaptations to be made through society as a whole rather than simply by employers or governments. This would in turn possibly help the sharing of best practices and policies targeted at different groups.

Encourage the development of an all-encompassing framework for the measures benefitting access to work of people with disabilities. In this respect, the Parliament could encourage Member States to put in place policies such as the use of penalties relating to the failure to comply with anti-discrimination legislation to finance other actions in the field.

This study has shown that the costs and returns of investments for policy measures depend to a large extent on the context. Even for cost-beneficial measures, public sources of funding are crucial to ensure the sustainability of the actions. Furthermore, the lack of robust research means that intangible societal benefits are often either difficult to identify or unaccounted by purely economic studies. In times where governments are unable or unwilling to increase public spending, it is important to ensure that measures in favour of people with disabilities are not at risk and accepted by the wider population. Where firms are required to pay financial penalties for failing to employ enough people with disabilities, such as under quota systems or anti-discrimination legislation, the European Parliament could encourage Member States to use income from non-compliance fines to ease the financial burden of measures facilitating the employment of people with disabilities.

An all-encompassing approach is much more likely to show the real societal returns of a policy measure. This approach should also be encouraged when looking at the penalties imposed for non-compliance to legislation. The European Parliament could encourage further comparative research to assess the extent to which these measures are beneficial from an economic point of view.

The European Parliament could also exert its agenda-setting influence by promoting the debate *on* and researching *how* Member States can provide an overall successful portfolio of measures and policies to ensure that the majority of people with disabilities can access and remain in employment while guaranteeing a high level of satisfaction of both employer and employee.

8. APPENDIX 1 - ECONOMIC ANALYSIS

This section presents economic analysis for each of the six following case studies:

- Mandatory employment quota for disabled workers in Germany: 'The Act to Combat Unemployment amongst Severely Disabled People'.
- The Disability Discrimination Act (DDA) in the UK.
- A sheltered workshop for mentally disabled people run by Civitan in Hungary.
- 'Towards Work', a programme to help people with hearing disabilities find work in Lithuania.
- Supported employment in the US.
- Reporting on research on the cost-effectiveness of IPS supported employment in six European cities.

The purpose of conducting this analysis is to enable a 'value for money' comparison, both in terms of the financial implications for a programme's funder and the intended recipients, and in terms of the societal economic impact, which measures the overall economic impact to society. **A complete economic analysis should include monetary valuations of non-monetary outcomes (for instance quality of life and health gains) – it has not been possible to do so within the scope of this analysis, but these benefits are mentioned in the report below.**

Detail on the methodology employed is described below.

8.1. Methodology

8.1.1. CBA theory

Cost-benefit analysis (CBA) allows the calculation and comparison of the costs of implementing an intervention or programme, with the benefits accruing as a consequence of the intervention or programme. Costs and benefits should all be valued and monetised, such that a benefit-cost ratio (BCR), representing the benefit in Euros for each Euro spent, can be reported, alongside a 'net benefit' outcome showing benefits less costs. (It is important to note that negative effects of the intervention or programme are not costs but rather negative benefits.)

The advantage of valuing outcomes in monetary terms allows all benefits to be reported in the same way, and thus summed, and facilitates easy comprehension of results. The BCR also allows an assessment of the extent to which a programme is worth the investment, i.e. whether the benefits outweigh the costs, although it is important to note that there are reasons for investing in a programme that may not necessarily be captured by a CBA.

In theory, interventions can also be compared against each other when CBAs have been conducted, although in practice this can only be done when interventions are carried out on the same population in the same context (i.e. what works in one population in a given context may not work in another). However, CBA does assist policymakers in drawing evidence-based conclusions about an intervention or programme, and to make suggestions about programmes that may be worth trialling in other areas.

In conducting a CBA, an intervention or programme must be compared with what would have happened had it not existed – the comparator, or counterfactual – in order to assess the costs and benefits resulting directly from the programme. For these studies we have assumed a 'do nothing' counterfactual, i.e. no alternative programme would have been put in place instead of the one being investigated. Naturally, the counterfactual is hypothetical,

so for these analyses we have generally made assumptions, based on what happened before the programme began as well as on expert opinion, in order to estimate the counterfactual.

It is important to note that neither costs nor benefits are necessarily 'financial', but they must be converted into monetary units. For example, a new programme may utilise existing staff and resources in its implementation – this must be monetised appropriately, for instance by valuing staff time by the wages they are paid for the time spent on the programme, and by valuing resource usage by the rent that is paid for the time it is used. (This represents 'opportunity cost', i.e. that time or resources spent doing one thing could have been spent doing something else.) Similarly, caregiver time may be valued by using the cost of professional care as a proxy. Intangibles – such as quality of life gains as a result of employment – should also be monetised, where possible, to provide a complete analysis. This may be done through 'willingness to pay' methods, whereby survey respondents are asked *ex ante* how much they would pay to avoid a certain outcome. **However, data allowing valuation of the intangibles resulting from the six case studies analysed was unavailable, so it has been included as a narrative, illustrating how we would expect its inclusion to influence results.**

8.1.2. Scope & perspectives of the CBA

The scope of the CBA was to examine each case study's impact on the employment of disabled individuals who would otherwise have remained unemployed. Although employees may acquire disabilities while working and disabled individuals who are already employed may benefit from some of the interventions covered in this study, this was not part of the scope of this analysis. As such, the benefit of each programme was assessed in two ways: first, by looking at its effectiveness in terms of getting unemployed disabled people into employment; and secondly by valuing this gain.

The methodology employed to evaluate economic impact calculates costs and benefits from three different perspectives. Two of these are financial perspectives: that of the government and of individuals.

In general, **the cost side of the equation for the government is the cost of the intervention itself; while the benefit consists of increased tax revenue resulting from greater employment,** as well as a reduction in welfare payments made to unemployed disabled individuals.

The individual's financial perspective does not entail a cost (and thus a BCR is not calculated for individuals) as the individual does not pay for any of these interventions, and the benefit for those employed consists of gross salary received less taxation paid and welfare payments lost.

It is difficult to establish the costs and benefits borne by the employer, due to a lack of data. Additionally, it is perhaps reasonable to assume that where possible an employer would pass on any additional costs to either employees, in the form of reduced wages, or to customers, in the form of increased prices, except in those cases where it is not possible to do so without going out of business. However, evaluating this is beyond the scope of this study, and so the employer perspective has not been included.

The third perspective of this study is the societal economic perspective. It is 'economic' rather than 'financial' as it attempts to measure the 'real' value of a programme to society rather than any party's financial outcomes. From the perspective of society as a whole, transfers – such as tax and welfare payments – are not included as these cancel out (the government pays money to an individual or vice versa, but no goods or services are involved). As such, the societal perspective includes the cost

of the programme (where this represents non-transfers, e.g. excluding tax credits) and the benefit in terms of the gross salary received (gross because it is irrelevant from a societal perspective who receives the benefits, the government or the individual). As mentioned above, the economic analysis from a societal perspective should also include valuations of the impact on third parties (e.g. family caregivers) as well as intangible gains such as quality of life (for all parties), but this was not possible within the scope of this study due to the data requirements.

8.1.3. Methodology by type of case study

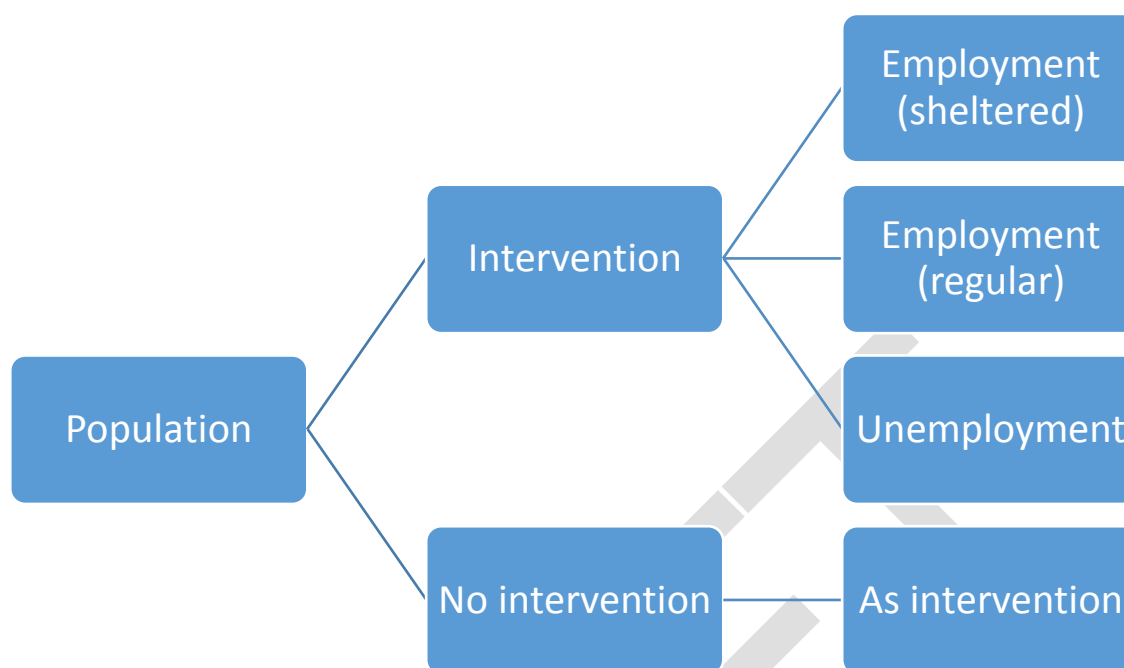
The way in which costs and benefits were evaluated varies for each of the two categories of case study:

- **Measures aiming at general increases of employment of disabled people**, for example via anti-discrimination regulation (population-level measures).
- **Measures aiming to address particular individual barriers**, for example by improving qualifications or helping with adjustments in the workplace (individual-level measures).

For the two population-level measures (the quota in Germany and the UK DDA), we have not presented a BCR, given that in this case the specific interventions cost nothing to put in place (they are pieces of legislation), and although there may be some enforcement costs, assessing these was beyond the scope of this study.

Instead, for these measures we have focused on establishing the impact on the employment of disabled people resulting from the legislation, using difference-in-difference analysis to separate causal relationships from exogenous factors, such as the performance of the economy as a whole, which would also influence the employment of disabled individuals but does not result from the intervention. The resulting effects are monetised using wage, tax and unemployment benefits data to assess a) the financial benefit to individuals, i.e. net wages earned by those individuals, (i.e. salary less taxes and foregone welfare payments); b) the financial benefit to the government, assessed through taxes received and reduced welfare payments; and c) the benefit to society, valued according to the gross wage earned by those becoming employed.

For the remaining measures, where cost-benefit analyses had not already been reported, we constructed a simple decision tree model, as shown in Figure 10.

Figure 10: Decision tree structure for case study cost-benefit analysis

A decision tree model is used to represent mutually exclusive pathways where probabilities determine the numbers of individuals reaching each stage. In this case, the population of unemployed disabled individuals included in or targeted by the intervention end up in either the 'employment' state (which is represented as employment in the regular labour market or in some form of sheltered workshop) or in the 'unemployment' state if they did not succeed in getting a job placement. 'Sheltered' employment and 'regular' employment differ in terms of the wage rate received and the degree of ongoing support (costs) required. (The model structure also included the possibility of moving from sheltered employment to regular employment, but this was not required for the modelled case studies and so has not been included in the diagram above.)

The 'no intervention' arm of the tree represents the counterfactual, i.e. what would have happened to the same population had there been no intervention.

The model is populated by assessing the probabilities of reaching each of the employment/unemployment endpoints with the intervention and comparing this to the probabilities under 'no intervention', and by calculating the costs and benefits associated with each of the possible outcomes.

Care has been taken to avoid 'attribution bias' by correctly attributing changes in employment as being caused either by the intervention (and thus not included in the counterfactual), or by other factors (and thus including those changes in both arms of the model). This is best done through experimental evaluations, but this has not been possible for every case study²⁵¹. Sufficient information has been available to report BCRs, but this

²⁵¹ Experimental evaluations involve comparing the impact of the measure relative to a counter-factual using random assignment trials (or equivalent), where individuals are randomly allocated to participate in a measure or not; the impact of known or unknown confounding factors are randomly distributed between the group who are affected by the measure and the non-participant (control) group. This allows estimation of the unique impact of the measure. Even where this is done well, there remains a residual risk of attribution bias if a 'placebo' effect is evident.

has been supplemented by a description of the benefits that were not quantifiable/monetisable.

By multiplying out the model probabilities, costs and benefits by the size of the population, total costs and benefits can be calculated. As with the population-level measures, costs and benefits are included separately for the government and individual financial perspectives and the societal economic perspective.

The timeframe of analysis varies for each case study according to the available data. As long a timeframe as possible has been analysed, given that often the initial costs of an intervention are significantly higher than costs incurred later on, but benefits can last across the full 'employment cycle'²⁵² (i.e. from the point at which a person gets a job until they exit employment or change positions within the community); but for some case studies, such as the sheltered employment programme in Hungary, costs and benefits are ongoing and reported on an annual basis.

Costs and benefits occurring beyond the first year of the intervention will be discounted using a 4 % discount rate, as recommended in the European Commission Impact Assessment Guidelines²⁵³. All costs reported are expressed in 2014 prices unless otherwise noted.

As with any modelling exercise, the data used to model the costs and benefits are subject to a degree of uncertainty. As such, sensitivity analysis has been conducted, whereby key model data parameters are varied and the impact on the final result analysed, in order to assess the sensitivity of the overall result to that data point or assumption.

8.2. Impact analysis of the Act to Combat Unemployment amongst Severely Disabled People in Germany

8.2.1. Labour market participation of disabled people in Germany

Policy improving the labour market situation of disabled people

Parliamentary Acts and further regulatory intervention into the labour market to facilitate the employment of disabled people in Germany has a long tradition, dating back to the origin of the German Social Insurance System in the late nineteenth century. Statutory Accident Insurance (*Gesetzliche Unfallversicherung*), which came into effect in 1884 for all dependent employment as well as for a number of other groups in society (students, carers, farmers, etc.), regulated pension payments or financial compensation in the case of job-related accidents and illnesses and for occupational rehabilitation. The Act also included a first principle that occupational rehabilitation and re-integration of disabled people into the labour market would be prioritised over pension payments and permanent withdrawal from the labour market.

In addition to the Act, further regulatory changes followed the First World War with the Imperial Decree on the Social Welfare of Disabled War Veterans and their Family Members (*Verordnung über die Soziale Kriegsbeschädigten- und Kriegshinterbliebenen-Fürsorge*), which included a mandatory employment quota and a central authority (*Hauptfürsorgestelle*) to achieve the integration of war veterans with disabilities into the labour market²⁵⁴.

²⁵² Cimera, R.E (2012). The economics of supported employment: What new data tell us. *Journal of Vocational Rehabilitation* 37 (2012) 109–117.

²⁵³ European Impact Assessment Guidelines (European Commission 2009, p.38).

²⁵⁴ Welte, F. (2005). *Behinderung und Rehabilitation im sozialen Rechtsstaat - Freiheit, Gleichheit und Teilhabe behinderter Menschen (Habilitationsschrift)*, Mohr Siebeck, Jus Publicum Bd. 139, Tübingen 2005, p.211.

This regulatory framework was subsequently further developed, in particular when the Severe Disabilities Act (*Schwerbehindertengesetz*) came into effect in 1974, which improved the mandatory employment requirement of disabled people. The Act also included financial incentives for employers to hire disabled people, financed on the basis of mandatory payments from companies with more than sixteen employees that did not fulfil the statutory quotas on the employment of disabled people as set out in the Act. While the regulation was further improved in 2001, and all vocational rehabilitation and other re-integration of people with disabilities were unified under one Act (*Sozialgesetzbuch* [Social Law Book] IX), the system remained in place by and large.

The current regulation to facilitate labour market integration of people with disabilities imposes a statutory quota on firms that a certain percentage of their staff must be severely disabled, i.e. permanently physically, mentally or psychologically limited in their capacity to socially (and economically) engage (Social Law Book IX, §2, 2). The establishment of the 'degree of incapacity' (*Grad der Schwerbehinderung*) is a key variable for the eligibility of the specific measures for labour market integration of disabled people. Generally, people with a 50 % degree of incapacity are covered by the Act, while those with a 30–50 % degree of incapacity can be equated to severely disabled people following further medical assessment (ibid. §2, 2).

8.2.2. Labour market participation of disabled people

In 2011, 7.3 million people with severe disabilities were living in Germany, approximately 9 % of the total resident population. Males and older people were overrepresented, but in total, about 3.272 million people with severe disabilities were of the working-age population (between 15 and 64, *Statistisches Bundesamt* [Federal Statistical Authority] 2013²⁵⁵). Based on our own analysis of German Socio-Economic Panel (GSOEP) data, we estimated that about 3.39 million people of the working-age population were severely disabled, very similar to the official figures published by the Federal Statistical Authority.

An analysis of the labour market status of the working age population based on GSOEP data shows the dramatic imbalances of the labour market against people with severe disabilities:

- **Employment rates are highest for non-disabled people**, increasing from 70 % of the working-age population in 1998 to almost 77 % in 2011.
- **Compared to non-disabled people, the employment rates of both mildly and moderately disabled people with less than 50 % incapacity were lower, at about 60 % and 32 %, respectively, in 1998.** The rates increased, until 2011, to 67 % and 40 %, respectively, of the working-age population.
- **Unemployment of disabled people, who constitute approximately 7 % of the total working-age population, was similar to unemployment of non-disabled people in 1998; and both decreased until 2011** (6 % of the disabled population and 5 % of the non-disabled working-age population were unemployed). However, if the standard definition of unemployment rates was applied, unemployment as a percentage of the total labour force would be 14 % of the total labour force of severely disabled people, compared to 13 % for mildly and moderately disabled people and 6 % of the non-disabled labour force.

²⁵⁵ <https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Gesundheit/Behinderte/Tabellen/GeschlechtBehinderung.html>.

- The greatest difference between disabled and non-disabled people is evidenced in labour market participation:** while only 24 % of the non-disabled working-age population was inactive in 1998, i.e. participated in education or was outside the labour market because of other reasons, the corresponding proportion of severely disabled people was 61 % and of mildly and moderately disabled people 27 %. While inactivity decreased until 2011 across all groups, inactivity rates of severely disabled people remain high at 53 % (compared to 23 % of other disabled people and 18 % of the non-disabled working-age population).

Based on the GSOEP estimates for 2011, aggregate employment of severely disabled people stood at 1.366 million people in 2011. This is far higher than the one million workplaces available for severely disabled people in companies with 20 or more employees, due to the statutory quota of the Act²⁵⁶. This points to substantial employment of disabled people in smaller firms or outside dependent employment, which would not be affected by regulatory changes in the quota and the equalisation fee.

Figure 11: Labour market status of disabled and non-disabled people, Germany 1998-2011



Source: GSOEP, own calculations.

²⁵⁶ <http://statistik.arbeitsagentur.de/Statistikdaten/Detail/201212/iiia6/bsbm-bsbm/bsbm-d-0-xls.xls>.

8.2.3. Evaluation of the change in the mandatory employment quota of disabled people (2001)

Regulatory change

In the following section, we evaluate the impact of the Act to Combat Unemployment amongst Severely Disabled People (*Gesetz zur Bekämpfung der Arbeitslosigkeit Schwerbehinderter*), which came into effect in 2001. This reform altered the mandatory employment quota for disabled people, which had existed since the introduction of the Severe Disabilities Act in 1974, and the related payments if quotas were not fulfilled. The following regulatory change was introduced:

Until the end of 2000, the statutory employment rate of disabled people was set to 6 %. This implied that every business with more than 16 employees had a requirement to employ at least one severely disabled person. If the statutory quota was not fulfilled, 'an equalisation fee' (*Ausgleichszahlung*) of EUR 105 per month had to be made for every position that would have to be filled by a disabled worker but was in fact taken by a non-disabled person (§ 77 SGB IX). For example, a firm with 100 employees failing to employ any disabled people instead of six as required by statutory quota, would have paid EUR 7 560 per year.

From 2001, the quota was decreased (to 5 %) to affect only businesses with more than 20 employees, while the equalisation fee was altered in relation to the percentage of disabled staff employed by the firm:

- Employers with fewer than 20 staff do not pay an equalisation payment if they fail to employ a disabled person. Firms with up to 40 employees continue to pay EUR 105, while firms with up to 60 staff pay EUR 360 per month if they do not employ any disabled person (and EUR 105 if they only employ one instead of two).
- All other employers achieving an employment rate of disabled people of less than 2 % pay EUR 260 for every individual role required to be occupied by a disabled person by law and actually held by a non-disabled person. If the number of disabled people in the firm ranges between 2 % and 3 %, the monthly fee for every role not filled by a disabled person is EUR 180, while it is EUR 105 for firms where people with disabilities make up between 3 % and 5 % of their workforce.

In the hypothetical example of a company with 100 staff failing to employ disabled staff, the annual fee would more than double to EUR 15 600. A company employing two disabled staff (instead of five, as required by law subsequent to the change) would see an increase in fees from EUR 5 040 to EUR 6 480. With these significant changes in costs imposed on businesses failing to achieve the statutory quota of employment of disabled people, the regulation aimed to improve incentives for employers to employ more disabled people. In 2013, the payment for under-fulfilling the employment quota was increased moderately (by 10 %), the mechanism for setting the equalisation fee remains unchanged.

In the following section, we will use the method of difference-in-differences to analyse whether the regulatory change improved employment outcomes for disabled people (relative to non-disabled) and generated a net social benefit.

Previous impact assessments

At least two further studies on the employment effects of the regulatory reform introduced with the Act to Combat Unemployment amongst Severely Disabled People in 2001, which uses the same methods applied in this study, have been carried out:

- In the first study²⁵⁷, Verick applied a difference-in-differences estimator with linear probability models to estimate the effect of the reform on employment rates, unemployment and inactivity rates and the transitions between the different labour market states, controlling for further individual characteristics. **The findings show that unemployment rates were significantly reduced due to the reform, but there was also an increase in inactivity, while employment rates remained unaffected.** The paper also presents a variety of heterogeneous effects for the different groups of severely disabled people, pointing towards significant impacts for the group of people with 50 %-60 % disability. The analysis of the transitions between the different states provided evidence that – while the probability of remaining unemployed decreased – the flows from unemployment to employment and out of the labour force were not affected. The conclusion of the evidence is that higher inactivity resulted in overall lower unemployment rates and did not result in higher aggregate employment, which would have created an increase in social welfare. While this study used the same database as will be applied here, Verick's (2004) impacts were based on estimates of the first two years after the reform, 2002–03, a relatively short period when unemployment was particularly high.
- The second study²⁵⁸, by Braakmann, analyses the impact of the reform on outflows from unemployment using individual level data from the unemployment register. The control group in this study was formed of people with mild and moderate disabilities and the time period of the effects was limited to the period until end of June 2001, i.e. six months after the start of the regulatory reform. The findings of this study confirm the effects presented in Verick's (2004) paper that the reform did not increase employment chances of severely disabled people.

In light of the evidence from previous studies and the observed employment, unemployment and inactivity rates presented above, this study re-analyses the impact of the reform on employment outcomes for a longer time period. We estimate impacts until 2007, i.e. for a six year post-reform period, and also extend the available pre-reform time period to capture more clearly long-term trends affecting employment outcomes for both disabled and non-disabled people. We focus on employment rates and other measures as a percentage of the total eligible population of severely disabled people, excluding the group of people with mild and moderate disabilities (30 %-50 %) as their status as 'equated' to severely disabled people would only affect a sub-population.

The *prima facie* evidence of substantially increased employment and decreased inactivity rates until 2007 suggests that the reform may have required more time to change employers' practises regarding employing disabled people than the time periods of earlier studies.

8.2.4. Impact analysis

The method of difference-in-differences

The estimates of the employment effect of the regulatory change of the statutory employment quota presented in this report use the difference-in-differences method. The basic idea behind this approach is to compare outcomes for severely disabled people,

²⁵⁷ Verick, S. (2004). Do Financial Incentives Promote the Employment of the Disabled? IZA Discussion Paper No. 1256, August 2004, Bonn.

²⁵⁸ Braakmann, N. (2007). Wirkungen der Beschäftigungspflicht schwerbehinderter Arbeitnehmer – Erkenntnisse aus der Einführung des 'Gesetzes zur Bekämpfung der Arbeitslosigkeit Schwerbehinderter'. University of Lüneburg Working Paper Series in Economics, No. 53, Juni 2007, Lüneburg.

whose situation is affected by the reform of the statutory employment quota (the 'treatment' group) before its introduction with outcomes after its introduction.

In this analysis, we focus on aggregate employment outcomes as a percentage of the working-age population, although further measures such as increases in transitions, in particular from unemployment and inactivity to employment, have also been considered. However, a simple 'before-after' comparison, as shown when we described the labour market of disabled and non-disabled people further above, would be misleading because other factors, such as seasonality or changes in the overall economy making it more or less likely to find work, could have affected the comparison. Thus, a before-after analysis would be insufficient to identify the specific effect of the change in the regulation.

To address this, we need an estimate of the counterfactual, i.e. what would have been the outcome for disabled people if a regulatory change had not been implemented. This can be achieved by considering a group ineligible for the Act and therefore not affected by it. A before-after comparison for this 'comparison' group could then be used to proxy how employment rates of severely disabled people would have developed in the absence of the programme due to general changes in the economy. Such a difference-in-differences (DiD) basically adjusts the first before-after comparison of the treatment group, so that the effect captured can be attributed solely to the change in the regulation.

An example may serve to clarify. Table 15 presents the employment rates shown in the description of the labour market before and after the reform (Figure 11 above).

- The 'before' column indicates that, prior to the intervention, 31.7 % of the treatment group of severely disabled people were working, as a percentage of the total labour force. The 'after' column shows that this rose to a level of 40.2 % over the same period after the intervention. The resulting before-after comparison reports an increase of 8.5 %. Repeating this for the comparison group yields a before-after estimate of 7.4 %. This can be viewed as the increase that the treatment group would have experienced had the intervention not taken place.
- To arrive at an estimate of the specific effect on the treatment group of the intervention itself, this second difference needs to be deducted. Doing so results in the DiD estimator of 1.1 %. The key assumption in this is that whatever external factors caused the 7.4 % increase in the control group would, in the absence of the reform of the mandatory employment quota regulation, have led to a similar rise in the treatment group.

Table 15: Economic case study 1 - An illustration of the difference-in-differences estimator

Title	Before (1998)	After (2007)	Difference (2007-1998)
Employment rates of severely disabled people	31.7 %	40.2 %	8.5 %
Employment rates of non-disabled	69.5 %	76.9 %	7.4 %
Difference-in-differences estimate			1.1 %

Source: GSOEP, own calculations.

In practice, these estimates are achieved in a regression framework which allows for the effect of other variables to be controlled for and therefore to identify the effect of the regulatory change more precisely. It also allows the statistical significance of the estimates to be observed. However, this does not detract at all from the interpretation of the results as set out above. The parameter estimated is the average effect of the treatment on the treated (ATET)²⁵⁹.

Assumptions underpinning DiD/specification issues

DiD is a widely-used evaluation technique and an attractive approach, but the plausibility of its underlying assumptions should be considered. More particularly:

- The unconditional DiD relies on the composition of the samples in the 'before' and 'after' periods remaining unchanged.
- The before-after estimate for the comparison group is the same as would have been estimated for the treatment group had the treatment not been introduced ('common trends assumption').

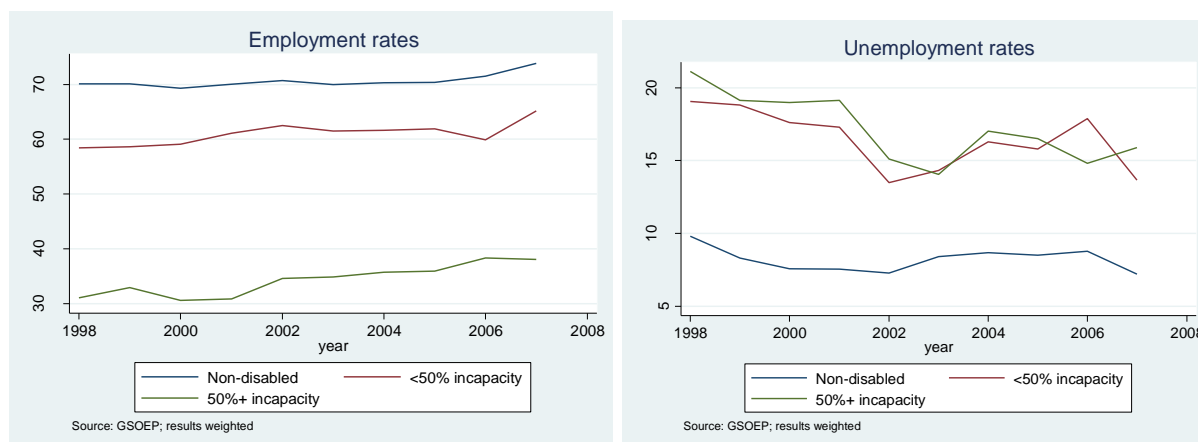
We explore the composition of the DiD samples before and after the regulatory change. We find quite substantial changes in the composition of the underlying populations, for example a quite large reduction in the percentage of severely disabled women (from 47.5 % to 44.9 %) and changes in average age (which increases by half a year for the non-disabled population and decreases by almost one year for the severely disabled people). Other substantial changes affect educational levels and further characteristics relevant for labour market outcomes, for example the share of people with lower track schooling certificates, which decreases by 9 % for the non-disabled population, but 18 % for people with severe disabilities. As a result, we decided to estimate the programme impacts using regression-augmented DiD estimators, which include further covariates to mitigate the effects of changes in characteristics of the sample on outcomes, for example by including relevant personal characteristics.

Insight into the plausibility of this assumption of common trends was achieved through pre-programme tests (Heckman and Hotz, 1987). This involves estimating effects based on two periods of time that wholly pre-date the treatment. If the treatment and comparison groups are affected equally by general economic conditions and other influences, such estimates should be insignificant. If they are not, it suggests that using DiD to evaluate treatment effects will result in biased estimates.

Figure 12 summarises unconditional employment trends before and after the regulatory change in 2001. As already suggested by the graphs, formal estimation of pre-programme tests in regression models did not result in any significant differences in trends in the pre-programme period for the outcome measures employment rates or unemployment rates.

²⁵⁹ This description relates to the standard exposition of the DiD model. In the current application, not all of those in the treatment group actually receive the treatment. In this case, the parameter identified is the average effect of intention to treat on the eligible group.

Figure 12: Economic case study 1 - Test of the Difference-in-Difference Common Trends Assumption for Employment and Unemployment Rates in Germany



Source: GSOEP, own calculations

Therefore, no further adjustment of the standard DiD framework to consider the differential growth trends – for example applying a random growth model, which would subtract the bias revealed through the pre-programme tests from the treatment effect estimated using DiD on the 'before' and 'after' periods – will be implemented. In addition, the specification implemented here includes a multi-year pre-programme period in the regression model, so that post-programme outcomes are estimated in relation to an average pre-programme trend.

8.2.5. Findings

The following table summarises the estimates from the DiD-specifications. Depending on the specification, **the probability of being employed, which is equal to the percentage of employed people with severe disabilities as a percentage of the total working age population with severe disabilities, increased between 2.2 and 3.5 % in the post-reform period compared to before the reform.** As non-linear specifications on dichotomous outcomes generally suffer less from specification problems than linear probability models, we consider the Probit estimates in the following as the employment impact. Note that this effect is an impact on the eligible population and applies on average in all post-treatment time periods, i.e. it is not in relation to a particular cohort of participants as for example for a particular programme.

It is worth noting that this analysis focuses on the disabled population rather than the overall population. As such, we have not considered displacement effects, i.e. a possible decrease in the employment of non-disabled individuals due to the regulatory changes. While this is thought to be relatively small, due to the extra productivity that employing previously unemployed workers should cause (at least in the long-run once the employer has recouped the costs of making accommodations, although future research could explore this further), and may also be a policy decision based on equity grounds, this may mean the employment gain below could be overestimated to some extent (for the population as a whole as opposed to the disabled population).

Table 16: Economic case study 1 - Marginal effect on employment probabilities from DiD-estimates

Specification		
Linear Probability specification	Coef.	0.022
	Robust SE.	0.01
	t	2.11
	P>t	0.035
Probit	Robust dF/dx	0.033
	Robust SE	0.011
	z	2.81
	P>z	0.005
	x-bar	0.043
Probit	Robust dF/dx	0.035
	Robust SE	0.011
	z	3.21
	P>z	0.001
	x-bar	0.014

Source: GSOEP, own calculations

8.2.6. Derived social benefits of the programme

Valuation

In the following, we estimate the social benefits of the regulatory reform, which expresses the long-term monetary benefits arising from reform to show the value to society at large. By achieving a positive impact on employment rates, the regulatory reform affects several outcomes, which can be related to a variety of value measures, including personal satisfaction, health and wellbeing, which are further social benefits beyond tangible return measures resulting from increased engagement in the labour market. However, the improvement of people's employment outcomes creating additional Gross Value Added (GVA) to society, compared to the counterfactual absence of the reform, is the central value measure, which can be valued here using the magnitude of the employment effect observed. We apply the impact estimate, which was obtained above, to the eligible population as observed in 2011 to derive a counterfactual employment outcome for the current cohort observed. Then, the additional employment resulting from the reform will be valued using average working time for severely disabled people per year and average measures of labour costs per hour to the economy. Under standard assumptions (i.e. the economy is exhausting production outcomes to pay for factor inputs according to marginal productivities as under perfect competition), this value represents an estimate of the additional GVA-contribution of the incremental employment increase.

This estimate of social benefit is specific to the current period and would have to be adjusted by:

- the long-term development of the eligible population and the assumption that the impact is permanent and not transitory;
- the trend growth of earnings affecting people with severe disabilities, and
- discounting of future benefits as the regulatory change improves employment in present and in future periods.

Caveats

The issue of potential displacement effects, mentioned above, could mean we have overestimated employment gains to the overall population.

We are mindful that non-financial benefits from employment, such as the increase in life quality, health and other measures of individual utility, can have large and positive financial implications both to individuals and society. Since we are unable to take these factors into account, our estimates of the benefits accruing to those gaining employment are likely to be very conservative.

Finally, we have used average labour costs across the whole economy to proxy the wage of disabled people entering employment. However, it could be the case that disabled people are paid more or less the average depending on the types of jobs they do, and more detailed data would provide a more accurate monetisation estimate.

8.2.7. Results

The following table shows an estimation of social benefit, as described above, through the valuation of increased employment by the prevailing wage rate.

Table 17: Economic case study 1 - Valuation of employment effects (one year)

Input parameters	
1) Disabled population of the working age*	3 396.613
2) Post-reform employment rate (2011)*	40.23 %
3) Total employment of disabled people (2011)&	1 366,620
4) Estimated: Increase of employment rate by reform (DiD estimate)\$	3.33 %
5) Estimated: Total counterfactual employment (2011)&	1 322 302
Result: Total employment increase	44 018
Valuation	
1) Average weekly working time of people with severe disabilities when employed (2011)*	35.25
2) Labour costs per hour, total economy (2013 €)@	EUR 31.70
3) Per-year GVA increase per additional employment&	EUR 58 300
Result: Total GVA increase (Mill. €)&	EUR 2 566

Notes:* GSOEP, own estimates (results are weighted)
 & Calculated
 EUR Impact estimate above
 @ Statistisches Bundesamt (2014), Labour costs in the economy
https://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2014/05/PD14_164_624.html.

Source: Own calculations

Further to the discussion of social benefits, there are effects of the increased employment of disabled people affecting public budgets. These arise from greater income tax revenues and national insurance contributions per period and are estimated by applying measures of taxation to the benefits estimated, as well as calculating the reduction in disability benefits that would have been paid out had individuals remained unemployed.

The results of this, shown below, represent the government financial perspective accruing from the regulatory change. These public budget impacts do not constitute social benefits because they are purely re-distributional. (However, if the long-term impact of increased employment of disabled people on public budgets resulted in reductions in the marginal taxation because overall benefits would be paid less often, a related change in real wages on labour markets could alter the overall level of employment, again affecting the GVA created in the economy. Obviously such inter-temporal effects as well as further identifiers cannot be included in the valuation as they would be subject to great uncertainty.)

The impact on public finances is twofold: **the increase in tax revenue, which is calculated by applying the total tax burden for a single person on average wage to the GVA increase calculated above; and the reduction in benefit payments, calculated by applying the EUR 391 basic monthly allowance that disabled people are entitled to in Germany to the total employment increase.** This is likely to be an underestimation, however, as this basic allowance is supplemented depending on the number of dependent children and adults living in the household (we have assumed none for this estimate). In addition, disabled unemployed individuals are entitled to housing benefits, which would vary by location (typically higher in Munich, lower in the extreme North-East).

Table 18: Economic case study 1 - Financial impact of employment effects for the German Government (one year)

Input parameters		
1) Disabled population of the working age *		3 396.613
2) Post-reform employment rate (2011) *		40.23 %
3) Total employment of disabled people (2011) ^{&}		1 366 620
4) Estimated: Increase of employment rate by reform (DiD estimate) ^{\$}		3.33 %
5) Estimated: Total counterfactual employment (2011) ^{&}		1 322 302
Result: Total employment increase		44 018
Valuation		
1) Average weekly working time of people with severe disabilities when employed (2011) *		35.25
2) Labour costs per hour, total economy (2013 €) [@]		EUR 31.70
3) Per-year GVA increase per additional employment ^{&}		EUR 58 300
Result: Total GVA increase (Mill. €)^{&}		EUR 2 566

Valuation of the increase in tax revenue	
1) Average weekly working time of people with severe disabilities when employed (2011)*	35.25
2) Labour costs per hour, total economy (2013 €) [@]	EUR 31.70
3) Per-year GVA increase per additional employment ^{&}	EUR 58 300
4) Total tax burden for a single person on average wage [#] (2001)	51.90 %
Result: Total increase in tax revenues (Mill. €)^{&}	EUR 1 332
Valuation of the reduction in benefit payment	
1) Disability benefit (basic monthly allowance) [¶]	EUR 391
2) Housing benefits (monthly) ^λ	EUR 200
Result: Total reduction in benefit payment (Mill. €)^{&}	EUR 312
Total impact on public budget (Mill. €)	EUR 1 644

* GSOEP, own estimates (results are weighted)

& Calculated

EUR Impact estimate above

@ Statistisches Bundesamt (2014), Labour costs in the economy
https://www.destatis.de/DE/PresseService/Presse/Pressemitteilungen/2014/05/PD1_4_164_624.html.

OECD, <http://www.oecd.org/germany/taxingwages-germany.htm>.

¶ http://www.lpb-bw.de/kosten_hartz_iv.html.

λ <http://www.hartziv.org/unterkunft-und-heizung.html>.

Source: Own calculations

Finally, in order to calculate the net financial gain to individuals who achieve employment, we must subtract benefits they would have received (EUR 591 per month, or EUR 7 092 per annum) and the taxation paid on their new salary (51.9 % of gross wage, or EUR 30 258) from gross wage (EUR 58 300), giving a total net financial gain of EUR 20 950.

8.3. Impact analysis of the 1995 Disability Discrimination Act in the UK

8.3.1. The Disability Discrimination Act 1995

The Disability Discrimination Act 1995 aims to prevent discrimination against disabled people, not only in the labour market but also with regard to access to education, healthcare and other social services. Disability is understood as 'physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities'²⁶⁰. Part II of the Act, which came into force in

²⁶⁰ Disability Discrimination Act 1995, Part1, 1 (<http://www.legislation.gov.uk/ukpga/1995/50/section/1>).

December 1996, includes obligations for employers to make reasonable adjustments in order to remove the barriers for employment opportunities for disabled people.

