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## The Mobility and Integration of People with Disabilities into the Labour Market

Based on a study conducted for the European Parliament under contract IP/A/EMPL/FWC/2008-002/C1/SC4

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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **A**  
ECONOMIC AND SCIENTIFIC POLICY



**The Mobility and Integration of People  
with Disabilities into the Labour Market**

EMPL





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY**

**EMPLOYMENT AND SOCIAL AFFAIRS**

# **The Mobility and Integration of People with Disabilities into the Labour Market**

## **STUDY**

### **Abstract**

The study assesses the situation of people with disabilities within the European Union and the impact of the measures used to increase their employment. People with disabilities face low employment rates, a high dependency on benefits as well as increased poverty risk. Two types of measures exist to reinforce the social inclusion of disabled people: passive measures (cash benefits) and active measures (active labour market policies). Non-discrimination legislation and policy play an important part within the integration process of the European Union. It is argued that there is a need for an effective implementation and enforcement of the principle of non-discrimination. In addition, disability should be addressed from a broader scope by focusing on remaining or partial work capacity rather than work incapacity. Therefore, a right balance between flexibility on the one hand and security on the other hand is needed. The objective of promoting independent living for disabled people should be included as an explicit priority in the next Disability Action Plan.

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

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## LIST OF ABBREVIATIONS

<b>ALMP</b>	Active Labour Market Policy
<b>ANED</b>	Academic Network of European Disability Experts
<b>DAP</b>	Disability Action Plan
<b>ECHP</b>	European Community Household Panel
<b>EDF</b>	European Disability Forum
<b>ELFS</b>	European Labour Force Survey
<b>EU-SILC</b>	European Union Statistics on Income and Living Conditions
<b>MISSOC</b>	Mutual Information System on Social Protection in Europe
<b>NRP</b>	National Reform Programme
<b>NSR</b>	National Strategy Reports on Social Protection and Social Inclusion
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>WHO</b>	World Health Organisation

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## EXECUTIVE SUMMARY

### **The situation of people with disabilities within the European Union**

Almost one in five people in employment in 2007 suffered from a long-standing illness or health problem within the European Union. The EU-wide employment rate of the disabled is approximately 20 percentage points lower than the rate of the non-disabled. Many welfare systems do not offer satisfactory flexibility which allows for the combination of benefit receipt and employment in an appropriate way. Poverty outcomes are closely linked to the individual welfare systems of the Member States. Within the EU, the average education level of disabled individuals is lower than that of non-disabled individuals (educational gap).

People with disabilities within the EU face low employment rates, a high dependency on benefits as well as increased poverty risk. Compared to non-disabled people, the disabled have a higher risk of poverty and exclusion, in particular if they are not employed. Health issues of the disabled are not addressed adequately in the workplace, therefore focusing solely on monetary indicators leads to a misleading assessment of the situation of the disabled relative to the non-disabled.

Mental ill health accounts for one third of all new disability benefit claims. Young people represent the fastest growing age-group claiming disability benefits, with mental ill health accounting for two thirds of the people under the age of 35 years on disability benefit schemes. Fewer than 2 % of people on disability benefit schemes re-enter the labour market. Mental ill health and current practices therefore increasingly cause exclusion and early exit from the labour market.

The mobility of disabled people is important both from a human rights perspective (equal opportunities) and from an economic perspective (higher employment rates). Traditional barriers to mobility (i.e. legal and administrative obstacles, linguistic problems, acceptances of qualifications, cultural barriers) tend to be more severe for people with disabilities. A number of specific barriers related to the concept of 'independent living' can be identified, which include the portability of support measures, equipment and personal assistance, the accessibility to buildings in relation to job-to-job mobility, and accessibility to transportation with respect to geographical mobility. In addition, cultural or attitudinal barriers exist at the societal level and at the employers' level. Cross-border mobility is further impeded by heterogeneous definitions of disability in the different EU Member States. This implies various ways in approaching disability issues and leads to diverse disability-related policies and a possible lack of policy convergence across the EU.

### **Measures used to increase employment of people with disabilities**

In general, two types of measures exist to reinforce the social inclusion of disabled people: passive measures (cash benefits) and active measures (active labour market policies – ALMPs). Within ALMPs, three different types of categories targeting disabled people exist: guidance and counselling, training and education and job placement. In addition, two types of employment measures are distinguished: specific (e.g. quota) and general measures (e.g. anti-discrimination laws, accessibility measures).

Anti-discrimination policy is an important part of the EU approach to social inclusion and employment. The commitment of the EU to the principle of non-discrimination was once again reaffirmed by the Charter of Fundamental Rights of the European Union, which has been legally binding with the Lisbon Treaty, i.e. since 1 December 2009.

The UN Convention on the Rights of Persons with Disabilities is a legally binding instrument which establishes disability as a human rights issue and a matter of law and not just a social welfare issue.

Flexicurity involves the combination of a) flexible and reliable contractual arrangements, b) lifelong learning strategies, c) active labour market policies, and d) social protection systems. Flexicurity is likely to be an effective measure to include disabled people in the labour market. It is key to promoting the right balance between flexibility and security, since high levels of social security include the risk of disabled people with partial work capacity becoming 'trapped' in the disability benefit system. There is also a risk that the current economic crisis and higher unemployment levels may revive the use of disability benefits to control labour supply. Flexicurity is currently practised with great variation among Member States. More research is needed on flexicurity as a pathway for promoting mobility and integration of disabled people into the labour market.

### **The impact of the measures used**

The effectiveness of quota systems is difficult to assess; since the instrument is not well documented, the positions received via quotas are mainly characterised by low-skilled and token jobs, which are more likely to affect people with disabilities who are already in range of the labour market. More effective approaches tend to combine anti-discrimination laws with requirements for employers to make reasonable adjustments to workplaces and working conditions. Making work more attractive and feasible to disabled people requires a more suitable synthesis between benefits and employment. Disabled people who choose not to work full-time should not feel economically endangered. Flexicurity constitutes therefore an important aspect.

Several barriers are found to obstruct the good implementation of various measures: limited resources, a lack of available information, economic downturn, barriers with regard to specific target groups and prejudices among employers. A coherent combination of measures is often considered to be the most effective.

An analysis of National Strategy Reports and National Action Plans shows that disability has been mainstreamed in different ways; and it is more prominent in some countries than in others. At the individual level, a dilemma exists between mainstreaming and getting the stigmatising effect attached to targeted policies. Implementation in practice, and not simply in law, is a prerequisite for effective mainstreaming. Not only is it important to find the right balance between mainstreaming and targeted policies, but both systems need to be accompanied with an accurate system of monitoring.

With regard to self-employment, the study detected that the higher the proportion of the self-employed who do not face any activity limitations was, the more likely the disabled were also involved in business activity. Regrettably, the study faced serious data restrictions concerning self-employment. High rates of self-employment for the disabled as well as for the non-disabled are predominantly found in the southern Member States such as Greece, Italy, Portugal and Spain. Self-employment is a source of flexibility in order to accommodate the impact of impairments on the ability to work. As disability rises with age, older people are more likely to become self-employed. However, the findings could also imply that older (disabled) workers have difficulties in finding employment and face prejudice because of their apparent limitations, therefore "choosing" self-employment for lack of a better alternative – to gain a living or to supplement the existing income. However, self-employment might be a pathway to integration, but if this flexible form of employment does not offer adequate income security, the risk of poverty and social exclusion of the disabled is high.

## **Seven key recommendations**

### **Effective implementation and enforcement of the principle of non-discrimination**

Non-discrimination legislation and policy play an important part within the integration process of the European Union. These measures are put in place to remove barriers disadvantaged groups, such as disabled people, face when seeking jobs and training. In addition, a successful implementation of non-discrimination policies not only helps people with disabilities to demonstrate their potential to employers and co-workers, it can also dispel any stereotypes or prejudice.

However, the level of protection appears to be rather uneven. Legislation by itself is not enough to eradicate discrimination. If a policy is to work, it also has to make people aware of the damaging effects of discrimination and of their rights to protection against discrimination and the benefits of diversity. Furthermore, everyone must be informed of their new rights under law to protect themselves from discrimination and to challenge discriminatory attitudes and behaviour. The primary focus of these activities in all Member States is on employment and the workplace, as this is the area in which legislation banning discrimination on ground of disability is expected to have a major impact.

Therefore, more effort should be made to implement anti-discrimination laws across the full range of policy areas beyond employment. At the same time, specific campaigns could raise awareness in society about the risk of discrimination. Changing the general perception of people with disabilities within society is a substantial issue in terms of social inclusion.