The Act imposes additional costs on employers: first, employing disabled people may entail potentially significant modification of the workplace or investment in new hardware and software; second, recruitment and dismissal costs of disabled people may increase, as employers are faced with the threat of lawsuits. This might result in lower demand for disabled workers. At the same time, the DDA, by reducing barriers to employment for disabled people, may lead them to increase their labour supply. Due to these antagonistic effects, a theoretical assessment of whether the DDA had a positive or negative impact on the employment opportunities of disabled people, cannot be undertaken and an empirical analysis needs to be conducted.

8.3.2. Data

Since the introduction of the DDA, the Labour Force Survey (LFS) includes questions²⁶¹ allowing the identification of individuals who are disabled as defined in the DDA, that is who suffer from a long-lasting condition that affects the ability to carry out day-to-day activities. However, it is not possible to identify people who suffer from such conditions before 1997. Therefore, the LFS cannot be used to conduct an impact analysis of the DDA. We use data from the British Household Panel Survey (BHPS)²⁶² between 1991 and 2000, which contains a wide array of information about individual socio-demographic characteristics, family background and labour market situation. Unfortunately, there is no variable that fully corresponds to the way disability is defined by the DDA. Therefore, in the following we use two measures of disability:

- Following Bell and Heitmueller²⁶³, we identify as disabled those whose health limits day-to-day activities. Day-to-day activities limitation disability (DALD) is the closest available proxy to the DDA definition, and so we analyse the employment impact of the DDA on individuals with DALD.
- We also analyse the impact of the DDA on the employment of registered disabled individuals²⁶⁴.

8.3.3. Descriptive analysis

The following figure shows the number of people aged 16-64 who are disabled according to the DDA. **In 1997, approximately 4 million (11 % of the working-age population) of working age individuals were suffering from long-lasting health issues limiting their ability to carry out day-to-day activities, compared to 7 million in 2012** (17 % of the working-age population). However, as DDA disability cannot be identified in the LFS before 1997 and is not consistently available in any other dataset, we have to rely on other definitions of disability.

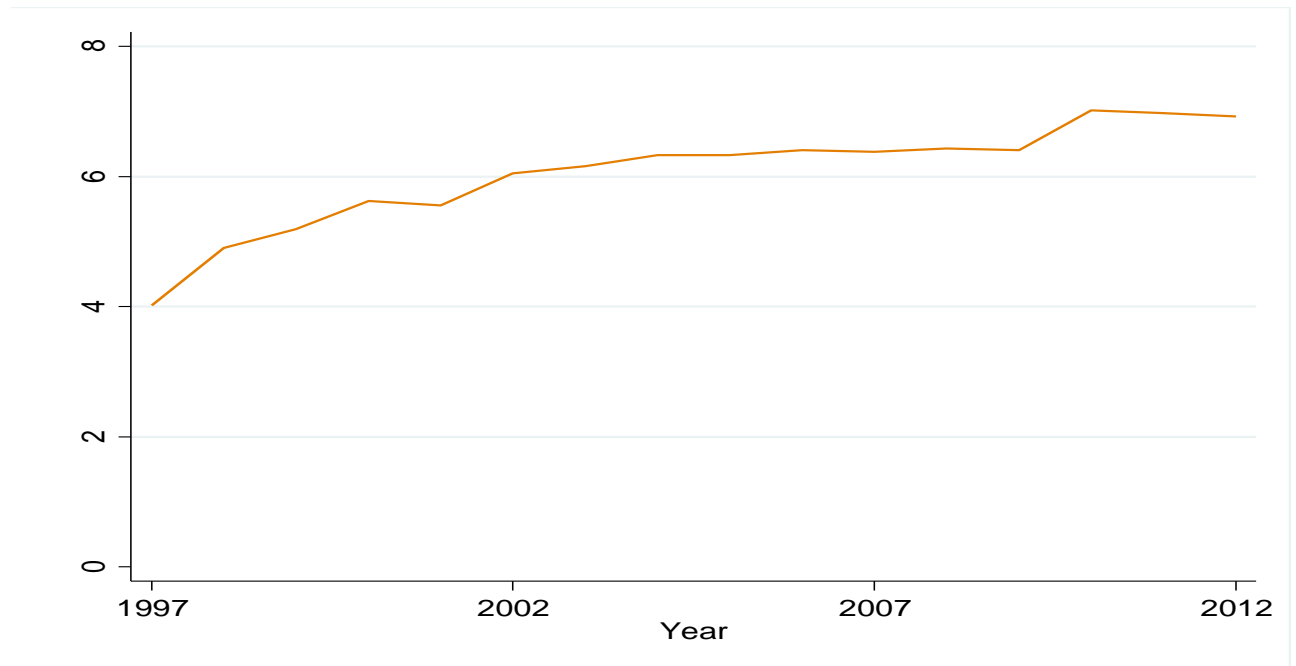
²⁶¹ Office for National Statistics (ONS). Labour Force Survey – User Guidance. Accessed from <http://www.ons.gov.uk/ons/guide-method/method-quality/specific/labour-market/labour-market-statistics/index.html>.

²⁶² Accessed from <https://www.iser.essex.ac.uk/bhps>.

²⁶³ Bell, D. and Heitmueller, A. (2009). The Disability Discrimination Act in the UK: Helping or hindering employment among the disabled? *Journal of Health Economics*, 28(2), 465-480.

²⁶⁴ The question is ‘Can I check, are you registered as a disabled person, either with Social Services or with a green card?’

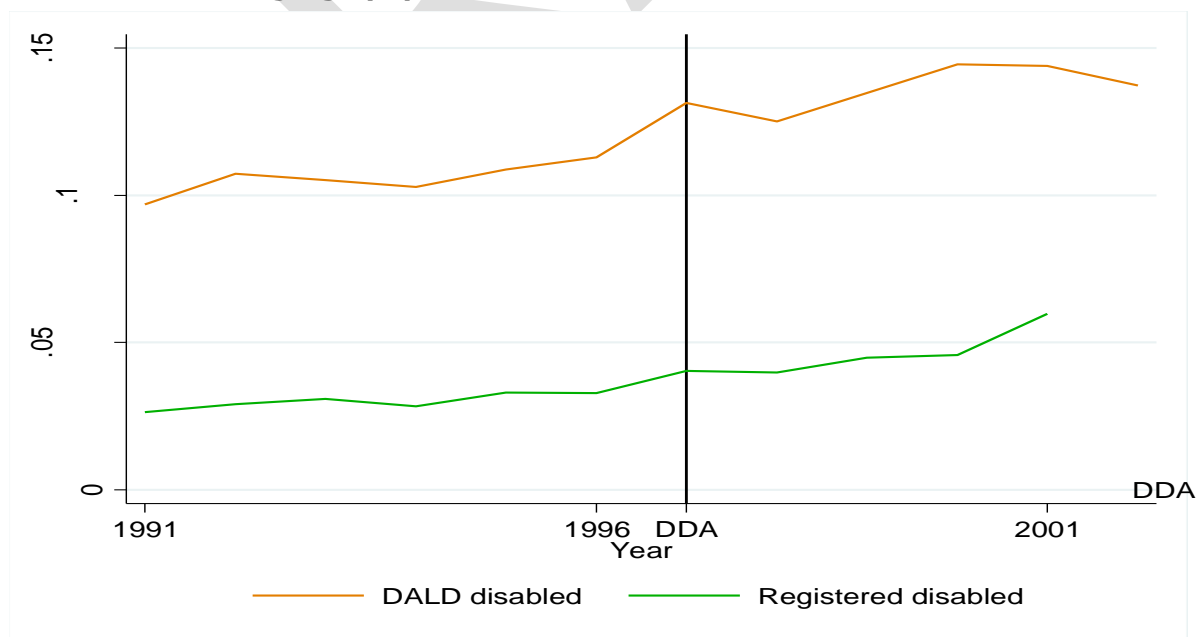
Figure 13: Economic case study 2 - Number of working age DDA disabled people in the UK (1997-2012)



Source: LFS (1997-2012).

The share of DALD disabled in the working-age population is reported in the next figure. There are relatively more people suffering from health conditions limiting day-to-day activities than registered disabled. The proportion of DALD disabled people increased by 50 % between 1991 and 2002, while the share of registered disabled was multiplied by more than two.

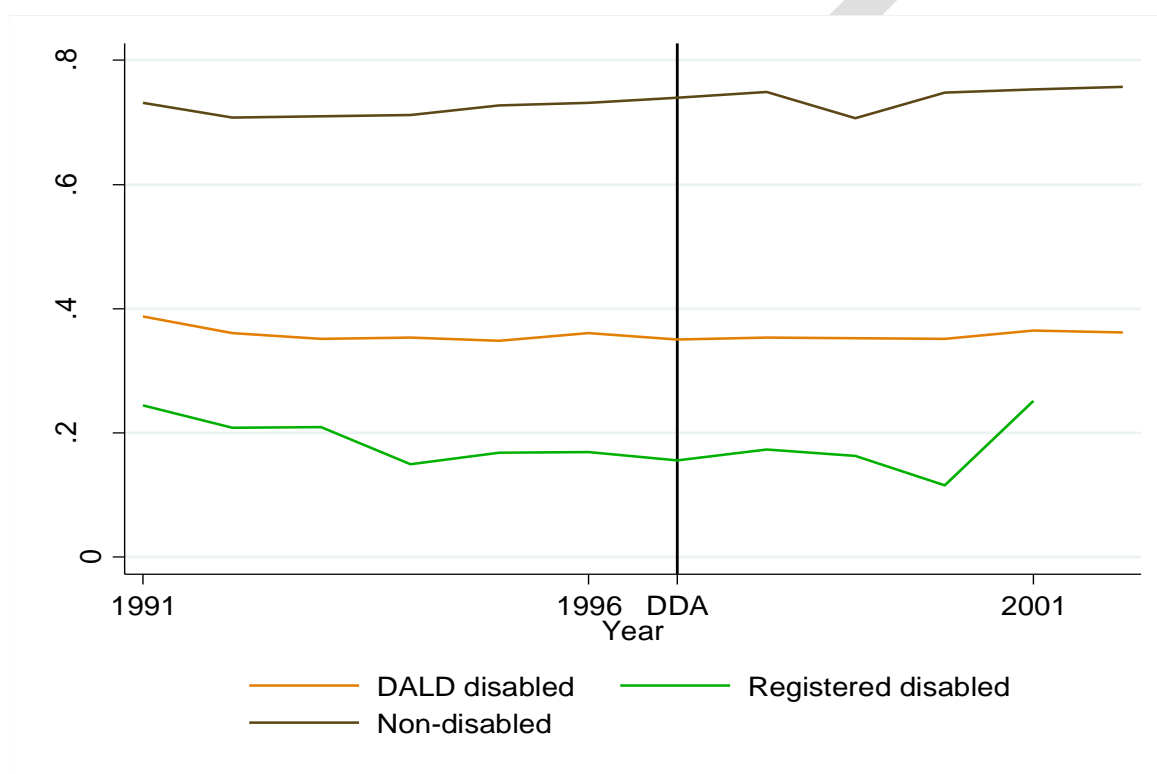
Figure 14: Economic case study 2 - Share of disabled people in the UK working-age population 1991-2002



Source: BHPS (1991-2002)

The following figure displays the share of disabled and non-disabled who are in work²⁶⁵ from 1991 to 2001. DALD and registered disabled people are substantially less likely to be in paid work than non-disabled individuals. Registered disabled people are less likely to be in work than DALD disabled people. The employment rates of all three groups were negatively affected by the recession in the early 1990s. After that, the employment rate of non-disabled people increased steadily from 71 % in 1992 to 75 % in 2002, while the employment rate of disabled people stagnated around 35-36 % over the same period. The employment rate of registered disabled decreased until 1994 and then stagnated before increasing sharply in 2001. Overall, observed employment rates suggest that the DDA had no impact on the employment rate of disabled people.

Figure 15: Economic case study 2 - Employment rates of disabled and non-disabled people in the UK 1991-2002



Source: BHPS (1991-2002), own calculations.

Note: Percentage of the working age population (16-64 years old).

8.3.4. Econometric analysis

Difference-in-differences (DiD)

Approach

Following Bell and Heitmueller²⁶⁶, we use difference-in-differences (DiD) models to estimate the impact of the 1995 Disability Discrimination Act on the employment prospects of people with disability. The DiD estimator represents the change in the employment rate of disabled people before and after the law, relative to the change in the employment rate of non-disabled people over the same period. We include a range of socio-demographic

²⁶⁵ i.e. who are self-employed or employed

²⁶⁶ Opt. cit.

characteristics to further account for individual heterogeneity and year fixed-effects to capture macroeconomic trends. More formally, we estimate the following model:

$$y_{it} = \alpha + \delta \text{Disabled}_{it} + \beta (\text{Disabled}_{it} \times \text{DDA95}_t) + X_{it}\gamma + \lambda_t + \varepsilon_{it} \quad (1)$$

Disabled is a binary variable indicating whether an individual *i* suffers from a health condition that limits the type or amount of work they can do. *DDA95* is equal to one for individuals observed after the implementation of the DDA in December 1996. *X* is a vector of socio-demographic characteristics (gender, age, education, marital status, number of children). δ measures the differential in employment rate between disabled and non-disabled individuals once observed heterogeneity is controlled for. β captures the impact of the 1995 Disability Discrimination Act.

Results

DiD estimates reported in Table 19 show that:

- **The introduction of the DDA caused a substantial decrease in employment rate of people with DALD disability**, as they are 4 % less likely to be employed after the DDA was passed than before the reform.
- **The DDA had no significant impact on the employment rate of registered disabled people, once socio-demographic characteristics are controlled.** This is not surprising since the DDA targets a wider population than those registered disabled.

A possible explanation of negative impacts on employment outcomes for people suffering from DALD could be that the higher costs imposed by the DDA on employers dissuade them from hiring disabled people. However, a further investigation of the estimated models and the assumptions allowing us to understand the estimated impacts as causal effects of the 1995 DDA needs to be conducted.

Table 19: Economic case study 2 - Impacts of the DDA on the employment rate of people with disability 1991-2002

	DALD disabled		Registered disabled	
	(1)	(2)	(3)	(4)
Disabled x DDA	-0.0431***	-0.0407***	-0.0352*	-0.0206
	(0.00983)	(0.00896)	(0.0213)	(0.0206)
Disabled	-0.292***	-0.250***	-0.474***	-0.405***
	(0.00890)	(0.00825)	(0.0231)	(0.0212)
Observations	101 473	101 473	102 781	102 781
Socio-demographic characteristics	No	Yes	No	Yes
Year FE	Yes	Yes	Yes	Yes
	101 473	101 473	102 781	102 781

Source: BHPS (1991-2002), own calculations

Note: Individuals aged 16-64 years old. Marginal effects are reported. DiD models

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Validity of DiD estimates

The results presented above can be interpreted as the causal effect of the DDA under some assumptions:

- Non-disabled people are not affected by the 1995 DDA.
- There is no other shock affecting people with disability and non-disabled people differently over the period of interest.
- There is no change in the definition of disability that is likely to be correlated with labour market outcomes.

The first assumption implies that the 1995 DDA had no indirect effects on non-disabled workers. Given the relatively limited number of people with disability who are participating in the labour market, it is indeed quite unlikely that the DDA would generate large externalities affecting non-disabled workers.

The second assumption, usually referred to as the 'common trend' assumption, implies that, in the absence of the 1995 DDA, the employment rate of disabled people would have evolved in the same way as that of non-disabled people. As shown in Figure 15, the share of employed non-disabled people increased before the implementation of the DDA, while the employment rate of disabled people remained fairly stable, suggesting that the dynamics of the employment outcomes for disabled and non-disabled people differ structurally and not only because of the DDA. This implies that the parallel trend assumption is likely to be violated.

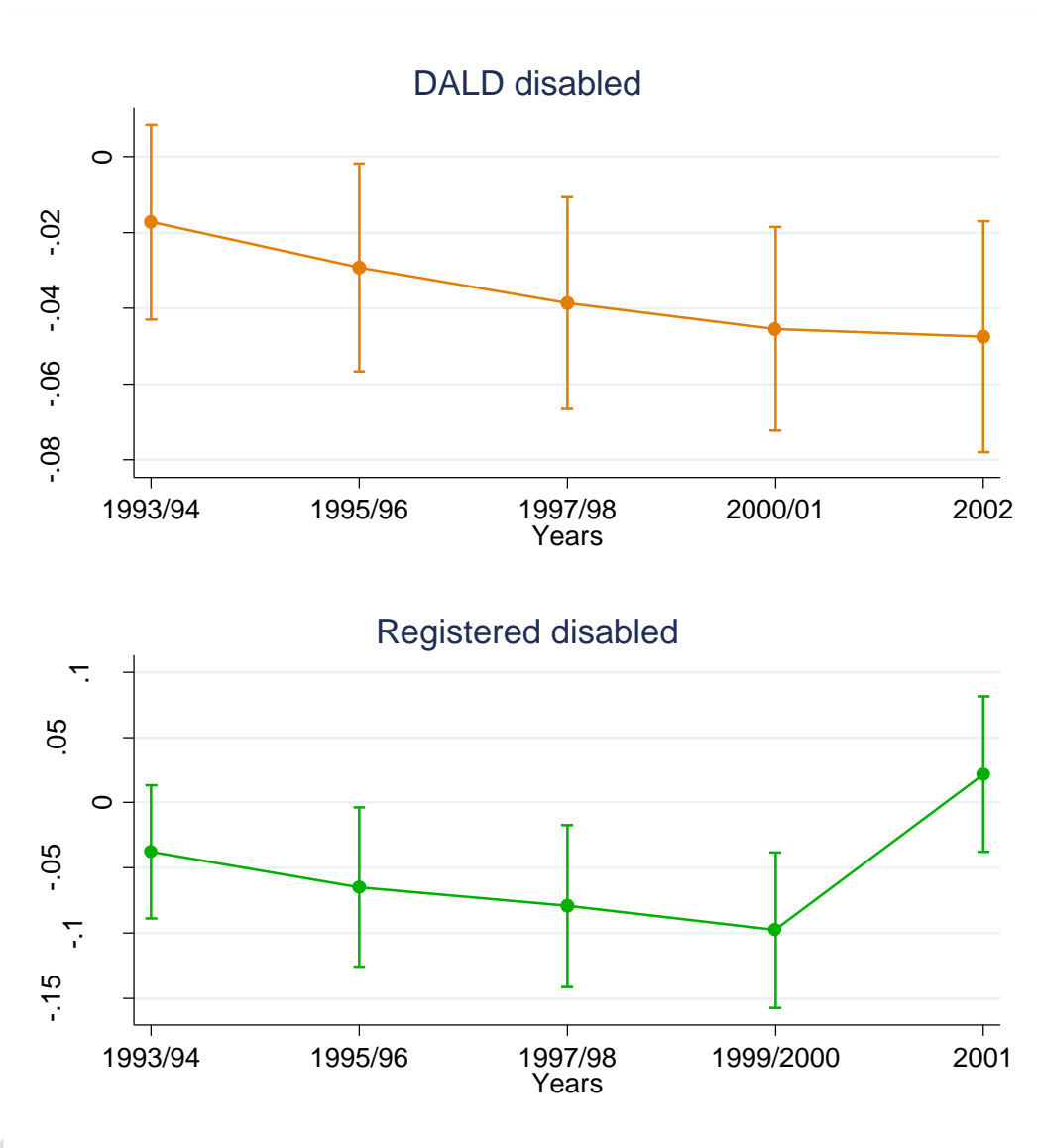
To test the validity of the common trend assumption we estimate a similar model as (1) but replace the interaction term $Disabled_{it} \times DDA95_t$ by a set of two-year indicators interacted with disability status $Disabled_{it} \times 1991/92_t$, $Disabled_{it} \times 1992/93_t$ etc. Marginal effects reported in Figure 16 measure the change (1991/92 is the baseline period) in the employment rate of DALD and registered disabled people compared to the change of the employment rate of non-disabled people. As expected from the average effect estimated above, employment rate of disabled persons is lower in the years following the implementation of the DDA. For this difference to be interpreted as a causal relationship, the common trend assumption must be valid. In other words, there must be no difference in the change in the employment rates between disabled and non-disabled people before the DDA came into force in December 1996.

The findings of the test in Figure 16 show that the difference in employment rates between DALD disabled and non-disabled people was significantly lower in 1995-1996 than in 1991-1992, suggesting that the common trend assumption is violated. Similar results are observed for registered disabled people (lower panel of Figure 11). Therefore, the estimated impact of the 1995 DDA needs to be based on the specific dynamics of the employment rates of disabled and non-disabled people.

Unless these different dynamics are captured by the specification of the empirical estimates, simple, two-period DiD estimates as presented before, or indeed those published in Bell and Heitmueller²⁶⁷, partially capture the differences in underlying trends and cannot be interpreted as causal effects of the regulatory change.

²⁶⁷ Opt cit.

Figure 16: Economic case study 2 - Testing the common trend assumption 1991-2002



Source: BHPS (1991-2002), own calculations

Note: Individuals aged 16-64 years old. Marginal effects and 95 % confidence interval are graphed. They measure the difference in employment rate of DADL disabled people compared to 1991/92
***** p<0.01, ** p<0.05, * p<0.1**

Finally, the third assumption is that there is no change in the composition of the disabled population that is unobserved and likely to be correlated with labour market outcomes. As mentioned above, the share of DALD disabled people increased by 50 % between 1991 and 2002, while the share of registered disabled people more than doubled. Therefore, the composition of disabled people is likely to be different before and after the reform. While we control for a number of socio-demographic factors, the groups of disabled people before and after the DDA are likely to differ along unobserved characteristics, which may be correlated with employment outcomes.

8.3.5. Triple differences (DiDiD)

In the following, we estimate difference-in-difference-in-differences (DiDiD) models, which rely on weaker identifying assumptions. Unlike DiD models, DiDiD are robust to differences in outcome trends between disabled and non-disabled people as long as these trends are stable over time. The modelling of DiDiD requires at least three time periods: two pre-programme periods and one post-programme period. The pre-programme change in outcome is used to capture group-specific trends, which is subsequently subtracted from the impact estimate so that the effect of the policy can be estimated without bias. We divide pre-programme years into two periods: 1991-1993 and 1994-1996.

More formally, we estimate the following equation²⁶⁸:

$$y_{it} = \alpha + \delta \text{Disabled}_i + \lambda T_{94/96} + \mu T_{94/96} \times \text{Disabled}_i + 2\lambda T_{97/01} + 2\mu T_{97/01} + \beta (\text{Disabled}_i \times T_{97/01}) + X_{it}\gamma + \varepsilon_{it} \quad (2)$$

Where $T_{94/96}$ is a binary variable equal to one if the individual is observed between 1994 and 1996. $T_{97/01}$ is equal to one after the implementation of the DDA, zero otherwise. λ captures trends that are common to disabled and non-disabled people. μ capture trends affecting only disabled people. β measures the effect of the DDA under the assumption that trends are stable over time.

The following table presents DiDiD estimates of the impact of the DDA on the employment rate of DALD and registered disabled people. Results suggest that the DDA had no impact on the employment opportunities of DALD disabled persons. DiD estimates displayed in Table 16 above are obviously downward-biased because the common trend assumption does not hold. We find that the DDA was associated with a significant increase in the employment rate of registered disabled people. However, when interpreting this result, one should bear in mind that the sharp increase in the share of the working population registered as disabled may partly drive this result.

Table 20: Economic case study 2 - DiDiD estimates of the impact of the DDA

Item	DALD disabled		Registered disabled	
	(1)	(2)	(3)	(4)
DDA impact	-0.00560	0.00524	0.0833*	0.0806**
	(0.0209)	(0.0191)	(0.0432)	(0.0409)
Observations	101 473	101 473	102 781	102 781
Socio-demographic characteristics	No	Yes	No	Yes
Year FE	Yes	Yes	Yes	Yes

Source: BHPS (1991-2002), own calculations

Note: Individuals aged 16-64 years old. Marginal effects are reported. DiDiD models

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

²⁶⁸ The formal development of the DiDiD estimator can be found in Buscha, F., Maurel, A., Page, L. and S. Speckesser (2008), 'The Effect of High School Employment on Educational Attainment: A Conditional Difference-in-Differences Approach', IZA Discussion Papers 3696, Bonn: Institute for the Study of Labor

8.3.6. Derived social benefits of the programme

Valuation

In the following, we compute first the benefits accruing to society (in terms of the gross salary paid to registered disabled people), second the government financial perspective in terms of the increase in tax revenues and reduction in benefits payments triggered by the DDA, and third the financial perspective from an individual becoming employed. The valuation of the benefits generated by the DDA 95 is based on the impact estimates of the Act on the employment outcomes for registered disabled people derived using DiDiD models presented above.

The following table summarises the main finding of the impact analysis: in 2001, 25 % of registered disabled people of working age were employed. **If the Act had not been passed, the employment rate of registered disabled people would have been only 17 %. As a result of the Act, more than 180,000 additional registered disabled persons are in work.**

It is worth noting that, as in the case study above, this analysis focuses on the disabled population. Thus, we have not considered displacement effects, i.e. a possible decrease in the employment of non-disabled individuals due to an increase in the employment of registered disabled people. While this is thought to be small due to the extra productivity that employing previously unemployed workers should cause (at least in the long-run once the employer has recouped the costs of making accommodations), and may also be a policy decision based on equity grounds, this may mean the employment gain below could be overestimated to some extent (for the population as a whole as opposed to the disabled population)²⁶⁹.

Table 21: Economic case study 2 - Impact of the DDA in 2001

Observed outcomes		Counterfactual outcomes		Difference	
Empl. Rate	N employed	Empl.rate	N employed	Empl. Rate (p.p)	N employed
25.1 %	563 629	17.1 %	382 882	8.06	180 747

Source: BHPS (1991-2002) LFS 2001, own calculations.

Note: Employment rates and population size refer to the working age population.

Benefits to society

In order to estimate the benefits of the DDA to society we compute the average monthly earnings in 2001 of registered disabled people who were in work, which we multiply by the number of additional disabled people who were in work as a result of the DDA. We subsequently adjust the figure to 2013 GBP using HMT GDP deflator. It is important to note, as in the case study above, that **this analysis does not include the intangible benefits (i.e. quality of life) that would result from gaining employment, and may be substantial.**

²⁶⁹ Even with some displacement, the assumption that non-disabled people are not affected by the DDA should still hold at a population level (as required for the DiD & DiDiD estimations), given the relative sizes of the non-disabled and disabled populations

Benefits to the Exchequer

The Exchequer benefits from the DDA come from increased tax revenues and reduced benefit payment due to improved employment outcomes for registered disabled people. We compute the average cost of employing disabled workers by adding the employer National Insurance contributions²⁷⁰ to the average gross monthly earnings derived from the BHPS. According to estimates derived by the OECD²⁷¹, the tax burden of a single person having average earnings amounted to 32.2 % in the UK in 2001. The additional income tax caused by the DDA equals to the average cost of employing disabled workers multiplied by the tax wedge and the additional number of employed disabled persons. Disabled people who moved to work thanks to the DDA would have been receiving benefits if they had stayed unemployed. We assume that they would have received Incapacity Benefits (IB) at the standard rate (GBP 52.6) in 2001. This is likely to result in underestimating the savings brought about by the DDA, as some disabled people may have been eligible to the higher rate of IB and to some additional allowances.

Benefits to an individual becoming employed

The individual financial perspective shows the financial gain from becoming employed in terms of gross salary gained less tax paid and Incapacity Benefits lost.

8.3.7. Results

The following table summarises the monetary valuation of the impact of the DDA. **It is estimated that registered disabled people received over GBP 278 million of additional gross earnings in 2001 (GBP 360 million when expressed in 2013 valuation), per month, as a consequence of the increased employment rate induced by the DDA.** We find that the Exchequer benefited substantially from the DDA, since it resulted in an estimated monthly GBP 100 million increase in tax revenues and a GBP 41 million reduction in Incapacity Benefit payment. The total benefits for the Exchequer amount to GBP 141 million – GBP 184 million when adjusted to 2013 prices. Finally, each individual who became employed due to the DDA received an average of GBP 814 per month extra in net salary less benefits lost – GBP 1 058 in 2013 prices.

Table 22: Economic case study 2 - Valuation of the impact of the DDA

Societal benefits (monthly)	
Average gross monthly earnings for registered disabled (2001 £)	1 538
Additional gross earnings (2013 £)	361 310 477
Exchequer benefits (government financial perspective) (monthly)	
Average labour costs for registered disabled (2001 £)	1 722
Additional labour costs (2001 £)	311 162 310
Tax wedge (at 100 % of average wage (AW))	32.2 %
Additional tax income (2001£)	100 194 264
Reduction in Incapacity Benefits payments (2001 £)	41 424 726

²⁷⁰ In 2001, employer National Insurance contribution amounted to 11.9 percent of gross pay.

²⁷¹ OECD (2014) Taxing wages 2014 (<http://www.oecd.org/ctp/tax-policy/taxing-wages.htm>).

Benefits to the Exchequer (2001 £)	141 618 990
Benefits to the Exchequer (2013 £)	184 011 577
Individual financial perspective (monthly)	
Average monthly earnings for registered disabled (2001 £)	1 538
Tax wedge (at 100 % AW)	32.2 %
Tax payments (2001 £)	495
Reduction in Incapacity Benefits payments (2001 £)	229
Net gain to individual (2001 £)	814
Net gain to individual (2013 £)	1 058

Source: BHPS (2001), Tax wedge: OECD own calculations

Note: Labour costs are computed as gross earning plus Employer National Insurance contribution. Rate in 2001:11.9 %.

8.4. Civitan sheltered workshop in Budapest, Hungary - CBA

8.4.1. The Civitan Help Association

The Civitan Help Association (Civitan) is a charity operating a sheltered employment programme in a garden centre for mentally disabled people in Budapest, Hungary, alongside residential care. The organisation is associated with - but run separately to - Civitan Hungary, the Hungarian arm of the Civitan International global charity. Funding for the programme comes predominantly from national and local governments, as well as income from the garden centre, a small amount of fundraising income and providing work for other organisations.

There are two types of participants in the sheltered employment programme, 'residential' participants whose accommodation and care is also provided by Civitan, and 'day' participants who live elsewhere but are engaged in the employment programme. There is available accommodation for 8 people, although currently there are 6 residential participants, and there are a further 18 day participants.

The programme is not transitional, i.e. it is not intended to prepare participants for and facilitate transition to mainstream employment. Additionally, Civitan expects that, were the programme not to exist, all participants would have remained unemployed (in other words, they would not have joined any other similar programme, and due to the severity of their disabilities would not have entered mainstream employment).

Costs of the programme, and other information required for context and to run the cost-benefit model were provided by Civitan, unless otherwise noted.

The programme is ongoing and government funding is required each year to run the programme. Thus for the purposes of the cost-benefit model we analyse the impact on an annual basis (which also removes the need for discounting). We exclude the residential aspects of the programme, focusing instead on just the sheltered workshop element, and applying costs for day participants to residential participants as well.

8.4.2. Data and analysis

The model population is thus 24, and costs of the programme each year (paid exclusively by national and local governments, aside from a small amount of donations) equates to HUF 51 665 185, or EUR 166 935.²⁷² However, HUF 37 950 880 of this is paid in salaries, and so the government receives back the taxes paid on those salaries, equivalent to HUF 6 072 141, when using the Hungarian flat income tax rate of 16 %²⁷³. As such, the cost to the government equates to HUF 45 593 044.

In terms of effectiveness as described in the model, 100 % of participants go into sheltered employment, given that it is both the intervention and the outcome (no participants move on to regular employment, and they tend to only leave the programme if moving away to other areas). Similarly, in the counterfactual it is expected that all would remain unemployed, due to the severity of their disabilities. Thus all 24 participants achieve sheltered employment both in the intervention arm and incrementally over the counterfactual.

In order to calculate the costs and benefits from the government and individual financial perspectives, the gross salary, tax burden and loss in unemployment benefits need to be calculated.

Participants are paid HUF 584 an hour, representing minimum wage²⁷⁴. They work 5 hours a day, thus giving a gross annual salary of HUF 759 200, assuming 260 days of work a year. This equates to HUF 18 220 800 in total for all 24 participants. With an income tax rate of 16 %, taxes paid equate to HUF 2 915 328 and thus net salary is HUF 15 305 472, or HUF 637 728 per person. Other salary deductions occur, such as pension and healthcare contributions, but these benefit the individual so they are counted in the net salary the individual gains.

It is difficult to accurately estimate the disability or unemployment benefits that would have been received by the participants in the programme had they not been participating. Permanent disability benefits in Hungary depend on the category of disability and previous average earnings. However, assuming the category of disability referring to "employment is possible only through constant support" (category D), the minimum disability benefit is 50 % of the monthly minimum wage²⁷⁵ (which is HUF 101 500²⁷⁶). Individuals receiving disability benefits are not eligible for unemployment benefits. Thus, assuming the 24 participants receive this figure (HUF 50 750 per month, or HUF 609 000 annually), the total disability payments made equates to HUF 14 616 000. It is perhaps unlikely that all participants would have applied for disability benefits, but in the absence of data on this, we will assume they have. (This is likely to be an overestimation of benefits lost.)

Consequently it is possible to present the individual and government financial perspective, as shown below.

²⁷² Information provided by Civitan.

²⁷³ http://europa.eu/youreurope/citizens/work/taxes/income-taxes-abroad/hungary/employed_en.htm.

²⁷⁴ Information provided by Civitan.

²⁷⁵ www.ssa.gov/policy/docs/progdesc/ssptw/2012-2013/europe/index.html.

²⁷⁶ <http://www.fedee.com/pay-job-evaluation/minimum-wage-rates/>. We have used the official monthly figure rather than extrapolating monthly minimum wage from the hourly wage rate given to us by Civitan, but the difference between the two equates to less than €1 per month.

Table 23: Economic case study 3 - Annual net benefit of the Civitan sheltered workshop. Individual financial perspective

	One individual	All individuals	All individuals (EUR) ²⁷⁷
Population	1	24	24
Gross income received	HUF 759 200	HUF 18 220 800	EUR 58 941
Income taxation	- HUF 121 472	- HUF 2 915 328	-EUR 9 431
Disability benefits lost	- HUF 609 000	- HUF 14 616 000	-EUR 47 282
Net benefit	HUF 28 728	HUF 689 472	EUR 2 228

The findings from the individual financial perspective suggest the individual is (very marginally) better off financially from the sheltered workshop programme. Logically, this makes sense: participants work 62.5 % of a 40 hour week at minimum wage, which is taxed at 16 %, equating to 52.5 % of minimum wage net of taxes, compared to receiving 50 % of the monthly minimum wage tax free as disability benefits. In Euros, the benefit to one individual is about EUR 93 per year.

However, this finding rests on the assumption regarding disability benefits discussed above. Although some participants may have received more benefits if they have previously worked, information from the programme's organisers suggests it is more likely that others would not receive benefits and may be looked after by their families or would be homeless (it was noted that at least two participants would certainly be homeless without the programme). It is plausible that many participants benefit financially to a much greater extent from the sheltered workshop (if an individual had received no disability or unemployment compensation at all in the counterfactual, the individual benefit equates to the full net salary of HUF 637 728 or EUR 2 063 per year), and more data on the counterfactual would be required to make a firm conclusion. (The analysis also doesn't include the costs of the residential programme, as it is separate to the sheltered workshop programme, but the 6 participants of the sheltered workshop who currently also live at the site, or their families, also benefit financially from this.)

Table 24: Economic case study 3 - Costs and benefits of the Civitan sheltered workshop. Government financial perspective

	HUF	EUR
Cost arm		
Cost of the intervention	45 593 044	147 485
Benefit arm		
Taxation received	2 915 328	9 431
Disability benefits no longer paid	15 324 048	49 571
Total benefit	18 239 376	59 002
Benefit:Cost Ratio	0.4	0.4
Net Benefit	- 27 353 668	- 88 483

²⁷⁷ Using exchange rate of 310.19 HUF to €1, accessed from xe.com on 11 Jul 2014.

The table above shows the government financial perspective. The government pays the cost of the intervention each year, receiving some benefits in terms of taxation received and disability benefits no longer paid. (Note that income tax from employees delivering the intervention is subtracted from the cost side, while income tax paid by participants as a consequence of the intervention is included on the benefit side.)

The benefit:cost ratio (BCR) of 0.4, and the negative net benefit, shows that the government does not make money on this programme. The BCR shows that for every EUR 1 paid as cost, EUR 0.40 is returned (the BCR must be greater than 1 for the intervention to be cost-beneficial from a given perspective). The government spends almost EUR 90 000 net each year on this programme.

However, this is to be expected given that sheltered workshops subsidise employment, and their main aim is not to financially beneficial. It does suggest a sheltered workshop programme which allows participants to transition to regular employment, whereby they do not require government support, would be more cost-beneficial, but this is unlikely to be feasible for a group whereby some participants are disabled to the extent that they require residential care (and according to Civitan have similar levels of disability to day participants).

The probable overestimation of disability benefits that would have been paid, discussed above, does influence the government financial outcomes – benefits are in actual fact likely to be lower. If the government paid no disability benefits at all in the counterfactual, the programme would have a BCR of just 0.06.

The societal economic perspective is calculated below. This attempts to quantify the real 'value' of a programme, and does not include transfers such as taxes and unemployment benefits. Generally for employment, wages paid are used as a proxy for value created, on the basis that an employer pays an employee for the value of their work. For sheltered employment, given its subsidised nature, this is not really applicable.

However, as the participants in this programme work in a gardening centre, we can use the income of the gardening centre as a proxy for value created²⁷⁸. Although six non-disabled individuals work in the gardening centre, their work is funded by the programme as well, and so the whole income can count as a benefit (i.e. consequence of the programme). The table below shows the societal economic results:

Table 25: Economic case study 3 - Costs and benefits of the Civitan sheltered workshop. Societal economic perspective

	HUF	EUR
Cost arm		
Cost of the intervention	45 593 044	147 485
Benefit arm		
Gardening centre income	3 255 444	10 531
Benefit:Cost Ratio	0.071	0.071
Net Benefit	- 42 337 600	-136 955

²⁷⁸ Provided by Civitan.

8.4.3. Findings

The above suggests that the programme is not at all cost-beneficial from a societal perspective: the benefit-cost ratio is just 0.071, far below 1 and indicating a return of just 7.1 % (a fourteenth) of the cost. (As there are volunteers who also work at the site, and the opportunity cost of their time should also be included as a cost, the inclusion of this would lower the BCR further.)

Certainly, **one of the key outcomes of this analysis is that a programme where ongoing government subsidy is required is not preferable to a programme where the government can intervene in a one-off manner and which is subsequently self-sustainable (such as reasonable accommodations to allow disabled people to enter the regular labour market, if they are effective).** However, it is most likely the case that this is not possible with the participants in this programme, given the extent of their disabilities.

However, there are benefits to this programme that are not quantified in the analysis above. A sheltered workshop such as this (coupled with the residential aspect that houses some participants) is more of a welfare programme, equivalent to disability benefits themselves but giving the opportunity for participants to work as well, within a supportive environment.

Further economic analysis could incorporate additional aspects, discussed below, all of which would raise the BCR and net benefit figures, quite possibly to the extent that the intervention would be deemed societally cost-beneficial.

Firstly, although the gardening centre income represents the monetary value created by the programme, there are reasons for paying participants above this value. It is to provide them with enough income to be self-sustainable and to achieve a degree of welfare, or quality of life. This welfare and quality of life can be measured (as discussed in the CBA methodology section), and further research could incorporate this into the CBA. Additionally, there are quality of life gains from the fact that participants are given productive work to do, and are in a supportive environment. If these were quantified they would likely be quite substantial, especially for those participants who might otherwise have been homeless or on their own.

Those participants who require care during the day may well have received it from family or friends, rather than the sheltered workshop programme (the same applies for residential participants who would have received care from the residential aspect of the programme during the day, were there no work programme). Thus in the counterfactual, the caregiver's time should (and can) be quantified and valued, as it represents both work and the opportunity cost of doing something else (such as having to give up working to be a caregiver) – unfortunately, data were not available to include it in this analysis within the scope of the study. For those participants where this is the case, the benefits of the programme versus its counterfactual would increase further. Again, inclusion of this would be required for a complete analysis from the societal perspective.

Finally there is an equity or fundamental rights argument motivating a programme like this, which may inform conclusions. This impact can also be quantified, although it is less straightforward and arguably more subjective than the aspects mentioned above. However, the fact that the individuals benefiting from a programme like this (both financially and in terms of quality of life) are those who are likely some of the most deprived in the population carries its own value in discussions of the worth of a programme.

As such, quantitative conclusions are difficult to draw, but the exercise above has highlighted the motivations for a sheltered workshop programme for those unable to work in the regular market beyond the cost-benefit analysis conducted above, and also illustrated areas for further economic research into programmes such as these.

8.5. 'Towards Work' in Lithuania - CBA

8.5.1. Towards work programme

'Towards Work' was a programme run in Lithuania between March 2009 and December 2012, with the aim of assisting people with hearing disabilities find work. The programme was funded by the European Social Fund²⁷⁹ and carried out by the Republican Rehabilitation Centre of the Deaf (hereafter 'the Centre'), an organisation established by the Lithuanian Association of the Deaf to implement and manage the Association's projects.

The programme involved trained recruitment agents, based in approximately fifteen employment centres throughout Lithuania, who could communicate in sign language and act as mediators, helping people with hearing disabilities look for work. These recruitment agents stayed in touch with their contacts for six months (including visits at work), providing support as they search for and start in employment. Career counselling and work placements were also available, and a series of short video advertisements promoting the employment potential of people with hearing disabilities, for which it won a European Commission RegioStars award in 2013²⁸⁰. Additionally, the programme won a 'Europos Burės' award (given in Lithuania for the best ESF-funded projects in the country) in 2010 for the promotion of social integration²⁸¹.

We conducted a cost-benefit analysis of the programme based on information provided by the Centre, unless otherwise noted.

The programme ran for 3 years, and participants throughout that time period have been included in the CBA. The programme was open to all deaf people who attended job centres across Lithuania where a trained recruitment agent was based. In total, 665 people undertook at least ten hours of coaching, and this figure is used as the 'population' for the model (it is also reported as the 'participants' number by the ESF)²⁸².

The project was entirely funded by ESF, who report a total budget of EUR 891 055 between March 2009 and December 2012²⁸³. Adjusted to 2014 prices this equates to EUR 975 538²⁸⁴. This represents the cost for the intervention. As we are assuming a 'do nothing' counterfactual, this figure also corresponds to the incremental cost of the intervention over the counterfactual.

8.5.2. Data and analysis

Of the population of 665 people, 445 were reported to have been employed. (165 potential employers were identified as well, but this is not included in the analysis.) It was noted that the duration of employment was not known, and that some participants

²⁷⁹ <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=504>.

²⁸⁰ <http://www.esparama.lt/regiostars>.

²⁸¹ Ibid.

²⁸² <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=504>.

²⁸³ Ibid.

²⁸⁴ Using GDP deflator value for Lithuania calculated from <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>. Price index for Q1 2014 calculated as 109.2567 if Q1 2009 is 100. This is based on the assumption that the whole budget was spent in Q1 2009, which is unrealistic for a three year programme but is a conservative assumption based on lack of information on spend over time. For the same reason we have not discounted 2010-2012 costs back to 2009 values.

returned to the programme after losing a job, so it is possible that this figure overestimates the number of long-term jobs received, and may even double count individuals. However, the Centre explained that most people who found work were given permanent contracts, and this figure will be explored in the sensitivity analysis.

10 % of the employed individuals went into sheltered employment, and thus the model diagram for the 'intervention' arm can be populated accordingly.

Table 26: Economic case study 4 - 'Towards work' outcomes (Intervention arm)

Item	Figure
Population	665
% achieving regular employment (number)	401 (60%)
% achieving sheltered employment (number)	45 (7%)
% remaining unemployed (number)	220 (33%)

These numbers also need to be calculated for the counterfactual, in order to establish the incremental effects of the 'Towards Work' programme, i.e. the difference in employment caused by the programme. This is more difficult as it requires speculating to some extent. All individuals were unemployed at the time of accessing services, but it is probable that at least some of them would have attained jobs over the time period of the programme even if the programme had not existed. The Centre estimates that "more than half" would have remained unemployed, and so we will use 50 % in order to provide a conservative estimate of the intervention's effects. For the same reason, we will assume all 50 % achieved regular employment, on the basis that wage rates would be higher than in sheltered employment (by including this optimistic estimate for employment under the counterfactual, we provide a conservative estimate of the intervention's effects).

The table below thus shows results for both the intervention and counterfactual arms, and thus the incremental benefit of the intervention.

Table 27: Economic case study 4 - 'Towards work' Outcomes (Intervention arm)

	Intervention	Comparator	Difference
Population	665	665	-
No. achieving regular employment	401	333	68
No. achieving sheltered employment	45	0	45
No. remaining unemployed	220	333	-113

Consequently, **with the assumptions detailed above, the intervention leads to 68 more people achieving regular employment and 45 more people achieving sheltered employment; all of whom would have otherwise remained unemployed.**

In order to calculate the individual and government financial perspectives, we collected information on the gross salary, tax burden and loss of benefits due to employment (both regular and sheltered). We include costs and benefits to both the ESF and the Lithuanian national government in the government financial perspective.

Unfortunately, we do not have specific income data for either type of employment. However, we were told by the Centre that most regular jobs were relatively low-paid and low-skilled, and so we can use the Lithuanian minimum wage as a conservative estimate. Similarly, sheltered employment in Lithuania consists of social enterprises who are not allowed to pay less than minimum wage²⁸⁵. Thus we will assume minimum wage is paid for those who achieve employment in both categories.

The current Lithuanian minimum wage is EUR 289.62 monthly, and was increased from EUR 231.70 in late 2012²⁸⁶. Given that the 'Towards Work' programme ran from 2009-2012, the most conservative figure to use is the earlier wage of EUR 231.70. Updating this to 2014 prices gives a figure of EUR 247.40²⁸⁷.

Income in Lithuania is taxed at a flat rate of 15 %²⁸⁸, i.e. a person earning minimum wage would pay EUR 37.11 a month in tax.

It is difficult to accurately estimate the unemployment benefits that are foregone by the individuals who gained employment through the 'Towards Work' programme. The level of unemployment benefit in Lithuania depends on factors such as an individual's income over the previous 36 months, the insured income level, and the length of time the individual has been making insurance contributions²⁸⁹. Individuals are only eligible for six to nine months of unemployment benefit. To provide a conservative estimate of income gain resulting from the intervention, we assume no individuals had previously received any unemployment benefits at the time of gaining employment (so are giving up the maximum possible). We have based our estimates on the minimum state-supported income of 350 litas a month (EUR 101), and assume this would have been received for six months only.

Finally, we are unaware of the length of time individuals who achieved employment through the 'Towards Work' programme remained in employment. As such, this will have to be varied in the final analysis. However, below we present the individual and government financial perspectives assuming one year of employment.

Table 28: Economic case study 4 - Incremental benefits of 'Towards Work'. Individual financial perspective, assuming one year of employment

	One individual	Incremental regular	Incremental sheltered	Total
Population	1	68	45	113
Gross income received	EUR 2 964	EUR 201 552	EUR 133 380	EUR 334 932
Income taxation	-EUR 445	-EUR 30 282	-EUR 20 039	-EUR 50 321
Unemployment benefits lost	-EUR 606	-EUR 41 208	-EUR 27 270	-EUR 68 478
Net benefit	EUR 1 913	EUR 130 062	EUR 79 080	EUR 216 13

N.B. For those individuals that remain unemployed, there are no incremental benefits

²⁸⁵ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=312453%20

²⁸⁶ Eurostat.

²⁸⁷ Price update calculated using figures from <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> as described above for the cost of the intervention. Assumes individuals start work midway through the three year programme on average and the year's salary is simplified as arriving in a single sum halfway through the year.

²⁸⁸ http://europa.eu/youreurope/citizens/work/taxes/income-taxes-abroad/lithuania/employed_en.htm.

²⁸⁹ <http://www.ssa.gov/policy/docs/progdesc/ssptw/2012-2013/europe/index.html>.

Table 29: Economic case study 4 - Incremental cost and benefits of 'Towards Work'. Government financial perspective, assuming one year of employment

Item	Figure
Cost arm	
Cost of the intervention	EUR 975 538
Benefit arm	
Taxation received	EUR 46 525
Unemployment benefits no longer paid	EUR 63 312
Total benefit	EUR 109 837
Benefit:Cost Ratio	0.113
Net Benefit	-EUR 865 701

To calculate the government financial perspective, taxation received and unemployment benefits were discounted back to 2009 (at the annual discount rate of 4 % recommended in the European Commission Impact Assessment Guidelines²⁹⁰) to reflect government net present value at the start of the project.²⁹¹

The figures above show that for an individual, a year's net salary of EUR 2 964 more than makes up for the loss in benefits of EUR 606. This is compounded by the fact that given unemployment benefits are only paid out for a given amount of time, the same benefit would still be available to them were they to lose their job after one year. Clearly from a financial perspective, the individual benefits from employment, and more so the longer it lasts for. Across the whole programme, the 113 extra employed individuals generated financial benefits to themselves of EUR 216 000 in one year.

From a government financial perspective the results are different. The 113 individuals contribute EUR 46 525 in (discounted) tax revenue and save the government EUR 63 312 in (discounted) unemployment benefits. However, this EUR 109 837 in benefits does not make up for the cost of the intervention, which was EUR 975 538. **The benefit: cost ratio to the government is just 0.113 – in other words, it receives back only 11.3 % of its initial investment (to be cost-beneficial, a programme must have a BCR greater than 1).** The net benefit is –EUR 865 701, i.e. the government loses almost EUR 900 000 (in net present value) if the employment of the 113 individuals lasts only a year on average. (Plus, as mentioned, it is still liable for the fixed-term unemployment benefit when the individual loses their job.)

Additionally, in the absence of data, we have not included the costs of subsidising sheltered employment in the government financial perspective. This could potentially affect outcomes significantly if sheltered employment costs the government a lot to run.

However, this is based on one year of employment only, which is most likely a conservative estimate. We can conduct a break-even analysis to see how many years of average employment would be required for the government to break even financially.

²⁹⁰ European Impact Assessment Guidelines (European Commission 2009, p.38).

²⁹¹ Discounted by two years, assuming individuals on average joined the programme halfway through its 3.5 years and makes the simplifying assumption that wages/benefits are paid as a lump sum six and three months after respectively, (which rounds to two years).

Given that unemployment benefits are fixed and thus the gain from not paying these does not increase the longer an individual is employed, the source of government financial benefits comes only from tax. To break even, the government needs to receive an additional EUR 865 701 in tax revenue. (In fact, the actual tax revenue must be greater in order to achieve a net present value of EUR 865 701.)

With a discount rate of 4 %, it would take 41.9 years of earnings for the government to break even financially (without discounting, it would require 19.4 years). Clearly this is an unreasonable average to meet, given that not all employees are at the beginning of their careers (the age range of the population receiving the intervention varies) and that not all are likely to be employed permanently until they retire. We can thus conclude that under the current assumptions, from a government financial perspective, the 'Towards Work' programme does not lead to a positive return on investment.

However, it is also the case that – in particular – the figures of 50 % of individuals achieving employment under the counterfactual, as well as the minimum wage assumption for regular employment, are conservative, with the former in particular being based on a hypothetical scenario for which there is little evidence. We can examine the impact of varying these figures on the final result but as an example, if only 40 % of individuals in the counterfactual arm achieved employment (i.e. a reduction of 20 %) and wages were on average 20 % higher, the government would break even in 13.97 years even with discounting.

If no individuals in the counterfactual arm achieved employment – without making any wage adjustment – the government would break even after just 5.8 years.

As mentioned, these results do not include government costs of subsidising sheltered employment for those individuals who achieve sheltered employment from the programme (it is probable that subsidies used to fund sheltered employment outweigh the tax benefits received by the government from it, as in the Hungarian example above), which could potentially alter outcomes significantly, as it represents an ongoing cost.

Overall, these findings illustrate that without more robust data, it is very difficult to draw conclusions on the financial return on investment to the government of this programme.

Finally, we calculate the societal perspective. This includes the total cost of the intervention and the total (gross) salary received, as a proxy for the economic 'value created' from the intervention. It is important to note that for sheltered employment in particular, wages may well be subsidised by the government above their true 'value', but without information on the extent to which this would be done (or how many individuals in sheltered employment transfer on to regular employment) we assume salary is equal to economic 'value created'.

Base case societal results are shown below, assuming one year of employment.

Table 30: Economic case study 4 - Incremental cost and benefits of 'Towards Work'. Societal economic perspective, assuming one year of employment

Title	Figure
Cost arm	
Cost of the intervention	EUR 975 538
Benefit arm	
Gross salary paid to individuals	EUR 309 664
Benefit:Cost Ratio	0.317
Net Benefit	-EUR 665 875

Note that the gross salary is discounted by two years, in order to reflect net present value at the time of the start of the intervention.

Much like the government financial perspective, one year of employment is not sufficient for the intervention to be cost-beneficial from a societal perspective: the BCR is 0.317 and the Net Benefit –EUR 665 875. However, given that gross salary rather than just tax and unemployment benefits changes are included, the ratio is substantially higher than the government financial perspective. The average length of employment for the intervention to break even in societal economic terms (including discounting) is 3.6 years, which is much less.

Similarly, even with only one year of employment, if fewer than 13.4 % of individuals in the comparator arm achieved employment, the intervention would break even.

Once again, this does not include ongoing government support of sheltered employment (however this is only included if it is paying for real resources, rather than a transfer; but if it is subsidising wages that should be deducted from the benefits arm to represent the actual value created through sheltered employment), but perhaps more importantly this analysis does not include valuation of the intangibles, such as the quality of life improvements achieved through being employed rather than unemployed, which could be substantial.

Ultimately, there is not yet enough data to make significant conclusions and recommendations on whether this programme is cost-beneficial. However, we can conclude that a) the intervention is likely to be cost-beneficial to society if a few of the more conservative assumptions are too conservative in reality, and b) given that the programme is ongoing (albeit at a smaller scale), funded by the Lithuanian government, data collection to inform a more rigorous analysis should be funded and undertaken.

8.5.3. Sensitivity analysis

There are four main uncertain or unknown variables in the analysis above:

- The cost of supporting sheltered employment.
- The extent of, and value of, intangible gains (quality of life, health etc.).
- The number of people who would become employed in the counterfactual.
- The average length of employment for a person becoming employed through the programme.

Regarding the first point, we do not have data on the costs of sheltered employment in Lithuania, as it was beyond the scope of this study. We do have data from the Hungarian case study above, which suggests that the cost of operating a sheltered workshop is approximately 2.5 times the salary paid to individuals, and the value created to society directly from employment is only a fourteenth of the cost of the intervention, but this represents one specific case study rather than a generalizable figure, does not include intangible gains, and may not be appropriate to apply here. In the absence of data, it is worth noting the following points: if sheltered workshops are expensive a programme that transitions some people to sheltered workshops from unemployment will cost more to the government, and if sheltered workshops are not cost-beneficial to society a programme that transitions people to sheltered workshops will be less cost-beneficial to society both because of the high costs of operation and because wages may be subsidised. However, this also depends on the degree to which an additional individual entering an existent sheltered workshop programme affects the costs of that programme. Finally, if sheltered workshops are not cost-beneficial to society (even if including intangible gains) this raises questions as to their value for money that are separate to this analysis.

Similarly, it was not possible to collect data on the intangible gains of employment of people with disabilities. This is likely to be positive – we would expect that those who were able to become employed due to the programme would benefit in terms of quality of life – but we are unable at present to quantify these gains.

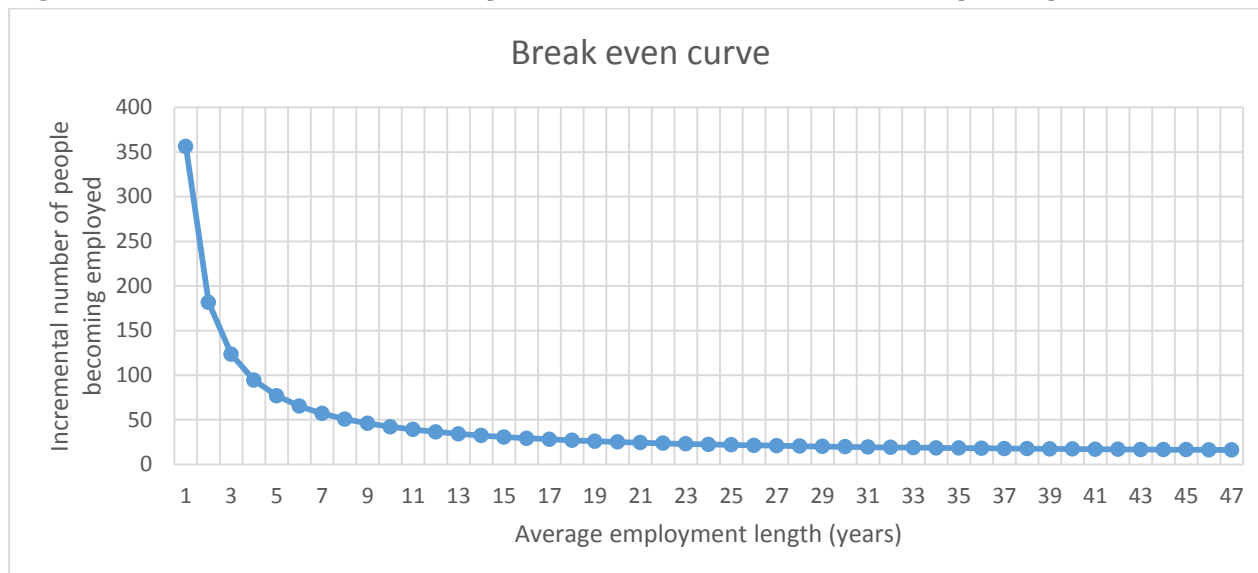
The final two variables, however, can be tested in a sensitivity analysis. At a simple level, from a societal perspective, the programme is cost-beneficial if the gross annual income per person (EUR 2 964, discounted to the start of the programme) multiplied by the number of people becoming employed due to the programme (113 in our base case analysis, based on the assumption of 50 % of individuals in the counterfactual arm becoming employment) multiplied by the average years of employment is greater than the cost of the intervention. Thus, the programme breaks even when:

Cost of the programme = Annual income per person x Average years of employment x No. people becoming employed due to programme

Using the figures above for cost of the programme (EUR 975 538) and annual income per person (EUR 2 964 per year before discounting),²⁹² we conducted a sensitivity analysis on the variables of: years of employment (varied from 1 to 47, the maximum employment time if becoming employed at 18 and retiring at 65); and number of additional people becoming employed due to Towards Work (we know the employment figures with the programme, but we vary our assumption on the numbers employed in the counterfactual, based on the estimate from the programme's organisers that it was less than half.)

We conducted a breakeven analysis: the graph below shows how many people would need to be employed due to the programme for any given employment length, in order for the programme to break even (i.e. for benefits to equal cost).

²⁹² Discounted each year back to the start of the programme, on the assumption that the average person received their first annual salary ~2 years after the start of the programme, as noted in a previous footnote.

Figure 17: Economic case study 4 - 'Towards Work', Sensitivity analysis

For example, if the average length of employment is 4 years, Towards Work would have had to have caused 94 people to become employed who wouldn't otherwise in order for the benefits to society to equal the cost of the programme (with the caveat that the missing elements – cost of sheltered employment and the intangible benefits of employment – would also have affected results).

Any combination of employment length and number of people becoming employed that is above the curve gives a BCR >1, i.e. the programme is cost-beneficial, and any combination below the curve gives a BCR <1, i.e. the programme is not cost-beneficial.

If we assume that the 50 % counterfactual employment (i.e. additional employment of 113 people) is a conservative estimate, we can show that an average employment length of at least 3.6 years means that the programme is cost-beneficial.

The shape of the curve also shows that for short lengths of average employment (particularly less than one year), the incremental employment gains must be very large for the programme to be cost-beneficial. As the average time period of employment increases, the incremental number of people needing to be employed reduces very quickly, before gradually levelling off: if employment length is 15 years, at least 31 extra people need to be employed; but for an employment length three times that, the programme still needs to employ 17 people to be cost-beneficial²⁹³.

This makes logical sense: an investment in getting people into work will only deliver societal returns if a) those who get into work remain in work for a reasonable amount of time or b) the programme gets a lot of people into work; and such a programme will be particularly cost-beneficial if it achieves both.

8.6. Supported employment in the US

A paper by Robert Cimera²⁹⁴ investigated the economics of supported employment in the US by synthesising research conducted in the area since 2000. 'Supported employment' is

²⁹³ The shape of the curve remains the same without discounting but the rate at which the curve levels off with increased years is increased due to discounting.

²⁹⁴ Cimera, R.E. (2012). The economics of supported employment: What new data tells us. *Journal of Vocational Rehabilitation* 37:109-117.

essentially an alternative to sheltered workshops in that it provides support to disabled individuals, enabling them to work in the general community (as opposed to in a “segregated setting”).

From an individual perspective, unlike other case studies, the counterfactual to ‘supported employment’ was not ‘do nothing’, as in the interventions above, but rather sheltered workshops. In other words, Cimera examined the impact of a disabled employee entering supported employment as opposed to a sheltered workshop.

Although care must be taken when applying results from the US to a European context, given the differences in the labour market and provision of care for disabled individuals (mental and/or physical disabilities), the results lend credence to the theory that, where possible, it is more beneficial both from an individual perspective for disabled individuals to work in the community, and that reasonable accommodations (as well as some ongoing support if required) be made to facilitate this.

Cimera reports results from two key studies conducted since 2000. Specifically, an earlier paper by Cimera²⁹⁵ reported a benefit-cost ratio of 4.2 for supported employment versus sheltered workshops, and a monthly net benefit to the individual of USD 475.35, for 104 213 supported employees with “intellectual disabilities, [with] similar results obtained regardless of whether or not supported employees had multiple disabilities.” Another study by Cimera and Burgess²⁹⁶ examining the same situation for 19 436 employees with autism found a BCR of 5.28 and an average monthly benefit of USD 643.20, again with similar results when individuals had secondary conditions.

The conclusion from these two studies is that for the population under question, supported employment is significantly cost-beneficial versus sheltered workshops. Cimera points to earlier studies from the 1980s and 1990s which found similar conclusions (compared to sheltered workshops or compared to no alternative), but since 2000 this result has become more significant. He suggests that the increase in wages earned by supported employees in the community, which was higher than that of sheltered workshops and government subsidy increases, explains this trend. Specifically, “over twenty years, the rate of hourly pay experienced by sheltered employees increased by only 19 cents.” Assessing whether this is applicable also to the EU requires further research.

However, in absolute terms Cimera explains that the average supported worker in the US is still not earning enough to bring them above the poverty line. Again, applicability to the EU requires further research, given the different welfare systems operating across countries.

From the taxpayer’s perspective (equivalent to the government perspective employed in our model), when assessing supported employment versus sheltered workshops - including programme costs, taxes paid, reduced subsidies and “decreases in alternative program costs” - results were less conclusively in favour of supported employment. In reviewing studies conducted, Cimera found a range of BCRs from 0.18 to 2.77, with variations by location. However, a critical explanatory finding here was the time period of costs to the taxpayer. In a previous analysis of the change in costs over time²⁹⁷, it was found that “initial costs started high ... and then decreased substantially over time” across the ‘employment cycle’, defined as “the point at which a person enrolls in supported employment to the point at which they exit supported employment or change positions

²⁹⁵ Cimera, R.E. (2010). The national cost-efficiency of supported employees with intellectual disabilities: The worker’s perspective. *Journal of Vocational Rehabilitation* 33: 123-131.

²⁹⁶ Cimera, R.E. & Burgess, S (2011). Do adults with autism benefit monetarily from working in their communities? *Journal of Vocational Rehabilitation* 34:173-180.

²⁹⁷ Cimera, R.E. (2008). The cost-trends of supported versus sheltered employment. *Journal of Vocational Rehabilitation* 28:15-20.

within the community”²⁹⁸. (It is implied that for sheltered workshops costs decrease less over time.) He points to the fact that in the study of changes in costs over time, almost 12 % of all costs occurred in the first three months, while only just over 1 % occurred in the last three.

The conclusion drawn from this is that costs and benefits across the full employment cycle need to be measured in order to truly assess a programme economically, and that where this is not done studies may find programmes less cost-beneficial than they actually are. Where the full employment cycle is taken into account, studies generally found supported employment cost-beneficial from a taxpayer/government perspective, including one study that reported a 1.46 BCR on average, with a ratio greater than 1 for all disability groups analysed “e.g. mental illnesses, physical disabilities, autism, sensory impairments, intellectual disabilities, and TBI [Traumatic Brain Injury]”. Naturally the longer a worker stays employed the more cost-beneficial a programme will be if most costs are borne early on. We recommend research to validate these US results in a European context – they are likely to apply but a programme that is effective in the US may be less or more effective in Europe.

When comparing supported employment to sheltered workshops in terms of cost-effectiveness (i.e. including individual earnings as well as the government financial perspective), the evidence reviewed by Cimera suggests supported employment was more cost-effective than sheltered workshops, but points to the fact that all of these studies were conducted in one state, and may potentially be influenced by regional factors within the US (in addition to contextual differences with Europe). One pre-2000 study found that sheltered workshops were less costly for individuals with severe disabilities, although this study did not take into account the full employment cycle and it is plausible that supported employment costs would drop off more over time than sheltered employment (i.e. once “vocational assessment, job development, and initial training” have been completed).

As well as reporting on costs and benefits from an individual and government financial perspective, Cimera discusses studies that have found ways to make supported employment “more effective and efficient”, highlighting measures such as “non-disabled co-worker involvement in the training of ... supported workers”; “involving students with disabilities in community-based transition programs while in high school” and, of particular interest, “not referring individuals to sheltered workshops prior to enrolling them in supported employment”, hypothesising that “counter-productive skills or behaviors” may be acquired which leave the individual in need of more training when entering supported employment. It would be interesting to explore this issue in greater depth within a European context.

Finally, Cimera outlines some caveats and limitations to this research. He points out that supported employment “is only cost-efficient in relation to sheltered workshops”, i.e. this research does not evaluate supported employment against a do-nothing counterfactual (and would be influenced by a change in the costs and benefits of sheltered workshops themselves); that supported employment is not cost-beneficial for all populations (although reasons for this are unclear), although as well as location effects it is possible that in some instances there is bias towards supported employment in that those who enter it are more able to work in the community; and that supported employment is only cost-beneficial when it results in employment within the community (i.e. after the training and ‘support’ period). Finally, Cimera points to a lack of information on the employer’s perspective, and encourages further research in this area.

²⁹⁸ Cimera, R.E. (2012). The economics of supported employment: What new data tells us. *Journal of Vocational Rehabilitation* 37:109-117.

In general, this research suggests that at least in a US context, transitioning disabled individuals (where possible) into 'regular' employment through training and support is more cost-beneficial than sheltered workshops.

We recommend further research be carried out in this area to establish the findings in Europe. However, it is likely that programmes with a transitional aim are likely to be more cost-beneficial from all perspectives than those which individuals rely on permanently, due to decreased ongoing costs and (potentially) higher wages in the open labour market, providing these programmes are effective in that aim, for those individuals whose disabilities are not so severe that reasonable accommodations can't be made for them.

8.7. IPS Supported Placements

8.7.1. Background

Individual Placement and Support is a programme for providing supported employment for people with severe mental disabilities, based on the aim of providing competitive employment to interested individuals (i.e. employment in the open labour market as opposed to sheltered workshops, for instance) and supporting them in an ongoing way and combining employment with treatment. IPS supported employment follows a set of principles, including²⁹⁹:

- **A focus on competitive employment** as the goal of the consumers, as opposed to day treatment or sheltered work. "Supported employment programs focus on helping consumers obtain their own permanent competitive jobs."
- **"Eligibility based on consumer choice"** i.e. anyone who wants to participate can, as long as they have the desire to work in a competitive job. In particular, level of disability is not a grounds for exclusion.
- **Rapid job search** in order to help individuals become employed directly instead of "providing lengthy pre-employment assessment, training and counselling."
- **"Integration of rehabilitation and mental health"** – supported employment staff are closely involved with mental health treatment for the individual.
- **"Attention to consumer preferences"** as opposed to the judgement of providers. Staff and the individuals involved find job placements "based on consumer preferences, strengths and work experiences."
- **"Time-unlimited and individual support"** including indefinite 'follow-along' support.

The programme centres around an IPS staff member who builds up a network of employers willing to accept patients, with whom the IPS worker continues contact, supporting both patient and employer. This support is open ended and the IPS worker has a maximum caseload of 25 patients.

8.7.2. EQOLISE

One of the key elements of IPS is that it has a solid evidence base of support, with at least nine randomised controlled trials having been conducted on its effectiveness³⁰⁰, as well as the evidence reported here, which is a study³⁰¹ comparing the

²⁹⁹ Bond, G. (2004). 'Supported employment: Evidence for an evidence-based practice.' *Psychiatric Rehabilitation Journal* 27 (4): 345–359.

³⁰⁰ Ibid.

cost-effectiveness of IPS supported employment across six European sites studied in a randomised controlled trial³⁰². The study was carried out by the EQOLISE group and funded by the EU's Quality of Life (QoL) and Management of Living Resources Programme.

In the study, a sample of 312 individuals were randomly assigned either to IPS supported employment or to vocational services and followed over a period of 18 months. The sample was drawn from six European cities: London (UK), Ulm-Guenzburg (Germany), Rimini (Italy), Zürich (Switzerland), Groningen (Netherlands), and Sofia (Bulgaria). Only individuals who had been ill and experiencing major difficulties for at least 2 years and unemployed for at least one year were selected.

The first group of patients received IPS services. IPS was provided by one or two IPS workers at every centre, who were trained in the model. In order to ensure consistency, all IPS workers used in the study were working on the model for the first time and had been trained at the beginning of the study by Deborah Becker, the originator of IPS.

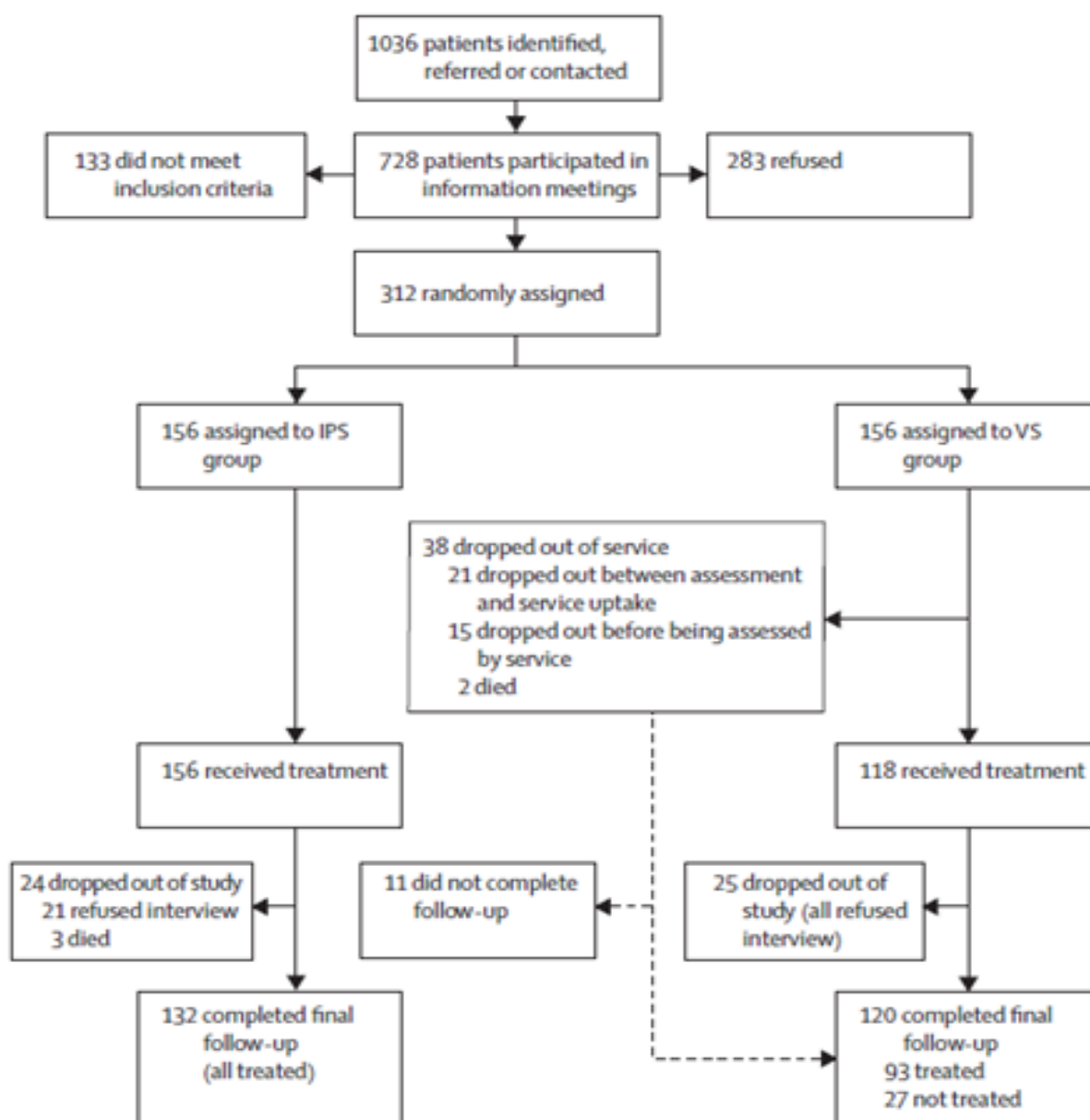
Individuals from the second group received the traditional vocational services available in the cities from which they originated. This group acted as the control group, providing the counterfactual scenario.

The following figure provides a schematic depiction of the profile of the individuals participating in the trial³⁰³.

³⁰¹ Knapp, M., Patel, A., Curran, C. et al. (2013). 'Supported employment: cost-effectiveness across six European sites.' *World Psychiatry* 12: 60-68.

³⁰² Burns, T., Catty, J., Becker, T. et al. (2007). 'The effectiveness of supported employment for people with severe mental illness: a randomised controlled trial.' *Lancet* 370: 1146-52.

³⁰³ Ibid.

Figure 18: Economic case study 6 - Trial profile – IPS – EQOLISE

'Received treatment' in this context refers to the number of people in each arm who took part in the respective programmes (did not drop out). Of the population of 156 people assigned to the IPS group, 85 (55 %) were reported to have worked for at least a day during the 18 months of the trial. Only 43 people from the control group (28 %) did so over the same period. Individuals from the control group were also "significantly more likely to drop out of the service" (45 % v. 13 %) and to be readmitted to hospital (31 % against 20 % for the IPS group), although these figures varied somewhat by location: "local unemployment rates [explain] a substantial proportion of the observed variation in IPS effectiveness."³⁰⁴

Overall, the trial demonstrated that IPS was more effective than vocational services for every vocational outcome, with 85 (55 %) patients assigned to IPS

³⁰⁴ Knapp et al (2013).

working for at least 1 day compared with 43 (28 %) patients assigned to vocational services (difference 26.9 %, 95 % CI 16.4–37.4). Patients assigned to vocational services were significantly more likely to drop out of the service and to be readmitted to hospital than were those assigned to IPS (drop-out 70 [45 %] vs 20 [13 %]; difference -32.1 % [95 % CI -41.5 to -22.7]; readmission 42 [31 %] vs 28 [20 %]; difference -11.2 % [-21.5 to -0.90]). Local unemployment rates accounted for a substantial amount of the heterogeneity in IPS effectiveness.

However, in every location IPS was more effective than vocational services “for every vocational outcome”³⁰⁵, despite very different labour market and welfare contexts.

8.7.3. Findings

From an economic perspective Knapp et al³⁰⁶ looked at the cost of the intervention, its impact on inpatient and outpatient healthcare costs versus vocational rehabilitation, its effectiveness in terms of extra days worked and a monetisation of this impact.

The cost of the intervention varied threefold across the sites (from GBP 1 568 in Ulm to GBP 4 757 in Sofia, in 2003 GBP), but was more expensive than comparison services in only two of the six locations, and cheaper in the remaining four.

The intervention saved on inpatient and outpatient costs in all but one location, with savings between GBP 2 026 and GBP 17 944. The exception was Groningen where inpatient and outpatient costs in the comparator arm were GBP 233 less.

Including the intervention cost and the impact on inpatient and outpatient costs, IPS was on average GBP 4 022 cheaper, and this was statistically significant. In three of the six individual locations this saving was also statistically significantly positive, in none was it statistically significantly negative. Inpatient and outpatient costs were calculated over eighteen months: the IPS arm had much lower inpatient costs in the first six months, although this levelled off over the following twelve. Outpatient costs were (marginally) greater in the IPS arm over the final six months.

In terms of cost-effectiveness, IPS dominated in all but one site, Groningen, where “spending an additional GBP 30 per person over 18 months by switching from usual vocational services to IPS resulted in an additional 1 % of individuals working at least 1 day in a competitive setting”, or alternatively an additional day of work cost GBP 10 per person on average versus vocational services (GBP 28 when excluding one outlier individual who worked 456 days over the 18 month period)³⁰⁷. The authors plotted cost-effectiveness acceptability curves (which show the probability of an intervention being cost-effective against different willingness-to-pay thresholds³⁰⁸) and IPS was deemed very likely to be cost-effective overall (with a probability of almost 1), and for each site except Groningen, where “IPS and vocational services would generally be interpreted from this evidence to be equivalent in that site.”

When monetising the value of employment (“valued at the expected gross wage in the UK for someone moving into employment following welfare benefits support because of sickness or disability”) **the intervention cost more than the value of employment**

³⁰⁵ Burns et al (2007).

³⁰⁶ Knapp et al (2013).

³⁰⁷ Note that these are measures of cost-effectiveness: i.e. the cost per 1% of individuals working an extra 1 day, and the cost per extra day worked. For example if 10% of individuals worked an extra 10 days, at a cost of GBP 100, the cost per 1 % of individuals working an extra 1 day would be GBP 1.

³⁰⁸ A willingness-to-pay threshold is the maximum an individual or organisation would be willing to pay for a given outcome, in this case 1 % of participants working 1 extra day. The thresholds used were in the GBP 0-GBP 1,000 range.

versus nothing, but was cost-beneficial versus usual vocational services, with a net benefit of GBP 17 005.

The authors report what they describe as a “partial” cost-benefit analysis, comparing the value of employment gained versus the intervention cost, and show that the net benefit was higher for IPS versus vocational rehabilitation. With inclusion of the inpatient and outpatient savings, as well as quality of life gains, in a full cost-benefit analysis the net benefit would increase further.

Overall, studies carried out in different parts of the world appear to confirm that IPS is a cost-saving and cost-effective way to help people with severe mental health issues into competitive employment, compared against traditional vocational rehabilitation. Whether IPS is cost-beneficial versus a ‘do nothing’ counterfactual depends on the inpatient and outpatient healthcare costs of a ‘do nothing’ counterfactual and, as with our other case studies, a valuation of the intangible benefits (i.e. quality of life gains, including health gains) resulting from employment for those with severe mental disabilities.

Of the population of 156 people assigned to the IPS group, 85 (55 %) were reported to have worked for at least a day during the 18 months of the trial. Only 43 people from the control group (28 %) did so over the same period. Individuals from the control group were also “significantly more likely to drop out of the service” (45 % v. 13 %) and to be readmitted to hospital (31 % against 20 % for the IPS group), although these figures varied somewhat by location: “local unemployment rates [explain] a substantial proportion of the observed variation in IPS effectiveness”³⁰⁹.