### **Focusing on work capacity rather than work incapacity**

Disability should be addressed from a broader scope by focusing on remaining or partial work capacity rather than work incapacity. Structural reform of disability benefit systems is necessary in order to promote a culture of inclusion. The role of employers is important: there is a strong connection between sickness absence and the inflow to disability benefits. Efforts to reduce sickness absence from the workplace due to mental ill health can reduce inflows into long-term disability benefits. Further research is needed on the causes of increased benefits dependency among, in particular, young people and the barriers to economic and social participation that they face.

The political discussion regarding structural reform of the benefit systems should therefore be enforced. Transforming disability benefit systems into more active systems will be indispensable but also particularly challenging in the current economic context. While it is necessary to protect people who are sick or injured, the other goal of benefit systems should be to help those who can work and want to remain in the labour force, even if they have lost part of their functionality. Therefore, disability benefits need to be turned into re-employment payments in order to avoid the benefit systems remaining passive in nature, leading to exclusion. Instead of retaining the status-quo, it is necessary to promote a culture of inclusiveness. Where countries are unable to accept people with partial work capacity as significant contributors to their labour markets, disability benefits become a trap that permanently excludes them from participating.

In this context, Active Labour Market Policy (ALMP) could help integrate many disabled people who are only partly incapacitated and can as such maintain a part-time job. However, it is important to improve evidence of the effects of ALMP with respect to the employment of disabled people. Therefore, evaluations of the programmes initiated under the ALMP should be undertaken systematically across Member States.

## **Building a social alliance and establishing barrier-free working conditions**

Broader policies should focus on avoiding the inflow into disability benefits, for instance through the involvement of employers and medical practitioners, in particular taking into account young people. Incentives for all actors to keep people in or bring them back to work must be strengthened. Employers and medical professionals need to be targeted in an effort to reduce unnecessary sick leave. In addition, health problems should be addressed earlier in their infancy to avoid long-term disability.

Member States are recommended to consider measures relating to the physical accessibility to services, the training of medical staff, awareness-raising information provided in accessible formats, customised counselling services (e.g. including translation into various languages) and health services customised to the needs of people with disabilities. Member States should also consider the contribution of NGOs in such strategies.

A social alliance can contribute to managing sickness absence and making work more health-friendly. Removing the weakness of benefit and employment support schemes is a necessary yet insufficient step. Equally important are prevention policies to make work more health-friendly in general. For this the support of the employers is indispensable, since they can offer a healthy work environment, provide training and can make the necessary changes to the job if workers are at risk of ill-health. Awareness-building campaigns to address companies' social responsibility should also be considered. Moreover, a number of barriers to the mobility of people with disabilities in the European labour market exist, which need to be addressed if they are to have equal opportunities as non-disabled people to enjoy the right of free movement and contribute to the overall development of the economy.

## **Implementing the "right balance" of the flexicurity approach in EU Member States**

The flexicurity approach is likely to have positive effects on the employment of disabled people. Especially flexible work schemes and activation measures combined with social security ensuring a decent standard of living seem to be effective. The flexicurity approach contains the idea of lifelong learning. Increased focus on equality in the achievement of education and qualifications for the labour market through accessible lifelong learning provision must be a key objective which should be taken up in all NSRs. The reason is that lifelong learning strategies appear important, as they help narrow the educational gap between disabled and non-disabled. The educational gap can be seen as an important factor explaining the employment gap.

For the full merits of the flexicurity approach, the "right balance" between flexibility on the one hand and security on the other is required. Too much one-sided "security" entails a risk that disabled people with partial work capacity are neglected as a labour capacity and thus are being trapped in the disability benefit system, with only limited possibilities of re-entering the labour market. Hence, flexibility within the social security systems is required. In addition, the economic crisis is a major challenge regarding the employment of disabled people. Unemployment is increasing more for disabled people than non-disabled and furthermore, there is a risk that disabled people are moved from unemployment benefit schemes to disability benefit schemes in order to control the supply of labour.

Within the European Union, there is great variation between Member States' flexicurity systems. Therefore the EU should not promote a flexicurity model of one type fits all but should instead further promote the core concepts of flexicurity – i.e. flexibility in the labour market combined with an adequate social security system.

The pathway should be to create flexible and secure contractual arrangements and work organisations, effective active labour market policies, reliable and responsive lifelong learning systems as well as modern social security systems.

### **Overcoming the lack of empirical evidence**

The study detected a considerable lack of empirical evidence concerning the monitoring and evaluation of the needs of disabled people, their actual situation, policy measures, activities and practical functioning of such policies. There is a significant difficulty in accessing basic information and reliable data regarding the social situation of people with disabilities.

As a consequence, the EU Member States should make considerable improvements in gathering and reporting such data as is required by the new UN Convention. Harmonised forms of data collection, availability and progress indicators will be required to meet these challenges. Future research should address the needs of people with different impairments, including all age categories, gender, ethnicity, people with multiple disabilities, etc. Data collection and access to best practice knowledge would help identify appropriate measures to enhance the mobility of people with disabilities. This could contribute to achieve the ambitious goals of equality in relation to the employment strategy.

More knowledge and information is needed to better understand the complex issue of mental ill health and evidence upon which to base informed policy decisions. More work is required to better understand the causes of the particular disadvantages of people with mental illness – and to devise adequate policies to overcome the resistance to retaining or hiring them.

### **Linking national employment policies and social inclusion by policy coherence**

The various policy initiatives, some of which are at different levels, can only work together in harmony by initiating a high degree of consistency. The key to achieving this is improved communication, not only between different EU institutions and bodies but also within them. Stakeholders need to be made aware of the complexity involved with the topic of disability. This whole area has borne witness to many new developments in the last twenty years. Of which, the most significant has been a major shift in how the issue is tackled: a general, comprehensive approach has been superseded by a concept of tailoring solutions to the problems experienced by the individual. However, only when armed with comparable data, can the European Union produce coherent legal instruments and legislation.

There is scope to form greater connections between national employment policies and national strategies on social inclusion. According to the ANED, there is positive evidence that many Member States are developing coherent national disability strategies, and that disabled people are being involved in their development. Again, it is essential that Member States monitor the connections between strategic policy commitments and practical implementation.

### **Developing the successor of the Disability Action Plan**

The successive Action Plan needs to be developed and implemented in close cooperation between the EU and the Member States. The aim of improved cooperation will be achieved by using some elements of the Open Method of Coordination (OMC) approach as a mechanism for developing closer cooperation on disability issues between relevant EU and national policy makers.

There may therefore be scope to include a stronger disability mainstreaming dimension through existing OMC processes in the areas of employment and social protection and social inclusion (SPSI).

This would help ensure that disability issues are discussed more frequently by national and EU policy makers in relevant policy areas than presently is the case.

The objective 'Promoting independent living for disabled people' should be included as an explicit priority in the next Action Plan, with the focus being on "independent".



# 1. INTRODUCTION AND OVERVIEW

## KEY FINDINGS

- The European Disability Pact 2011-2021 is committed to a coordinated and sustainable disability policy between the Member States and the EU.
- The lack of disaggregated data in key sector fields at present means that effective positive programmes cannot be comprehensively developed and implemented. An additional problem is that many available figures still relate more to health issues rather than to social inclusion.
- Member States apply a vast range of definitions of disability or invalidity to determine the right to disability benefits. Thus, the comparability of statistical data on the socio-economic situation of disabled people is hampered.
- Almost one in five people in employment in 2007 suffered from a long-standing illness or health problem within the European Union.
- Many welfare systems do not offer satisfactory flexibility ensuring a combination of benefit receipt and employment.
- The EU-wide employment rate of the disabled is approximately 20 percentage points lower than the rate of the non-disabled.
- Poverty outcomes are closely linked to the individual welfare systems of the Member States.
- Within the EU, the average education level of disabled individuals is lower than that of non-disabled individuals (educational gap).

## 1.1 The development of EU policy regarding people with disabilities

In recent years, an increasing emphasis has been placed in the European Union Member States on strengthening the social and labour market inclusion of people with disabilities. The key challenges EU Member States face with regard to people with disabilities are low employment rates, high dependency on benefits, rising public spending and an increased poverty risk among the people concerned (Shima et al., 2008).

The Council of Europe addressed the protection of rights of people with disabilities within the Revised European Social Charter of 1996. The Social Charter highlighted the rights of people with disabilities to independence, social integration and participation (Article 15). Considering the enforcement of this right, coherent and sustainable action by EU authorities is required, encompassing measures in order to provide people with disabilities with guidance, education and vocational training, to promote their access to employment and to overcome barriers to communication and mobility.