Overall, the trial demonstrated that IPS was more effective than vocational services for every vocational outcome, with 85 (55 %) patients assigned to IPS working for at least 1 day compared with 43 (28 %) patients assigned to vocational services (difference 26.9 %, 95 % CI 16.4–37.4). Patients assigned to vocational services were significantly more likely to drop out of the service and to be readmitted to hospital than were those assigned to IPS (drop-out 70 [45 %] vs 20 [13 %]; difference –32.1 % [95 % CI –41.5 to –22.7]; readmission 42 [31 %] vs 28 [20 %]; difference –11.2 % [–21.5 to –0.90]). Local unemployment rates accounted for a substantial amount of the heterogeneity in IPS effectiveness.

However, in every location IPS was more effective than vocational services “for every vocational outcome”³¹⁰, despite very different labour market and welfare contexts.

³⁰⁹ Knapp et al (2013).

³¹⁰ Burns et al (2007).

9. APPENDIX 2 - COUNTRY REPORTS

9.1. Belgium

9.1.1. Statistical background

The following data was collected in 2011 through an ad hoc module of the EU Labour Force Survey on employment of disabled people. The module used two definitions for disability (i) people having a basic activity difficulty (such as seeing, hearing, walking, communicating); and (ii) people having a work limitation caused by a longstanding health condition and/or a basic activity difficulty. The findings of the Eurostat data are that:

- In 2011, **13 % (879 209) of the Belgian population (11 000 638), aged 15-64, had a longstanding health condition**, or basic activity difficulty. In comparison, around 12 % of the EU population reported a longstanding health condition³¹¹.
- People with longstanding health condition, or basic activity difficulty are mainly older people (the age group 55-64 holds 25 % of all disabled people).
- Only 33 % of people with a longstanding health condition, or basic activity difficulty are employed compared with 67 % of people without a longstanding health condition, or basic activity difficulty.
- Only 18 % of people with a longstanding health condition, or basic activity difficulty have attended tertiary education. This contrasts with 47 % of people without a health condition, or basic activity difficulty.
- 7 % of the Belgian population reported longstanding problems with back their or neck. This was the most reported health concern with legs and feet problems the second most reported (3 %).
- In 2011, there were 173.96 people in full time employment who were limited by health conditions or difficulty in a basic activity. In contrast there were 133 159 in part time employment in the same group.

An ANED study reported that the number of people with functional limitations was much higher than usually estimated, standing somewhere between 12 % and 16 % of the working population between the ages of 15 and 64. A study from the Flanders Department of Employment and Social Economics estimated that in 2011, the rate of employment of people with disabilities was 35.3 %, compared to 73.1 % for people without disabilities (see below)³¹².

Brussels had the lowest employment rate of people with disabilities from all the regions (29.7 %), while Flanders had the highest rate at 38.6 %³¹³. The level of employment for both people with disabilities and people without disabilities is lower in Wallonia and Brussels compared to Flanders, suggesting a correlation between employment opportunities overall

³¹¹ <http://epp.eurostat.ec.europa.eu/portal/page/portal/health/disability/data/database>.

³¹² Department of Employment and social economy. (2013). Handicap en arbeid: Deel 1 – Definities en Statistieken over de arbeidsdeelname van mensen met een handicap. Government of Flanders: Flanders. p. 20.

³¹³ Department of Employment and social economy. (2013). Handicap en arbeid: Deel 1 – Definities en Statistieken over de arbeidsdeelname van mensen met een handicap. Government of Flanders: Flanders. p. 20.

in each region³¹⁴.

Table 31: Employment rate statistics for Belgium in 2011 (age 20-64) in %³¹⁵

Item	Flanders	Wallonia	Brussels	Belgium
Employment of people with disabilities (%)	38.6	32.4	29.7	35.3
Employment of people without disabilities (%)	77	68.7	63.7	73.1

Additionally, a 2011 ad-hoc module carried out by Eurostat identified the educational attainment of disabled individuals. **The survey indicated that 40.7 % of individuals reported as having a limited working capacity due to a longstanding health problem or basic activity difficulty were classified as early leavers from education.** This figure compares poorly with the EU28 average of 31.5 % and the 9.9 % of people without such a limitation who are described as early leavers from education. In this respect, it is clear that disabled people are disadvantaged regarding educational attainment³¹⁶.

9.1.2. Legislation and policy background

As a federal state, **different policy areas are governed at different levels in Belgium.** While employment is a federal competency, matters relating to disability and discrimination is a principle that should be respected by all levels of government³¹⁷. General rules relating to employment, social benefits and quotas for federal civil servants are regulated at federal level while active labour market policies are regulated by the regions³¹⁸. Therefore, the type of intervention depends on the relevant level of government.

Directive 2000/78/EC is transposed in several acts across all governments. Table 32 overleaf presents relevant legislation at federal and regional levels (note that the following list also includes relevant legislation that pre-dates the Directive)³¹⁹:

³¹⁴ Department of Employment and social economy. (2013). Handicap en arbeid: Deel 1 – Definities en Statistieken over de arbeidsdeelname van mensen met een handicap. Government of Flanders: Flanders. p. 20.

³¹⁵ Department of Employment and social economy. (2013). Handicap en arbeid: Deel 1 – Definities en Statistieken over de arbeidsdeelname van mensen met een handicap. Government of Flanders: Flanders. p. 20.

³¹⁶ Eurostat, (2011), ad-hoc module on the employment of disabled people.

³¹⁷ De Schutter Belgium disability law review 2004, p3.

³¹⁸ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³¹⁹ De Schutter Belgium disability law review 2004, p8.

Table 32: Key Belgian legislative and policy documents regarding people with disabilities³²⁰

Legislative Level	Legislation / Policy Document
Federal Government	Anti-discrimination Act 2003 (updated 2007)
Flemish Government (Regional)	Decree on equitable participation in the employment market (2002) and accompanying Executive Regulation (Besluit tot uitvoering van het decreet) (2004)
Walloon Government (Regional)	Decree on the integration of persons with disabilities (1995) and Executive Decree on the promotion of the equality of chances of persons with disabilities on the labour market (1998, rev. 2002) ; Decree on equal treatment in employment and professional training (2004); Decree on the implementation of the principle of equal treatment (2004)
Brussels Government (Regional)	Decree on the social and professional integration of persons with disabilities (1999); Ordinance on the mixed management of the employment market (2003); Ordinance on the fight against discrimination and on the equal treatment in terms of employment (2008); Ordinance promoting diversity and fighting discrimination in the Brussels Capital Region civil service (2008)
German Government (Regional)	Executive Decree on the training of PWD (1993); Executive Decree encouraging the employment of PWD on the labour market (1994); Executive Decree on rehabilitation stages for PWD (1995); Decree on equal treatment on the employment market (2004)

The (federal) Anti-Discrimination law (2003) is applicable to both private and public sectors and regulates access to employment and employment conditions. Since the Act of 1996 on welfare in the workplace, employers have been responsible for the welfare of employees and have had to take preventive measures to limit injuries. These measures relate in particular to the adaptation of the workplace, the design and adaptation of workstations, the selection and use of work equipment and of personal protection equipment. The act also puts the onus on employers to take account of employees' disabilities in the context of the preventive measures adopted to protect the health and safety of those employees³²¹.

According to the Agence Wallonne pour l'Intégration des Personnes Handicapées (AWIPH), employers were previously able to terminate an employee's contract if that employee fell ill or had an accident. However, **since the 2007 review of the 2003 Anti-Discrimination**

³²⁰ Information provided by AWIPH through the National Focal Point for the Implementation of the UNCRPD in Belgium.

³²¹ United Nations: Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium.

law, the refusal by an employer to put in place arrangements for reasonable accommodation is a prohibited act of discrimination.

At the regional level, both the Flemish and the Walloon regions have a dedicated agency responsible for the employment for disabled people:

- the **Flemish Service for Employment Mediation (VDAB)** which replaced in 2008 the **Flemish Agency for People with a Disabilities (VAPH)** which had been established in 2004³²².
- The Agence Wallonne pour l'Intégration des Personnes Handicapées (AWIPH)³²³ was set up as a result of the Decree of 1995 (integration of disabled people). The agency has put in place programmes focusing on making public places, transport, education and employment more accessible for people with a disability.

As part of its 2012-2017 goals, the AWIPH intends to emphasize the inclusion of disability in all policies at regional and local level. A brochure was developed by the Centre for Equal Opportunities and the Fight against Racism in cooperation with the federal government³²⁴. Entitled 'Keys for reasonable accommodation for persons with disabilities to work', it is accompanied by 10 practical brochures, each on a different area of everyday life³²⁵. They are specifically designed to help providers of goods and services to provide reasonable accommodation for their customers with disabilities³²⁶.

9.1.3. Definition

The 2003 Anti-Discrimination Act does not include a definition of disability; however, definitions can be found in regional legislation and in the 2009 National Convention (CDPH). The Flemish Agency for People with a Disability (VAPH) defines disability in the 2004 Decree as the long-term and important participation problem of a person originating from mental, physical or bodily malfunctions, when exercising activities. **A 'working-disability' (arbeidshandicap) is defined by the Flemish government in the 2008 Decree as a long-term and important problem regarding participation of employment originating from the mental, physical or bodily malfunctions, when exercising activities and personal and external factors**³²⁷.

In 2007, the regions and communities signed a protocol with the Federal State on the concept of reasonable accommodation. This protocol provides a description of the criteria that management should satisfy and proposes indicators to assess the reasonableness of management³²⁸.

Additionally, the legislation of the Brussels-Capital Region does not define disability within the context of anti-discrimination but in the context of positive encouragement of social or professional integration. To benefit from the 'Decree on the social and professional integration of disabled people' (Décret relatif à l'intégration sociale et professionnelle des personnes handicapées – 1999), an individual must have an impairment of at least 30 % of their physical capacity or at least 20 % of their mental capacity (Article 6a). This definition also includes a phrase which indicates a move towards a more social model of disability

³²² <http://www.vaph.be/vlafo/view/nl/2531804-Werk+en+beroepsopleiding.html>. and <http://www.vdab.be/arbeidshandicap/default1.shtml>.

³²³ AWIPH.

³²⁴ See <http://www.emploi.belgique.be/home.aspx>.

³²⁵ See www.diversite.be.

³²⁶ AWIPH Questionnaire.

³²⁷ Department of Employment and social economy. (2013). Handicap en arbeid: Deel 1 – Definities en Statistieken over de arbeidsdeelname van mensen met een handicap. Government of Flanders: Flanders. p. 20.

³²⁸ AWIPH questionnaire.

(i.e. where the disability is a product of the interaction of the individual with the environment). In this respect, Article 6a states that disability 'means the social disadvantage resulting from an impairment or disability that limits or prevents the fulfilment of a normal role in relation to age, gender, social and cultural factors'³²⁹.

The National Convention on the rights of people with disabilities (CDPH) in 2009 led to two Decrees developed by the Walloon government to ensure the effective implementation of the policy on reasonable accommodation. It is legally defined in these Decrees as the necessary and appropriate modifications and adjustments, which are not imposing a disproportionate or undue burden, regarding the required needs in a particular situation, to ensure that people with disabilities experience enjoyment or exercise, on the basis of equality with others and respecting all fundamental rights. Furthermore, the convention stipulates that disabled people include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on the basis of equality with others³³⁰.

9.1.4. Sheltered workshops

Sheltered workshops were developed in Belgium around 1960 as an alternative to regular workplaces. Due to the push for people with disabilities to be integrated into regular employment, the numbers of disabled individuals working in a sheltered environment is stagnant. The ANED report questions whether sheltered workshops have a viable future in Belgium due to the lack of new disabled workers being employed in these environments³³¹.

In Flanders, a number of 'rehabilitation through employment' initiatives have been set up in cooperation with adapted work enterprises (ETAs), **sheltered workshops, psychiatrists and social protection bodies to assist persons with disabilities in day centres**³³². The VDAB provides support for disabled people to help them find employment in sheltered workshops³³³. In 2010 it was estimated that Flanders spent EUR 220 million on wages for 16,000 disabled employees in sheltered workshops. This equates to EUR 13 000 per head.

In its Decree of 4 March 1999, the French Community Commission made provision for employment support in adapted work enterprises in order to ensure that all persons with disabilities have useful paid work and to allow them to develop professionally and make use of their skills. All workers employed by adapted work enterprises receive a guaranteed wage of at least the monthly average minimum income. In the Walloon Region, the AWIPH accredits and funds 58 adapted work enterprises and provides wage assistance. Around 7,000 workers with disabilities are currently employed by adapted work enterprises³³⁴. The following table indicates that the number of hours people work in adapted work enterprises increased from 2005 to 2012, suggesting that the economic crises did not have much impact in 2009 and 2010³³⁵.

³²⁹ Quinn, G and de Schutter, O., (2004), EU Network of Disability Discrimination Law Experts: Report on Belgium, p.51.

³³⁰ AWIPH questionnaire.

³³¹ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³³² United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium.

³³³ <http://www.vaph.be/vlafo/view/nl/2531872-Dienstverlening+VDAB.html>.

³³⁴ United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium.

³³⁵ AWIPH questionnaire.

Table 33: Number of hours people work in adapted enterprises per year in Belgium

Year	Number of hours worked
2005	8 500 973,72
2006	8 636 464,19
2007	8 789 902,29
2008	9 115 332,40
2009	8 357 831,31
2010	8 555 236,63
2011	8 711 482,42
2012	8 998 931,10

In the German-speaking Community an estimated 169 people are working in adapted enterprises³³⁶. In Brussels there are 13 adapted work enterprises, which employ 1 450 workers with disabilities³³⁷.

9.1.5. Reasonable accommodation

In Belgium, adaptations to the working space and transport to and from the workplace are two measures being implemented to ensure the right to reasonable accommodation is being provided to people with disabilities. This stems from the country's anti-discrimination law and it is expected that people with disabilities will rely more on these existing provisions, based on the concept of 'reasonable adaptations'³³⁸.

As a consequence of the Anti-discrimination Act, **the federal administration has a duty to facilitate the adjustment of workstations so that all staff members can carry out their work in optimal conditions**. The federal administration is supported by the Federal Administration Selection Bureau (Selor) to organise the recruitment process in a similar respect³³⁹. At the regional level, both the VAPH and AWIPH provide grants to employers to adapt the workplace and the Brussels-Capital Government provide employers with compensation that covers the full cost of any necessary accommodation provided³⁴⁰.

³³⁶ GT employ PH.

³³⁷ United Nations: Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium.

³³⁸ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³³⁹ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³⁴⁰ Quinn, G and de Schutter, O., (2004), EU Network of Disability Discrimination Law Experts: Report on Belgium, p.51.

In Wallonia the **Ergojob**³⁴¹ project, organised by AWIPH, focuses on reasonable accommodation and is described as a best practice example. It started in 2009 with the support of funds from the European Social Fund. Its aim is to support organisations in creating reasonable accommodation by delegated ergonomists, to train AWIPH staff and to create a database with advice to provide reasonable accommodation. AWIPH also provides funds for reasonable accommodation to employers; since 2002, the number of grants for reasonable accommodation increased to reach 172 in 2012.

In 2001, the VAPH provided 36 grants for adaptation of the workplace (to employers, of which some are self-employed) and 151 for work equipment or clothing (to persons with disabilities). Both the number of interventions and the amount have increased strongly in comparison with prior years. People with disabilities who are enrolled in the VAPH can also be compensated for travel expenses to and from their workplace; as can anyone accompanying them. Persons who are enrolled in the VAPH benefit from free public bus travel³⁴².

In the German-speaking Community, one reasonable accommodation position has been created³⁴³.

9.1.6. Alternative labour market services

Research suggests that labour market policies for people with disabilities tend to be mainly voluntary measures, such as wage subsidies and less statutory obligations. In contrast to other countries such as the UK, France and Germany **there is, for example, no duty for private businesses to employ a quota of disabled people**³⁴⁴. Furthermore, **Belgium does not grant a disabled worker status**, nor is there special dismissal protection for disabled workers³⁴⁵.

Active labour market policies

The first specialised training initiatives to bring the employment capacity of disabled people up to date started in 1960 with on-the-job training and with little supervision. However, from 1990 onwards a framework of recognized specialised training centres has been established. More recently, the length of time spent in external training has shortened and more training is provided at work³⁴⁶.

Flanders streamlined active labour market policies for disabled people into the regular public employment service in 2006. The administration was transferred from the VAPH for persons with disabilities to the Flemish Public Employment Service. In other parts of Belgium the policies are still operated by specific institutions³⁴⁷. The services for Flanders and Wallonia are discussed below.

³⁴¹ Agence Wallone pour l'integration des Personnes Handicapees (AWIPH). (2012). Rapport Annuel : Rapport d'activites 2012. Retrieved from http://www.awiph.be/pdf/documentation/publications/revues_rapports/rapport_annuel/rapport_annuel_AWIPH_2012.pdf.

³⁴² Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³⁴³ GT employ PH.

³⁴⁴ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁴⁵ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁴⁶ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

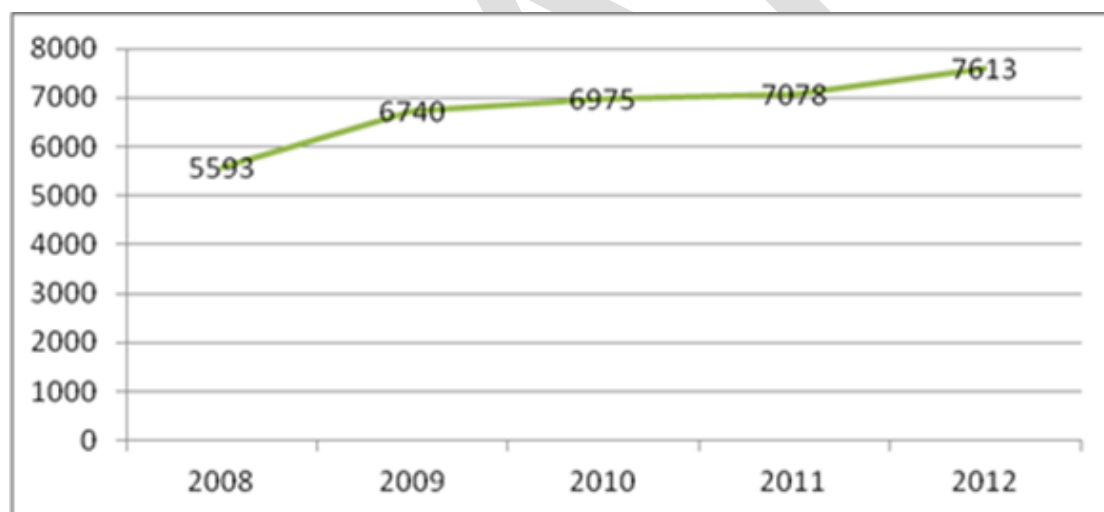
³⁴⁷ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

In Flanders information provision, mediation and counselling is provided by two centres. The **Centre for Specialized Information with regard to Employment Choice (CGVB)**, in collaboration with the development of employment career guidance services (ATB - arbeidstrajectbegeleidingsdiensten), guide people with a disability on their journey to the employment market. Based on an intake and assessment by CGVB, a plan is developed which can include several phases and which ends with finding a job and an evaluation³⁴⁸.

The programme delivering guidance to people with disabilities regarding employment (ATB) is considered to be an example of good practice. Five service centres are located in Flanders, which provide support for disabled people through assessment centres, educational centres and sheltered workshops. **From 2001 the ATB services have become embedded in the local workshops provided by the Flemish Service for Employment Mediation. As a result of the common services provided, a common management system of the entire group of people with functioning disabilities is being developed**³⁴⁹.

The AWIPH accredits and funds 13 vocational training centres to organise vocational training tailored to ensure that trainees find employment under regular working conditions. The number of participants in these vocational programmes has steadily grown as shown in Figure 19. The Walloon government has made strenuous efforts in respect of training for persons with disabilities, particularly for those aged between 18 and 25 years in order to prevent the loss of knowledge acquired at school and maintain work habits³⁵⁰.

Figure 19: The number of people with disabilities participating in vocational training at AWIPH between 2008 and 2012³⁵¹



In addition to the vocational training centres, there are 58 adapted working enterprises (ETA). In 2012 the total number of recipients of these services was 9 853 and expenses were estimated to be EUR 105 million (16 % of the total AWIPH)³⁵².

In the regional office for disabled people in the German-speaking district there are 5 500 people registered and 1 400 actively supported by the agency³⁵³.

³⁴⁸ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³⁴⁹ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³⁵⁰ United Nations: Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium. p 49.

³⁵¹ AWIPH.

³⁵² AWIPH.

Passive labour market policies

Legal obligations for employers to rehabilitate employees who become disabled while in work does not go beyond what is covered by group insurance. Employers are entitled to wage subsidies for these workers. However, there is no obligation to retain a subsidised worker for a certain period of time after the subsidy expires³⁵⁴.

Until 2008, two wage subsidy schemes were in operation in Flanders. These schemes³⁵⁵ aimed to compensate the employer for the 'production efficiency shortage' encountered when hiring a person with a disability. These wage subsidies only impacted the private sector. They could be applied without time-limit and could cover up to 50 % of the real employment cost. **It was estimated that employers made use of these subsidies for 5,000 employees with disabilities by the end of 2008**³⁵⁶.

In 2008 these two schemes were merged into a single scheme called 'Flemish support subsidy' (VOP³⁵⁷). Under the VOP scheme, **subsidies amount to 40 % of the labour costs for year one of employment, although this is capped at twice the minimum wage**; 30 % for years two, three and four; and 20 % from year five with no time-limit. Additionally, it is possible to apply for an upgrade to 60 % of the disabled employees wage in special circumstances³⁵⁸.

The experiences of individuals working in subsidised positions under the VOP scheme were examined by Samoy et al. in 2012. In particular, the working conditions experienced by disabled individuals participating in subsidised VOP jobs were assessed using a measurement tool, developed by Eurofound for the regular working conditions survey. In this respect, the working conditions could be compared to those experienced by the general population, as well as a group of survey respondents who claimed to suffer from a longstanding health problem and/or disability. **In terms of results, the study found that working conditions experienced by those in subsidised jobs were similar to those experienced by the general population; but better than the working conditions experienced by those who suffer from a longstanding health problem and/or disability.** One potential reason for this, outlined by Roosens et al. in 2010³⁵⁹, is the fact that the group of individuals who declared themselves as suffering from a longstanding health condition and/or disease, contains older workers and more individuals who became disabled at work. **In contrast, Roosens et al. state that the population of disabled individuals subsidised through the VOP scheme comprises more young people who were already disabled when they began searching for a job**³⁶⁰.

In Flanders there are high levels of employer and disabled worker satisfaction in both the profit and non-profit sector receiving VOP. There is no evidence that disabled people feel

³⁵³ GT employ PH.

³⁵⁴ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁵⁵ Collective Employment Agreement-26 or CAO-26 and Flemish Integration Subsidy or VIP.

³⁵⁶ As described in the ANED study.

³⁵⁷ Flemish Government. (n.d.). Vlaamse ondersteunings premie (VOP) voor het aanwerven van personen met een arbeidshandicap. Retrieved from <http://www.vlaanderen.be/nl/gezin-welzijn-en-gezondheid/handicap/leren-en-werken/vlaamse-ondersteuningspremie-vop-voor-het-aanwerven-van-personen-met-een-arbeidshandicap>.

³⁵⁸ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁵⁹ Roosens, B., Huys, R., Van Gramberen, M., and Van Hootegem, G., (2010), *Werken met een VOP*, Centre for Sociological Research (CeSO)-KU-Leuven, Leuven.

³⁶⁰ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

'locked in in subsidised employment or that they are unviable or confined to the lower end of the job market. Small organisations have an important role to play for disabled people. Finally, the efficiency of wage subsidy schemes is greatly dependent on deadweight loss effects in Flanders³⁶¹.

In Wallonia, **AWIPH has adopted a policy of salary subsidy** to compensate employers for any extra cost linked to measures taken to allow a disabled person to work. The subsidy, initially lasting one year can be extended for a further five years. The logic behind this is that wage subsidies will encourage the employment of people with disabilities, allowing them to prove their worth to the employers.

Labour market quota

In 2005, the federal government developed a new **Equality-Diversity label** for enterprises employing people with disabilities. In 2006, a pilot project was launched, with the enterprises concerned making an active commitment to further diversity and equality within their organisations in order to obtain the label. So far, 15 of the enterprises involved in the project have been awarded the label³⁶².

Flanders is implementing a policy to promote voluntary proportionate participation and diversity on the labour market, especially related to the integration of people with disabilities and focusing on people with vocational disabilities. Since 2000, 5 000 Flemish organisations have already implemented a diversity policy³⁶³. The 'jobkanaal' project is aimed at Flemish employers to stimulate labour market participation of disadvantaged groups, including workers with disabilities. Via this network of over 500 recruitment agencies, enterprises can find competent employees from certain target groups³⁶⁴.

Regarding the employment quota in the public sector, a number of targets have been set by all levels of government to ensure people with disabilities are employed in the civil service³⁶⁵.

- At the federal level, the 2007 Royal Decree states that people with disabilities should make up 3 % of the staff of each federal department.
- In Flanders, a target figure of 4.5 % has been set.
- In Wallonia, the public administrations must employ 1 part-time employee with a disability for every 20 full-time employees.
- In Brussels-Capital, the target is 2 % of employees with disabilities.
- However, quotas are poorly implemented in Belgium and are not supported by sanctions. This is best demonstrated by the fact that in 2012, people with disabilities

³⁶¹ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁶² United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium. p 48.

³⁶³ United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium. p 48.

³⁶⁴ United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium. p 48.

³⁶⁵ United Nations : Committee of the Rights of Persons with Disabilities. (2013). Implementation of the Convention on the Rights of Persons with Disabilities – Initial reports submitted by States parties under article 35 of the Convention: Belgium.

comprised only 1 % of public administration employees - a figure significantly lower than the targets mentioned above³⁶⁶.

Table 34: Example of good practice in alternative labour market services

Employment Guidance Centres (ATB arbeidstrajectbegeleidingsdiensten)³⁶⁷

Five Employment Guidance Centres have been located in Flanders since 2001. They are run by the Flemish Service for Employment mediation (VDAB).

The Service provides support for disabled people through assessment centres, educational centres and sheltered workshops. As a result of the common services provided, a common management system of the entire group of people with functioning disabilities is being developed.

9.1.7. European Social Fund

Between 2007 and 2013, **Belgium was allocated EUR 252.4 million by the European Social Fund**. These funds were allocated in addition to the joint public and private financing of EUR 112.8 million. The total spending on jobs and social inclusion, within the framework of ESF, therefore amounts to EUR 365.2 million³⁶⁸. However, **there is no reported breakdown regarding the use of this funding specifically for disabled people**.

The projects are implemented within the Operational Programmes at the federal, Flanders, Wallonia, Brussels-Capital and the German-speaking community level. A separate programme covers the province of Hainaut under the Convergence Objective³⁶⁹. With the support of the ESF, Belgium is striving to integrate as many people as possible into the labour market, while paying particular attention to disadvantaged groups. To achieve this goal the Federal State, in collaboration with the regions and communities, has established specific programmes.

The focus of these programmes in Belgium was almost entirely on the stimulation of innovative policy interventions. This is due to the fact that infrastructure and generic labour market policies are already well developed unlike in some other Member States³⁷⁰. In total, interventions were provided under the banner of 32 actions within 10 priority areas³⁷¹. Interventions under the following actions have the potential to target people with disabilities.

³⁶⁶ Samoy, E., & Waterplas, L. (2012). Designing wage subsidies for people with disabilities, as exemplified by the case of Flanders (Belgium). *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 6(2), 94-109.

³⁶⁷ Academic Network of European Disability experts (ANED). (2007). Report on the employment of disabled people in European Countries: Belgium.

³⁶⁸ European Commission, (2014), Preparatory Study for the ex post evaluation of ESF 2007-2013: Final Report.

³⁶⁹ Country profile: Belgium and the European Social Fund. 2012. See <http://ec.europa.eu/esf/main.jsp?catId=371&langId=en>.

³⁷⁰ European Commission, (2014), Preparatory Study for the ex post evaluation of ESF 2007-2013: Final Report.

³⁷¹ European Commission, (2014), Preparatory Study for the ex post evaluation of ESF 2007-2013: Final Report.

Table 35: Number of ESF-funded Belgian actions, shared actions and priority themes that potentially target people with disabilities.

Priority Theme	Shared Actions	No. of Actions
Improving access to employment (A2E)	System support to social enterprises / social care sector	1
	Reducing workforce segregation	3
	Active and preventative measures on the labour market	1
50 % of Belgium's total ESF budget was spent on A2E		
Improving social inclusion of less favoured persons (SI)	Pathways to employment	1
	Employability of vulnerable groups	6
18 % of Belgium's total ESF budget was spent on SI		

Additionally, some actions which could positively impact the employment situation of people with disabilities were interestingly neglected. These include 'improving the quality of life of people with disabilities'; 'equal opportunities of vulnerable groups'; 'social inclusion or integration of disadvantaged'; and 'health and safety at the workplace'³⁷².

The following examples represent good practice in the targeted use of ESF funds to support disabled people.

Table 36: ESF project examples – Belgium

ESF projects Belgium	
Project name:	Ergojob ³⁷³
Area of activity:	People with disabilities
Project duration:	2009-2013
ESF contribution:	Yes
Total budget:	No specific budget information available
Participants:	123 (in 2012) ³⁷⁴
Country:	Wallonia, Belgium
Organisation:	The Walloon Agency for integration of disabled people (AWIPH)

³⁷² European Commission, (2014), Preparatory Study for the ex post evaluation of ESF 2007-2013: Final Report.

³⁷³ Agence Wallonne pour l'intégration des Personnes Handicapées (AWIPH). (2012). Rapport Annuel : Rapport d'activités 2012. Retrieved from http://www.awiph.be/pdf/documentation/publications/revues_rapports/rapport_annuel/rapport_annuel_AWIPH_2012.pdf.

³⁷⁴ Agence Fonds Social Européen. (2012). Rapport annuel 2012. Retrieved from <http://www.fse.be/les-programmes/2007-2013/competitivite/rapports-annuels-1/RA%202012%20-%20Version%20FINALE%20competitivite.pdf/view>.

ESF projects Belgium

The aim of the project is to increase the chances of maintaining employment for people with disabilities by developing suitable working conditions and a reasonable working accommodation:

- the company is supported by an ergonomist to help reflect and implement appropriate measures;
- the creation of a methodological tool to analyse working situations;
- the development of a database with organisational advice and technical advice for each type of difficulty; and

continuous training of AWIPH staff in employment integration and analysing work situations.

Project name:	Job&Co
Area of activity:	Disadvantaged groups
Project duration:	No information available on the duration of the project
ESF contribution:	EUR 675 000
Total budget:	EUR 1 671 598
Participants:	220
Country:	Flanders, Belgium
Organisation:	Job&Co

This project is run by a Flanders-based organisation that lives by the leitmotif 'work is the key to social integration'. Job&Co is the united front of three social enterprises that work to facilitate the integration of people with particular difficulties into employment. People with disabilities are a key group in this category.

To achieve this aim, Job&Co places their focus on overcoming the key obstacles that hinder people's ability to get a job – such as a lack of confidence or motivation and low qualifications.

First, Job&Co establish the intentions and desires of the job-seeker before working to arrange a first contract. This can either be in Job&Co's own workshops or with a potential regular labour market employer. Within this period, the job-seeker is provided personal coaching and any relevant training. At the end of this period, Job&Co ensures that these disadvantaged individuals can control their own working lives.

9.2. Germany

9.2.1. Statistical background

In 2011, 7.3 million people with severe disabilities were living in Germany, approximately 9 % of the total resident population. Males and older people were overrepresented, but in total, about 3.272 million people with severe disabilities were of the working-age population (between 15 and 64, *Statistisches Bundesamt* [Federal Statistical Authority] 2013³⁷⁵). Eurostat data varies slightly and is presented here as a comparator to other countries for which case study is presented.

³⁷⁵

<https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Gesundheit/Behinderte/Tabellen/GeschlechtBehindernung.html>.

In Germany, the Federal Statistical Office (Statistisches Bundesamt)³⁷⁶ maintains statistics on information pertaining to people with disabilities. Although there is no institute or official department specifically responsible for the collection of relevant data and statistics on issues surrounding disabled people, data on these matters have been collected and published in the following documents:

- 2011 National statistics of severely disabled persons³⁷⁷.
- Life situations of disabled persons: results of the 2009 micro-census³⁷⁸.
- 2013 Report on the situation of persons with disabilities – German Federal Government³⁷⁹.

Key information retrieved from these sources includes:

- In 2011, **7 289 173 German people were severely disabled** (>50 % degree of disability), of which 51.2 % are men and 48.8 % are women. This constitutes a rise of 5.4 % since 2007³⁸⁰.
- 62.3 % of severely disabled people have physical disabilities making this the most common type of disability.

Education:

- Barriers to vocational and social participation as an adult with a disability include the level of education achieved and the severity of the disability. Lower levels of education and greater severity of disability reduce the chances of vocational and social participation as an adult.
- 20 % of people with disabilities (aged 30-64) have no vocational qualifications compared with only 11 % of people without disabilities.
- 75 % of pupils at special schools for disabled people do not attain graduation.

Employment:

The 2013 Report on the situation of persons with disabilities states that **around 916,000 of severely disabled people were in employment in 2010.**

Additionally, the employment rates of people with disabilities were shown to be lower than the employment rates of people without disabilities. Figure 20 demonstrates that when the employment rates of people with and without disabilities are disaggregated by age, both men and women with disabilities are worse off than their counterparts (differences of 17 % and 25 % respectively). Figure 20 further shows that people with disabilities have lower employment rates across all age groups with greater differences seen among the older generations: 10 % for 18-24 year olds; 15 % for 25-49 year olds; 26 % for 50-59 year olds; and 20 % for 60-64 year olds.

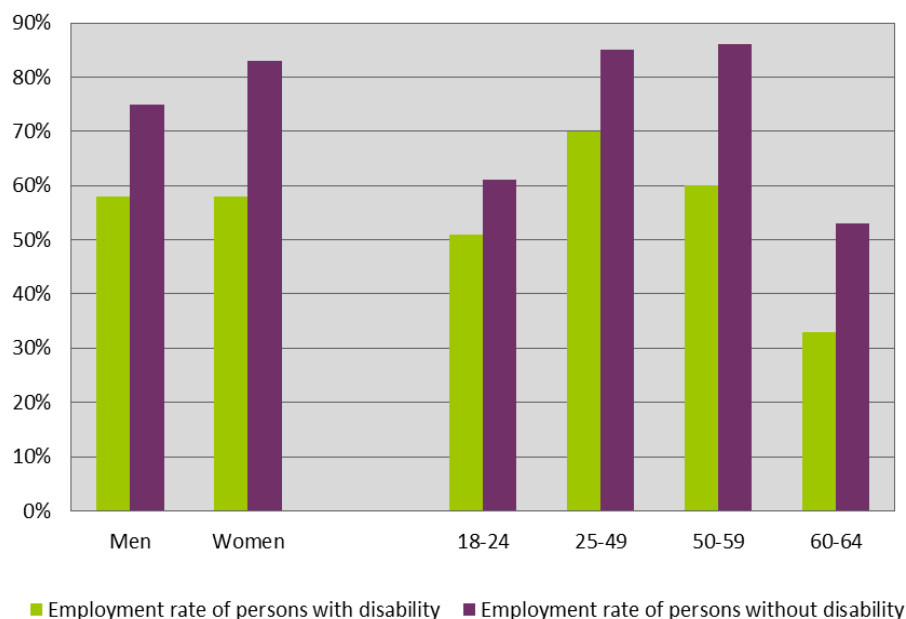
³⁷⁶ Access the Federal Statistical Office at: <https://www.destatis.de/EN/Homepage.html>.

³⁷⁷ Statistisches Bundesamt, (2011), Statistik der schwerbehinderten Menschen, Wiesbaden, Deutschland. Accessed on 28/05/2014 at: https://www.destatis.de/DE/Publikationen/Thematisch/Gesundheit/BehinderteMenschen/SozialSchwerbehindertekB522710119004.pdf?__blob=publicationFile.

³⁷⁸ Pfaff, H et al. (2009), Lebenslagen der behinderten Menschen: Ergebnis des Mikrozensus 2009. Accessed on 28/05/2014 at: https://www.destatis.de/DE/Publikationen/WirtschaftStatistik/Sozialleistungen/Lebenslagenbehinderte032012.pdf?__blob=publicationFile.

³⁷⁹ Bundesministerium für Arbeit und Soziales, (2013), Teilhabebericht der Bundesregierung über die Lebenslagen von Menschen mit Beeinträchtigungen.

³⁸⁰ Information retrieved from the Federal Statistics Office website on 02/07/2014 at: <https://www.destatis.de/EN/FactsFigures/SocietyState/Health/DisabledPersons/Tables/Handicapps.html>.

Figure 20: Employment rates of people with and without disabilities disaggregated by gender and age.

9.2.2. Legislation and policy background

In 2010 the OECD classified the disability policy models of its incumbent countries with Germany being classified as having a 'social-democratic' disability policy model. This was an interesting and unexpected finding as this policy group consisted mainly of Nordic countries; countries that are not usually viewed to have similar welfare policy approaches to Germany³⁸¹. This policy model is characterised by an accessible and relatively generous compensation policy package and an equally accessible and varied integration policy package³⁸².

Two sub-groups exist under this policy model. Germany belongs to the second of these alongside Finland, Norway and Sweden. This sub-group was stated to have the strongest employer obligations in the OECD as well as being the most generous regarding a number of factors including *inter alia* high benefits and comprehensive employment and vocational rehabilitation programmes³⁸³.

There are five key legislative documents which comprise the rights and provisions for people with disabilities in Germany. These are outlined in Table 37 and cover the topics which will be discussed in more detail throughout this section.

³⁸¹ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*.

³⁸² Ibid.

³⁸³ Ibid.

Table 37: Key German legislative documents regarding people with disabilities.

Legislation / Policy Document	Provision
The German Constitution 1949 (Grundgesetz; GG)	Article 3: Paragraph 2 was added in 1994 and specifically prohibits discrimination on the grounds of disability. ³⁸⁴
Disability Equality Act 2002 (Gesetz zur Gleichstellung behinderter Menschen – Behindertengleichstellungsgesetz; BGG)	Aims to eliminate discrimination against people with disabilities and provide accessibility and equal participation for people with disabilities. Its main focus is on the public sector but has small implications for the private sector. All federal states have implemented their own disability equality acts ³⁸⁵ .
General Equality Act 2006 (Allgemeines Gleichbehandlungsgesetz; AGG)	Protects people with disabilities against discrimination (Section 1) and contains specific provisions for the regulation of discrimination in employment (Section 6-18) ³⁸⁶ . Also established the Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes) (Sections 25-30) ³⁸⁷ .
Social Code Book IX 2001 (Sozialgesetzbuch IX; SGB IX)	<p>§2 – Definition of disability.</p> <p>§38 – Outlines supported employment (Unterstützte Beschäftigung).</p> <p>§§39-43 – Regulation of sheltered workshops and procedure for vocational training.</p> <p>§§71-79 – Employment obligations (quota) for people with disabilities and related compensation levy (§140).</p> <p>§81 – Includes provision for reasonable accommodation and guarantees non-discrimination in employment for severely disabled people.</p> <p>§§101-103 – Established the Integration Offices (Integrationsämter) and (§§109-115) the integration services (Integrationsfachdienste)³⁸⁸.</p>
Social Code Book III (Sozialgesetzbuch III; SGB III)	Outlines the entitlement of disabled people with regards to unemployment benefits (Arbeitslosengeld) ³⁸⁹ .

³⁸⁴ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

³⁸⁵ Ibid.

³⁸⁶ Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

³⁸⁷ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

³⁸⁸ Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

9.2.3. Definition

A definition of disability is found within Social Code Book IX (SGB IX) of 2001. In section 2 of this act **a person is deemed disabled if their 'physical functions, mental capacities or psychological health are highly likely to deviate, for more than six months, from the condition which is typical for the respective age and whose participation in social life is therefore impaired'**. Additionally, it states that severely disabled people are those who have a degree of disability of at least 50 % and lawfully reside or work in Germany. The percentages are calculated according to guidelines and a list of diseases and impairments³⁹⁰ developed by medical and legal experts³⁹¹.

A special Forum of Disabled Lawyers (Forum behindertter Juristinnen und Juristen – FbJJ) disagrees with this definition from SGB IX. In the subsequent Disability Equality Act of 2002, FbJJ drafted a new definition based significantly more on the social model of disability. In practice the government decided to continue using the definition as stated in SGB IX³⁹².

9.2.4. Sheltered workshops

In Germany, sheltered workshops are regulated by §§39–43 of SGB IX. These **workshops are funded by the Compensatory Levy for Severely Disabled People**, composed of non-compliance payments for the above mentioned quota for severely disabled employees. In 2011, for example, sheltered workshops received EUR 31 million in funding via the Compensatory Levy³⁹³. Additionally, §140 of SGB IX also stipulates that companies can reduce the amount of the Compensatory Levy by hiring sheltered workshops to carry out work for them.

Initially, the **people with disabilities go through an introductory procedure to ascertain their needs and abilities**. This process lasts between four weeks and three months and aims to determine if the sheltered workshop is the suitable environment for the disabled individual and in which area the person can fit in best. At this point, people are separated into those who are capable of working in the workshop (defined by a so called minimum of economic usable work) and those who are not. The **people with disabilities who are not capable of working in the sheltered workshop usually attend the day-care centres which are affiliated with the sheltered workshops** and are not subject to social insurance contributions. Following this classification, the workshops support people with disabilities in two main areas:³⁹⁴

- Vocational and educational training sector (§40 SGB IX): These areas provide vocational training in which the disabled person can participate for two years.
- Main working sector: the area where people work after they attended vocational training. Besides the promotion of work itself, sheltered workshops are obliged to foster the transition of their employees into the regular labour market.

³⁸⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

³⁹⁰ GdB/MdE-Tabelle zu Section 30 Bundesversorgungsgesetz.

³⁹¹ Bundesministerium für Arbeit und Sozialordnung (Hg.) Anhaltspunkte für die ärztliche Gutachtertätigkeit im sozialen.

³⁹² Degener, T. (2004), Germany Baseline – Study. Evangelische Fachhochschule RWL, Bochum, p. 6.

³⁹³ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf. Retrieved 29.08.2013, 2013, from <http://www.integrationsaemter.de/publikationen/65c54/index.html>.

³⁹⁴ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

Disabled employees in sheltered workshops are paid a small refund for their work and are entitled to elect a representative body to uphold the interests of the workers in each sheltered workshop. The Regulations on Workers' Participation in Sheltered Workshops (Werkstättenmitwirkungs-Verordnung) stipulate this alongside guaranteeing the participation of persons with disabilities in sheltered workshops³⁹⁵. Additionally, regarding the workforce, sheltered workshops are mostly utilised by people with intellectual disabilities (around 77 % in 2012) and mental disabilities (around 19 % in 2012)³⁹⁶. It is further stated in an ANED report that working in sheltered employment is the only employment option for the majority of these individuals³⁹⁷.

The Federal Working Group of Sheltered Workshops (BAG WfbM) reported that, in 2013, a total of **301 093 disabled people worked in the 684 main sheltered workshops**. Of these, 33 232 disabled people benefited from the provision of vocational training; 252,415 disabled people were working in the main workshops; and 15,446 persons were in the day-care centres³⁹⁸.

Additionally, *integration projects* are also funded through the Compensatory Levy – they received around EUR 57 million in 2011³⁹⁹. These projects include integration workshops, integration companies and integration departments which employ between 25-50 % of severely disabled people. They are part of the open labour market and offer work, vocational support, advanced vocational training and ongoing employment support across the open labour market. The numbers of these projects are continuously increasing with 684 in operation in 2011, a rise of over 7 % on 2010⁴⁰⁰.

Figure 21 demonstrates how the number of disabled individuals employed in sheltered workshops and integration projects increased over the period between 2007 and 2010 – by around 7 % and 13 % respectively.

³⁹⁵ The Regulation on Workers' Participation in Sheltered Workshops (Werkstättenmitwirkungs-Verordnung) Accessed on 08/07/2014 at: <http://www.gesetze-im-internet.de/bundesrecht/wmvo/gesamt.pdf>.

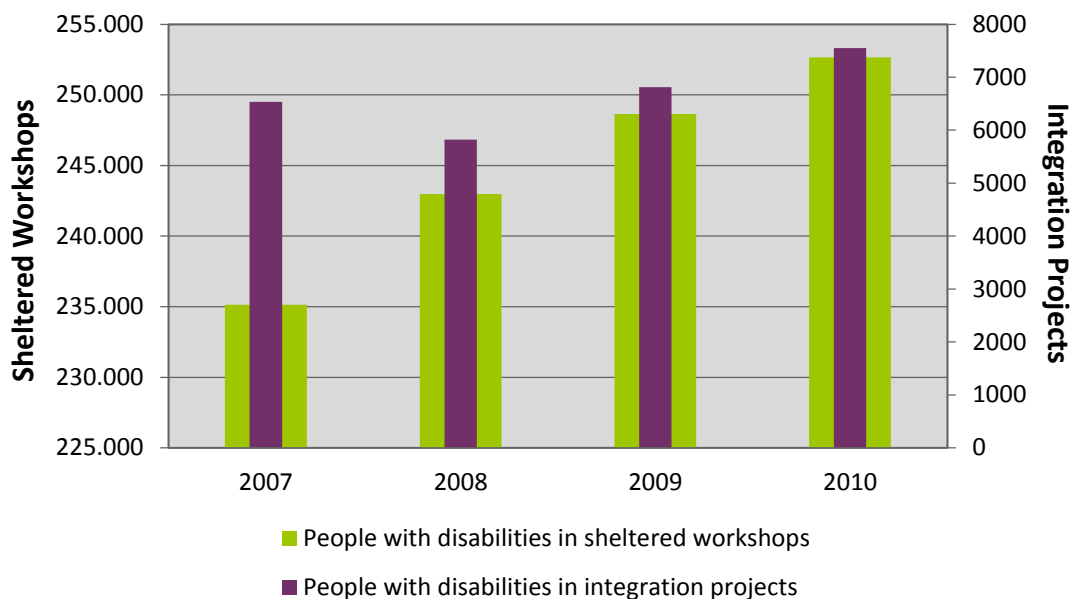
³⁹⁶ Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e.V. (2013). Die BAG WfbM. Retrieved 14.11.2013, from <http://www.bagwfbm.de/page/24>.

³⁹⁷ Waldschmidt, Anne / Lingnau, Kathrin / Meinert, Sandra. (2009). Report on the employment of disabled people in European countries – Germany. Report for ANED – Academic Network of European Disability experts. State of affairs up to November 2009.

³⁹⁸ Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e.V. (2013). Die BAG WfbM. Retrieved 14.11.2013, from <http://www.bagwfbm.de/page/24>.

³⁹⁹ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

⁴⁰⁰ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf.

Figure 21: Number of disabled individuals employed in sheltered workshops (left axis) and through integration projects (right axis) 2007-2010⁴⁰¹.

Source: Federal Ministry of Labour and Social Affairs.

9.2.5. Reasonable accommodation

The Social Code Book IX (SGB IX)⁴⁰² contains the regulations of participation and rehabilitation of people with disabilities. The legislative right for people with disabilities to be provided with reasonable accommodations in the workplace, as stipulated in the UNCRPD, is outlined in §81 (4). This chapter stipulates that **disabled employees are entitled to:**⁴⁰³

- **Adaptations of technical equipment** including operating systems, machinery and factory equipment.
- **Adaptations of the workplace** including the working environment, work schedule and working hours.
- **Preferential consideration** with regards to in-house vocational training activities.
- Facilitation of participation in external vocational training or education.

Additionally, the integration offices, integration services and supported employment play key roles regarding the provision of reasonable accommodation.

Integration offices (Integrationsämter) §§101 – 103 SGB IX

The tasks of the integration offices are outlined in §§101 – 103 of the second part of SGB IX: Law of Severely Disabled People. Integration offices have a number of responsibilities, including: 1.) to support the employment help that severely disabled people are entitled to;

⁴⁰¹ Bundesministerium für Arbeit und Soziales. (2013c). Teilhabebericht der Bundesregierung über die Lebenslagen von Menschen mit Beeinträchtigungen. Teilhabe - Beeinträchtigung - Behinderung. Retrieved 29.08.2013, from http://www.bmas.de/SharedDocs/Downloads/DE/PDF/Meldungen/2013_07_31_tilhabebericht.pdf?__blob=publicationFile.

⁴⁰² Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

⁴⁰³ Ibid.

2.) the special dismissal protection for severely disabled people; 3.) the collection and use of the compensatory levy; and 4.) the provision of seminars and awareness-raising work. In addition, they play an important overarching role in collaborating with associations of disabled people, rehabilitation agencies, employers' organisations, and trade unions to ensure these rights and activities are afforded to people with disabilities. In the federal states they are organised communally or state-run. On a national scale they work as part of the national association of integration offices (Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen; BIH)⁴⁰⁴.

Integration services (Integrationsfachdienste) §§ 109 – 115 SGB IX

The overarching aim of the integration services, of which there were 208 in 2011, is to improve the labour market participation of persons with disabilities in Germany. They are coordinated by the integration offices and are funded by charitable agencies. The services aim to sustain a link between the Federal Employment Agency, which is responsible for the placement of persons into the labour market; the integration offices (described above); and rehabilitation service providers, which are responsible for the re-integration of people with disabilities into the open labour market. The main tasks of the integration services include assessing the capabilities and the reasonable accommodation needs of the severely disabled jobseeker and subsequently preparing a profile for potential employers; facilitating the guidance of pupils with disabilities into the labour market; and facilitating the transition of sheltered workshop employees into the labour market⁴⁰⁵.

Since 2009, **the utilisation of certain integration service interventions has decreased.** This is due to the fact that instead of outsourcing unemployed people with physical disabilities to the integration services, the Federal Employment Agency is now able to place these individuals directly into the open labour market. On the other hand, however, cases regarding job security and the transition of disabled individuals from school or sheltered employment into regular employment are increasing⁴⁰⁶. For example, the number of people with intellectual disabilities accessing the services has risen by 5 % between 2005 and 2011. **In 2011 a total of 10,449 people with intellectual disabilities used the integration services**⁴⁰⁷.

Supported employment (Unterstützte Beschäftigung) § 38a SGB IX

A legal definition of supported employment was incorporated into section 38a of SGB IX in 2009. This was due to several successful pilot projects which demonstrated the instrument's efficacy⁴⁰⁸. One of the key principles of supported employment is the 'first place, then qualify' concept. In this regard, supported employment works to place people with disabilities into employment in the open labour market, subject to social insurance contributions. The disabled person is placed and trained in the company and, if necessary, is provided with continuous workplace support post-training⁴⁰⁹. This ongoing support is

⁴⁰⁴ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen - BIH. (2013). Aufgaben. Retrieved 31.10.2013, from <http://www.integrationsaemter.de/aufgaben/53c147i1p8/index.html>.

⁴⁰⁵ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

⁴⁰⁶ Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

⁴⁰⁷ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf. Retrieved 29.08.2013, 2013, from <http://www.integrationsaemter.de/publikationen/65c54/index.html>.

⁴⁰⁸ Kainz, W. J. (2012). Drei Jahre unterstützte Beschäftigung nach §38a SGB IX - eine Standortbestimmung. Behindertenrecht, 6, 193-197.

⁴⁰⁹ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

characterised by intensive job coaching and was received by 204 disabled people in 2011⁴¹⁰. In most cases, supported employment is coordinated by the local integration service.

As part of the UNCRPD obligation to provide reasonable accommodation, Member States are required to tailor these to the individual disabled person. In Germany both the integration offices and the integration services are required to take into account the individual needs of every disabled person they work with. **The integration services, for example, must employ professionals who have experience working with disabled people and currently employ around 1 400 psychosocially trained professionals at federal level.** Additionally, the legal stipulations regarding supported employment states that the individual needs of the disabled person must be met and that only professionals with an appropriate qualification can work alongside the disabled people (i.e. psychosocially trained with an additional pedagogical qualification)⁴¹¹.

The final aspect within the obligation to provide reasonable accommodation as stated under the UNCRPD, regards the concept of a 'disproportionate burden' being placed on employers through the employment of disabled people. In §81(4) SGB IX, alongside the requirements for reasonable accommodation, it is stipulated that if the implementation of reasonable accommodations is not reasonable or results in a disproportionate burden on the employer then the right of the disabled person is no longer active. However, **there is no elaboration of what might constitute a 'disproportionate burden'** in German law⁴¹².

9.2.6. Alternative labour market services

The term alternative labour market services encompasses a varied range of labour market policies including active and passive labour market policies (ALMPs & PLMPs); general measures (i.e. anti-discrimination legislation); and specific measures (i.e. quotas).

Active labour market policies

As can be seen in the following table, active labour market policies (ALMPs) are being carried out across the federal states of Germany. There are varied programmes which include training and guidance for people with disabilities (e.g. Brandenburg / Thuringia); job placement schemes (e.g. Bavaria / Mecklenburg-Western Pomerania); awareness-raising programmes (e.g. Hesse / Lower Saxony); and aiding the transition of disabled people from sheltered employment to the open labour market (e.g. Saarland).

Table 38: Programmes to integrate persons with disabilities into the labour market.

Federal State	Programmes
Baden-Württemberg	"Action 1000" programme, which was able to establish a total of 1,250 new employment relationships for juveniles with a mental disability by 31 December 2009, is continued by the "Action 1000 plus".

⁴¹⁰ Bundesarbeitsgemeinschaft der Integrationsämter und Hauptfürsorgestellen. (2012). Jahresbericht 2011/2012 Hilfen für schwerbehinderte Menschen im Beruf. Retrieved 29.08.2013, 2013, from <http://www.integrationsaemter.de/publikationen/65c54/index.html>.

⁴¹¹ Bundesministerium der Justiz. (2001). Sozialgesetzbuch (SGB) Neuntes Buch (IX). Retrieved 30.09.2013, from http://www.gesetze-im-internet.de/sgb_9/.

⁴¹² Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

Federal State	Programmes
Bavaria	Special programme entitled "Creating Opportunities" promotes integration projects and specialist integration services in order to place persons with severe disabilities in work.
Berlin	Labour market programme entitled "Persons with a severe disability – Job offensive Berlin 2010 (SchwoB 2010)", which additionally supports the creation of jobs and training places and provides additional support in the transition from school to work and in the transition from the workshop for persons with disabilities to the general labour market.
Brandenburg	Model project expansion "Transition from school to work" from the 2011/12 school year for all pupils needing special educational promotion ("mental development", "physical-motor development", "hearing" and "seeing"). The goal is to create alternatives to employment in a workshop for persons with disabilities, as well as to non-company training, by expanding school-work transition management.
Bremen	"PLUS labour market programme" provides promotion possibilities to create temporary employment relationships as a start into employment subject to mandatory social insurance.
Hamburg	Project entitled "PICO – Person individual coaching for people with a mental illness".
Hesse	The programme for special promotion of the participation of persons with severe disabilities in working life on the general labour market ran until June 2010. Because of its great success, the programme was extended and topped up from 1 January 2011 to 31 December 2012.
Mecklenburg-Western Pomerania	Model project entitled "Promotion of integration into companies and company integration management for persons with a severe disability / people on the same footing in the craft works in Mecklenburg-Western Pomerania".
Lower Saxony	11th special programme to promote the willingness of employers to recruit persons with severe disabilities with the participation of the Employment Agencies, the Job Centres and the licensed municipal institutions.
North Rhine-Westphalia	In the context of the Land programme entitled "Undertake integration!" (2008 to 2011), in cooperation with the agricultural associations, 1,183 promotions were achieved for jobs subject to mandatory social insurance for persons with a disability in integration enterprises. The programme is being continued with the aim to create an additional 250 jobs per year.
Rhineland-Palatinate	With the aid of special Land programmes to reduce unemployment among persons with severe disabilities, more than 4,000 persons with severe disabilities have received a job on the general labour market in recent years.

Federal State	Programmes
Saarland	The Saarland participation programme targets the integration of persons with severe disabilities in the general labour market. The disabled individuals targeted by this programme will have previously participated in a recognised workshop for persons with disabilities; in a scheme in the occupational training field; or were employed in the working area.
Saxony	Model programme "SUPPORT" of the Work + Disability Alliance, coordinates benefits for the integration of persons with disabilities in small and medium-sized enterprises and then offers these to enterprises on a one-stop basis.
Saxony-Anhalt	Business start-up programme for persons with a disability supports persons with a severe disability when going self-employed.
Schleswig-Holstein	Model project "Transition from school to work" for pupils of the promotion centres on mental and physical development, with the goal of enabling them to achieve a successful start to working life in line with their individual skills.
Thuringia	With the project entitled "INTEGRA 2010", disadvantaged juveniles and juveniles with a learning disability are offered the opportunity to graduate from a stay abroad during their training that is relevant to their occupation.

Source: Germany (2013), Initial reports of States parties submitted under article 35 of the Convention on the Rights of Persons with Disabilities⁴¹³.

On a national level, two of the main active labour market measures are 'Initiative Inklusion' and 'Job4000'. These multi-faceted programmes combine awareness-raising / guidance, job placement and training to increase the participation of people with disabilities in the open labour market:

Initiative Inklusion

'Initiative Inklusion' is a labour market programme specifically for the integration of people with disabilities in the open labour market. Supported by the national government, the federal states, the Federal Employment Agency, the chambers, the integration offices and the main welfare offices, 'Initiative Inklusion' was granted funding of up to EUR 100 million from 2011-2016. Guidelines on the implementation were published in 2011 and include three main aims⁴¹⁴:

- Informing severely disabled students about their employment options and supporting their transition from school to working life.
- Successfully integrating severely disabled young people into the open labour market by creating new in-company training places to support these individuals.

⁴¹³ Germany (2013), Initial reports of States parties submitted under article 35 of the Convention on the Rights of Persons with Disabilities.

⁴¹⁴ Bundesministerium für Arbeit und Soziales. (2013). Teilhabebericht der Bundesregierung über die Lebenslagen von Menschen mit Beeinträchtigungen. Teilhabe - Beeinträchtigung - Behinderung. Retrieved 29.08.2013, from http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2013-07-31-teilhabebericht.pdf?__blob=publicationFile.

- Increasing employment options in the open labour market for people with disabilities who are at least 50 years old⁴¹⁵.

A comprehensive evaluation of the 'Initiative Inklusion' activities has yet to be published.

Job4000

'**Job4000**' seeks to promote the participation of persons with disabilities in the regular labour market outside of sheltered workshops. The programme, started in 2007, is implemented by the federal states with the local integration offices as the contact point for employers⁴¹⁶. Government guidelines on 'Job4000' outlined three main targets⁴¹⁷:

At least 1 000 new jobs will be created for severely disabled people in the open labour market. Each employer who creates a job for a severely disabled person can get funding of up to EUR 36 000 over five years.

- **At least 500 new in-company training places will be created.** Employers can receive bonuses of EUR 3 000 at the start of each disabled persons training plus EUR 5 000 upon completion of training, and an additional EUR 2 500 if they transfer the individual from the training scheme to regular working condition.
- **At least 2 500 people with disabilities will use the integration services** with particular focus on severely disabled school leavers. The integration services receive EUR 250 per month for each support case.

In 2013, the Federal Agency for Labour and Social Affairs provided a progress report based on data from 2012. It showed a success rate of 178.8 %. Regarding the above targets, the following goals were achieved from 2007-2013:

- 2 141 new jobs were created. A **success rate of 214 %** compared with the original target of 1000 jobs.
- 668 in-company training places were implemented. A **success rate of about 134 %** compared with the original target of 500 places.
- 4 345 people with disabilities were supported by the integration services. 174 % of the originally target of 2 500 cases.

Another significant finding is that **two-thirds of the jobs created for people with disabilities were able to be sustained after the end of the programme.** About 40 % (122 persons) of those who participated in the training schemes were working in regular employment after the end of their training – 73 % stayed in the same company and the remainder (27 %) obtained work elsewhere. Additionally, around 50 % of the disabled people who received support from the integration services found work in the open labour market; two-third with regular work contracts and one-third with in-company training

⁴¹⁵ Bundesministerium für Arbeit und Soziales. (2011a). Bekanntmachung der Richtlinie Initiative Inklusion. Verbesserung der Teilhabe schwerbehinderter Menschen am Arbeitsleben und auf dem allgemeinen Arbeitsmarkt. Retrieved 12.11.2013, from http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/richtlinie-initiative-inklusion.pdf?__blob=publicationFile.

⁴¹⁶ Bundesministerium für Arbeit und Soziales. (2011b). Programm "Job4000". Retrieved 12.11.2013, from <http://www.bmas.de/DE/Themen/Teilhabe-behinderter-Menschen/Initiative-Jobs-ohne-Barrieren/Programm-Job4000/inhalt.html>.

⁴¹⁷ Bundesministerium für Arbeit und Soziales. (2006). Bekanntmachung der Richtlinie für "Job4000" - Programm zur besseren beruflichen Integration besonders betroffener schwerbehinderter Menschen. Retrieved 12.11.2013, from http://www.bmas.de/SharedDocs/Downloads/DE/job-4000-bekanntmachung-der-richtlinie-fuer-job-4000.pdf?__blob=publicationFile.

schemes⁴¹⁸. However, low goals set prior to the programme may have contributed to its great success⁴¹⁹.

Anti-discrimination legislation

The General Equality Act of 2006 on the protection of employees from discrimination (AGG)⁴²⁰ aims to abolish and prohibit discrimination on the grounds of race or ethnicity, gender, religion or belief, disability, age or sexual identity. It also specifically regulates discrimination in employment (section 6 to 18). Additionally, the General Equality Act established the Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes). This agency is the central focal point for people who experience discrimination in all walks of life⁴²¹.

Nearly a quarter of people who use the Federal Anti-Discrimination Agency are discriminated against because of their disability. The BRK-Allianz, an alliance of civil society organisations active regarding the UNCRPD, states that the AGG is not elaborate enough yet. The concept of reasonable accommodation (as set out in the UNCRPD) is not stipulated in the AGG. This may well result in disabled people not being hired due to the fears of employers regarding the costs of creating an accessible workplace. Additional issues are said to include the short timescale available for filing a discrimination law suit (two months); the low sanctions and the fact that only the person concerned can sue⁴²².

Additional legislation which covers anti-discrimination includes the Disability Equality Act of 2002 and the German Constitution. The former aims to provide accessibility for people with disabilities while also preventing discrimination. The latter legislative document was amended in 1994 to include the sentence prohibiting discrimination on the grounds of disability.

Quotas

In Germany all companies with more than 20 employees must abide by the 5 % quota for people with disabilities, as outlined in SGB IX (§71–79). Employers must report the number of disabled employees in their company to the Federal Employment Agency annually. If they do not comply with the quota or report to the Federal Employment Agency each employer is required to pay a compensatory levy to the integration offices. These offices then use the money according to the Compensatory Levy for Severely Disabled People (Schwerbehinderten-Ausgleichsabgabeverordnung; SchwbAV).

In 2011, the Federal Employment Agency recorded **142 847 private and public employers with employment obligations**. If all recorded employers had fulfilled the employment obligation, a total of 1 021 042 severely disabled people would be in work. In reality, however, 964 457 jobs were actually occupied by people with severe disabilities – an increase of 33 398 from 2010. In this respect, 110 039 employers did not meet the obligatory target of 5 % severely disabled employees and a third of these employers did not employ any severely disabled people. This resulted in an overall quota of 4.6 % being achieved. Public employers fared better than private employers in this respect – they

⁴¹⁸ Bundesministerium für Arbeit und Soziales. (2012). Zwischenbericht der Gesamtbetreuung zur Programm Job4000. Retrieved 29.08.2013, 2013, from http://www.bmas.de/SharedDocs/Downloads/DE/job4000-zwischenbericht-2011.pdf?__blob=publicationFile.

⁴¹⁹ Information provided by the German researcher representing the expert from the Academic Network of European Disability experts (ANED).

⁴²⁰ Abschnitt 2 AGG: Schutz der Beschäftigten vor Benachteiligung.

⁴²¹ Bundesministerium der Justiz. (2006). Allgemeines Gleichbehandlungsgesetz, AGG. Retrieved 30.10.2013, from <http://www.gesetze-im-internet.de/agg/BJNR189710006.html>.

⁴²² BRK-Allianz. (2013). Für Selbstbestimmung, gleiche Rechte, Barrierefreiheit, Inklusion! Erster Bericht der Zivilgesellschaft zur Umsetzung der UN-Behindertenrechtskonvention in Deutschland. Retrieved 29.10.2013, from http://www.brk-allianz.de/attachments/article/93/beschlossene_fassung_final_endg-logo.pdf.

reached a quota of 6.5 % severely disabled persons as opposed to the 4 % achieved by private employers⁴²³.

Passive labour market policies

In 2008, **the OECD found that around 4 % of the German population received disability benefits** – a figure which is towards the lower end of the OECD spectrum⁴²⁴. This equates to EUR 264.4 million spent on benefits and assistance mechanisms for sickness and disability in 2009, which is around 35 % of Germany's social budget. Additionally, EUR 50.2 million was spent on unemployment benefits in that year⁴²⁵.

A number of different passive supports are available for disabled people in Germany. These are outlined in the table below^{426 427}.

Table 39: Qualifying conditions and amount of benefit received for passive supports available to disabled people in Germany.

Qualifying Conditions	Amount
Disability Pension (Full and Partial)	
<p>Full: The disabled person must be unable to work for more than 3 hours a day and must have at least 5 years of contributions and 36 months of compulsory contributions in the last 5 years.</p> <p>Partial: Able to work for between 3 and 6 hours a day.</p>	<p>The pension is equal to the total individual earnings points multiplied by the pension factor (1.0 for full, 0.5 for partial) and the pension value.</p> <p>Individual earnings points: individual annual earnings divided by the average earnings of all contributors multiplied by the entry factor (1.0 minus 0.003 for every month a pension is awarded prior to the age of 63 with a maximum reduction of 0.108 – equivalent to 3 years).</p> <p>Pension value: monthly benefit amount for a year of average covered earnings, adjusted according to changes in wage.</p>
Unemployment benefit	
<p>The individual must have been in work for at least 12 months in the previous 2 years and be actively seeking work. Disabled people are eligible for this benefit.</p>	<p>60 % of the individual's net earnings is paid for between 6 and 24 months.</p>

⁴²³ N.N. (2013). Pflichtarbeitsplätze und Beschäftigungsquote 2011. Behindertenrecht, 5, 148.

⁴²⁴ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*.

⁴²⁵ Information retrieved from the website of the Federal Statistical Office. Accessed on 03/07/2014 at: <https://www.destatis.de/EN/Homepage.html>.

⁴²⁶ USA Social Security Administration, (2012), *Germany: Social Security*.

⁴²⁷ European Commission, DG for Employment, Social Affairs and Inclusion, (2013), *Your Social Security Rights: In Germany*.

Qualifying Conditions	Amount
Work Injury Benefits (Temporary and Permanent)	
<p>Temporary: 80 % of the person's last gross wage is paid from the day after the disability was incurred until recovery or the awarding of a transition benefit. If neither of these options are possible, the benefit can be paid for up to 78 weeks.</p> <p>Permanent: If the person has a total disability (100 %) the annual pension equates to 66.7 % of annual earnings prior to the disability. For partial disability, if the person incurs a loss of more than 20 % of earning capacity the pension is paid according to the assessed loss of earning capacity. There is an additional supplement for people with severe disabilities. These people can receive 10 % of the disability pension for up to two years.</p>	

9.2.7. European Social Fund

In the period 2007-2013 **Germany received EUR 2 675.5 million in European Social Fund (ESF) funding.** The German government provided an additional EUR 2 145.2 million⁴²⁸. However, there is no breakdown regarding the use of this funding specifically for disabled people. This is due to the fact that a number of interventions target more than one population group^{429 430}.

During this period, 166 actions were undertaken spanning 5 priority themes⁴³¹. Of these 166, the following actions have the potential to target and improve the employment situation of people with disabilities.

Table 40: Number of German actions, shared actions and priority themes that potentially target people with disabilities⁴³².

Priority Theme	Shared Actions	No. of Actions
Improving access to employment (A2E)	System support to social enterprises / social care sector	1
	Reducing workforce segregation	5
	Active and preventative measures on the labour market	9

43 % of Germany's total ESF budget was spent on A2E

⁴²⁸ European Commission, (2014), Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

⁴²⁹ Ibid.

⁴³⁰ Metis and University of Glasgow, (2012), Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

⁴³¹ European Commission, (2014), Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

⁴³² Ibid.

Priority Theme	Shared Actions	No. of Actions
Improving social inclusion of less favoured persons (SI)	Improving quality of life of people with a disability	1
	Pathways to employment	3
	Employability of vulnerable groups	8
	Equal opportunities of vulnerable groups	3
~24 % of Germany's total ESF budget was spent on SI⁴³³		

In reality, however, it was found that **people with disabilities were not a target group in Germany under the access to employment banner** and only 1 862 people with disabilities took part in the German social inclusion (SI) portfolio of projects⁴³⁴. Of the 18 Member States where this number was recorded, Germany was significantly below the average number of disabled participants (36 664)⁴³⁵. In turn, it was suggested that Member States that have more recently joined the EU are more likely to use ESF measures to target people with disabilities, possibly due to the lower quality mainstream provisions for people with disabilities currently in place⁴³⁶.

The following example represents good practice in the targeted use of ESF funds to support disabled people⁴³⁷.

Table 41: ESF project examples – Germany

ESF projects Germany	
Project name:	IdA II – Integration through exchange (People with disabilities)
Area of activity:	Transnational mobility and exchange projects Increase the employment opportunities of people with disabilities
Project duration:	2011 –
ESF contribution:	EUR 46.2 million

⁴³³ Ibid. This figure is based on estimations by a country expert as it was not possible to apply budgets to all actions carried out under the Social Inclusion banner.

⁴³⁴ Metis and University of Glasgow, (2012), Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

⁴³⁵ Metis and University of Glasgow, (2012), Final Synthesis Report on Social Inclusion. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

⁴³⁶ Metis and University of Glasgow, (2012), Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission, p.35.

⁴³⁷ Bundesministerium für Arbeit und Soziales (2013), IdA – Transnational mobility and exchange projects: ESF. Accessed on 08/07/2014 at: http://www.esf.de/portal/generator/9828/ida_projekte.html.

ESF projects Germany	
Total budget:	EUR 55.5 million
Participants:	4 000 (800 recognised as severely disabled)
Country:	Germany (in cooperation with other Member States)
Organisation:	Integration durch Austausch
<p>A high level programme under the banner of 'Integration through exchange IdA'. Funded through the ESF and the Federal Ministry of Labour and Social Affairs, IdA II financially supported the formation of 45 project networks with a total budget of around EUR 55.5 million. The key objectives and priorities are as follows:</p> <ul style="list-style-type: none"> • Pre-employment training, short-term skills and internships in a range of EU Member States to develop the professional maturity and improve the skills and employability of disabled students. • Internships in EU Member States to promote the transition of young unemployed people with disabilities from vocational training into the open labour market. • Promote labour market integration of unemployed adults with a disability through internships in EU Member States designed to facilitate a return to work for these individuals. • Transnational study visits by labour market experts and organisations representing disabled people to promote the above initiatives and raise-awareness of opportunities for people with disabilities. <p>These transnational employment experience opportunities typically last 1-6 months and look to cooperate with employment agencies, associations, integration services, rehabilitation agencies and organisations representing people with disabilities.</p>	

9.3. Hungary

9.3.1. Statistical background

Statistics on the employment situation and demographic of people with disabilities, and those without disabilities, are maintained by the Hungarian Central Statistical Office⁴³⁸. These data are collected via a statistical survey⁴³⁹, are presented in the report 'Disabled people in the labour market'⁴⁴⁰ and are disaggregated by gender, type of disability, level of educational attainment, economic activity, age group and geographical region. The following key statistics aim to outline the demographic of people with disabilities in Hungary and compare them with people without disabilities⁴⁴¹:

- In 2011, **22 % (1 472 000) of the Hungarian population (6 692 507), aged 15-64, had a longstanding health condition, disease or limitation.** In comparison, around 15 % of the EU population reported a longstanding health condition⁴⁴².

⁴³⁸ <http://www.ksh.hu/?lang=en>.

⁴³⁹ The methodology used observes the employment and unemployment according to the international statistical recommendation based on the concepts and definitions of the International Labour Organisation – Accessed on 16/06/2014 at: <http://www.ksh.hu/docs/eng/xftp/stattukor/munkero/emunkero113m.pdf>.

⁴⁴⁰ Hungarian Central Statistical Office, (2012), Disabled people in the labour market.

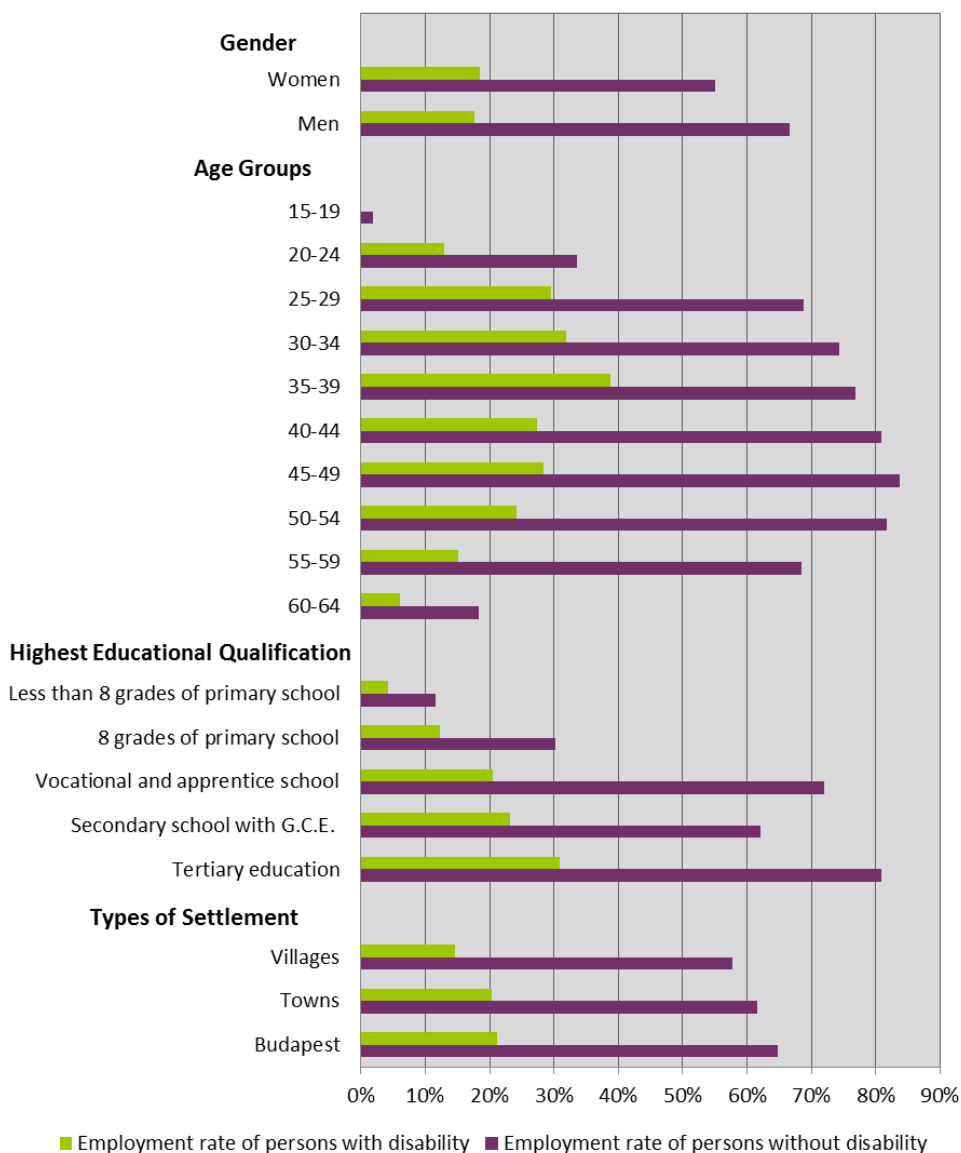
⁴⁴¹ Ibid. Statistics analysed from raw data spreadsheet.

⁴⁴² Eurostat data on 'People reporting a longstanding health problem or a basic activity difficulty by sex and age'. Data from 2011 (hlth_dp2010).

- Of these people, 52.1 % (766 823) are defined as disabled by the report (i.e. persons with limitation in work caused by longstanding (at least 6 months) health condition or disease and / or difficulties in basic activities) – 11.5 % of the Hungarian population.
- This disadvantaged group is dominated by older people (the age group 55-64 holds 53 % of all disabled people).
- Only 18 % of disabled people are employed compared with 61 % of people without a disability.
- Only 23 % of disabled people attended secondary school with just 6 % attending tertiary education. This contrasts with 34 % and 19 % of people without disabilities respectively.
- The Northern Great Plain and Central Hungary regions are home to the highest percentage of disabled people (19 %) out of the seven regions, with the Southern Great Plain (17 %) close behind. The Western Transdanubia region houses the smallest percentage of disabled people (8 %).
- 28 % of disabled people reported heart, blood pressure or circulation problems as their most serious longstanding health condition or disease. This was the most reported health concern with neck and / or back problems the second most reported (16 %).
- The most reported basic activity difficulties were 'lifting and carrying' and 'walking, climbing steps'. 29 % and 21 % of disabled people, respectively, reported these as their most serious basic activity difficulties.
- An additional 19 % of disabled people reported 'lifting and carrying' as their second most serious basic activity difficulty and 14 % reported 'bending' as their second most serious basic activity difficulty.

Figure 22 shows the differences between the employment rates of people with disabilities and those without disabilities disaggregated by highest educational qualification, age group, gender and type of settlement that they live in (i.e. village, town or Budapest). **It is notable that under all circumstances there is a significant disparity between the employment rates of disabled people and people without disabilities.** This is exacerbated by the fact that the employment rate of disabled people who have attended tertiary education is only slightly higher than the employment rate of people without disabilities who have completed no more than 8 grades of primary school (31 % vs. 30 %). However, a disabled person's chance of employment does improve slightly in correlation with higher levels of educational qualification (e.g. disabled people who attended secondary school have an employment rate of 23 % whereas those who attended tertiary education have an employment rate of 31 %).

Figure 22: The employment rate in the Hungarian population for people with and without disabilities⁴⁴³.



9.3.2. Legislation and policy background

In 2010 the OECD classified the disability policy models of its incumbent countries with Hungary being classified as having a 'corporatist' disability policy model. This group was formed of mostly continental European countries and can be interpreted as intermediate relative to the other two models (the 'social-democratic' and 'liberal' models). Within this model, benefits are accessible and generous but not to the high levels of the Nordic model. There is also quite a developed focus on vocational rehabilitation and supported employment although, as above, not to the levels of the Nordic model. Key features of this system include limited benefit flexibility and limited work incentives⁴⁴⁴.

⁴⁴³ Ibid. Statistics analysed from raw data spreadsheet.

⁴⁴⁴ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.88.

It was further determined that three sub-groups exist within the 'corporatist' model and **Hungary is classified in a sub-group alongside Austria and Belgium**. These Member States have a stronger employment orientation than the other 'corporatist' sub-groups with better developed rehabilitation and employment programmes alongside lower benefit levels⁴⁴⁵.

There are a number of key legislative and policy documents which encompass the rights, provisions and priorities for Hungary's disabled population. These documents are described in the table below and cover all the topics which will be discussed in more detail throughout this section – namely reasonable accommodation, alternative labour market policies, Universal Design and sheltered employment.

Table 42: Key Hungarian legislative and policy documents regarding people with disabilities.