People with disabilities are no longer seen as victims or patients but as people with equal rights and a full role to play in the society (Article 27). An important point of reference for this new strategy is the UN Convention on the Rights of Persons with Disabilities, adopted in 2006 and in force since 3 May 2008.

The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all people with disabilities (Article 1). From a European perspective, the Convention establishes disability not only as a social welfare matter but as a human rights issue and matter of law.

As early as 2000, however, the Council had adopted the Directive on Equal Treatment in Employment and Occupation (Council Directive 2000/78/EC). The directive prohibits discrimination of workers on several grounds, including disability. Furthermore, the European Commission formulated a proposal on 2 July 2008 for a Council Directive on implementing the principle of equal treatment between people in non-employment areas, irrespective of religion or belief, disability, age or sexual orientation.

The 2010 Joint Report on Social Inclusion and Social Protection stresses that low-skilled workers, people with disabilities or mental health problems, as well as migrants, have limited access to training and other enabling services (Council 6500/10). The Lisbon Strategy, the Social Action Programmes, the Social Agendas as well as the EU 2020 Strategy have placed special emphasis on social policies and the eradication of poverty. In this way, two "flagship initiatives" are of utmost importance for people with disabilities: firstly, 'The New Skills for New Jobs Agenda', launched by the European Commission in December 2008 to better anticipate, upgrade and match skills needs by building stronger bridges between the world of education and training and the world of work; secondly, the 'Platform Against Poverty', that is to underpin and support Europe 2020 containing a renewed political commitment to fight poverty and exclusion. The objective of the platform is to ensure social and territorial cohesion, so that the benefits of growth and jobs are available to all. In doing so, everybody experiencing poverty and social exclusion should be able to live in dignity and take an active role in society.

Equality of opportunity is the objective of the European Union's long-term European Disability Strategy (2004–2010). Its aim is to give disabled people the opportunity to enjoy their right to dignity, equal treatment, independent living and participation in society. The centrepiece of the European Disability Strategy is the Disability Action Plan (DAP), which provides the framework to organise the mainstreaming of disability issues. Disability issues and interests are incorporated into the framework of legislation and society, focusing not only on the needs of disabled people but also on the contributions they can make. The two-year phases of the DAP develop policy priorities to respond to inequality experienced by disabled people. The 2008–2009 DAP focused on accessibility not only to encourage their inclusive participation but to work towards their inclusion in all of the fundamental rights. The communication from the European Commission (2007) outlined the manner as follows:

- fostering accessibility of the labour market,
- boosting accessibility of goods, services and infrastructures,
- consolidating the Commission's analytical capacity to support accessibility,
- facilitating the implementation of the UN Convention and
- complementing the European Union's Community legislative framework of protection against discrimination.

The European Disability Pact 2011–2021 is committed to a coordinated and sustainable disability policy between the Member States and the EU. Taking into account the strong EU policy emphasis on the labour market and social integration of people with disabilities, this first section of the study provides an overview of the employment situation of people with disabilities as well as sketching their socio-economic situation with some key parameters putting people at risk of poverty and social exclusion.

The analysis makes use of the EU-SILC 2008, which comprises comparative information on income at a household and individual level, and the employment situation and social exclusion for people living in the Member States. The analysis starts with a discussion on the definition of disability and the alternatives available within the dataset at hand; it is investigated whether the employment rates differ according to the severity of activity limitations, gender and age. Thereafter, the highest education level of the disabled is contrasted with the level of the non-disabled as well as for disabled people in-work and not-in-work.

## 1.2 Definitions of disability and the EU-SILC

Disability as an analytical concept poses major challenges in that it is not a clear and single phenomenon. In fact, the definition of disability varies considerably between administrative jurisdictions across the European Union.

The EU approach acknowledges disability as a social construction, while national policies in many cases define disability in terms of a medical or functional assessment of impairment or incapacity (Greve, 2009). The UN Convention, like the EU, emphasises that a shift in approach from a medical understanding to a social understanding of disability is necessary. This can be achieved by ensuring that physical environment and social attitudes do not constitute barriers but instead empower people with disabilities to fully participate in society (ECOTEC, 2009).

A study on the 'Situation of Women with Disabilities in Light of the UN Convention for the Rights of People with Disabilities' prepared for the European Commission (VC/2007/317) illustrates well how EU Member States vary in their approach to the disability concept.<sup>1</sup> As can be seen in Table 5, some countries have fully adopted the social approach when defining disability, whereas others primarily still rely on a medical definition of disability (ECOTEC, 2009).

**Table 1: Disability concepts**

Definition	Countries
Social approach is incorporated into the definition of disability	Austria, Ireland
Definition incorporates a number of social approach elements	Denmark, Finland, France, Malta, the Netherlands, Portugal, Spain, Romania, United Kingdom
Definition incorporates a number of medical approach elements	Bulgaria, Germany, Lithuania, Slovakia, Sweden, Turkey
Strong medical definition of disability	Czech Republic, Estonia, Hungary, Iceland, Poland

**Source:** Developed by ECOTEC 2009 on the basis of their national research study (ECOTEC 2009).

The definition applied by Austria, for instance, represents a full adoption of the social approach, since a person with disabilities is defined as someone who is not able to "sustain regular social relationships, acquire and perform gainful employment and achieve a reasonable and adequate income without assistance" (ECOTEC 2009: 19).

This variation of disability definitions across the Union raises a number of issues when discussing the free movement of people as people with disabilities are not subject to the same definitions and criteria for disability across the Union. The heterogeneous definition of disability in the different EU Member States implies varieties in approaching disability issues and leads to diverse disability-related policies addressed at people with disabilities and a possible lack of policy convergence across the Union (Shima/Rodrigues 2009).

In a recent public consultation for the preparation on a new EU Disability Strategy 2010-2020, the issue of free movement was one of the themes addressed. When asked about the degree of helpfulness in ensuring people with disabilities enjoy the right to free movement 85 % of all respondents found a mutual recognition of disability status across Member States “clearly” or “very much” useful. Around 80 % of the respondents found the harmonisation of criteria used by Member States to assess the degree of disability “clearly” or “very much useful” (European Commission 2010a). Thus, recognition or harmonisation of disability definitions and status is considered an issue that needs attention in terms of improving the freedom of movement for people with disabilities.

Although data on the disabled and policies addressing them can be found at both the national and European level and in the EU National Strategy Reports (NSRs) on Social Protection and Social Inclusion, the datasets had a number of deficiencies.

The lack of disaggregated data in key sector fields at present means programmes cannot be comprehensively developed and implemented, and once they are it is difficult to measure their effectiveness (European Commission, 2009b). The policy instruments used to promote equality and social inclusion rarely have monitoring systems, although some evaluation studies have been conducted; and of the measures monitored, only some addressed disability. In addition, many of the figures relate more to health issues rather than social inclusion.

A further problem is that many EU Member States do not have their own data, and so they rely on EU-SILC and ELSF data (Arsenjeva, 2009; Greve, 2009). With regards to the NSRs, the Academic Network of European Disability Experts (ANED) report that very few figures or indicators relating to disabled people are provided in the reports, and those which appear are often be contested.

The ANED was founded by the European Commission in 2008 to provide scientific support and advice for its disability policy unit. Their central activities deal with the development of the EU Disability Action Plan and the practical implementation of the United Nations Convention on the Rights of Persons with Disabilities. Furthermore, the ANED assesses Member States and their effort to mainstream issues with regard to people with disabilities in the context of the 2008-2010 National Strategic Reports (Priestley, 2009).

The availability of data also depends on the clarity of the policy targets set: clear targets lead to better data. Examples of good practice are Ireland and Denmark. For instance, the NSR of Ireland targets are to increase the employment rate of people with disabilities from 37 % to 45 % by 2016, and the overall participation rate in education, training and employment are to be increased to 50 % by 2016. Denmark set quantifiable targets for 2005–2009 aimed at increasing the share of disabled people in employment. At the same time, the share of companies with disabled employees should be increased by one percentage point per year. However, the 2008 NSR did not propose any indicator for monitoring progress on disability-related issues (Greve, 2009).

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<sup>1</sup> According to the authors of the study, the definition of disability was not identified in some countries during national research.

The crucial question is: when is a health problem defined as a disability? This is especially relevant when talking about in- and outflow of disability benefit systems. The correlation between sickness absence and disability will be examined in more detail later. People with long-term health problems are therefore also considered as (potentially) subject to disability policies in this study. In order to provide up-to-date empirical evidence on the (multiple) risks of poverty and social exclusion of employed disabled people in Europe, a common definition of disability is needed which is both applicable across EU Member States and available within the EU-SILC dataset. Although numerous attempts by national and international institutions have been made to find a uniform definition of disability, no such concept currently exists across the EU. Moreover, Member States apply a vast range of definitions of disability or invalidity to determine the right to disability benefits (European Commission, 2009a), thus hampering the comparability of statistical data on the socio-economic situation of disabled people.

For the identification of disabled people within the European Union, the EU-SILC does not allow researchers to link health status with the capacity to undertake work. There are no direct questions, such as 'Do your limitations affect the type or amount of work you can undertake?', instead, the EU-SILC relies on self-identification. Inactive disabled people self-define their current economic status as being 'permanently disabled or/and unfit to work'. To identify individuals with health problems in employment, the EU-SILC adopts a two-stage approach: respondents are asked whether they 'suffer from any (long standing) illness or condition' and subsequently, whether they have 'limitations in activities because of health problems'. This approach is in line with guidelines from the UN Ad Hoc Committee for a Comprehensive and Integral Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, stating that a 'definition of "disability" must not be restricted to specific, severe or high-need groups, but be flexible so that as resources become available, the threshold of disability can be adjusted so that more and more individuals can benefit from these resources' (Leonardi, 2008).

This very broad statement does not, however, reveal how disabling health conditions affect the capacity to work. Jones (2008) provides a review of the existing empirical evidence on the labour market impact of disability and the shortcomings related to measurement. As the extent of measured disability in the workforce varies with the underlying data source, the literature suggests that there may be social and economic incentives to misreport disability status, depending on individual preferences to work, the possibility of claiming disability benefits, stigmatisation or simply because of different cultural understandings of disability (Blekesaune, 2007). Stigmatisation leads to an underestimation of the extent of disabled individuals in the workforce, whereas the first two reasons have the opposite effect. Nevertheless, Jones (2008) concludes that there is ample evidence for a consistent, negative effect of disability on employment and earnings regardless of data source, country or time period.<sup>2</sup>

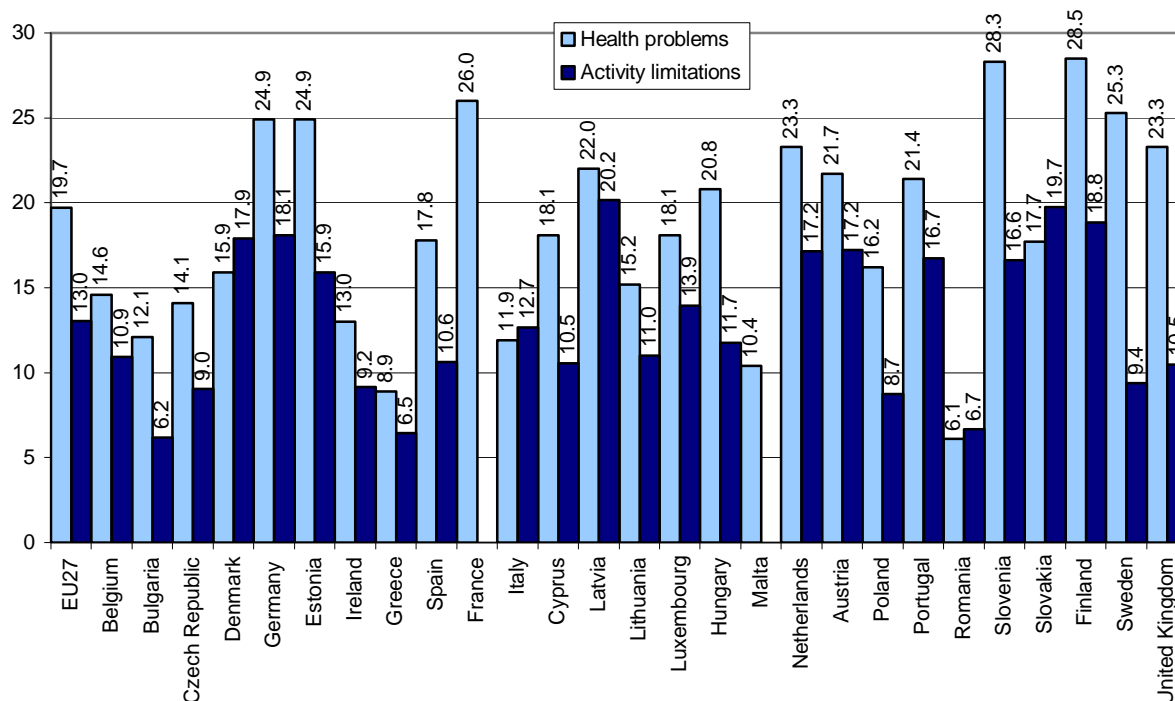
The most appropriate proxy indicator for work capacity within the EU-SILC is the activity limitation item, which refers to difficulties encountered by individuals when executing tasks or actions. Respondents report that for the last six months they have been either 'strongly limited', 'limited' or 'not limited' in their usual activities because of health problems. Similarly, the World Health Organisation (WHO) defines disability as '...an umbrella term, covering impairments, activity limitations, and participation restrictions.' By restricting our analysis to employed respondents with activity limitations, we presume that the disabling health problems also limit the choice of labour market activity of these individuals. Conversely, respondents who reported being 'not limited' in activities because of health problems are presumed to face no labour market restrictions.

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<sup>2</sup> Even after controlling for sample selection bias due to (self-) selection into disability status and/or employment.

This is due to the fact that respondents with only slight chronic disorders are assumed not to be limited in their labour market activity.

**Figure 1: Prevalence of long-standing illness or health problems and people who reported being “strongly limited” and “limited” in their usual activities because of health problems for at least the last 6 months among people in employment<sup>3</sup>, 2007 (%)**



**Source:** Eurostat (hlth\_silc\_04) and EU-SILC (2008) (excluding France and Malta).

In the publication 'Combating Poverty and Social Exclusion: A statistical portrait of the European Union 2010', Eurostat (2010) states that almost one in five people in employment in 2007 suffered from a long-standing illness or health problem – hence referring to the first-stage item in the EU-SILC 2008 questionnaire. It should be noted that Norway, Iceland and 25 EU Member States are included in the EU-SILC data: Malta and France are excluded, as the dissemination of individual data is not permitted. When calculating the EU-wide average of those in employment and “strongly limited” and “limited”, the figure drops from 19.7 % to 13.0 % (Figure 1). Country outcomes deviate substantially from these overall averages: for Denmark, Italy, Romania and Slovakia, the average rate for those with limitations in their abilities actually ranges above the rate of the chronically ill. The difference between the two rates is lowest for Italy and Romania and highest in Sweden and the United Kingdom.

The special ad hoc module of the European Labour Force Survey (ELFS) on people with disabilities and long-term health problems which was carried out in 2002 also comprises a wide range of disability rates across countries (even though the module is based on a harmonised methodology).

<sup>3</sup> In EU-SILC the main activity for a given year is “employment” if a respondent has spent more than five months of the income reference period in employment.

Hence, it is safe to infer that such an unequal distribution of the incidence of disability is at least to some extent caused by the prevalent national notions and definitions of disability which are in turn linked to national welfare systems (Famira-Mühlberger et al., 2010a, 2010b).

### 1.3 Employment

Regardless of shortcomings in the definition of disability, it remains indisputable that a vast number of disabled people in the European Union are not employed, consequently face income restrictions and are at risk of falling into poverty. The OECD (2009a) background paper on sickness, disability and work states that in OECD countries the average disposable income of disabled people is 12 percentage points below national averages. Although numerous policies targeting the integration of people with reduced work capacity into the labour market were introduced in the past decade, participation rates have remained low and even decreased. Furthermore, the OECD analysis found a high dependency on sickness and disability benefits. The roots of this "benefits trap" are partly historical, as welfare systems were designed to shelter people with disabilities from the strains of labour market activity. Many welfare systems have yet to offer satisfactory flexibility which allows benefit receipt and employment to be combined in an appropriate way. The OECD background paper finds that disability benefits still contain perverse incentives which render taking up work unattractive – even for people with only partial incapacity. This "benefit culture" is viewed as particularly problematic as a new trend towards ever younger disability claimants emerges. Most health-related disability claims have so far been more likely to occur after a long employment biography. The report by APPLICA, CESEP and European Centre (2007), which compiles statistical data on disability, finds a rate of chronic illness and disability which moves progressively from 1 % among young people to 15 % at the age of retirement.

The EU-wide employment rate<sup>4</sup> of the disabled is approximately 20 percentage points lower than the rate of the non-disabled (see Table 1). For all European countries investigated, the employment rate of people with no limitations in activities because of health problems (65.1 %) is higher compared to the rates of people who are limited (52.4 %) or strongly limited (26.2 %). However, the EU average (excluding France and Malta) covers a variety of gaps in employment rates: of the 25 EU Member States analysed, 14 have a difference in employment rates between the non-disabled and the disabled which ranges above the average European difference. A particularly high difference is observed in Romania, where the non-disabled have on average an employment rate which is 31.0 percentage points higher than the one of the disabled.