Legislation / Policy Document	Provision
The Fundamental Law of Hungary (2011)	Article XV – Guarantees the fundamental rights without discrimination to people with disabilities ⁴⁴⁶ .
Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities	Provides definitions of direct and indirect discrimination (Articles 8-9). Additionally, it includes specific provisions for employment (Articles 21-23) ⁴⁴⁷ .
Act I of 2012 – the Hungarian Labour Code	Regulates the employment of people with disabilities and Article 51 directly stipulates the provision of reasonable accommodation ⁴⁴⁸ .
Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities	Article 4 includes a definition of 'persons with disabilities'. Article 15 – paragraph 2 refers to reasonable accommodation and paragraph 4 uses and defines the term 'disproportionate burden' ⁴⁴⁹ .
Act XCII of 2007 on the Ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)	Announces Hungary's ratification of the UNCRPD and its Optional Protocol. This includes legislative agreement with definitions of universal design, reasonable accommodation and discrimination on the basis of disability (Article 2). Additionally, it confirms Hungary's commitment to promote and undertake research and development of universal design (Article 4); and ensure the provision of reasonable accommodation in employment (Article 5 & 27) ⁴⁵⁰ .

⁴⁴⁵ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.89.

⁴⁴⁶ The Fundamental Law of Hungary (2011) <http://www.mfa.gov.hu/NR/rdonlyres/8204FB28-BF22-481A-9426-D2761D10EC7C/0/FUNDAMENTALLAWOFHUNGARYmostrecentversion01102013.pdf>.

⁴⁴⁷ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.HUN.3-Annex3.pdf>.

⁴⁴⁸ Act I of 2012 – the Hungarian Labour Code http://njt.hu/cgi_bin/njt_doc.cgi?docid=143164.264456.

⁴⁴⁹ Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities http://njt.hu/cgi_bin/njt_doc.cgi?docid=34535.255663.

⁴⁵⁰ Act XCII of 2007 on the Ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) http://njt.hu/cgi_bin/njt_doc.cgi?docid=110932.157855.

Legislation / Policy Document	Provision
Act CXCI of 2011 on amendments to certain acts related to changed working capacity	Details of the 'rehabilitation contribution' to be paid because of non-compliance with the employment quota for people with disabilities (Article 23). Also includes a definition of 'changed working capacity' (Article 22) ⁴⁵¹ .
Act CXCIX of 2011 on the legal status of public servants	Article 75 – stipulates that reasonable accommodation must be afforded to disabled people who work in official government entities.
Act LXXVIII of 1997 on the formation and protection of the built environment	Provides a definition of accessibility for disabled people. Also included in Government Decree No. 253 of 1997 and the ' Technical Guide to Realize an Accessible Built Environment ' ⁴⁵² .
Government Decree No. 327/2012 (XI.16.) on the accreditation of employers employing workers with changed working capacity, and on budgetary subsidies for the employment of employees with changed working capacity	Defines sheltered employment (Chapter I) and outlines options for government financial aid (Chapter III) ⁴⁵³ .
National Disability Programme 2007-2013 (and subsequently 2014-2020)	Include the principal of universal design , a term which is not presently part of Hungarian legislation. The National Disability Programme 2014-2020, currently in production, places greater emphasis on universal design ⁴⁵⁴ .

9.3.3. Definition

Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities defines 'persons with disabilities' as '**a person who has a sensory, communication, physical, intellectual or psychosocial impairment, either permanently or definitively, or any accumulation of these which, in social and other environments, results in significant barriers to interaction and restricts or inhibits effective social participation on an equal basis with others**'⁴⁵⁵.

⁴⁵¹ Act CXCI of 2011 on amendments to certain acts related to changed working capacity <http://net.jogtar.hu/jr/gen/getdoc2.cgi?dbnum=1&docid=A1100191.TV>.

⁴⁵² Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁵³ Government Decree No. 327 of 2012 on employing workers with changed working capacity, employers accreditation and financial aid granted for the employment of disabled workers http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200327.KOR.

⁴⁵⁴ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁵⁵ Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities http://nit.hu/cgi_bin/nit_doc.cgi?docid=34535.255663.

This definition represents the medical model of disability; however, within employment legislation in Hungary a new disability classification system has been developed. This updated approach emphasizes the remaining abilities of an individual disabled person instead of examining the disability rate through lost skills as was previously the case. In this respect, the network of Rehabilitation Offices, established within municipality Government Offices in July 2012, is in charge of examining and classifying people with disabilities. Within this process a disabled individual undergoes an individualised occupational rehabilitation test which assesses medical, occupational and social aspects in equal measures. A certification committee, consisting of a physician, a social rehabilitation expert and a vocational rehabilitation expert, then decides on the 'changed working capacity' of the individual disabled person⁴⁵⁶.

9.3.4. Sheltered workshops

The sheltered employment sector in Hungary is regulated by Government Decree 327/2012 (XI.16.)⁴⁵⁷. This decree **defines sheltered employment as employment by an accredited employer if the employer provides 'transit employment' or 'long-term supported employment' and at least 50 % of the employees have changed working capacity**. The two types of employment in the sheltered sector – 'transit' and 'long-term supported' – are defined as follows:⁴⁵⁸

- **Transit employment** prepares those employees who can be rehabilitated (got the classification 'employable with rehabilitation') in protected circumstances to work in the open labour market.
- **Long-term supported** employment is the preservation and development of working skills, health condition, physical and mental capabilities of people with disabilities in protected labour circumstances.

People with changed working capacity are placed in one of these groups as a result of an individualised occupational rehabilitation test. This test takes into account medical, occupational and social aspects and is judged by a certification committee consisting of social and vocational rehabilitation experts and a physician⁴⁵⁹. In addition, both the employer and employee can receive financial support from the government in the form of wage subsidies and rehabilitation pensions respectively.

The following table notes some of the benefits and concerns with regards to the sheltered employment sector in Hungary.

Table 43: Benefit and concerns surrounding the sheltered employment sector in Hungary

Benefits	Concerns
<ul style="list-style-type: none"> • Transition away from a medically focused definition for disabled people who wish to contribute to the labour market. 	<ul style="list-style-type: none"> • Too great a focus on placing people with changed working capacity in sheltered employment. This results in

⁴⁵⁶ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁵⁷ Government Decree No. 327 of 2012 on employing workers with changed working capacity, employers accreditation and financial aid granted for the employment of disabled workers http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200327.KOR.

⁴⁵⁸ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁵⁹ Ibid.

Benefits	Concerns
<ul style="list-style-type: none"> • Simplified bureaucratic processes. • Increased quality requirements for employers⁴⁶⁰. • The accreditation of sheltered sector employers (as a prerequisite to receiving subsidies) helps to guarantee a suitable working environment for disabled people⁴⁶¹. 	<p>the potential for these people to work in the open labour market being unfulfilled⁴⁶².</p> <ul style="list-style-type: none"> • The very high proportion of disabled workers in sheltered employment is said to perpetuate this population's societal segregation⁴⁶³. • The sheltered employment sector uses a large share of wage subsidies but only provides employment to a limited number of people.⁴⁶⁴ • Incentives for these entities to transfer their workers to the open labour market are weak⁴⁶⁵. This has the potential to hinder the inclusion of people with disabilities in the open labour market as these disabled individuals might become trapped in a sheltered work environment with no prospect of moving into the open labour market⁴⁶⁶.

9.3.5. Reasonable accommodation

Hungary has ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (UNCRPD) by Act XCII of 2007 on the promulgation of the UNCRPD and its Optional Protocol⁴⁶⁷. This constitutes a legal framework and cements Hungary's international and national obligation to the terms set out in the UNCRPD.

Both the UNCRPD and EU law (Directive 2000/78/EC)⁴⁶⁸ contain definitions of reasonable accommodation and the provision of reasonable accommodation is an obligation for national legislation and practice. Hungarian legislation does stipulate this obligation in numerous legislative documents although the most relevant piece of legislation in this respect, Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with

⁴⁶⁰ Ibid.

⁴⁶¹ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*, p. 80.

⁴⁶² Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED).

⁴⁶³ Kierzenkowski, R., (2012), *Towards a more inclusive labour market in Hungary*, Economics Department Working Papers No. 960.

⁴⁶⁴ Scharle, Á. (2011), "The Efficiency of Employment Rehabilitation Subsidies in Hungary", Policy Brief, No. 1, Budapest Institute for Policy Analysis.

⁴⁶⁵ Kierzenkowski, R., (2012), *Towards a more inclusive labour market in Hungary*, Economics Department Working Papers No. 960.

⁴⁶⁶ Scharle, Á. (2011), "The Efficiency of Employment Rehabilitation Subsidies in Hungary", Policy Brief, No. 1, Budapest Institute for Policy Analysis.

⁴⁶⁷ Act XCII of 2007 on the promulgation of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol. Internet references of specific legal regulations of Hungary are in Hungarian language. Accessed on 24/06/2014 at: http://njt.hu/cgi_bin/njt_doc.cgi?docid=110932.157855.

⁴⁶⁸ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000.

Disabilities, does not define reasonable accommodation but only refers to the concept⁴⁶⁹. Article 15; paragraph 2 of Act XXVI stipulates that **employers must provide a suitable working environment that is accessible to persons with disabilities**, including specific mentions for the adaptation of work tools and equipment. It is further stated that any expenses incurred should be paid from the central government budget.

The concept of reasonable accommodation is, however, specifically mentioned in other legislation. In both Act 1 of 2012 (the Labour Code: Article 51; 5) and Act CXCIX of 2011 on the Legal Status of Public Servants (Article 75; 3), it is noted that during the employment of disabled people reasonable accommodation must be provided.

Alongside the Labour Code and Act CXCIX, Government Decree No. 327/2012 (XI.16.) on the accreditation of employers employing workers with changed working capacity, and on budgetary subsidies for the employment of employees with changed working capacity, specifies *inter alia* the required circumstances of reasonable accommodation in the workplace⁴⁷⁰. This decree stipulates that **the accredited employer has to adapt the working environment, including work tools, equipment, technology and the physical environment, to the working abilities of the disabled employee**. Government financial support is available for both the adaptation of the workplace and the expense of employment.

Data on the provision of reasonable accommodation, as well as information on the reasonable accommodation requirements of people with disabilities in Hungary, were collected in 2012 by the Hungarian Central Statistical Office⁴⁷¹. As can be seen in Figure 23, these **data illustrate that the most commonly used type of reasonable accommodations are 'special working arrangements'**. The term covers amended work tasks, working hours and performance requirements and these are used by 31 % of disabled people⁴⁷². The other two types are used by a much smaller percentage of disabled people – only 7 % for 'personal assistance' and 6 % for 'special equipment or workplace adaptation'⁴⁷³. The most notable finding, however, is that **the significant majority of disabled people working in Hungary state that they do not use or require any form of reasonable accommodation** (85 % for 'personal assistance'; 89 % for 'special equipment or workplace adaptation'; and 55 % for 'special working arrangements')⁴⁷⁴.

Although a large number of disabled people state they do not use or require reasonable accommodation, it was found that the percentage of disabled individuals in employment who require, but do not use, reasonable accommodation in the form of 'personal assistance' and / or 'special equipment or workplace adaptations' is very similar to the percentage who currently benefit from these types of reasonable accommodation. For example, only 7 % of disabled people in employment currently benefit from personal assistance yet an additional 8 % require it but do not currently have access to this type of support⁴⁷⁵. This suggests that the demand for reasonable accommodation is not currently being matched by the supply.

⁴⁶⁹ Act XXVI of 1998 on the rights and equal opportunities of persons with disabilities.

⁴⁷⁰ Government Decree No. 327/2012 (XI.16.) on the accreditation of employers employing workers with changed working capacity, and on budgetary subsidies for the employment of employees with changed working capacity.

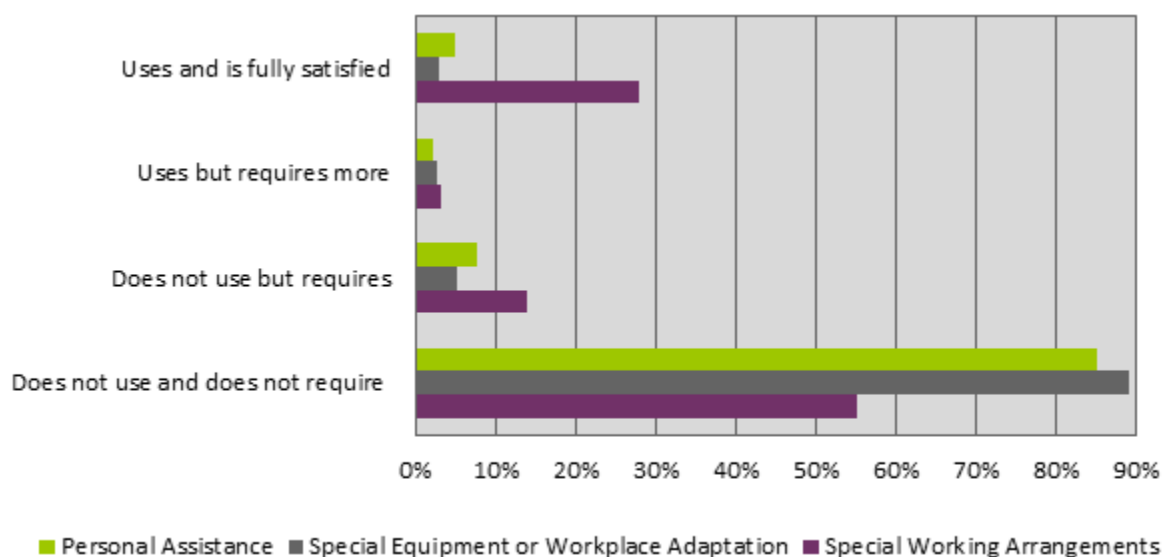
⁴⁷¹ Hungarian Central Statistical Office, (2012), Disabled people in the labour market.

⁴⁷² Hungarian Central Statistical Office, (2012), Disabled people in the labour market. *Statistics analysed from raw data spreadsheet*.

⁴⁷³ Ibid.

⁴⁷⁴ Ibid.

⁴⁷⁵ Hungarian Central Statistical Office, (2012), Disabled people in the labour market. *Statistics analysed from raw data spreadsheet*.

Figure 23: The use and requirements of people with disabilities in employment regarding reasonable accommodation measures in Hungary ⁴⁷⁶

As part of the UNCRPD obligation to provide reasonable accommodation Member States are required to tailor these to the individual disabled person. In Hungary this is demonstrated by the fact that under the same government decree (No. 327/2012) **employers have an obligation to develop, and annually renew, a personal rehabilitation plan for each disabled employee.** This is the responsibility of a rehabilitation advisor and assisted by a rehabilitation mentor. It is based on the individual classification of the disabled person (described below) and elaborates the employment characteristics of that disabled person. This includes an outline of the remaining working abilities, supported by details of suitable activities or jobs, and a personalized career progress plan. The progress plan takes into account the interests, working ability and personal preferences of the disabled person as well as the current needs of the labour market. It is also required that the rehabilitation plan describes the employment conditions and the measures necessary to identify and remove barriers to employment, alongside the elements and forms of assistance⁴⁷⁷.

In addition, the accreditation and support system of employment rehabilitation has been restructured and implemented under the banner of the 2012 National Reform Programme⁴⁷⁸. **The overarching objective of this restructuring was to increase support for the reintegration of disabled people into the open labour market.** However, it also contributes to increased focus on the individual needs of disabled people within the employment cycle.

Since July 2012, the network of Rehabilitation Offices have been working within the Government Offices of the municipalities with the task of examining people with disabilities and subsequently classifying them based on the employment related skills they hold. Additionally, based on the classification, the offices determine the benefits each disabled person is entitled to and assists the job placement services in any measures being used to promote access to employment.

⁴⁷⁶ Hungarian Central Statistical Office, (2012), Disabled people in the labour market. *Statistics analysed from raw data spreadsheet.*

⁴⁷⁷ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁷⁸ Government of Hungary, (2013), National Reform Programme 2013 of Hungary. Accessed on 24/06/2014 at: http://ec.europa.eu/europe2020/pdf/nd/nrp2013_hungary_en.pdf.

As mentioned above, the classification system for people with disabilities has also been amended. The **new approach emphasizes the remaining working ability as opposed to determining the disability rate** through lost skills, as was previously the case. This 'changed working ability' is assessed through an individualised occupational test which is equally informed by medical, occupational and social reviews.

This new system impacts the employment of people with disabilities in a number of ways. **The work of the Rehabilitation Offices simplifies the administration for people with disabilities** and shortens the process of finding a job⁴⁷⁹. Additionally, the transition away from a medically-centred classification system to a more comprehensive system provides employers with a better understanding of an individual's reasonable accommodation needs. Furthermore, the new system boasts increased transparency compared with the retired system⁴⁸⁰.

The final aspect within the obligation to provide reasonable accommodation as stated under the UNCRPD regards the concept of a 'disproportionate burden' being placed on employers through the employment of disabled people. In Hungary the term appears in Act XXVI on the Rights and Equal Opportunities of Persons with Disabilities⁴⁸¹. Within this Act disproportionality seems to be synonymous with impossibility as the employment of a disabled person is considered to be a 'disproportionate burden' if the fulfilment of the obligation make the operations of the employer impossible⁴⁸².

9.3.6. Alternative labour market services

The term alternative labour market services encompasses a varied range of labour market policies including active and passive labour market policies (ALMPs & PLMPs); general measures (i.e. anti-discrimination legislation); and specific measures (i.e. quotas).

Active labour market policies (ALMPs)

Regarding active labour market policies (ALMPs), the expenditure on employment programmes and vocational rehabilitation in Hungary is very low⁴⁸³. Public employment centres are responsible for the provision of vocational rehabilitation. The formation of rehabilitation information centres as well as rehabilitation groups and commissioners has been considered a significant achievement⁴⁸⁴. An example of this is the Vas county employment service which undertakes a large range of activities to enhance the inclusion of people with disabilities in the labour market including⁴⁸⁵:

- **Raising awareness** of the labour market opportunities to disabled people through the dissemination of information and publicity material.
- Developing and implementing individualised career plans for each disabled person.
- **Follow-up care** for the disabled person if employment is achieved.

⁴⁷⁹ Information provided by the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁸⁰ National Office for Rehabilitation and Social Affairs website – Accessed on 24/06/2014 at: <http://norsa.gov.hu/employment-benefits-available-for-persons-with-changed-working-capacity>.

⁴⁸¹ Act XXVI of 1998 on the rights and equal opportunities of persons with disabilities.

⁴⁸² Information provided by the Hungarian expert representing the Academic Network of European Disability experts (ANED) and the Hungarian National Focal Point for the Implementation of the UNCRPD (Department for EU and International Social Affairs of the Hungarian Ministry of Resources).

⁴⁸³ Kierzenkowski, R., (2012), Towards a more inclusive labour market in Hungary, Economics Department Working Papers No. 960.

⁴⁸⁴ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁴⁸⁵ Information retrieved from the Eurofound database of Social Cohesion case studies. Accessed on 25/06/2014 at: <http://www.eurofound.europa.eu/areas/socialcohesion/egs/cases/hu003.htm>.

It has further been demonstrated that, despite its expensive nature, **vocational rehabilitation in Hungary can be a financially beneficial investment from a societal perspective. When performing a social return on investment analysis (SROI) on the work of the Salva Vita Foundation in Hungary, Leathem and Veg⁴⁸⁶ found that for every Hungarian Forint (HUF) spent there was a return to society of HUF 4.77 in the subsequent five years⁴⁸⁷.**

Additionally, vocational training services can be provided for people with disabilities by regional training centres under the framework of the National Employment Service⁴⁸⁸. However, the training provided by the different regional centres is specialised for different types of disability. For example⁴⁸⁹:

- Székesfehérvár training centre is specifically for people with physical impairments;
- Debrecen training centre is specifically for people with hearing impairments;
- Miskolc training centre is specifically for people with visual impairments; and
- Pécs training centre is specifically for people with intellectual disabilities.

Alongside the fact that rehabilitation services are only available in larger settlements, these centres inhibit the integration of people with disabilities into the open labour market⁴⁹⁰. This inhibition could be due to the specialised nature of the centres. **As each centre only deals with certain types of disability, the disabled population may encounter geographical accessibility issues and the provision of services solely to disabled people may result in increased segregation from the general population.**

General measures (i.e. anti-discrimination legislation)

Prior to Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities anti-discrimination in Hungarian legislation was fragmented. The comprehensive Act CXXV amalgamates these legislative elements and provides definitions of direct and indirect discrimination (Articles 8-9), alongside detailed rules for anti-discrimination in employment including *inter alia* provisions for access to employment, in relation to training and determining and providing working conditions (Articles 21-23)⁴⁹¹. Anti-discrimination clauses are also included in other Hungarian legislative documents. The new Fundamental Law (Article XV) guarantees the fundamental rights without discrimination to people with disabilities⁴⁹². Furthermore, Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities stipulates specific provisions on the equal treatment of disabled persons⁴⁹³.

⁴⁸⁶ Leathem, K., and Veg, Katalin., (2007), Salva Vita Foundation – a Social Return on Investment Analysis. Salva Vita Foundation – Lodestar, UK.

⁴⁸⁷ Academic Network of European Disability experts (ANED), (2009), Report on the employment of disabled people in European countries: Hungary.

⁴⁸⁸ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁴⁸⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁴⁹⁰ Academic Network of European Disability experts (ANED), (2009), Report on the employment of disabled people in European countries: Hungary.

⁴⁹¹ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.HUN.3-Annex3.pdf>.

⁴⁹² The Fundamental Law of Hungary (2011).

⁴⁹³ Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities http://nit.hu/cgi_bin/njt_doc.cgi?docid=34535.255663.

In practice, however, it is suggested that the possibilities outlined in the Articles of this anti-discrimination legislation are not supported or complemented by affirmative action⁴⁹⁴.

Specific measures (i.e. quota)

Act CXCI of 2007 on amendments to certain acts related to changed working capacity outlines the Hungarian quota system: if an employer employs in excess of 25 employees at least 5 % of those employees must have a changed working capacity (Article 23)⁴⁹⁵. If this is not the case the employer has to pay a 'rehabilitation contribution' (rehabilitációs hozzájárulás). In 2010 the rehabilitation contribution increased greatly, almost quintupling to HUF 964 500 per employee per year⁴⁹⁶. This contribution in lieu of hiring people with disabilities is added to the Rehabilitation Fund which gives financial support to non-governmental organisations (NGOs) who run sheltered workshops or employment services⁴⁹⁷.

On the other hand, employers who fulfil the quota obligations can receive 'State Support for Increased Rehabilitational Employment'⁴⁹⁸. This is intended to cover some of the costs of employing people with disabilities. In addition, special certification for tax allowances is available for these employers⁴⁹⁹.

Passive labour market policies

A number of different passive supports are available for disabled people in Hungary. These are outlined in the table below and are covered in Act CXCI of 2011^{500,501}:

Table 44: Hungarian passive financial support for disabled individuals – qualifying conditions and amount of support.

Qualifying Conditions	Amount
Disability Pension	
<p>The individual must have a loss of at least 40 % of working capacity.</p> <p>There are 4 categories of disability based on the health status of the individual and the possibility of rehabilitation. They are:</p> <ul style="list-style-type: none"> • B2 and C2, which apply to individuals with the possibility of different degrees of rehabilitation; • D, where employment is considered 	<p>Category B2 disabled individuals receive 40 % of their average earnings. C2 receive 60 %, D, 65 % and E, 70 %.</p> <p>Minimum pension: is 30 % of monthly minimum wage for category B2. 45 % for C2, 50 % for D and 55 % for E.</p> <p>Maximum pension: 45 % of monthly minimum wage for B2 and 150 % for C2,</p>

⁴⁹⁴ Kajtar, E., (2007), Disability and Social Segregation – How Inclusive is the Hungarian Labour Market?, University of Pecs, Hungary.

⁴⁹⁵ Act CXCI of 2011 on amendments to certain acts related to changed working capacity.

⁴⁹⁶ Kierzenkowski 2012 – Towards a more inclusive labour market in Hungary. Economics Department of the Organisation for Economic Co-operation and Development (OECD).

⁴⁹⁷ Kajtar, E., (2007), Disability and Social Segregation – How Inclusive is the Hungarian Labour Market?, University of Pecs, Hungary.

⁴⁹⁸ Kajtar, E., (2007), Disability and Social Segregation – How Inclusive is the Hungarian Labour Market?, University of Pecs, Hungary.

⁴⁹⁹ Information retrieved from ANED DOTCOM: the Disability Online Tool of the Commission. Accessed on 25/06/2014 at: <http://www.disability-europe.net/dotcom>.

⁵⁰⁰ Act CXCI of 2011 on amendments to certain acts related to changed working capacity <http://net.jogtar.hu/jr/gen/getdoc2.cgi?dbnum=1&docid=A1100191.TV>.

⁵⁰¹ European Commission, DG for Employment, Social Affairs and Inclusion, (2013), Your Social Security Rights: In Hungary. Accessed on 30/06/2014 at: http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Hungary_en.pdf.

Qualifying Conditions	Amount
<p>possible alongside constant support; and</p> <ul style="list-style-type: none"> E, where the insured has suffered significant health damage, is not self-sufficient and needs constant attention. 	<p>D and E⁵⁰².</p>
Rehabilitation Pension	
<p>The individual must have a loss of at least 40 % of working capacity.</p> <p>There are two categories of disability:</p> <ul style="list-style-type: none"> B1 - full rehabilitation is possible. In this case, the pension is provided for the period required for rehabilitation; upon the point of full rehabilitation the individual is no longer classed as someone with changed working capacity and is no longer provided with a rehabilitation pension. C1 - In this case, rehabilitation is not recommended; the individual cannot be rehabilitated; or the person reaches the retirement age within five years. As such, the individual receives a pension for the remainder of their life. 	<p>Category B1 disabled individuals receive 35 % of average earnings. C1 receive 45 %.</p> <p>Minimum pension: 30 % of monthly minimum wage for category B1 and 40 % for C1.</p> <p>Maximum pension: 40 % of monthly minimum wage for category B1 and 50 % for C1.</p>
Work Injury Benefits (Temporary and Permanent) ⁵⁰³	
<p>Temporary: monthly benefit of 100 % of the daily gross average earnings of the previous month (or 90 % in the case of a road accident).</p> <p>Permanent: paid to those with a loss of working capacity of more than 13 %. For those with a loss of working capacity between 16-25 % the allowance is 8 % of monthly average earnings. 26-35 % loss of working capacity results in an allowance of 10 %, 15 % for 36-49 % loss of working capacity and 30 % of monthly average earnings for 50-66 % loss of working capacity.</p>	

Regarding the practical use of these supports, Hungary has the second highest percentage of disability benefit recipients in the working-age population in the

⁵⁰² As of 01/01/2014 the monthly minimum wage in Hungary was 101,500 forints (HUF). Retrieved from the FedEE (the Federation of European Employers) website on 30/06/2014 at: <http://www.fedee.com/pay-job-evaluation/minimum-wage-rates/>.

⁵⁰³ USA Social Security Administration, (2012), Hungary: Social Security.

OECD (nearly 12 % in 2010)⁵⁰⁴. This high number of disability benefit recipients is one of the key reasons for the weak labour market activity rates of disabled people⁵⁰⁵.

9.3.7. European Social Fund

In the period 2007-2013 **Hungary received EUR 3 293.6 million in European Social Fund (ESF) funding**. The Hungarian government provided an additional EUR 581.3 million⁵⁰⁶. However, there is no breakdown regarding the use of this funding specifically for disabled people. This is due to the fact that a number of interventions target more than one population group and that data availability and evaluation issues persisted across the vast majority of Hungarian interventions⁵⁰⁷.

One hundred and thirty eight interventions were undertaken over this period. These interventions span 24 actions within 5 priority themes⁵⁰⁸. Of these 24, interventions under the following actions have the potential to target people with disabilities:

Table 45: Number of Hungarian actions, shared actions and priority themes that potentially target people with disabilities⁵⁰⁹

Priority Theme	Shared Actions	No. of
Improving access to employment (A2E)	System support to social enterprises / social care sector	1
	Health and safety at the workplace	1
	Modernisation and strengthening of labour market institutions	2
	Active and preventative measures on the labour market	2
	Public Health awareness and sector reform	2
	Third sector support (Social Partners / NGOs)	1
44 % of Hungary's total ESF budget was spent on A2E		
Improving social inclusion of less favoured persons (SI)	Equal opportunities of vulnerable groups	2
	Social inclusion or integration of disadvantaged	2
6 % of Hungary's total ESF budget was spent on SI		

Issues were encountered regarding the effective implementation of interventions in Hungary. It was found, for example, that because A2E interventions were designed prior to

⁵⁰⁴ Organisation for Economic Co-operation and Development (OECD), (2011), OECD Employment Outlook 2011.

⁵⁰⁵ Kierzenkowski 2012 – Towards a more inclusive labour market in Hungary. Economics Department of the Organisation for Economic Co-operation and Development (OECD).

⁵⁰⁶ European Commission, (2014), Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

⁵⁰⁷ Ibid.

⁵⁰⁸ Ibid.

⁵⁰⁹ Ibid.

the financial crisis the implementation of these interventions could not cope with the decrease in labour demand⁵¹⁰.

Additionally, **some actions which could impact on the employment situation of people with disabilities were neglected**, including 'improving quality of life of people with a disability'; 'pathways to employment'; 'employability of vulnerable groups'; and 'reducing workforce segregation'⁵¹¹. This is perhaps due to the overall aims for the utilisation of the ESF in the period 2007-2013 in Hungary. Unlike in Belgium or the Netherlands, for example, where the ESF was used almost solely to stimulate innovative policy interventions, Hungary used ESF funding at a higher level to develop human capital and strengthen institutional capacity⁵¹².

The following example represents good practice in the targeted use of ESF funds to support disabled people⁵¹³.

Table 46: ESF project examples – Hungary

ESF Projects Hungary	
Project name:	Consensus about the application of an employment rehabilitation model
Area of activity:	Opening pathways to work and Active inclusion
Project duration:	March 2010 – November 2011
ESF contribution:	65 306 279 HUF
Total budget:	71 758 286 HUF
Participants:	212 (51 employed)
Country:	Hungary
Organisation:	Konszenzus Foundation, Fejér County

A project run by the Konszenzus Foundation in Fejér County worked with 212 participants and sought to foster cooperation between non-governmental, public and private organisations to ensure sustainable and inclusive job creation for people with disabilities. In collaboration with Grundfos (a pump manufacturer), the Foundation put a previously developed employment rehabilitation model into practice.

Out of 212 applicants, 51 people with disabilities were offered a job and professional support for at least 12 months of employment. Additionally, training programmes and a mentor service was implemented to help develop key skills; help integration; and ultimately guide participants back to work. 29 disabled individuals also completed computer literacy courses. Furthermore, applicants that were not offered a job or were not involved in any training could still attend weekly motivational training.

⁵¹⁰ Metis and University of Glasgow, (2012), Final Synthesis Report on Access to Employment. Carried out by the ESF Expert Evaluation Network on behalf of the European Commission.

⁵¹¹ European Commission, (2014), Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

⁵¹² European Commission, (2014), Preparatory study for the ex post evaluation of ESF 2007-2013: Final Report.

⁵¹³ European Commission online: European Social Fund: Inclusive model boosts employment. (2012). Accessed on 01/07/2014 at: <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=761>.

9.4. Spain

9.4.1. Statistical Background

The following data was collected in 2011 through an ad hoc module of the EU Labour Force Survey on employment of disabled people. The module used two definitions for disability (i) people having a basic activity difficulty (such as seeing, hearing, walking, communicating); and (ii) people having a work limitation caused by a longstanding health condition and/or a basic activity difficulty. The findings of the Eurostat data are that:

- **In 2011, 7 % (2 003.47) of the Spanish population (46 667 174), aged 15-64, had a longstanding health condition, or basic activity difficulty. In comparison, around 12 % of the EU population reported a longstanding health condition⁵¹⁴.**
- People with longstanding health condition, or basic activity difficulty are mainly older people (the age group 55-64 holds 17 % of all disabled people).
- Only 34 % of people with a longstanding health condition, or basic activity difficulty are employed compared with 62 % of people without a longstanding health condition, or basic activity difficulty.
- Only 35 % of people with a longstanding health condition, or basic activity difficulty have attended tertiary education. This contrasts with 43 % of people without a health condition, or basic activity difficulty.
- 7 % of the Spanish population reported longstanding problems with back their or neck. This was the most reported health concern with legs and feet problems the second most reported (3 %).
- In 2011, there were 730,494 people in full time employment who were limited by health conditions or difficulty in a basic activity. In contrast there were 179,215 in part time employment in the same group.

In addition, the Employment Observatory under the Ministry of Employment and Social Security maintains monthly and annual statistics on the employment situation for people with disabilities. The Observatory's 2014 labour market report provides recent data on the age, sex, type of disability and education level of people with disabilities.

According to the report the number of disabled people in employment increased by 1.26 million (7.7 %) between 2010 and 2011. The proportion of people with disabilities in employment who are older than 45 years increased from 58 % of the total in 2008 to 62 % in 2013. Overall, disabled men are more likely to be employed than disabled females. The disparity between employed disabled women and men is highlighted by the fact that between 2010 and 2011 there were 113 thousand less disabled women employed compared to men between the ages 25 and 45⁵¹⁵.

However, there is a larger proportion of employed women above 45 years old (65 %) compared to employed men (59 %) in the same age group⁵¹⁶. Furthermore, the Spanish Employment Observatory notes that since 2008 the number of women disabled in employment has increased by 7 % compared to men. If this trend continues it is likely that the disparity between the participation of disabled male and female people in employment will decline.

⁵¹⁴ <http://epp.eurostat.ec.europa.eu/portal/page/portal/health/disability/data/database>.

⁵¹⁵ Ibid. p 8.

⁵¹⁶ 2013 Job Market Report for Persons with Disabilities state data 2012. Employment Observatory. p. 8. http://www.sepe.es/contenido/conocenos/publicaciones/pdf/IMT_2013_Datos_2012_Estatal_Discapacitados.pdf.

Regarding the age variation of disabled people in employment between 2010 and 2011, the Spanish Employment Observatory found that employment among all age groups increased, especially amongst the 25 – 45 age group. Similar breakdowns in the percentage of male and female disabled people in employment are observed in all Spanish regions. Only a small number of regions show significant differences in the gender distribution of disabled people in employment. For example, in Foral de Navarra and the Basque Country, males account for around 60 % of disabled people in employment, while in the Canary Islands and the autonomous cities Ceuta and Melilla, the majority of disabled people in employment are female.

Turning to the most common types of disability in the labour market, the Spanish Employment Observatory notes that **55.4 % of the total number of employed disabled people suffer from a physical disability**. In contrast, 12.8 % of disabled people in the labour market have a psychological disorder and only 1 % suffer from sensory deficiency. The percentages are similar for both males and females as shown in Table 47.

Table 47: Number of people in employment by type of disability and gender (thousands)⁵¹⁷

Types of disability	Men	Women	Total	% variation 2011/2010
Physical and other	384.3	314.4	698.8	6.51
Psychological	220.5	181.8	402.3	10.16
Sensory	83	77.9	160.9	6.91

Males represent the largest group in accounting for all categories of disability. The difference between the number of male and female people with sensory disabilities is small (3 %), compared to physical disabilities (10 %). The largest group of disabled people in employment are males with physical disabilities (30.5 %), while the smallest group of disabled people in employment are females with sensory disabilities (6 % of the total). In the period 2008-2012, there was a larger increase in the number of employed females with physical disabilities (57 %) compared to the total (52 %). In 2013, there were 90 100 new cases of people with physical disabilities who entered the labour market (47 % of which had a physical disability)⁵¹⁸.

Distribution of recruitment

The number of people with disabilities recruited in the Spanish labour market increased by 2.7 % in 2010 and by 9.6 % in 2011; although in 2012 this number decreased by 3.3 %, which represented a larger decline than the total decrease in the number of employment contracts (1.3 %). In 2012, 150 331 employment contracts were signed by people with disabilities, which represented 1.1 % of the total number of contracts registered with the Public Employment Services (14 240,991)⁵¹⁹.

Although there was a general decline of 3.3 % in recruitment during the period 2011 – 2012, the decline was not equally distributed across the Spanish autonomous communities and provinces. For example, 15 provinces recorded positive annual growth in recruitment. The largest increase was in Santa Cruz de Tenerife where recruitment of disabled people increased by 12.4 %. Other provinces such as Segovia, Badajoz and Zaragoza had

⁵¹⁷ Ibid. p 8.

⁵¹⁸ Ibid. p 9.

⁵¹⁹ Ibid. p 11.

increases above 4.5 %. There was a significant decrease in recruitment in Ceuta (31.8 %), as well as the provinces of Zamora, Salamanca and Huesca where recruitment decreased by over 22 %.

With regard to the recruitment of people with disabilities, in autonomous communities in Castilla y León, Galicia and Castilla-La Mancha, recruitment decreased by more than 10 % (12.6 %, 10.5 % and 10.1 %, respectively)⁵²⁰. The autonomous city of Melilla, and the communities of Canarias, Murcia and Valencia are the only places where the number of employment contracts for disabled people increased.

The recruitment of people with disabilities increased by 27.7 % in the period 2003 to 2012. The number of disabled people in employment peaked in 2007, with 164 039 contracts, before it declined; but not to levels lower than pre-2003. It should also be noted that in the period 2008-2012, overall recruitment decreased, however the percentage decrease in employment was larger for non-disabled people than for people with disabilities (14.2 % compared to 1.92 % for people with disabilities).

In summary, there was a general increase in the proportion of people with disabilities in the Spanish labour market in the period 2003 – 2012 (i.e. from 0.8 % to 1.1 %). Moreover, the employment of males and females increased, but the increase was higher for females (i.e. 56.2 % over the last decade compared with 13.1 % for males)⁵²¹.

9.4.2. Legislation and policy background

In 2010 the OECD classified the disability policy models of its incumbent countries with Spain being classified as having a 'corporatist' disability policy model. This group was formed of mostly continental European countries and can be interpreted as intermediate relative to the other two models (the 'social-democratic' and 'liberal' models). Within this model, benefits are accessible and generous but not to the high levels of the Nordic model. There is also quite a developed focus on vocational rehabilitation and supported employment although, as above, not to the levels of the Nordic model. Key features of this system include limited benefit flexibility and limited work incentives⁵²².

It was further determined that three sub-groups exist within the 'corporatist' model and **Spain is classified in a sub-group alongside the Czech Republic, Ireland, Italy, Portugal and the Slovak Republic.** These Member States have comparatively underdeveloped employment and rehabilitation policies. This makes for a stronger compensation orientation even though the sickness benefit level is lower than in the other subgroups of this cluster (but with longer sickness benefit payment duration)⁵²³.

The evolution of Spanish disability law towards a social model started in 1982 with the passing of the law on the Social Integration of Disabled Persons⁵²⁴ and led to the introduction of a law on equal opportunities, non-discrimination and universal accessibility of people with disability and its implementing rules⁵²⁵.

Article 14 of the Spanish Constitution states that '**Spanish people are equal before the law without any discrimination on grounds of birth, race, sex, religion, or any other condition or personal or social circumstance**'. Articles 38, 49 and 50 of the law

⁵²⁰ Ibid. p 11.

⁵²¹ Ibid. p 12.

⁵²² Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.88.

⁵²³ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.89.

⁵²⁴ Law 13/1982 on Social Integration of Disabled People <http://sid.usal.es/idocs/F3/3-1161/lismi.PDF>.

⁵²⁵ Law 51/2003, 2 December, on Equal Opportunities, Non-Discrimination and Universal Accessibility of People with Disability. <http://sid.usal.es/idocs/F3/LYN5979/3-5979.pdf>.

on Social Integration of Disabled People use the word discrimination but do not provide enforcement measures. In 2003, **Spain** passed the LIONDAU law, which provided a legal basis for implementing anti-discrimination measures in the labour market. This was amended in 2011 with the adoption of law 26/2011⁵²⁶, which incorporated the International Convention on Human Rights of People with Disabilities under Spanish law⁵²⁷.

Table 48: Key Spanish legislative and policy documents regarding people with disabilities.