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<sup>4</sup> An individual is employed if having spent more than 7 months in employment (full-time and part-time work) during the income reference period.

**Table 2: Employment rate for the population between 15–64 years by activity limitation, EU Member States, 2007 (%)<sup>5</sup>**

	None (1) %	Limited (2) %	Strongly Limited (3) %	%	Disabled (2) + (3) N	Pop. Pop.
Austria	67.31	61.62	32.04	52.30	985	621 175
Belgium	62.65	45.46	25.54	39.77	626	459 572
Bulgaria	64.34	41.85	16.55	35.65	287	188 774
Cyprus	67.81	65.57	37.27	56.85	460	35 366
Czech Republic	64.65	42.53	20.81	37.91	941	346 090
Germany	65.64	60.60	26.43	50.13	2 195	6 067 381
Denmark	70.38	56.34	31.91	48.72	567	257 606
Estonia	71.03	63.03	22.53	53.86	951	90 378
Spain	66.65	48.69	30.08	45.08	1 654	2 105 033
Finland	69.61	60.37	27.54	52.63	1 141	239 647
Greece	61.93	41.39	26.24	35.96	425	270 277
Hungary	54.81	34.51	17.87	29.37	898	404 891
Ireland	61.68	40.87	19.14	34.90	403	154 233
Italy	58.69	49.72	28.32	44.48	2 466	2 742 463
Lithuania	67.57	52.65	13.84	43.81	595	151 477
Luxembourg	65.74	58.56	47.41	55.16	595	28 266
Latvia	68.92	62.63	29.24	56.12	1 141	196 474
Netherlands	67.90	53.54	19.15	46.85	1 057	647 620
Poland	59.16	38.32	16.91	33.06	1 276	1 176 459
Portugal	67.27	60.42	28.86	50.27	821	705 149
Romania	60.23	37.02	12.01	29.21	470	512 599
Sweden	75.14	65.25	35.66	52.64	411	230 940
Slovenia	62.20	53.23	42.28	49.46	741	55 376
Slovakia	65.12	58.94	29.45	51.81	1 455	475 986
United Kingdom	74.13	60.17	30.49	48.25	825	2 386 435
<b>EU-25</b>	<b>65.07</b>	<b>52.42</b>	<b>26.17</b>	<b>44.93</b>	<b>23 386</b>	<b>20 549 668</b>

**Source:** EU-SILC (2008) (excluding France and Malta), fewer than 50 observations for strongly limited people in Bulgaria.

European frontrunners in the employment of disabled people are Cyprus (56.9 %), Latvia (56.1 %) and Luxembourg (55.2 %). The lowest rates of employment of the disabled are observed in Romania (29.2 %), Hungary (29.4 %) and Poland (33.1 %). Unsurprisingly, the employment rates of those severely limited in their activities are below those people who are “only” limited. The employment rates of those individuals with strong activity limitations are also comparatively high in Cyprus and Luxembourg. In Cyprus disabled people are entitled to full disability benefits even if they are employed full-time.

<sup>5</sup> Please note that N expresses the number of the people with disabilities within the sample, whereas Pop. displays the amount of people with disabilities projected onto the population of each country.



In Luxembourg measures to promote economic security and independence of the disabled also include a remunerations system for people who have been recognised as workers with disabilities and who are employed in the mainstream labour market or in a sheltered workshop (European Commission, 2009a). Overall, there exists a high correlation of around 0.7 between the level of employment in a member country and the employment rate of the disabled.

### **Employment, gender and age**

The report entitled 'Study on the Situation of Women with Disabilities in Light of the UN Convention for the Rights of People with Disabilities', by ECOTEC (2009), highlights that women with disabilities are subjected to the "intersection" of gender and disability. EU Member States do not yet accommodate for the special needs of disabled women in their welfare regimes and social protection systems.

Disaggregating the EU average employment rate of the non-disabled and the disabled by gender reveals a lower average employment rate of (disabled) women relative to (disabled) men (Table 2). The gender difference in employment rates of disabled people is particularly pronounced in Cyprus (21.0 percentage points), Greece (16.4) and Italy (21.2). Virtually no gender gap is found in Finland, Estonia and Sweden: the gender gaps in the employment rates of men and women with disabilities in these three countries range from -2.4 to 0.9 percentage points. A high correlation of around 0.7 exists between the gender gap of the non-disabled and the disabled. Countries with an employment gap of over 20 percentage points between non-disabled men and women, such as Spain, Greece, Italy, Luxembourg and Romania, also have comparatively high employment gaps between disabled men and women. Conversely, Estonia, Finland and Sweden are well known to have very small gender gaps in employment rates of the non-disabled.

**Table 3: Employment rates of non-disabled and disabled people by gender and EU-country, 2007 (%)**

Gender	Non-disabled			Disabled		
	Men	Women	Difference	Men	Women	Difference
Age	15-64	15-64	15-64	15-64	15-64	15-64
Austria	81.48	61.90	19.57	59.38	45.07	14.31
Belgium	72.60	61.68	10.92	45.04	34.97	10.07
Bulgaria	74.26	61.13	13.13	41.13	30.54	10.59
Cyprus	78.54	60.44	18.11	67.20	46.22	20.98
Czech Republic	79.84	61.12	18.72	44.27	32.80	11.47
Germany	76.37	64.88	11.49	54.48	46.20	8.28
Denmark	78.48	73.17	5.31	55.67	43.36	12.31
Estonia	79.74	71.07	8.67	54.32	53.41	0.91
Spain	81.07	59.59	21.49	53.01	38.16	14.85
Finland	80.23	72.58	7.64	51.34	53.74	-2.40
Greece	77.79	52.26	25.53	44.94	28.55	16.39
Hungary	69.78	54.17	15.62	32.92	26.12	6.80
Ireland	72.58	60.40	12.18	39.41	30.45	8.96
Italy	73.36	49.07	24.29	56.22	34.99	21.23
Lithuania	78.33	68.47	9.86	47.28	40.93	6.35
Luxembourg	78.09	57.03	21.05	63.16	48.51	14.65
Latvia	78.33	67.83	10.50	58.43	54.24	4.19
Netherlands	79.69	68.43	11.26	51.07	43.88	7.19
Poland	72.02	56.15	15.87	36.67	29.50	7.17
Portugal	77.22	65.84	11.39	55.05	46.63	8.42
Romania	74.55	54.41	20.14	32.49	26.51	5.98
Sweden	82.90	77.29	5.61	52.85	52.48	0.37
Slovenia	73.26	63.40	9.86	52.73	46.11	6.62
Slovakia	75.52	63.83	11.69	58.69	46.67	12.02
United Kingdom	83.89	73.80	10.09	49.92	46.87	3.05
<b>EU-25</b>	<b>77.08</b>	<b>61.17</b>	<b>15.91</b>	<b>50.31</b>	<b>41.08</b>	<b>9.23</b>

Source: EU-SILC (2008) (excluding France and Malta).

**Table 4: Employment rates of non-disabled and disabled people by gender and age in the EU, 2007 (%)**

Age	Non-Disabled			Disabled		
	Men (1) %	Women (2) %	Gender Difference (1)-(2) Percentage points	Men (1) %	Women (2) %	Gender Difference (1)-(2) Percentage points
15–24	36.72	28.93	7.79	31.47	27.07	4.39
25–49	91.06	74.07	16.99	64.92	55.45	9.47
50–64	74.42	54.25	20.17	40.40	29.47	10.93
Working age	77.08	61.17	15.91	50.31	41.08	9.23

**Source:** EU-SILC (2008) (excluding France and Malta).

Furthermore, the gender difference in the average EU employment rate (excluding France and Malta) increases with age – but more so for the non-disabled (Table 3). The European Commission 'Report on Equality between Women and Men 2010' states that caring for other dependants plays an important role in the low employment rate of women aged between 55 and 64. As disabled women in this age category are subject to activity limitations, it might be the case that they are less involved in physically strenuous caring activities relative to their non-disabled counterparts. In the age-group of 15 to 24 year-olds, the gender employment gap of the disabled amounts to 4.4 percentage points and 7.8 for the non-disabled. For 25 to 49 year-old disabled people, the gap is 9.5 percentage points and 17.0 for the non-disabled. For the oldest age cohort, the gender difference in the average EU-wide employment rate of disabled people is 10.9 percentage points and 20.2 for the non-disabled. As an uninterrupted employment history is a crucial element for the extent of pension entitlements, the lower female employment rates could translate into an increased risk of poverty for (disabled) women at old age relative to the risk of (disabled) men. As country specific gender employment gaps deviate substantially from the European average, it can be assumed that risks of poverty associated with non-employment also markedly differ across EU countries. However, poverty outcomes are closely linked to the individual welfare systems of the Member States and hence the gender differences at old-age have to be considered more in-depth at the national level.

## Employment and education

'The Study of Compilation of Disability Statistical Data from the Administrative Registers of the Member States' (Applica, CESEP and European Centre, 2007) highlights the importance of education for the successful integration of disabled people into employment. Within the EU, the average education level of disabled individuals is lower than that of non-disabled individuals (Table 4). The disaggregation by highest education levels shows that on average, the percentage rate of disabled with lower secondary education lies above the rate for non-disabled (by 2.7 percentage points). Starting with (upper) secondary education, non-disabled Europeans have higher education levels than disabled Europeans, with a difference of 7.1 percentage points; for post-secondary non-tertiary education, the difference is comparatively low, at 1.2 percentage points. In addition, there is an 8.4 percentage point difference between the two groups with regard to first stage tertiary education certificates (24.5 percentage points vs. 16.1).

The differences in highest education level achieved by disabled are also very pronounced when comparing those employed and not: disabled people not employed are more likely to have pre-primary, primary and lower secondary education as their highest level – the respective percentage point differences amount to 2.9, 16.5 and 6.9 – and are less likely to have (upper) secondary, post-secondary non-tertiary and first stage of tertiary education. The percentage point differences in favour of the employed disabled are 13.1, 1.6 and 11.6, respectively.

**Table 5: Highest education levels of non-disabled vs. disabled people and disabled not employed vs. disabled employed people in the EU, 2007 (%)**

	<b>Non-Disabled</b>	<b>Disabled</b>	<b>Difference</b>	<b>Disabled Not employed</b>	<b>Disabled Employed</b>	<b>Difference</b>
	<b>(1)</b>	<b>(2)</b>	<b>(1)-(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(3)-(4)</b>
<b>Education level</b>	<b>%</b>	<b>%</b>	<b>Percentage points</b>	<b>%</b>	<b>%</b>	<b>Percentage points</b>
Pre-primary education	0.41	2.27	-1.85	3.06	0.16	2.91
Primary education	9.04	21.09	-12.05	25.68	9.20	16.48
Lower secondary education	19.22	21.96	-2.74	23.80	16.93	6.86
Upper secondary education	42.58	35.49	7.09	31.84	44.95	-13.11
Post-secondary non-tertiary education	4.22	3.06	1.16	2.61	4.18	-1.57
First stage of tertiary education	24.53	16.13	8.40	13.01	24.58	-11.57

**Source:** EU-SILC (2008) (excluding France and Malta).

## 2. LEGAL PROTECTION AGAINST DISCRIMINATION AND COMPLEMENTARY ACTION

### KEY FINDINGS

- People with disabilities within the European Union face low employment rates, a high dependency on benefits as well as an increased poverty risk.
- Anti-discrimination policy is an important part of the EU's approach to social inclusion and employment.
- The commitment of the EU to the principle of non-discrimination was once again reaffirmed by the Charter of Fundamental Rights of the European Union, which has been legally binding with the Lisbon Treaty, i.e. since 1 December 2009.
- The UN Convention on the Rights of Persons with Disabilities is a legally binding instrument, which establishes disability as a human rights issue and a matter of law and not just a social welfare issue.
- A strong linkage between the UN Convention, the EU Action Plan, national disability strategies, and the National Reform Programmes would help ensure that disability policies were mainstreamed in policy terms.

### 2.1 Non-discrimination in EU law

Recent legal development in Europe has witnessed a rapid expansion of anti-discrimination laws. The principles of equal treatment and non-discrimination are at the heart of the European Social Model, as they represent the cornerstone of the fundamental rights and values underpinning today's European Union. Therefore, a main political objective in recent years is to ensure that the EU legal framework for combating discrimination in all of the relevant areas, including disability, is effectively implemented and enforced in all EU Member States.

There has been a large amount of European legislation over the last thirty years which has dealt with gender discrimination in areas of social security, pay and working conditions. Furthermore, this legislative framework has been reinforced by numerous cases heard in the European Court of Justice. From this process of establishing policy to tackle sex discrimination, a consensus emerged in the mid-1990s which saw the need for the European Community to tackle discrimination in a number of additional areas. The result of this process was the inclusion of a new legal provision in the EC Treaty – Article 13 (now Article 19 of the Treaty of the Functioning of the European Union – TFEU) after the Treaty of Amsterdam came into force in 1999.

Article 13 EC/19 TFEU has no direct effect; however, appropriate legislative action may be taken on this legal basis. This legal provision represented a great leap forward in the fight against discrimination at the EU level by empowering the European Community or – since the Treaty of Lisbon came into force on 1 December 2009 – the European Union to take action in dealing with discrimination on a whole new range of areas, including racial or ethnic origin, religion or belief, age, disability and sexual orientation. Its adoption reflected, at the same time, the growing recognition of the need to develop a coherent and integrated approach towards the fight against discrimination.

Two directives<sup>6</sup> were adopted by the Council in 2000 as a result of this political initiative taken by the European Commission. Their aim was to ensure that effective legal protection against discrimination would be available not only to European Union citizens but also to third-country nationals:

- Council Directive 2000/43/EC, implementing the principle of equal treatment between people irrespective of racial or ethnic origin (published in OJ No L 180 of 19 July 2000) and
- Council Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation (OJ No L 303 of 2 December 2000).

Directive 2000/78/EC had to be transposed into national law by 2 December 2003 in the EU-15, by 1 May 2004 in the ten additional countries of the EU-25, and by 1 January 2007 in Bulgaria and Romania, with the possibility of up to three additional years to transpose age and disability provisions. The main issue since then has been to ensure that national legislation is effectively brought into line with the directive.

The focus of the Employment Equality Directive is on discrimination in employment and covers a range of aspects: direct and indirect discrimination, harassment and instructions to discriminate. It follows from earlier European legislation regarding gender equality, which is a result of the role the European Court of Justice has played in defining many of the legal concepts when passing judgment on cases. Although the Employment Equality Directive has not yet been fully implemented in all 27 EU Member States, it has had a clear effect in strengthening protection against discrimination across Europe. It has also encouraged the development of an integrated approach to tackling discrimination on the grounds of disability, based on respect for the right of everyone to be treated equally.

The main features of the Racial Equality and Employment Directives encompass every human being living or working in the European Union and forbid discrimination due to racial or ethnic origin, religion and belief, disability, age and sexual orientation. This includes (amongst others) a ban on discrimination relating to access to employment and self-employment, access to vocational guidance and training, and the membership of trade unions and professional bodies. In addition, the directives prohibit not only direct discrimination (i.e. when a person is treated less favourably than another on any of the mentioned grounds) but also indirect discrimination (i.e. when people with disability suffer a particular disadvantage compared with others) (Leat, 2007).

Commitment of the EU to the principle of non-discrimination was once again reaffirmed by the Charter of Fundamental Rights of the European Union, which has been legally binding with the Lisbon Treaty, i.e. since 1 December 2009. Article 20 of the Charter sets out the general principle of equality before the law, and Article 21 deals with the principle of non-discrimination. In accordance with Article 51 of the Charter, the principles set out should guide the development of policy in the EU and the implementation of these policies by national authorities of the Member States.

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<sup>6</sup> A directive is a framework legislative act which defines the objectives to be achieved, while leaving freedom to the Member States to incorporate these objectives into national law, for instance either by statutory law or by collective agreements concluded by the social partner.

## 2.2 Interpretation and application issues

Anti-discrimination policy is thus an important part of the EU's approach to both social inclusion and employment. European legal measures not only oblige Member States to put them in place, they are also aimed at setting out minimum standards applicable across all Member States. Different levels or even a lack of protection against discrimination could infringe the right to free movement within the European Union. Accordingly, there is an obvious link between EU anti-discrimination legislation and the EU programme to complete the internal market aimed at removing obstacles to the fundamental economic freedoms of movement of goods, capital, people and services.

With regards to disability, Directive 2000/38/EC does not explicitly define it; however, the European Court of Justice interpreted the term in the *Chacón Navas* case (Case C-13/05, judgement of 11 July 2006), specifying that the concept of disability "must be understood as referring to a limitation which results from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life". Directive 2000/38/EC does not specify the remedies which should apply in cases of discrimination; instead, it leaves it to the Member States to decide. There is a widespread tendency in national legislation to leave it to the courts to decide on a case by case basis the most appropriate remedy to apply. This might involve ordering the discriminatory behaviour on which the complaint is based to stop or reinstating someone who has lost their job because of being treated unfairly. In addition, there is generally an option of awarding compensation for any loss of earnings or any other harm caused.