Legislation / Policy Document
Law on the Social Integration of Disabled Persons 1982 ⁵²⁸
Law on equal opportunities, non-discrimination and universal accessibility of people with disability and its implementing rules ⁵²⁹
Article 14 of the Spanish Constitution
Law 51/2003, of 2 December, on Equal Opportunities, Non-discrimination and Universal Accessibility for People with Disabilities ⁵³⁰
Law 26/2011, of 1 August, normative adaptation to the International Convention on the Rights of Persons with Disabilities ⁵³¹ .
International Convention on Human Rights of People with Disabilities under Spanish law
Art. 16.2 of the Workers' Statute ⁵³²
Law 3/2007 on effective equality of women and men
Art. 27.2 of Law 62/2003
Art. 136.1 and 136.2 of the General Social Security Law ⁵³³

Non-discrimination in employment

National legislation applies the principle of non-discrimination to all sectors of public and private employment, including contract work, self-employment and holding statutory office. Article 16.2 of the Workers' Statute provides that (public and private) employment services guarantee 'the principle of equal treatment in access to employment, and may not make any discrimination on grounds of origin, including racial or ethnic origin, gender, age, (...) religion or beliefs, (...) sexual orientation, (...) or disability'⁵³⁴. Accordingly, any job

⁵²⁶ Law 26/2011, of 1 August, of Normative Adaptation to the International Convention on the rights of persons with disabilities. <http://www.boe.es/boe/dias/2011/08/02/pdfs/BOE-A-2011-13241.pdf>.

⁵²⁷ ANED DOTCOM Disability Online Tool of the Commission. http://www.disability-europe.net/dotcom?term%5B%5D=218&term%5B%5D=157&term%5B%5D=145&term%5B%5D=177&term%5B%5D=178&term%5B%5D=179&term%5B%5D=180&view_type=matrix.

⁵²⁸ Law 13/1982 on Social Integration of Disabled People <http://sid.usal.es/idocs/F3/3-1161/lismi.PDF>.

⁵²⁹ Law 51/2003, 2 December, on Equal Opportunities, Non-Discrimination and Universal Accessibility of People with Disability. <http://sid.usal.es/idocs/F3/LYN5979/3-5979.pdf>.

⁵³⁰ http://administracionelectronica.gob.es/pae/Home/pae_Estrategias/pae_Accesibilidad/pae_normativa/pae_eInclusion_Normativa_Nacional.html?idioma=en#.VBrgBfldV2I.

⁵³¹ Law 26/2011, of 1 August, of Normative Adaptation to the International Convention on the rights of persons with disabilities. <http://www.boe.es/boe/dias/2011/08/02/pdfs/BOE-A-2011-13241.pdf>.

⁵³² Law on the Statute of Workers. Ministry of Labour and Social Security. 1995. http://noticias.juridicas.com/base_datos/Laboral/rdleg1-1995.t1.html.

⁵³³ Royal Legislative Decree 1/1994 of 20 June 1994 approving the recast General Social Security Act.

⁵³⁴ Law on the Statute of Workers. Ministry of Labour and Social Security. 1995. http://noticias.juridicas.com/base_datos/Laboral/rdleg1-1995.t1.html.

advertisement that does not respect this Article constitutes direct discrimination. This includes cases where an employer advertises a vacancy directly without using an employment service⁵³⁵. The Workers' Statute has been amended several times (1983, 1984 and 1994).

Indirect discrimination is defined under Law 62/2003 (Art.28.1.c) as situations 'where **a legal or administrative provision, a clause of a collective agreement or contract, an individual agreement or a unilateral decision, though apparently neutral, would put a person of a certain racial or ethnic origin, religion or beliefs, disability, age or sexual orientation at a particular disadvantage in relation to others, provided that such provision is not objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary**'⁵³⁶. Some Articles of the Workers' Statute were updated under law 62/2003 Law⁵³⁷. For example, Article 4 on Labour Rights, section 2c, states that workers may not be discriminated against based on a disability. Additional articles have been reworded after the passing of Law 3/2007⁵³⁸, to improve equality between women and men. Article 4.2e states that privacy and dignity must be preserved, as well as protection against mobbing based on characteristics such as disability.

9.4.3. Definition

There are two definitions of disability provided under general legislation on social security and disability:

- as regards contributory benefits, the 'situation of workers who, after undergoing prescribed treatment and receiving medical discharge, suffer severe anatomical or functional impairment that may be objectively determined and is likely to be permanent, and that diminishes or removes their ability to work'; and
- as regards non-contributory benefits, 'impairments likely to be permanent, whether physical or mental, congenital or otherwise that alter or render ineffective the physical, mental or sensory capacity of those suffering from them' (Art. 136.1 and 136.2 of the General Social Security Law)⁵³⁹.

9.4.4. Sheltered workshops

There are two forms of support for disabled employment in **Spain**: semi-sheltered employment in the ordinary labour market and sheltered employment centres. Disabled people are supported by two types of employment measures in the regular labour market:

- (Public and private) companies with more than 50 employees are obliged to give 2 % of jobs to disabled people.
- **Semi-sheltered employment**: public authorities provide various forms of aid (subsidies, discounts to companies' social security contributions, subsidies to adapt workstations and aids of other kinds) for various types of employment contract governed by general labour regulations: indefinite contracts, temporary contracts and stand-in contracts for the substitution of other disabled workers⁵⁴⁰.

⁵³⁵ Cachon L. Report on Measures to Combat Discrimination: Spain. p 29. http://www.non-discrimination.net/content/media/2009-ES-Country%20Report%20LN_final.pdf.

⁵³⁶ Cachón, 2009, p.30.

⁵³⁷ Law 62/2003 of 30 December on fiscal, administrative and social measures. Spanish Official Journal (BOE) in Chapter III.

⁵³⁸ Law 3/2007 on effective equality of women and men. http://www.wipo.int/wipolex/en/text.jsp?file_id=184483.

⁵³⁹ Royal Legislative Decree 1/1994 of 20 June 1994 approving the recast General Social Security Act.

⁵⁴⁰ Cachón, 2009, p.42.

In sheltered employment centres, disabled people have a 'special employment relationship', which is reflected in their employment contract. For example, some sheltered workers may not be granted employee status in the terms of their employment contract in recognition of their limited capacity to work.

Sheltered employment centres can enter into contracts with 'collaborating companies' in the ordinary labour market to allow disabled workers at the centre to provide their services in such companies. These are known as 'employment enclaves' and form bridges between the sheltered labour environment of the centres and the ordinary labour market.

Under the terms of Royal Decree 290/2004, companies choosing to apply this measure should enter into a commercial or civil contract with a Special Employment Centre or a self-employed worker with a disability for the supply of the raw materials, machinery, equipment or other assets needed for their normal activities. Collaborating companies are required to apply for an 'exception declaration' from the employment services and for authorisation to apply the alternative measures. They must also produce an annual report on the performance of the alternative measure authorised. The employment enclave may be established for a minimum of 3 months and a maximum of 3 years, with a maximum extension of 6 years. If the company is not employing 2 % of people with disabilities by the end of this period, it must apply for a new declaration⁵⁴¹.

9.4.5. Reasonable accommodation

Reasonable accommodation is defined under Law 51/2003⁵⁴² as 'measures to adapt the physical, social, and attitudinal environment to the specific needs of persons with disabilities which effectively and practically, without involving a disproportionate burden, facilitate accessibility or participation for a person with a disability on the same terms as for other citizens'. The scope of this definition includes telecommunications, built-up public spaces and buildings, transport, goods and services available to the public, and relations with public administration⁵⁴³.

Equal treatment and non-discrimination have been consolidated as basic principles of education in Spain. One of the principles of equality listed in the *Organic Law on Education* (Law 2/2006) refers to equal treatment and equal opportunities as 'fairness, guaranteeing equality of opportunities, educational inclusion and non-discrimination, and acting to offset personal, cultural, economic and social inequalities, especially those due to disability'. However, the law makes no reference to reasonable accommodation.

With regard to the provision of reasonable accommodation in access to and supply of goods and services which are available to the public, Law 51/2003 provides (in its sixth final provision) that existing goods and services 'liable to reasonable adjustment' must be adjusted before 2018 if they are public and before 2021 if they are private (implemented by Royal Decree 366/2007)⁵⁴⁴.

For reasonable accommodation in the provision of housing, public spaces and infrastructures, Law 51/2003 provides (in its ninth final provision) that existing developed

⁵⁴¹ http://www.grupofundosa.es/sites/pregrupofundosa.e-presentaciones.net/files/Resumen%20explicativo%20Medidas%20Alternativas_en.pdf.

⁵⁴² Article 7. Law 51/2003. Equal Opportunities, Non-Discrimination and Universal Accessibility of People with Disability.

⁵⁴³ Cachón, 2009, p.37.

⁵⁴⁴ Royal decree 366/2007, of 16 March, by which establish the conditions of accessibility and no discrimination of the people with disability in his relations with the General Administration of the State (BOE of 24).

public areas and housing 'liable to reasonable adjustment' must be adjusted before 2021 (implemented by Royal Decree 505/2007)⁵⁴⁵.

In addition, Spanish law, transposing Directive 2000/78⁵⁴⁶, has implemented the duty to provide reasonable accommodation for disabled people both in general terms (in Law 51/2003 on equal opportunities for the disabled) and specifically in relation to employment (in Law 13/1982 on the social integration of the disabled). Law 49/2007 (on offences and sanctions in the field of equality for disabled people)⁵⁴⁷ establishes **sanctions in the event of a breach of the duty to provide reasonable accommodation**⁵⁴⁸. Law 49/2007 makes it a serious offence to fail to provide reasonable accommodation and establishes a maximum fine of EUR 1 million. Such a breach does not equate to a form of discrimination.

For the purpose of determining whether employers are disproportionately burdened by reasonable accommodation, Article 7.c of Law 51/2003 states that 'In order to determine whether a burden is proportionate, the following shall be taken into account: the cost of the measure, the discriminatory effects for disabled persons if it is not adopted, the structure and characteristics of the person, entity or organisation that is to put it into practice, and the possibility of obtaining official funding or any other aid. To this end, the competent public authorities may establish a public aid plan to help cover the costs arising from the obligation to make reasonable accommodation'⁵⁴⁹.

The definition of 'disproportionate burden' is the same for employment and areas outside employment. Article 27.2 of Law 62/2003 provides that measures for the application of the principle of equal treatment apply to every person, both in the public and the private sector⁵⁵⁰.

Although Directive 2000/78 only refers to the field of employment, discrimination on the grounds of religion or belief, disability, age or sexual orientation is prohibited in all areas, public and private. This applies not only to the fields mentioned in Directive 2000/43 (social protection, social advantages, education, access to and supply of goods and services available to the public, including housing), but also to other possible fields, even if there is not an explicit anti-discrimination provision, because of the general and direct applicability of Article 14 of the Constitution⁵⁵¹.

9.4.6. Alternative labour market services

In **Spain**, alternative labour market services aim to create employment for people with disabilities through companies working with bodies such as Special Employment Centres, associations of public utility and foundations involved in promoting employment for people with disabilities. Special Employment Centres can take a range of legal forms, such as associations, commercial companies, foundations, etc. **The main characteristic of such centres is that at least 70 % of their employees must have a disability**⁵⁵². For this reason, companies that adopt the alternative measures have a temporary exemption from

⁵⁴⁵ Cachón, 2009, p.37.

⁵⁴⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>.

⁵⁴⁷ Law 49/2007 on offences and sanctions in the field of equality for disabled people. <http://www.boe.es/boe/dias/2007/12/27/pdfs/A53278-53284.pdf>.

⁵⁴⁸ Cachón, 2009, p.36.

⁵⁴⁹ Cachón, 2009, p.36.

⁵⁵⁰ Cachón, 2009, p.44.

⁵⁵¹ Cachón, 2009, p.45.

⁵⁵² http://www.grupofundosa.es/sites/pregrupofundosa.e-presentaciones.net/files/Resumen%20explicativo%20Medidas%20Alternativas_en.pdf.

the obligation for 2 % of their employees to be people with disabilities, as established in Law 13/1982⁵⁵³.

The Spanish Business-Disability Programme (2005-2007) outlined several ways in which private businesses could provide work adaptations for people with disabilities. Examples include accessible offices and web pages, information in Braille, voice-operated mobile phones, sign language interpreters, accessible ATM machines and support for job analysis.

Employment advice and support services to disabled people in mainstream employment are provided by the Public Service of State Employment (SEPE) previously known as the INEM (National Institute on Employment). This agency is under the Ministry of Work and Immigration. Each Autonomous Community (AC) has its own Public Service of Employment, given that competences in employment, education, health, and so on have been transferred to the different AC level. The PES provides support with interviews for disabled people applying to enter the labour market. This includes providing information about job vacancies and training opportunities. The PES also provides training, courses and programmes for people with disabilities. This type of active labour market support began in 2008 with a tripartite agreement between **Spain's** two largest organisations (CEOE and CEPYME), the two main unions (CCOO and UGT) and the government. It includes the provision of training for specific skills, Workshop Schools⁵⁵⁴, professional centres and employment workshops⁵⁵⁵. Financial incentives are also available to people with disabilities. For example, reduced social security payments and temporary contracts⁵⁵⁶.

There are several financial incentives for the employment of disabled workers in the labour market (e.g. wage subsidies, enforcement of employment quotas and tax concessions). Each Spanish region is responsible for implementing financial incentives for the employment of disabled people.

9.4.7. European Social Fund

For the period 2007-2013, Spain received EUR 8 billion of ESF funds. With national co-funding, the total ESF spending on jobs was EUR 11.4 billion. ESF activities are implemented through three national programmes that account for 60 % of total funding, with the remaining 40 % shared between 19 regional programmes⁵⁵⁷.

Although ESF funding in **Spain** is not specifically targeted at people with disabilities, some regions have established projects that help disabled people access the labour market. For example, ESF funds have been used to help disabled people gain employment in the tourism sector; while in Andalusia ESF funding has been used to increase employment opportunities for deaf people by organising company internships accompanied by sign-language training for their work colleagues.

The Caritas charitable organisation is a significant partner to the ESF in **Spain** and is responsible for implementing a number of environmental and rural development projects to

⁵⁵³ http://www.grupofundosa.es/sites/pregrupofundosa.e-presentaciones.net/files/Resumen%20explicativo%20Medidas%20Alternativas_en.pdf.

⁵⁵⁴ Workshop Schools are centres of theoretical and practical training for people between 16 – 25. Accessed 20/10/2014. <https://sede.sepe.gob.es/glosario/descripcion.do?id=521>.

⁵⁵⁵ Professional Centres and Employment Workshops provide a combination of skills training and employment activities to people below 25 years. They can be public or private non-profit entities. Accessed 20/10/2014. http://www.empleo.gob.es/es/guia/texto/guia_4/contenidos/guia_4_10_7.htm.

⁵⁵⁶ M, Malo. Labour market policies in Spain under the current recession. International Institute for Labour Studies. 2011. http://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_192791.pdf.

⁵⁵⁷ Spain and the European Social Fund.

help the disabled and others into jobs. This includes projects which aim to help socially excluded job-seekers gain employment by training them in waste-recycling skills⁵⁵⁸.

The following examples illustrate good practices in the targeted use of ESF funds to support people with disabilities. The criteria used for selecting the examples included whether the project objectives included promoting equal opportunities for people with disabilities.

Table 49: ESF project examples – Spain

ESF project Spain	
Project name:	Supported employment for people with disabilities ⁵⁵⁹
Area of activity:	Equal opportunities for disabled people
Project duration:	January 2000 - December 2006
ESF contribution:	EUR 3 144 347.00
Total budget:	EUR 4 491 924.00
Participants:	4 000
Country:	Spain
Organisation:	Comunidad Autónoma, Región de Murcia
<p>The programme worked on a model of intensive and personalised support for each individual. Non-profit and specialised organisations were contracted to work with a minimum number of people with disabilities – at least four per full-time employee in the case of mental disabilities, and at least six in the case of physical disabilities. Their role was to prepare the client for employment and help them find a job. Once in a job, the support person could learn and perform the work tasks required of the client, to guide and support him or her during the initial adaptation period. Private companies employing people with disabilities were entitled to financial support provided that they complied with certain criteria. For example, they had to commit to a minimum of three years in the case of indefinite employment contracts. In most cases the jobs lasted between six and twelve months. The programme aimed to support 4 000 over its lifetime and to ensure that at least 700 people gained employment. Over the entire project service providers worked with 3 200 people with disabilities. Some 410 of them have found employment, of which 150 were women under the age of 30. In most cases the jobs lasted between 6 and 12 months.</p>	
Project name:	Empléate
Area of activity:	Equal opportunities for disabled people
Project duration:	January 2005 to December 2007
ESF contribution:	EUR 1 368 563.77
Total budget:	EUR 2 737 127.54

⁵⁵⁸ The ESF in Spain. Creating Opportunities. <http://ec.europa.eu/esf/main.jsp?catId=378&langId=en>.

⁵⁵⁹ http://ec.europa.eu/social/esf_projects/project.cfm?id=5591&project_lang=en&rp=2.

ESF project Spain	
Participants:	70
Country:	Spain
Organisation:	Saraqusta
<p>The project aimed to build complementarity with social services policies and human resources of Zaragoza city. The project objectives were to: trial an integral model improving the position of citizens with great social and labour insertion difficulties, reducing insertion time and integrating people with major difficulties into the labour market, building insertion pathways with them, accompanied by technicians that take care of assessment and mediation within the enterprise as well as all the necessary measures⁵⁶⁰. The project successfully delivered training workshops for trainers which enabled them to provide personalised employment coaching to people with disabilities.</p>	

9.5. Sweden

9.5.1. Statistical background

The following data was collected in 2011 through an ad hoc module of the EU Labour Force Survey on employment of disabled people. The module used two definitions for disability (i) people having a basic activity difficulty (such as seeing, hearing, walking, communicating); and (ii) people having a work limitation caused by a longstanding health condition and/or a basic activity difficulty. The findings of the Eurostat data are that:

- **In 2011, 15 % (894 399) of the Swedish population (9 985 722), aged 15-64, had a longstanding health condition, or basic activity difficulty. In comparison, around 12 % of the EU population reported a longstanding health condition⁵⁶¹.**
 - People with longstanding health condition, or basic activity difficulty are mainly older people (the age group 55-64 holds 25 % of all disabled people).
 - In 2011, 61 % of people with a longstanding health condition, or basic activity difficulty were employed compared with 77 % of people without a health condition, or basic activity difficulty are employed.
 - Only 34 % of people with a longstanding health condition, or basic activity difficulty have attended tertiary education. This contrasts with 51 % of people without a health condition, or basic activity difficulty.
 - 9 % of the Swedish population reported longstanding problems with back their or neck. This was the most reported health concern with legs and feet problems the second most reported (5 %).
 - In 2011, there were 306 632 people in full time employment who were limited by health conditions or difficulty in a basic activity. In contrast there were 225 291 in part time employment in the same group.

⁵⁶⁰ Results and Recommendations: New Labour Market Possibilities (Good Practice Guide). http://www.multikulti-forum.de/fileadmin/user_upload/Download_PDF/GOOD_PRACTICE_GUIDE.pdf.

⁵⁶¹ <http://epp.eurostat.ec.europa.eu/portal/page/portal/health/disability/data/database>.

In 2009, the Academic Network of European Disability Experts (ANED) carried out a study on the employment of disabled people in Sweden. The study highlighted a number of findings from annual data published by Statistics Sweden. In particular, the data shows that **more than 900 000 people in Sweden aged 16-64 have some form of disability** (13 % of the total Swedish against 17 % in the EU as a whole). Disabled females are more likely than males to regard their abilities to work as being reduced.

The **most common disabilities are motor disabilities and hypersensitivity**, which includes allergies such as asthma. Nearly half of disabled people are aged 50-64 and more than half of those have a reduced ability to work. The level of education is lower among the disabled population than among the non-disabled population. For example, a larger proportion of the non-disabled population has post-secondary education (33 %) compared to the proportion of disabled people with reduced ability to work (21 %) ⁵⁶².

There is a gap between the participation of the disabled and non-disabled population in the labour market. In 2008, 66 % of disabled people were employed (of these, 55 % had a reduced ability to work) compared with 81 % for non-disabled persons. Both rates are above the EU average.

The percentage of full-time employees among the disabled population is 65 % compared with 79 % for the non-disabled population. Furthermore, the proportion of full-time employees with disabilities decreased from 73 % in 2000 to 65 % in 2008 ⁵⁶³. The proportion of unemployed disabled people, as a proportion of the Swedish labour force, is 6.5 % (9.1 % for people with a reduced ability to work and 4.9 % for non-disabled people) ⁵⁶⁴.

There is no significant gender difference among people with disabilities who have a reduced ability to participate in the labour markets.

In 2003, the Swedish Social Insurance Agency carried out a survey ⁵⁶⁵, which found that 22 % of disabled respondents between the ages of 23 and 64 in employment did not receive government subsidies. One explanation is that some people with disabilities are unaware of the government support that is available to them. It is also possible that some people with disabilities in the labour market choose not to receive social government subsidies. The survey also indicated that people with disabilities are more likely to experience economic problems. For example, people with disabilities have on average lower income levels (including both salary and disposable income) than the general population.

Additionally, a 2011 ad-hoc module carried out by Eurostat identified the educational attainment of disabled individuals. The survey indicated that 9.9 % of individuals reported as having a limited working capacity due to a longstanding health problem or basic activity difficulty, were classified as early leavers from education. This figure compares positively with the EU28 average of 31.5 %, but it compares less positively with the 4.7 % of people without a limited working capacity who are described as early leavers from education. In

⁵⁶² Danermark, B. 2009. Report on the employment of disabled people in European countries: Sweden. ANED. http://www.disability_europe.net/content/aned/media/SE%20%20ANED%202009%20Employment%20Report%20Final.pdf.

⁵⁶³ "Funktionshindrades situation på arbetsmarknaden, 4:e kvartalet 2008" (Translation: The situation for disabled persons in the labor market, 4th quarter 2008"), Statistics Sweden, 2009. http://www.scb.se/statistik/publikationer/AM0503_2008K04_BR_AM78BR0903.pdf.

⁵⁶⁴ Danermark, B. 2009. Report on the employment of disabled people in European countries: Sweden. ANED. p 4.

⁵⁶⁵ Swedish Social Insurance Agency. (2003). Ojämlighet i levnadsvillkor: En jämförelse mellan personer med funktionshinder och den övriga befolkningen. [Inequality's life conditions – a comparison between people with impairment and the general population] Stockholm: https://www.forsakringskassan.se/wps/wcm/connect/c2aaa282_a949_48dc_b617_3e254e5f7fdb/analyserar_2003_15.pdf?MOD=AJPERES.

this respect, it is clear that disabled people are disadvantaged regarding educational attainment⁵⁶⁶.

9.5.2. Legislation and policy background

In 2010 the OECD classified the disability policy models of its incumbent countries with Sweden being classified as having a 'social-democratic' disability policy model. This policy group consisted mainly of Nordic countries, which are usually viewed to have similar welfare policy approaches (except for Germany)⁵⁶⁷. This policy model is characterised by an accessible and relatively generous compensation policy package and an equally accessible and varied integration policy package⁵⁶⁸.

Two sub-groups exist under this policy model. **Sweden belongs to the second of these alongside Finland, Germany and Norway.** This sub-group was stated to have the strongest employer obligations in the OECD, as well as being the most generous regarding a number of factors including *inter alia* high benefits and comprehensive employment and vocational rehabilitation programmes⁵⁶⁹.

The Swedish **Anti-discrimination Act of 2008**⁵⁷⁰ (Discrimination Act) replaced the Equal Opportunities Act and six other previous anti-discrimination laws. The Discrimination Act concerns discrimination on the grounds of gender, transgender identity or expression, ethnic origin, religion or other belief, disability, sexual orientation or age. The legislation applies to most areas of society, such as working life, education, goods, services and housing, social services, the social insurance system, health care, national military and civilian service and public appointments. The Discrimination Act also applies to sectors of society, which were not previously regulated by anti-discrimination law⁵⁷¹.

The prohibition of discrimination in employment applies even when an employer takes reasonable measures to ensure that the needs of an employee or a trainee with a disability are accommodated. The Office of the Equality Ombudsman is responsible for compliance with the Act. Other pieces of legislation are relevant to the employment of people with disabilities.

Table 50: Key Swedish legislative and policy documents regarding people with disabilities

Legislation / Policy Document	Provision
Swedish Anti-discrimination Act of 2008 ⁵⁷²	Concerns discrimination on the grounds of gender, transgender identity or expression, ethnic origin, religion or other belief, disability, sexual orientation or age
Discrimination Act ⁵⁷³	Applies to sectors of society, which were not previously regulated by anti-discrimination law

⁵⁶⁶ Eurostat, (2011), ad-hoc module on the employment of disabled people.

⁵⁶⁷ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*.

⁵⁶⁸ Ibid.

⁵⁶⁹ Ibid.

⁵⁷⁰ Sweden Discrimination Act: SFS 2008:567. <http://www.government.se/content/1/c6/11/81/87/36dc60a5.pdf>.

⁵⁷¹ Including public employment, national military service and civilian service, the education system, public meetings and public events as well as prohibitions against discrimination towards trainees and temporary or hired labour. <http://www.disability-europe.net/content/sweden-b1-anti-discrimination-legislation>.

⁵⁷² Sweden Discrimination Act: SFS 2008:567. <http://www.government.se/content/1/c6/11/81/87/36dc60a5.pdf>.

⁵⁷³ <http://www.disability-europe.net/content/sweden-b1-anti-discrimination-legislation>.

Legislation / Policy Document	Provision
The Planning and Building Act ⁵⁷⁴	Covers accessibility and usability for new construction, remodelling and other changes. Barriers to accessibility or usability of the premises and places are to be remedied, if the obstacles, taking into account the practical and economic conditions, are easy to remedy.
The Work Environment Act ⁵⁷⁵	Makes it a legal responsibility for employers to adjust the work environment to meet the needs of employees with mental or physical disabilities.
The Regulation on grants for work tools ⁵⁷⁶	Provides financial support to employers and employees for assistive aids. The scope of the Regulation covers the costs to purchase or hire work aids or devices as well as the costs to repair work aids. The costs of soft adaptations (e.g. reduced work load, slower pace) are covered by wage subsidies.
Regulation 2000 on special measures for people with disabilities and reduced workability ⁵⁷⁷ .	Provides a legal basis for work carried out by the Public Employment Service (PES)

The Public Employment Service (PES) implements labour market programmes for people with disabilities who have a reduced ability to work and for people who have difficulty entering the labour market. The legal basis for these programmes is provided by Regulation 2000 on **special measures for people with disabilities and reduced workability**⁵⁷⁸. In addition to labour market programmes, PES provides subsidized employment and sheltered employment when the following criteria are met:

- if the work is appropriately designed for the employee's needs and can help the employee to develop and improve work;
- if the work environment is satisfactory and meets the requirements of the Work Environment Act⁵⁷⁹ and;
- if salary and other employment benefits are provided as part of collective agreements or whether they are equivalent to the benefits under collective bargaining agreements that exist within the industry.

PES labour market programs can also provide financial support for assistive aids in the workplace. This includes financial support for people with reduced ability to work in order that they are able to maintain employment, or are able to take part in a labour market programme, vocational rehabilitation or work study

⁵⁷⁴ Planning and Building Act (SFS 2010:900). Planning and Building Act (SFS 2010:900).

⁵⁷⁵ Work Environment Act (1977:1160). <http://www.government.se/content/1/c6/10/49/76/72d61639.pdf>.

⁵⁷⁶ Ordinance (1991:1046) on grants for work tools. http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-19911046-om-bidr_sfs-1991-1046/.

⁵⁷⁷ Ordinance (2000:630) on specific measures for people with disabilities reduced work. Ministry of Employment. Sweden. http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2000630-om-arbet_sfs-2000-630/?bet=2000:630.

⁵⁷⁸ Ordinance (2000:630) on specific measures for people with disabilities reduced work. Ministry of Employment. Sweden. http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2000630-om-arbet_sfs-2000-630/?bet=2000:630.

⁵⁷⁹ Work Environment Act (1977:1160).

programme. Financial support may also be given for expertise needed to clarify whether the employee needs aids.

Under regulation 2000:630, financial support for assistive aids may be provided on the condition that the person receiving the support is a recipient of direct wage subsidies or that he/she is employed in subsidized employment or in sheltered employment with a public employer. Support for assistive aids in the workplace may be provided up to EUR 10 920 per year each to the person who has the disability and to the employer. If financial support is provided for computer-based aids a larger sum may be provided.

Regulation 2001:526 outlines the responsible state authorities for implementing disability policy in Sweden⁵⁸⁰. The regulation is supported by policy documents, such as the work environment policy, which require employers to incorporate a disability perspective in their organisation. Public authorities must ensure that their premises, operations and information are accessible to people with disabilities.

The Swedish Public Employment Service, working through the **Special Introduction and Follow-up Support (SIUS)** intervention, provides personal employment advice and services to people with disabilities during and after employment. A special type of employment with rehabilitation (RESA) is provided for people with psychiatric problems. Additionally, PES provides access to specialists for people with hearing and/or sight impairments⁵⁸¹.

The Swedish Government's strategy for implementing disability policy between 2011 and 2016⁵⁸² targets ten different policy fields. Twenty national authorities are tasked with implementing the Government's disability policy in their respective fields. These authorities must ensure that the measures supported under the strategy take into account the needs and views of disabled people.

The strategy is founded on the principles set out in the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child. Sweden's national disability policy aims are set out in the action plan 'From patient to citizen'⁵⁸³. The 2009 action plan emphasises a civic perspective; meaning that people with disabilities are to be seen, not as patients, as they were previously, but as citizens with rights and obligations like everyone else⁵⁸⁴.

The UN Convention on the Rights of Persons with Disabilities came into force in Sweden in January 2009⁵⁸⁵. In accordance with the Convention, Sweden recognises the right of persons with disabilities to work, on an equal basis with others; this includes the right to opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. In line with the Convention, Sweden ensures that reasonable accommodation is provided for disabled people in the workplace.

⁵⁸⁰ Ordinance (2001:526) on the state authorities responsible for the implementation of the disability / title of entry into force. 2014-05-01. Ministry of Social Affairs. http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2001526-om-de-st_sfs-2001-526/.

⁵⁸¹ <http://www.disability-europe.net/content/sweden-f2-public-employment-services>.

⁵⁸² En strategi för genomförande av funktionshinderspolitiken 2011– 2016. <http://www.regeringen.se/content/1/c6/17/12/69/847e537d.pdf>.

⁵⁸³ "From patient to citizen: a national action plan for disability policy" (Government Bill 1999/2000:79). <http://www.statskontoret.se/in-english/publications/2009/from-vision-to-reality-an-evaluation-of-the-swedish-national-action-plan-for-disability-policy-200921-/>.

⁵⁸⁴ Swedish Agency for Participation. Swedish disability policy. <http://www.mfd.se/other-languages/english/swedish-disability-policy/>.

⁵⁸⁵ UN Convention on the Rights of Persons with Disabilities entered into force in Sweden in January 2009 (2008 /09: 28; 2008:26). http://www.un.org/disabilities/documents/convention/crpd_swedish.pdf.

9.5.3. Definition

Disability is defined under the Act Prohibiting Discrimination in Working Life against Persons with Disabilities as: 'enduring physical, mental or learning limitations of a person's functional capacities that have occurred at birth or later or can be expected to occur as a consequence of injury or disease'⁵⁸⁶.

In addition, the Work Environment Act, the Discrimination Act and the Regulations on assistive aids and special initiatives for people with disabilities and reduced workability provide a legal basis for measures designed to address the needs of people with disabilities in relation to his/her specific work environment. Furthermore, the UN Convention, the Planning and Building Act and the government agencies responsible for implementing disability policies draw on the Work Environment law and the Discrimination law to ensure that needs of people with disabilities are met.

9.5.4. Sheltered workshops

In Sweden, sheltered accommodation is provided by the public sector. The groups targeted for sheltered employment include: people with socio-medical disabilities; people with a history of chronic and severe mental illness who have not been in contact with working life for a long time; and people who are entitled to measures under the Act concerning Support and Service for Persons with Certain Functional Impairments⁵⁸⁷. Although public sheltered employment is not time-limited, it is not intended to be a lifelong measure.

People with disabilities, whose needs cannot be met in any other way, may also be offered employment with Samhall AB. This company was established as a state-owned group in 1980 with the aim to produce goods and services that are in demand and, by doing so, create meaningful and stimulating work for people with disabilities.

Samhall operates 370 workshops that provide sheltered employment along with other operations managed by county councils, municipalities and other authorities. The company currently employs 20 000 people in 200 localities throughout Sweden and has an estimated annual turnover of EUR 7 644 091⁵⁸⁸. At the end of 2012, there were 19 148 disabled people employed in Samhall AB's core business compared to 18 641 in 2011 and 18 414 in 2010.

In 2013, operating income, including compensation for additional costs, totalled SEK 7 313 million, of which sales totalled SEK 2 550 million and compensation for additional costs was SEK 4 405 million. The Swedish Government compensates Samhall for the additional costs that are unique to its assignment compared to other companies. The state determines the level of compensation for additional costs on an annual basis and this has remained unchanged since 2009⁵⁸⁹.

Figure 24 shows that the number of people with disabilities who applied to transition from sheltered employment (i.e. Samhall) to unsheltered employment decreased by 138 in 2012 compared to 2011. In contrast the number of applicants who transitioned into subsidised employment increased compared to 2011⁵⁹⁰.

⁵⁸⁶ Act Prohibiting Discrimination in Working Life against Persons with Disabilities in 1999 (SFS 1999: 132). Definitions of Disability in Europe: a Comparative Analysis. 2002. DG EMPL. http://www.bbk.ac.uk/politics/our-staff/academic/deborah-mabbett/documents/Definitions_of_disability.pdf.

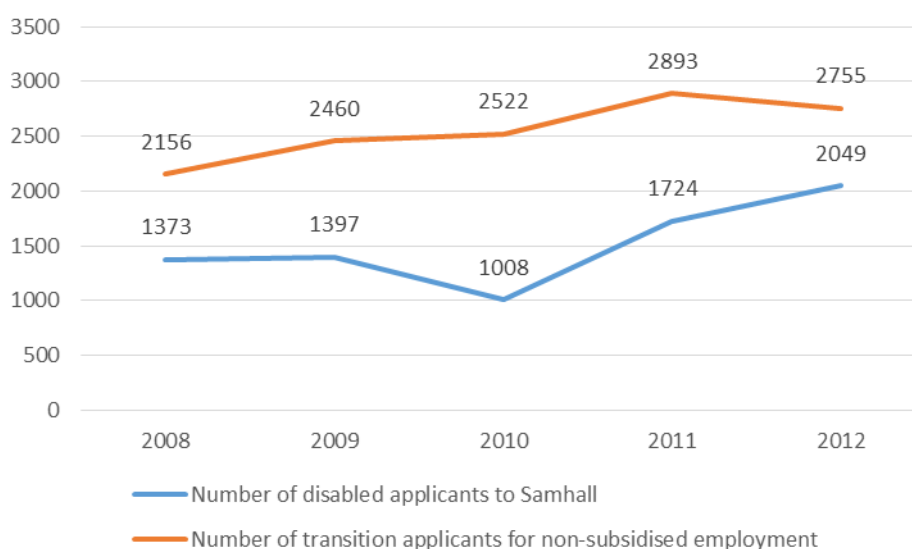
⁵⁸⁷ Act Concerning Support and Service for Persons with Certain Functional Impairments. Swedish Code of Statutes SFS 1993:387.

⁵⁸⁸ Samhall Annual and sustainability report. 2013. <http://www.samhall.se/In-English/About-Samhall/>.

⁵⁸⁹ Ibid. p 8.

⁵⁹⁰ Arbetsförmedlingen Annual Report. 2012. p 40. <http://www.arbetsformedlingen.se/download/18.3f8eb9ad140aabd13a13a3c/ar2012eng.pdf>.

Figure 24: Number of disabled applicants to Samhall and the number of transition applicants from Samhall to non-subsidised employment (2008-2012)



Source: Arbetsförmedlingen Annual Report 2012.

Samhall's operations are divided into seven regions: Lulea, Sundsvall, Stockholm, Linköping, Gothenburg, Vaxjö and Malmö, which in turn are divided into about 40 districts. Corporate management, situated in Stockholm, consists of five central support functions: Accounting & Finance, Sales, Human Resources, Marketing and Operational Development. A common service organisation for the whole company is situated in Linköping.

9.5.5. Reasonable accommodation

The need to ensure that reasonable accommodation is provided in Sweden was highlighted in a recent study carried out by Statistics Sweden⁵⁹¹ on the situation of persons with disabilities in employment. **The study showed that 60 % of employees with disabilities are in need of some type of reasonable accommodation.** The most common types of reasonable accommodation are adjustments to working hours, speed of work and work tasks.

According to the survey, about 70 % of requests for adjusted work tasks and adapted working hours are granted by employers, whereas 60 % of requests for adapted speed of work are granted. Only 46 % of requests for special/local accessibility measures are granted by employers. 85 % of unemployed people with reduced workability are in need of some type of reasonable accommodation in order to gain employment. Only 40 % of respondents believe they would be able stay in employment without reasonable accommodation measures.

As mentioned in the previous section, the Public Employment Service's (PES) labour market programmes such as Special Introduction and Follow-up Support (SIUS) are designed to achieve greater inclusion of people with disabilities in the labour market. These programmes use **supported employment (SE)** methods to ensure that reasonable accommodation is provided for disabled people in the workplace.

⁵⁹¹ Conditions in the labour market-A survey on discrimination in the labour market and the work situation for persons with disabilities. Statistiska centralbyrån. Sweden. 2013. http://www.scb.se/Statistik/AM/AM0503/dokument/Forutsattningar_i_arbetslivet1.pdf.

In 2013, an average of **74 000 people per month received SE** making it one of the main types of reasonable accommodation in Sweden⁵⁹². A recent study found that **people with disabilities who received SE were more likely to gain employment** than people who did not receive SE⁵⁹³. The study also found that people who received SE gained slightly more disposable income compared to the control group, while the total contribution from the state was reduced by 50 % over the two year period that the study was carried out. In contrast, state subsidies to the control group were reduced by 8 % over the same time period. In this respect, SE can be considered an effective form of reasonable accommodation in a Swedish context. However, further research is needed to confirm the effectiveness of the SE method.

In addition to SE, the PES offers **work aids** (i.e. employment aids granted to people with disabilities and special aids provided to employers) and support **for a 'personal assistant'** (i.e. people in the workplace who provide additional support in work-related issues) to people with disabilities. When support is given for a personal assistant, the employer is compensated for costs incurred due to accommodating people with disabilities. In 2013, 19 059 people received support for a personal assistant.

PES also provides **support for disabled entrepreneurs** who aim to start their own business. However, in 2013 only 601 people received special support for starting a business out of 9 287 people who received support from SIUS. Overall, 64 180 people with disabilities gained employment through PES services and 3 691 were enrolled in education in 2013⁵⁹⁴. Each PES consultant is responsible for the instruction of an average of 8-10 people with disabilities on the labour market. It is important to note that while PES provides financial support for disabled entrepreneurs, it appears that there is a lack of information on how effectively these funds are used (i.e. long-term viability of business start-ups).

Other initiatives to support reasonable accommodation build on the principles of SE within local government and private businesses. For example, the Activa foundation helps people with disabilities enter the labour market by providing job coaching to individuals and continuous support to employers and employees. The Activa foundation received funding from the European Social Fund for projects that aim to help people with disabilities develop skills and contacts with businesses across the EU⁵⁹⁵.

9.5.6. Alternative labour market services

Alternative labour market services were first introduced as the main policy instrument to counteract the rise in unemployment which resulted from the recession in Sweden between 1990 and 1994. They were to a large extent guided by the social-policy objectives of providing income support for the unemployed: formally, unemployment compensation was not available for longer than 14 months for the majority of the work force, but eligibility could be renewed through participation in ALMPs⁵⁹⁶. The following labour market measures and programmes specifically target jobseekers with disabilities:

⁵⁹² The labour market situation for people with disabilities 2013 Statistics Sweden. 2014. http://www.scb.se/Statistik/Publikationer/AM0503_2013A01_BR_AM78BR1401.pdf.

⁵⁹³ Germundsson, P., Gustafsson, J., Lind, M. & Danermark, B. (2012). Disability and supported employment: impact on employment, income and allowances. International journal of rehabilitation research 2012, 35:5:263-269. P 17. <http://oru.diva-portal.org/smash/get/diva2:706615/FULLTEXT03.pdf>.

⁵⁹⁴ The labour market situation for people with disabilities 2013 Statistics Sweden. 2014. http://www.scb.se/Statistik/Publikationer/AM0503_2013A01_BR_AM78BR1401.pdf.

⁵⁹⁵ Activa Foundation. <http://www.s-activa.se/om-activa/historia/#.VBnOefldV2J>.

⁵⁹⁶ Calmfors, L. Forslund, A. Hemstrom, M. Does active labour market policy work? Lessons from the Swedish experiences. 2002. <http://www.ifau.se/Upload/pdf/se/2002/wp02-04.pdf>. p 9.

- wage subsidies;
- development employment;
- secure employment;
- assistive devices;
- personal assistance;
- individual support from a SIUS consultant;
- measures for people with visual and hearing impediments;
- young people with disabilities;
- trainee programmes in the state sector.

The most extensive measure in Sweden is wage-subsidised employment, which aims to enable people to either obtain or retain a job. Wage subsidies are granted for a maximum of four years with a possibility of extension, and are subject to the Employment Protection Act. When the provider is a public service organisation, a provider allowance may also be paid. Wage subsidy is regulated in the Ordinance on Certain Support for Persons with Work Impairment⁵⁹⁷.

Development employment is offered to disabled people to improve their capacity to work. Development employment may last for a period of 12 months with a possibility of extension. The provider may receive an allowance in addition to wage subsidies⁵⁹⁸.

Secure employment is provided when a disabled person's needs cannot be met by other measures. It is a form of sheltered employment which takes place outside of the state-owned organisation, Samhall AB. The provider of secure employment receives an allowance in addition to wage subsidies and is subject to the Employment Protection Act.

Employers and employees can request up to EUR 10 920 to pay for assistive devices. These are adaptations made to the workplace or items purchased to support disabled employees. Additional funding is available for technology based assistive devices. This type of support is available on the condition that the employer receives wage subsidies for employing a person with a disability. Technical aids are provided through the county governments or through the municipalities, for those with impairments. The cost for technical aids varies between counties; some counties provide all equipment free of charge and others take minimal fees. The Health and Medical Service Act of 1982 regulates the provision of equipment⁵⁹⁹.

Employers are compensated for costs that they incur as a result of providing personal assistance to a disabled employee. Compensation may also be provided to employers if they employ a young person with disabilities and if they are providers of vocational rehabilitation or participate in a labour market programme. Self-employed persons can also be compensated for the costs of personal assistance. Up to EUR 6 552 can be claimed by employers for personal assistance per year. For self-employed persons with disabilities which cause larger communication difficulties, support of up to EUR 13 104 per year may be paid⁶⁰⁰.

⁵⁹⁷ Förordning (2000:630) om särskilda insatser för personer med funktionshinder som medför nedsatt arbetsförmåga. http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2000630-om-arbet_sfs-2000-630/?bet=2000:630.

⁵⁹⁸ Labour market initiatives for people with disabilities. 2014. <http://www.government.se/sb/d/574/a/213660>. p 1.

⁵⁹⁹ <http://www.disability-europe.net/content/sweden-f3-workplace-adaptations>.

⁶⁰⁰ Labour market initiatives for people with disabilities. 2014. p 2.

If a person needs a large amount of individual support to learn or perform their work tasks, employers can receive personal introduction assistance from a specially trained employment officer, known as a special introduction and follow-up consultant (SIUS consultant). This support is gradually decreased over a six-month period and ends once the disabled person is able to perform their tasks without assistance.

Follow-up support can be provided for up to one year from the commencement of employment. In 2012, there were 699 SIUS consultants, an increase of 73 employees (12 %), compared to 2011 (2011:626, 2010:520). In 2012, 8405 people received individual support from a SIUS consultant, which was an increase of 2 232 people from 2011⁶⁰¹.

The Swedish government provides financial assistance for people with visual and hearing impairments who need literature in audio and Braille formats, in order to take part in employment training or training within the framework of a labour market policy programme.

Financial support may also be offered, in certain cases, for **interpreters** who are needed to enable participation in company training courses, or for making audio recordings of specialist literature that is required in order to take part in the training. Support may amount to a maximum of EUR 5 460 per year⁶⁰².

The PES provides supplementary guidance and personal extra assistance to schools where young people with disabilities are in need of information. Under the Act concerning Support and Service for Persons with Certain Functional Impairments, the PES cooperates with the Swedish Social Insurance Agency to help young people with disabilities who are receive extra support.

The PES also implements trainee programmes in the state sector for people with an impaired ability to work. Under the trainee programmes, people receive support from specialists such as occupational therapists, physiotherapists and psychologists through a work experience placement.

In 2014, the Swedish Government established a joint initiative with Samhall AB on development employment. This initiative aims to support people with disabilities who wish to transition from part-time to full-time employment. The initiative will run for the period 2014-2017 and it employs up to 1 000 people with disabilities on average per month⁶⁰³.

In terms of the overall landscape of alternative labour market services in Sweden, Table 51 shows the number of disabled job-seekers who received or participated in ALMS's, the number of new participants in ALMS and the number of disabled people who transitioned into non-subsidised employment for the period 2008-2012.

⁶⁰¹ Arbetsförmedlingen: Annual Report. 2012. Swedish Public Employment Service. p 41. <http://www.arbetsformedlingen.se/download/18.3f8eb9ad140aabd13a13a3c/ar2012eng.pdf>.

⁶⁰² Labour market initiatives for people with disabilities. 2014. p 2. <http://www.government.se/sb/d/574/a/213660>.

⁶⁰³ Labour market initiatives for people with disabilities. 2014. <http://www.government.se/sb/d/574/a/213660>. p 3.

Table 51: Alternative labour market measures for job-seekers with disabilities⁶⁰⁴ in Sweden

Remaining (monthly average)	2008	2009	2010	2011	2012
Wage subsidy	57 110	50 570	46 725	45 936	44 094
Sheltered Public Employment ⁶⁰⁵	4 731	4 448	4 446	4 334	4 208
Development employment	2 524	1 908	2 463	3 280	3 818
Security employment	6 018	9 910	13 902	17 694	20 995
Total	70 383	66 835	67 535	71 244	73 115
New					
Wage subsidy	19 856	16,536	19 680	20 782	19 655
Sheltered Public Employment	1 918	1 716	1 839	1 907	1 808
Development employment	2 818	2 493	3 653	4 403	5 171
Security employment	4 967	6 185	6 683	6 950	8 742
Total	29 559	26 930	31 855	34 042	35 376
Into non-subsidised employment					
Wage subsidy	3 266 (5.7)	2 537 (5.0)	2 034 (4.4)	2 165 (4.7)	2 094 (4.7)
Sheltered Public Employment	112 (2.4)	64 (1.4)	62 (1.4)	74 (1.7)	69 (1.6)
Development employment	608 (24.1)	167 (8.8)	89 (3.6)	164 (5.0)	178 (4.7)
Security employment	121 (2.0)	96 (1.0)	172 (1.2)	223 (1.3)	349 (1.7)
Total	4 107 (5.8)	2 864 (4.3)	2 357 (3.5)	2 626 (3.7)	2 690 (3.7)

Source: Swedish Public Employment Service 2012.

The previous table shows that the number of subsidised employees increased in 2012 compared to 2011. The total average increase was 1 871 or around 3 %. From 2010 the number of security employments increased and the number of wage subsidies declined. This trend continued throughout 2012, when the number of security

⁶⁰⁴ Arbetsförmedlingen: Annual Report. 2012. Swedish Public Employment Service. P 39.

<http://www.arbetsformedlingen.se/download/18.3f8eb9ad140aabd13a13a3c/ar2012eng.pdf>.

⁶⁰⁵ See section: Sheltered Employment.

employments increased by 3 301 people (19 %). One reason for the increase in the number of security employments is that if a wage-subsidised employee has a long-term, severely impaired work capacity, security employment should be considered as a better alternative.

The average grant level for wage-subsidised employment in 2012 was 65.1 % compared to 64 % in 2011 and 62.5 % in 2010. The largest salary allowance for wage subsidies is currently EUR 1 823, which limits the compensation available to employers to cover costs of employees with impaired work capacity. The salary allowance has not changed since 2007, which, when considering that general wages have increased, has eroded the wage subsidy.

The grants level for other forms of subsidised employment increased in the period 2011-2012. For example, in 2012, the average grant level for sheltered employment was 74.7 % (2011: 74.3 %, 2010: 73.9 %), for development employment 77.2 % (2011:76.9 %, 2010: 76.2 %) and for security employment 67.7 % (2011:67.4 %, 2010: 67.8 %)⁶⁰⁶.

The provision of wage subsidies is not evenly distributed between the genders in Sweden. For instance, the Swedish Public Employment Service notes that disabled men receive 60 % of wage subsidies, while disabled women receive only 40 % of wage subsidies⁶⁰⁷. One reason why men are over-represented in wage-subsidised employment may be that these jobs are primarily found in industries that are male dominated by tradition, and that wage-subsidised employment is relatively less common in the public sector, where women are over-represented. In addition, men with disabilities in general have more difficulties in finding employment without wage-subsidies, due to lower levels of education.

9.5.7. European Social Fund

For 2007-2013, Sweden received EUR 691 million in ESF funding. With national co-funding, this brings the total ESF spending on jobs to over EUR 1.3 billion. However, the available data on ESF funding in Sweden is not disaggregated by specific target groups. In Sweden, ESF programme spending priorities are focused on education and training to provide more people with the chance to find employment, and to give them the skills and qualifications they need to keep their job or get the new job they want⁶⁰⁸. The Swedish ESF Council distributed this amount among approximately 2000 projects, which included at least 315 000 participants. The work is divided into two different programme priorities. In Programme Priority 1, applications for funding may be made for projects that provide improved conditions for female and male employees (self-employed, employees or managers) so that they may be better able to deal with future working life. In Programme Priority 2, applications for funding may be made for projects intended for people who do not have relevant employment qualifications. By taking part in one of the projects, participants will increase their chances of entering and remaining in the employment market.

In 2012, 3 246 people participated in 43 projects designed to help people with a functional disability gain employment (Priority 2). Projects supported under Priority 2 amounted to 5 % of the total number of participants and 11 % of the projects⁶⁰⁹.

⁶⁰⁶ Arbetsförmedlingen: Annual Report. 2012. Swedish Public Employment Service. p 39. <http://www.arbetsformedlingen.se/download/18.3f8eb9ad140aabd13a13a3c/ar2012eng.pdf>.

⁶⁰⁷ Ibid. p 39.

⁶⁰⁸ Sweden and the European Social Fund.

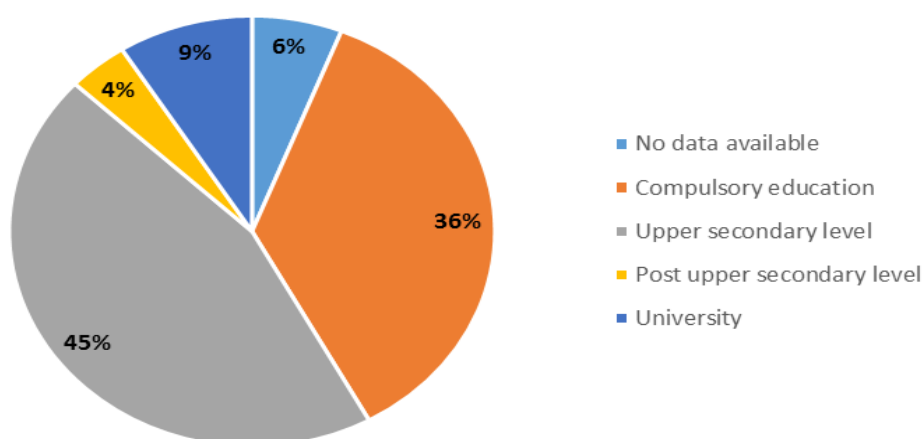
⁶⁰⁹ It should be noted that the number of participants with disabilities is actually much larger. Those reported here are only participants in projects that have functional disabilities as a particular orientation, but they also participate in more general labour market projects for a wider target group.

Table 52: Proportion of participants in projects for people with functional disabilities (2012)⁶¹⁰

Gender	Number	Percentage
Women	1 725	53.1 %
Men	1 515	46.7
No data available	6	0.2
Total	3 246	100

Source: Swedish ESF Council

The level of education of the participants in projects aimed at people with functional disabilities, shows almost the same pattern as for participants in Priority 2 in general (see Figure 25). A small number of participants have a compulsory school education and post-upper secondary school education, while a slightly smaller number have an upper secondary school education and a university education.

Figure 25: Proportion of participants in projects for people with functional disabilities according to level of education.

Source: Swedish ESF Council.

The following examples illustrate good practices in the targeted use of ESF funds to support people with disabilities. The criteria used for selecting the examples included whether the project objectives included promoting access to employment and social inclusion. The examples were also selected based on the extent to which project monitoring data was available.

⁶¹⁰ The Social Fund In Figures 2012 – project participants and benefits. A co-production between the Swedish ESF Council and Process Support for Strategic Impact and Learning in the Social Fund. <http://www.esf.se/Documents/V%C3%A5ra%20program/Socialfonden/Om%20Socialfonden/Socialfonden%20i%20siffror/Social%20Fund%20in%20Figures%202012.pdf>.

Table 53: ESF project examples –Sweden

ESF Projects Sweden	
Project name:	ALFA2 ⁶¹¹
Area of activity:	Improving equal access to employment
Project duration:	May 2009 to November 2009
ESF contribution:	EUR 537 195
Total budget:	EUR 676 375
Country:	Sweden
Organisation:	Laholms kommun
<p>The ALFA2 project built on the activities carried out under the project ALFA1, which took place from 2005-2008 and provided coaching and lectures to targeted groups in society with the aim to influence individual attitudes towards people with disabilities. This included organising discussions and workplace meetings with local municipality staff.</p> <p>The project utilised the resources of different social actors to increase employment opportunities for people with disabilities. Participants in the project developed a citizen's perspective of fundamental rights, which contributed to improved opportunities for people with disabilities to access the labour market.</p>	
Project name:	Jobs in sight
Area of activity:	Improving equal access to employment
Project duration:	June 2009- June 2013
ESF contribution:	EUR 859 000
Total budget:	EUR 2 195 000
Participants:	90
Country:	Sweden
Organisation:	Municipality of Örebro
<p>Jobs in sight was a collaborative project which included upper secondary schools, the Employment Services and Social Insurance Office cooperative. The project addressed the needs of young people with disabilities who often have considerable difficulty gaining employment. The project especially focused on young people in transition from special school to working life.</p> <p>One of the outcomes was the change in attitude of participants (i.e. employers) towards opportunities for equal access to employment for young people with disabilities. Through in-depth on-site work experience, the participant's knowledge of the demands and conditions of working life was increased. At each stage of the project, personal assistants were available to support both the participant and the employer. This support was continued after the participants had been offered a position of employment.</p>	

⁶¹¹ Gullacksen A, Nyberg G, Hejdedal R. Evaluation of alpha2 Laholm. 2012. <http://www.esf.se/PageFiles/2263769/Utv%C3%A4rderingsrapport%20ALFA%202.pdf>.

9.6. United Kingdom

9.6.1. Statistical background

The following data was collected in 2011 through an ad hoc module of the EU Labour Force Survey on employment of disabled people. The module used two definitions for disability (i) people having a basic activity difficulty (such as seeing, hearing, walking, communicating); and (ii) people having a work limitation caused by a longstanding health condition and/or a basic activity difficulty. The findings of the Eurostat data are that:

- In 2011, 14 % (5 352 837) of the UK population (63 022 532), aged 15-64, had a longstanding health condition, or basic activity difficulty. In comparison, around 12 % of the EU population reported a longstanding health condition.⁶¹²
- People with longstanding health condition, or basic activity difficulty are mainly older people (the age group 55-64 holds 29 % of all disabled people).
- Only 36 % of people with a longstanding health condition, or basic activity difficulty are employed compared with 76 % of people without a longstanding health condition, or basic activity difficulty.
- Only 35 % of people with a longstanding health condition, or basic activity difficulty have attended tertiary education. This contrasts with 47 % of people without a health condition, or basic activity difficulty.
- 4.4 % of the UK population reported longstanding problems with back their or neck. This was the most reported health concern with legs and feet problems the second most reported (4 %).
- In 2011, there were 1 092 986 people in full time employment who were limited by health conditions or difficulty in a basic activity. In contrast there were 732 363 in part time employment in the same group.

According to data from the Office of National Statistics⁶¹³, most people suffer periods of ill health at some time, but these are usually temporary problems that do not have a sustained effect on day-to-day activities, such as going to work or socialising with friends and family. However, some health problems and disabilities are long-lasting and reduce a person's ability to carry out the activities people usually do day-to-day and which most of us take for granted. The following key statistics outline the demographics of people with disabilities in the UK:

- More than 10 million people were limited in daily activities in England and Wales in 2011⁶¹⁴.
- The percentage of people with activity limitations has fallen slightly since 2001; by 0.3 % in England and 0.6 % in Wales; however, prevalence remains 5 % higher in Wales, a similar difference to that in 2001.

⁶¹² <http://epp.eurostat.ec.europa.eu/portal/page/portal/health/disability/data/database>.

⁶¹³ In the 2001 Census each person in a household was asked whether they had a long-term illness, health problem or disability which limits activities in any way and to include problems that were due to old age. The response categories were simply 'yes' or 'no'. The question in 2011 had different wording, excluded the reference to work limiting problems, changed the categories to plain English terms to allow individuals to state the extent of their limitations, and included a 12-month time frame for the persons' activities to have been limited.

⁶¹⁴ Disability in England and Wales, 2011 and Comparison with 2001. Office of National Statistics. 30 January 2013. http://www.ons.gov.uk/ons/dcp171776_296743.pdf.

- In 2011, people whose activities were limited significantly because of a health problem or disability was more than 3 % higher in Wales (11.9 %) than in England (8.3 %).
- Across English regions there was a general north–south divide, with percentages of people limited a lot or a little in daily activities lower in the south and higher in the North.
- The ten English local authorities with the lowest percentages of activity limiting health problems or disabilities were located exclusively in London and the South-East.
- Large urban areas in England, such as London and Manchester, experienced the greatest decreases in activity limitations from 2001, while rural local authorities, such as East Lindsey in Lincolnshire, experienced the greatest increases.
- The percentage of activity limitations in Liverpool, the most deprived English local authority, was 10.4 % higher than in Hart in Hampshire, the least deprived local authority.
- The level of inequality by-area disadvantage groupings has fallen since 2001 by 3.2 % in Wales and by 3.3 % in England.

9.6.2. Legislation and policy background

In 2010 the OECD classified the disability policy models of its incumbent countries with the UK being classified as having a 'liberal' disability policy model. This group was formed of mostly OECD Pacific and English-speaking countries. The liberal disability policy model has a less generous compensation policy setup compared with the other policy models. In particular, benefit levels and the threshold to get onto benefits is higher as well as the work capability assessment⁶¹⁵.

It was further determined that two sub-groups exist within the 'liberal' model and the UK is classified in a sub-group alongside Australia and New Zealand. These countries provide organised, co-ordinated and accessible services to people with disabilities. Benefit levels are comparatively lower for this subgroup but benefit coverage is almost universal⁶¹⁶.

In 2007 the Academic Network of European Disability experts (ANED) published a report, which outlined the legislative and policy background on the employment of disabled people in the UK⁶¹⁷. The report noted that there had been a shift towards a more rights-based approach to disability employment policy plus a growth in the number of specific actions on employment activation (employment quotas were never enforced in the UK and were abolished in 1995). The Disability Discrimination Acts of 1995 emphasised both the need for redress in cases of discrimination and for public bodies to take action to prevent discrimination.

The employment of disabled people, and transfer from welfare to work, has been a very significant topic of concern for UK policy makers over the past 10 years, and there are several examples of new initiatives in the 2007 National Reform Programme document. The

⁶¹⁵ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.89.

⁶¹⁶ Organisation for Economic Co-operation and Development (OECD), (2010), *Sickness, Disability and Work: Breaking the Barriers*. P.89.

⁶¹⁷ Roulstone A, Prideaux S, Priestley M. Report on the employment of disabled people in European countries. Academic Network of European Disability experts (ANED) – VT/2007/005. Page 3. <http://www.disability-europe.net/content/aned/media/UK%20Employment%20report.pdf>.

primary concern has been to encourage people on long-term incapacity benefits to enter employment.

The Childcare Act 2006 introduced new responsibilities for Local Authorities in 2008 to help parents into employment, particularly targeting parents of disabled children. The Carers (Equal Opportunities) Act 2004 also aimed to encourage employer responsiveness to carers needs to balance paid work and their caring role.

Pilot schemes for 'Pathways to Work'⁶¹⁸ were targeted at the high number of people receiving incapacity benefits (including Incapacity Benefit, Severe Disablement Allowance and Income Support on the grounds of incapacity or disability) with 32,000 people moving to work from these schemes. From October 2008, the Welfare Reform Act 2007 Incapacity Benefit was replaced with a new Employment and Support Allowance (with most people expected to engage in some work-related activity). The government's new Office for Disability Issues has also worked to raise awareness of disability and barriers to employment amongst employers (particularly SMEs).

In 2010 the Equality Act was introduced, which simplified and brought into one act existing discrimination law as listed in the following table.

Table 54: Key UK legislative and policy documents regarding people with disabilities

Legislation / Policy Document
Equal Pay Act 1970 ⁶¹⁹
Sex Discrimination Act 1975 ⁶²⁰
Race Relations Act 1976 ⁶²¹
Disability Discrimination Act 1995 ⁶²²
Equality Act 2006, part 2 ⁶²³
Employment Equality (Religion or Belief) Regulations 2003 ⁶²⁴
Employment Equality (Sexual Orientation) Regulations 2003 ⁶²⁵
Employment Equality (Age) Regulations 2006 ⁶²⁶
Equality Act (Sexual Orientation) Regulations 2007 ⁶²⁷

⁶¹⁸ Originally introduced in pilot areas in October 2003, the Pathways to Work programme aims to assist incapacity benefits claimants into, and towards, paid work. Becker E, Hayllar O, Wood M. Pathways to Work: programme engagement and work patterns Findings from follow-up surveys of new and repeat and existing incapacity benefits customers in the Jobcentre Plus pilot and expansion areas. Department for Work and Pensions. 2010. Page 1. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214423/rrep653.pdf.

⁶¹⁹ http://www.legislation.gov.uk/ukpga/1970/41/pdfs/ukpga_19700041_en.pdf.

⁶²⁰ <http://www.legislation.gov.uk/ukpga/1975/65>.

⁶²¹ <http://www.legislation.gov.uk/ukpga/1976/74>.

⁶²² <http://www.legislation.gov.uk/ukpga/1995/50/contents>.

⁶²³ <http://www.legislation.gov.uk/ukpga/2006/3/part/2>.

⁶²⁴ <http://www.legislation.gov.uk/uksi/2004/2520/contents/made>.

⁶²⁵ <http://www.legislation.gov.uk/uksi/2004/2519/contents/made>.

⁶²⁶ <http://www.legislation.gov.uk/uksi/2006/1031/schedule/6/made>.

⁶²⁷ <http://www.lawsociety.org.uk/advice/practice-notes/equality-act-2010/#ea3>.

9.6.3. Definition

The general definition of disability for the purposes of the Equality Act 2010 (the Act)⁶²⁸ is a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. The Act defines 'long-term' in this context as having lasted, or being likely to last, for at least 12 months or the rest of the person's life. 'Substantial' is defined as more than minor or trivial. Some people are deemed to be disabled for the purposes of the Act. For example, people who are diagnosed with cancer, HIV and multiple sclerosis do not require further examination to be considered disabled.

9.6.4. Sheltered workshops

Remploy is a non-departmental public body, public corporation and company limited by guarantee, sponsored by the Department for Work and Pensions and its predecessors since its creation in 1945, principally to provide sheltered employment, rehabilitation and training for disabled ex-servicemen. Its mission is to "increase the employment opportunities of disabled people and those who experience complex barriers to work".

Remploy receives Grant-in-Aid each year to deliver a range of employment and development opportunities to disabled people under the government's Work Choice programme. The company has also bid for, and is contracted to deliver, other employment programmes for disabled and disadvantaged people.

In 2005, a National Audit Office report concluded that many of Remploy's factories were not sustainable in economic terms and that Remploy Employment Services offered a more cost-effective service. In 2007, a five-year modernisation plan was agreed from April 2008 that looked to increase substantially the numbers of disabled people in work at a much lower cost per person.

Remploy's strategy and delivery model was the subject of a major review undertaken by the previous administration in 2006/07 culminating in the Modernisation Plan, covering the five-year period from April 2008.

The Remploy business was split into:

- **Remploy Enterprise Businesses** (the factory network) currently operates in 12 business sectors including furniture, logistics and recycling industries, as well as extended supply chain and higher added-value manufacturing. Work is carried out in a network of 54 local business sites and in 30 Closed-Circuit Television services spread across the UK employing approximately 2 500 people, of which around 2 200 are disabled people. Over the first three years of the Modernisation Plan, Enterprise Businesses failed to meet the plan targets, which proved to be unrealistic. Crucially, it made no significant progress towards reducing the subsidy per job to the desired figure of less than GBP 10 000 for each supported disabled person. Instead, it remained at almost GBP 25 000 for each supported disabled person. The Sayce Review noted that in 2009/10, all Remploy's Enterprise Businesses operated at a loss which totalled GBP 63 million and that, on average, half of its employees had little or no work to do.
- **Remploy Employment Services** support disabled people into work with mainstream employers. They operate through a network of approximately 60 branches and offices, offering support and guidance to disabled people and employers.

⁶²⁸ Equality Act 2010. <http://www.legislation.gov.uk/ukpga/2010/15/contents?view=plain>.

The cost for each job outcome was approximately GBP 3 300. The Modernisation Plan envisaged a four-fold increase over five years in the numbers of job outcomes for disabled people and that, by 2013, a total of 20 000 disabled people each year would be found in sustainable employment. In the first three years of the plan, Employment Services increased, year on year, the numbers of disabled people's job outcomes from 6 698 in 2008/09 to 9 125 in 2009/10 to 15 292 in 2010/11⁶²⁹.

9.6.5. Reasonable accommodation

For individuals who meet the definition of a disabled person in the Act, employers are required to make reasonable adjustments to any elements of the job which place them at a substantial disadvantage compared to non-disabled people. Employers are only required to make adjustments that are reasonable. Therefore, factors such as the cost and practicability of making an adjustment and the resources available to the employer may be relevant in deciding what is reasonable⁶³⁰.

In the UK, support for reasonable accommodation/adjustments is delivered through the Access to Work programme, which complements the Equality Act 2010 by providing advice and support to people with disabilities and their employers, to help them to overcome work-related obstacles resulting from disability. This programme provides funding towards the additional disability-related costs of special equipment, adaptations to the workplace, personal assistance, travel to work, etc. Eligibility is assessed via Disability Employment Advisors and the Jobcentre Plus scheme. The employer normally pays for the additional support required and receives a grant towards these costs (up to 100 % of the costs for those entering a new job or self-employment)⁶³¹.

Employers share the costs of some elements for applicants who have been in a job for more than six weeks, with larger employers paying more than smaller employers. No contribution is required from very small employers or from self-employed people⁶³². During 2009-2010, the Access to Work programme supported 37,300 persons with disabilities, of whom 45 % would otherwise be unemployed. **For every GBP 1 spent on the programme there was a net return of GBP 1.48 to the Treasury. In 2012, the UK Government announced its intention to invest funds of GBP 15 million**⁶³³.

According to a 2009 review published by the Department for Work and Pensions⁶³⁴, **the Access to Work programme has tended to focus on people with a stable physical disability**, providing adaptations, support workers or equipment. Consequently, very few people helped by Access to Work have a mental health condition (of the 31,920 helped in 2008/09, only 210 had a mental health condition). The review highlighted a number of additional limitations to the programme, namely:

⁶²⁹ Disability employment support: fulfilling potential Government's response to the consultation on the recommendations in Liz Sayce's independent review Getting in, staying in and getting on. Department for Work and Pensions. 2012. Page 24.

⁶³⁰ Equality Act 2010: Duty on employers to make reasonable adjustments for their staff. Government Equalities Office. Page 2. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/138118/Equality_Act_2010_-_Duty_on_employers_to_make_reasonable_adjustments_for..pdf.

⁶³¹ Roulstone A, Prideaux S, Priestley M. Page 4.

⁶³² Disability employment support: fulfilling potential Government's response to the consultation on the recommendations in Liz Sayce's independent review: Getting in, staying in and getting on. Presented to Parliament by the Secretary of State for Work and Pensions. 2012. Page 17. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/184948/dis-employ-support-response.pdf.

⁶³³ Fembek M, Butcher T, Heindorf I and Wallner-Mikl International C. Study on the Implementation of the UN Convention on the Rights of Persons with Disabilities: Zero Project. 2013. Page 22. http://zeroproject.org/wp-content/uploads/2013/12/Zero-Report_e_-2013.pdf.

⁶³⁴ Perkins R, Farmer P, Litchfield P. Realising ambitions: Better employment support for people with a mental health condition. December 2009. Page 72. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228818/7742.pdf.

- Lack of knowledge about adjustments and support that may be needed by a person with a mental health condition in order to work effectively.
- The service is not well known.
- Support can only be agreed once a firm job offer has been made, leaving job seekers to apply without knowing whether support will be forthcoming, and employers to recruit without knowing whether the person will receive support to do the job.
- There is little or no room to make the amount of support flexible to accommodate fluctuations in a person's conditions.

One type of measure which addresses the above limitations is Individual Placement and Support (IPS), also known as evidence-based supported employment. This measure addresses the problem that the majority of mental health service clients do not receive help with finding paid work. Based on the rationale that everyone is capable of working in the open labour market if the right work is found, the programme, most importantly and unlike the traditional sequential rehabilitation approach, embeds employment specialists in clinical treatment teams so that clinical treatment and employment support are integrated and occur in parallel⁶³⁵. Studies carried out in different parts of the world found that **IPS is a more cost-saving and cost-effective way to help people with severe mental health issues into competitive employment than traditional vocational rehabilitation**. A detailed cost-benefit analysis of IPS measures is provided in section 8.7.

9.6.6. Alternative labour market services

In 2006, the Institute for Employment Studies (IES) published a report⁶³⁶, which described the UK's policy framework and the ways in which it impacts on disabled people's employment and their participation. The report examined a portfolio of policy measures, initiatives and developments in the UK divided into several broad (and partly overlapping) categories, which are presented in the following table:

Table 55: The main UK policy measures aimed at disabled people's labour market participation

Mainstream active labour market measures	Active labour market measures: Support measures targeted at disabled people	Passive labour market measures: Tax & benefit reforms & incentives
New Deal for Young People	New Deal for Disabled People	Working Tax Credit (with Disability Premium)
New Deal 25-plus	Pathways to Work	Permitted Work Rules
New Deal 50-plus	WORKSTEP	Disability Discrimination Act 1995
New Deal for Lone Parents	Disability Employment Advisers	Disability Rights Commission
New Deal for Lone Parents	Work Preparation	
New Deal for Partners	Job Retention and Rehabilitation Pilot	
Work-based training	Access to Work	

⁶³⁵ Fembek M., Butcher T., Heindorf I. and Wallner-Mikl International C. Page 224.

⁶³⁶ Meager N., Hill D. UK National Public Policy Initiatives and Regulations Affecting Disabled People's Labour Market Participation. Report prepared for the Work Research Institute, Norway as part of the project 'Disabled, Working Life and Welfare State'. 2006. Page 8. <http://www.employment-studies.co.uk/pdflibrary/wp2.pdf>.

Mainstream active labour market measures	Active labour market measures: Support measures targeted at disabled people	Passive labour market measures: Tax & benefit reforms & incentives
for Adults Work Trials	Job Introduction Scheme	

Source: Institute for Employment Studies 2006.

The New Deal for Disabled People, a voluntary scheme to support the return to work for some customers on incapacity-related benefits, was introduced in September 1998 and rolled-out nationally in July 2001. Pathways to Work was first piloted in three Jobcentre Plus Districts in 2003.

Pathways to Work required new claimants of Incapacity Benefit (IB) to attend a series of work-focused interviews (WFIs), and also provided extra support to encourage a return to work. This included a Condition Management Programme and the Return to Work Credit, a weekly payment of up to GBP 40 a week for 12 months when a customer returns to work on a salary below GBP 15 000 a year. The rationale for the early intervention offered by Pathways to Work was the declining likelihood of people on long-term IB ever returning to work⁶³⁷.

On 27th October 2008, the Employment and Support Allowance (ESA) was introduced for new claimants to replace IB and Income Support (IS) received on the grounds of incapacity. The ESA was part of a broader set of reforms introduced to move from a passive to an active welfare system, and as a response to the welfare reform green Paper 'A New Deal for Welfare (2008), which provided the criticism that 'almost nothing is expected of [incapacity] claimants – and little support is offered'⁶³⁸. The aims of ESA are to build on the approaches adopted by the New Deal for Disabled People and Pathways to Work, and to provide the practical support needed to help customers move into employment.

ESA incorporates the Pathways to Work programme, but makes some important changes elsewhere to the old IB system. Of particular significance, is the new Work Capability Assessment (WCA), which replaces the old Personal Capability Assessment (PCA). The WCA emphasises what work a claimant can, rather than cannot, do. A second important and related change is the introduction of a Work-Focused Health-Related Assessment (WFHRA) which explores claimants' views about moving into work, and examines what health-related support may help this transition.

The introduction of ESA forms an important part of the UK Government's objective of achieving a working-age employment rate of 80 %, and will be crucial in meeting the aim of reducing the number of people on incapacity benefits by one million by 2015. The ESA provides an additional GBP 30.85 on top of the basic allowance to people with severe illness or disability. Moreover, people with disabilities who receive ESA are not required to carry out any activity to receive their full benefit entitlement.

⁶³⁷ Department for Work and Pensions, (2002), Pathways to Work: Helping People into Employment, Cm 5690, HMSO.

⁶³⁸ Department for Work and Pensions, (2006), A new deal for welfare: Empowering people to work, Cm 6730, HMSO.

9.6.7. European Social Fund

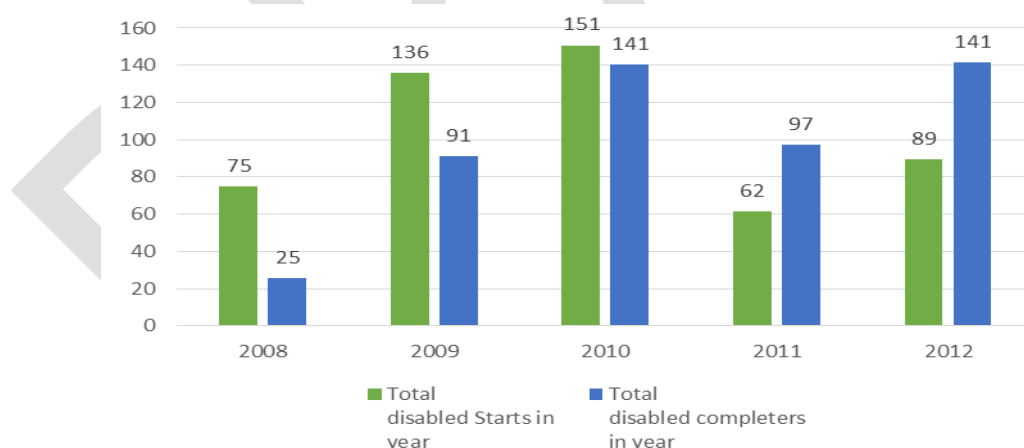
For the period 2007-2013, the UK was allocated EUR 4.47 billion of ESF funding; combined with national co-funding, total spending on jobs and education amounted to EUR 8.6 billion. This was shared between devolved ESF programmes for England, Gibraltar, Northern Ireland, Wales and Scotland. **All programmes shared two overarching themes: removing obstacles to people entering the labour market and improving the skills of the workforce**⁶³⁹.

All ESF expenditure within Priorities 1 (extending employment opportunities), 2 (developing a skilled and adaptable workforce), 4 (tackling barriers to employment) and 5 (improving the skills of the local workforce) fall within priority theme categories that are 'earmarked' as Lisbon expenditure⁶⁴⁰, which aims to increase growth, competitiveness and employment in the EU.

In the period 2007-2013, Priorities 1 and 4 supported projects to tackle the barriers to work faced by unemployed and economically inactive people, and increase their participation in employment. There was a particular focus on people at a disadvantage in the labour market. Target groups included disabled people, lone parents, older workers, ethnic minorities, low skilled people, young people not in education, employment or training, and people facing multiple disadvantages⁶⁴¹.

Priorities 2 and 5 aimed at improving the adaptability of workers and enterprises, and increasing investment in human capital, with a focus on training people who do not have basic skills and qualifications needed in the workplace. They focused on those who were least likely to receive training. They also supported training for managers and employees in small businesses. The following figure shows the number of people with disabilities who started and completed ESF-funded activities under Priority 2 (developing a skilled and adaptable workforce) in the period 2008–2012.

Figure 26: Number of people with disabilities who started and completed ESF-funded activities under Priority 2 (developing a skilled and adaptable workforce) in the period 2008–2012



Source: UK ESF Annual Reports 2008 – 2012.

⁶³⁹ The United Kingdom and the ESF. 2012.

⁶⁴⁰ L 210/25. COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999. <http://eustructuralfunds.gov.ie/files/Documents/1083%20of%202006.pdf>. Accessed 13 April 2014.

⁶⁴¹ UNITED KINGDOM NATIONAL STRATEGIC REPORT 2012 ON THE IMPLEMENTATION OF THE STRUCTURAL FUNDS. Ref. Ares (2012)1550895 - 27/12/2012. Page 25.

The 2012 UK Annual Implementation Report, found that among Priority 1 participants, the proportion of participants recorded with a disability or health condition continued to decline: from 35 % in 2008 to 18 % in 2011 and 15 % in 2012. Much of this change related to the shifting balance between economically inactive and unemployed participants; however, this was not a factor in the latest figures as those proportions have been stable from 2011. Among Priority 2 participants, the proportion of participants recorded in 2012 with a disability or health condition remained around half of its target of 15 %⁶⁴².

The following example illustrates good practices in the targeted use of ESF funds to support people with disabilities. The criteria used for selecting the example included whether the project objectives were to promote access to employment and social inclusion. The example was also selected based on the extent to which project monitoring data were available.

Table 56: ESF project examples – UK

ESF projects UK	
Project name:	Progression to Employment Service ⁶⁴³
Area of activity:	Access to employment and social inclusion
Project duration:	April 2011 – March 2014
ESF contribution:	GBP 906 768
Total budget:	GBP 2 266 947
Participants:	368
Country:	United Kingdom
Organisation:	Triangle Housing Association Ltd
<p>People suffering from a learning disability or an autistic spectrum condition face many hurdles in finding their way into the job market. In Northern Ireland, the non-profit making agency Triangle helps them overcome these challenges by providing tailor-made support services.</p> <p>The agency runs a project supporting participants in their efforts to progress towards employment. This involves an assessment of each participant's individual situation to set out employment objectives in line with their personal ambitions and abilities.</p> <p>Participants receive training based on an individual action plan and are placed with employers taking part in the scheme. They can either work for a social enterprise or for an employer using the 'place-train-maintain' approach. This involves a subsidised trial period that can evolve towards paid employment.</p> <p>The project is improving social inclusion by helping job seekers acquire the skills they need to find and stay in work. The project provides support to 368 participants.</p>	

⁶⁴² Annual Implementation Report 2012 England and Gibraltar European Social Fund Convergence, Competitiveness and Employment Programme 2007 -2013. AIR 2012 FINAL. Page 16.

⁶⁴³ <http://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=464>.

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