In terms of the type of legal measure, European legislators prefer the Directive, which sets only minimum standards. This not only allows Member States to tailor these standards to fit with their national traditions, laws and practices, but also to go beyond them in order to offer more protection than the minimum standards require. Transposing European legal instruments into national law in this way may engage national parliaments, political parties, social partners and other stakeholders in an ongoing debate on anti-discrimination policies and practices and thus may enhance the effectiveness of anti-discrimination legislation.

A key requirement of the Directive is that Member States must ensure that judicial or administrative procedures are open to those who claim to have suffered discrimination. Furthermore, bodies with a legitimate interest in ensuring that the provisions of the directive are complied with, such as trade unions or other representative organisations, must be given the right to support victims of discrimination in any proceedings. There are big differences between countries in the extent to which representative organisations can be involved in judicial proceedings. Sometimes arrangements exist to mediate between the two sides involved and to bring about conciliation where possible, so that an agreed settlement can be reached.

The burden of proof should shift to the person accused of discrimination once the person bringing the complaint has established the facts from which it can be presumed that there has been discrimination. It is then up to the person accused to prove that they did not act in a discriminatory way. This measure recognises two general aspects of discrimination cases, namely that those suffering discrimination are rarely in a position to prove it and that only those who are accused of discrimination are likely to have access to the full facts of the case. People may also take their complaints of discrimination to an equality body instead of a tribunal or civil court. In some Member States, such bodies can provide direct support by taking cases to court on behalf of people complaining of discrimination.

According to the European Commission (2008), the two main aspects relating to the prohibition of discrimination on the ground of disability have been transposed in all Member States.

This includes, firstly, a ban on discrimination on grounds of disability, and secondly, the positive duty of “reasonable accommodation” in favour of people with disabilities as an integral part of the equal treatment principle. The European Commission (2008) concludes that the Directive 2000/78/EC can be seen as the right step in the right direction in the fight against discrimination within the European Union. For the transposition of Directive 2000/78/EC, most Member States had to change their legislation extensively, since new areas had to be covered.

Disability is being increasingly acknowledged as a political priority of the Member States – especially in the areas of employment activation and the state expenditure on work incapacity benefits (pensions). All Member States today have anti-discrimination legislation, and many have gone even further by creating separate laws on disability and employment or new anti-discrimination acts specifically addressing people with disabilities; whilst others have taken the approach of incorporating anti-discrimination clauses into all legislation. The majority of countries have a specific disability legislation which covers all areas of society where discrimination may occur in relation to people with disabilities, for instance employment and education. Employment tends to be a key feature of these legislative acts, even in countries where separate anti-discrimination employment legislation exists. Accordingly, quite a number of Member States regulate the employment of disabled people through quota systems or reserved employment. This should not, however, be at the expense of the individual right of non-discrimination and reasonable accommodation.

The European Commission (2008) concluded that Directive 2000/78/EC has not led to a rise of excessive law suits due to the low volume of cases. But this could also mean that the awareness of rights by potential victims of discrimination is still very limited. In particular with regard to case law, the European Commission (2009b) found that since *Kalanke* the European Court of Justice has permitted positive action measures, including strict quotas instead of employment selection. Article 7(2) of the Employment Equality Directive provides protection for positive action for people with disabilities. Hence, the European Commission (2009b) found that there was a variety of practices within the EU Member States examined, with regards to the obligation to take positive action. This is due to the predominant feature of positive action within the legislation of the European Commission, wherefore national practices greatly vary within this area.

### **2.3 Complementary action**

The Employment Equality Directive is complemented by the Council of the European Union (2000/750/EC), which covers all of the grounds set out in Article 13 EC (now Article 19 TFEU), with the exception of race and gender. The conception of this programme is indication that legislation is only one way in which discrimination can be tackled: it is also necessary to support a range of positive measures to ensure discriminatory behaviour is challenged and a change in attitudes is promoted over the course of time. The Council of the European Union (2000) formulated future legislative developments by improving the knowledge and understanding of discrimination. Moreover, organisations should be strengthened to prevent all forms of discrimination (e.g. by exchanging information and networking at European level and launching campaigns to raise awareness).

At the March 2000 Lisbon European Council, the EU defined the comprehensive ten-year Lisbon Strategy aimed at long-term economic growth, full employment, social cohesion and sustainable development, which has been underpinned, in particular, by the European Employment Strategy and the EU Social Inclusion Process. One of the primordial aims of the Lisbon Agenda is to raise the employment levels of groups currently under-represented in the labour market: targets include, in particular, raising the employment rate of older and disabled workers and of women.



f the EU is to achieve the Lisbon target of a 70 % employment rate, then the rate of employment for people with disabilities will need to rise significantly. As shown in the preceding section, only few countries systematically collect data about unemployment, inactivity and self-employment among people with disabilities. Comparisons between Member States are therefore very difficult. Based on available data, however, employment rates for people with disabilities are below those of people without disabilities in every country; and rates for women, also of women with disabilities, are, as a rule, below those of men.

With regard to the Lisbon Strategy and its main objectives to increase the labour supply and at the same time modernise the social protection systems, the issue of people with disabilities is very important. This is due to the fact that this group within society remains outside the labour market and the disability benefits constitute an attribute of labour market policies which should not be underestimated. All these issues were addressed in the 'Joint Report on Social Protection and Social Inclusion 2008'. The report recommended reforms to decrease the take-up of early exit benefits by reforming the design of unemployment and early retirement benefits as well as the access to disability pensions and rehabilitation (Pristley, 2009).

Additional reports, such as the 'Integrated Guidelines for Growth and Jobs 2008–2010', have emphasised the need for equal opportunities and combating discrimination towards active social integration of all and the necessity to fight poverty and social exclusion of those groups who are most marginalised in society.

In 2005, the Commission issued a Guidance Document on Disability Mainstreaming in the European Employment Strategy, which outlined the principles of mainstreaming on the legal basis of the Directive 2000/78/EC. Mainstreaming means the inclusion of disabled people in services, programmes and provisions designed to avoid segregation – spatial, temporal or within the process of application – where programmes are designed to profit from existing mainstream employment or employment access support. Successful mainstreaming needs not only well-informed policy making but also a wide-participation in the policy process (European Commission 2003); it is, for instance, a central component of the EU Disability Action Plan. Examples include approaches to job creation, work activation or facilitation and advice in areas where disabled people's needs are recognised and actions avoid and avert stigmatisation for "special" client groups. However, where mainstreaming was present, it was often more implicit than explicit, i.e. responding to vulnerable groups without a specific disability focus. There is also a very significant absence of disability mainstreaming in the presentation of labour market statistics and indicators. Furthermore, mainstreaming is not consistently applied across all Member States, and Greve (2009) found a wide variation in the degree to which disability is integrated in national employment policies.

In a joint Strategic Report, disabled people are acknowledged within the context of disadvantaged people as over-represented in their exclusion from labour markets. The Council of the European Union (2009) reports that the employment rate for people with disabilities developed heterogeneously throughout the European Union. They found that some groups, such as women with disabilities and those with mental disabilities are even more underrepresented in employment. The report recommends that supported employment to help people with disabilities into the regular labour market should be encouraged. In other Member States, however, the report found that support measures concentrate on people with severe disabilities and tend to exclude those with minor disabilities. It is evident that the economic crisis has had significant implications for national labour markets, systems of social protection, public spending commitments, and so on, all of which may impact on the situation of disabled people.

A common policy priority is related to education, training or vocational training, and rehabilitation for disabled people – a strong recognition that low educational attainment plays a key factor in labour market disadvantage. Other policy commitments include those focused on skills matching of disabled people to available opportunities, policies focused on facilitating severely disabled people into jobs counselling, information and job seeking services.

With regards to the implementation report submitted in 2009 by the European Commission, there is no clear pattern of development, though there is some cause for optimism in cases in which there is evidence of an increasing recognition of disability, the emergence of strategic approaches to the situation of people with disabilities, or greater specificity in policy implementation. Links are to be made between policy initiatives in a way that ensures that disability policies and programmes are not ghettoised. For example, linkage between the UN Convention, the EU Action Plan, national disability strategies, and the National Reform Programmes would help to ensure that disability policies were mainstreamed in policy terms. Also of relevance would be evidence of disabled people's involvement in the policy process.

The main challenges people with disabilities face within the European Union are low employment rates, a high dependency on benefits as well as an increased poverty risk. At the same time, the public spending on sickness and disability benefits increases (Shima et al., 2007). During the last decade more efforts in terms of strengthening the social and labour market inclusion of people with disabilities is perceived. Two main approaches are identified: firstly, contributory benefits transfer programmes, so-called passive measures, and secondly, active measures which aim at integrating people with disabilities into the labour market and thus increase their employability (Andersen et al., 2008). There have been attempts to limit eligibility to disability-related benefits and to increase activation of disabled people in the labour market. In this context, there is some evidence of the adoption of more functional work capacity assessments, including partial work capacity. Overall, there was a considerable range of visibility for disabled people and disability issues in the 2008 – 2010 National Reform Programme documents.

The respective legislative measures and labour market policies are targeted towards promoting employment. The move away from passive to active measures has been achieved by the implementation of legislative instruments such as obligatory employment quota schemes, anti-discrimination legislation, job protection rights and targeted active labour market policies, which aim to support the participation of people with disabilities. When the effectiveness of positive action is examined, the study finds that the greatest problem is the absence of systematic monitoring in terms of outputs and especially in terms of outcomes.

## **2.4 The UN Convention on the Rights of Persons with Disabilities**

The UN Convention on the Rights of Persons with Disabilities, which was adopted by the United Nations General Assembly in December 2006, constitutes a landmark for the European Union because of its impact. The Convention is a legally binding instrument and represents a significant change in the approach by establishing disability as a human rights issue and a matter of law and not just a social welfare issue. It emphasises the importance of independent living and inclusion in the community, as well as providing measures for the full implementation of this right. Consequently, the UN Convention can be seen as a benchmark for EU action.

It is comprehensive and international, promoting and protecting the rights of people with disabilities, and it makes a significant contribution to promoting their participation in civil, political, economic, social and cultural spheres with equal opportunities. Furthermore, it has given special focus to the rights and situation of people with disabilities.

Article 27 of the Convention includes specific reference to employment and affirms that disabled people should have opportunities to earn a living through work freely chosen or accepted in a labour market which is open, inclusive and accessible. Key issues identified in the UN Convention include non-discrimination policies, affirmative action programmes, incentives, reasonable accommodation in the workplace, return-to-work programmes and vocational rehabilitation, vocational guidance and training, employment – both in the public and the private sector, employment in the open labour market, sheltered employment, equal opportunities and pay, labour and trade union rights, self-employment and entrepreneurship.

With regard to the progress made by Member States, the first Disability High-Level Group Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities provides information about the actions undertaken at a national level to implement the UN Convention. The report first acknowledges that the Convention covers both matters that fall within the remit of the Member States and those that fall within the responsibility of the European Union.

### 3. ACTIVE LABOUR MARKET POLICY

#### KEY FINDINGS

- Several barriers are found to obstruct a good implementation of the measures used: limited resources, lack of availability of information, economic downturn, barriers with regard to specific target groups and prejudices among employers.
- The effectiveness of quota systems can hardly be assessed; since the instrument is not well documented the positions received via quotas are mainly characterized by low-skilled and token jobs which affect most likely people with disabilities who are already in range of the labour market.
- More effective approaches tend to combine anti-discrimination laws with requirements for employers to make reasonable adjustments to workplaces and working conditions. Thus, a coherent combination of measures is often seen to be the most effective.
- Making work more attractive and feasible to disabled people requires a more suitable synthesis between benefits and employment.

#### 3.1 Defining active labour market policy

Over the past decade, EU Member States have placed increasing emphasis on reinforcing the social and labour market inclusion of disabled people. Two types of measures can be distinguished:

- Passive measures or cash benefits, which can be provided through several kinds of programmes: universal programs (payment to all people with disabilities), contributory programmes and non-contributory programmes.
- Active measures focusing on employability and integration into the labour market.

Active labour market policy (ALMP) is a core aspect of the European Employment Strategy and a pillar of the European Social Model. The aim of ALMP is to transfer the use of passive support to actively promote the integration of non-employed people in the labour market. Some authors (e.g. Mont, 2004) also define this as a moving away from a 'compensation approach' towards an 'integration approach'. Through this process, EU Member States have put in place various kinds of labour market policies as well as legislative measures. The aim of these Active Labour Market Policies or ALMP is to transfer the use of passive support to actively promote the integration of non-employed people in the labour market.

There are three main categories of ALMP (Calmfors, 1994):

- **Public employment services**, such as job centres and labour exchanges, help the unemployed improve their job search effort by disseminating information on vacancies and by providing assistance with interview skills and writing a curriculum vitae.
- **Training schemes**, such as classes and apprenticeships, help the unemployed improve their vocational skills and hence increase their employability.
- **Employment subsidies**, either in the public or private sector, directly create jobs for the unemployed. These are typically short-term measures, which are designed to allow the unemployed to build up work experience and prevent skill atrophy.

In order to include disabled people better in the labour market the implementation of effective ALMP is important. ALMP that make it easier for disabled people to enter or remain in the labour market also contribute to the goals of the European Employment Strategy.

**Box 1: Ensuring inclusion at the job market in Estonia**

Estonia has introduced new employment initiatives for people with disabilities. Registered disabled people will be entitled to a personalised job search plan. Measures include support to employers for adaptations to premises and equipment needed when hiring a disabled person and support from public employment service employees to help disabled people at job interviews.

**Source:** European Commission (2007d).

With the Lisbon Strategy the ambition is to focus more on creating growth and jobs (i.e. making the EU the most competitive economy in the world) and hence, facilitating the re-entrance of disabled people in the labour market has become paramount. In this sense, the employment activation focus adopted with the Lisbon agenda and the economic imperatives facing Member States in a period of economic downturn have resulted in a focus on disability incomes dominated by concerns to reduce state expenditure and encourage employment (Priestly, 2008).

There is growing concern that the economic crisis and higher unemployment may revive the use of disability benefits to control labour supply, e.g. by using disability pensions to facilitate early exit from the labour force. It has proven to be difficult to reverse such policies once they are adopted, and therefore, it is important to be aware of the risks regarding such policy strategies.

With respect to the current economic crisis, there is little data available on the effects on the employment of disabled people. It should be quite obvious, however, that the crisis constitutes a major challenge to employment in general and disabled people in particular. Countries with high levels of social security face increased spending on employment benefits while simultaneously losing taxation revenues from people moving from employment to unemployment. This puts pressure on public spending, including the benefit system for disabled people. Furthermore, integration of disabled people into the labour market is easier in situations of increasing labour demand and lower levels of unemployment than in times of recession. This emphasises the need to ensure sustainable economic development, as this has repercussions in relation to groups with a weaker attachment to the core of the labour market (Greve, 2009).

Before proceeding, it should be noticed that evaluations of ALMP for disabled people have often suggested that they are less effective than other types of labour market intervention (Greve, 2009). This is mainly due to the more difficult circumstances for the participants. However, it is often difficult to obtain adequate statistical information on implemented ALMP. This implies that knowledge on the effectiveness of interventions and support is very limited. Hence, evidence-based conclusions regarding employment effects for disabled people are often lacking due to poor programme-participation statistics or a lack of monitoring and follow-up studies.

## 3.2 Measures targeting disabled people

In their study identifying good practices, examples of good practice in relation to employment guidance and counselling services, Wynne et al. (2006) distinguish a long list of services directed at the supply side of the labour market, which should help disabled people enter the labour market. Based on these findings, we distinguish three types of measures targeting disabled people: guidance (e.g. guidance and counselling, assistance in accessing grants, advocacy, information and advice, case management and psychological support), training and education (e.g. vocational assessment, specialised vocational education and training, vocational rehabilitation and pre-vocational training) and job placement (e.g. job matching and job coaching).

### Guidance and counselling

Important factors in ALMP are specialist advice and guidance services for disabled people with regards to labour market integration. Job coaching, job counselling, information and advice all fall within this category.

The provision of the guidance and counselling service elements can be combined with legislative measures, as is the case in the UK. The UK has implemented important reforms concerning the labour market integration of people with disabilities. The Unit Strategy of 2005, through a pilot programme called 'Pathways to Work', aims to help the sick and people with disabilities to manage the process from benefits to returning to work.

#### Box 2: Case example – 'Pathways to Work' programme in the UK

'Pathways to Work' is a national back-to-work programme for those claiming incapacity benefits or the Employment and Support Allowance. It is mandatory for new claimants under the "Work-Related Activity Group" and is available on a voluntary basis for existing ones. Recipients are expected to take steps to find work or prepare for work unless they have a health condition or disability that prohibits them. Extra support is given from partner organisations in the private and voluntary sectors, named 'providers'. The service offers individual support and access to a wide range of help: work-focused interviews, condition management programmes and return to work credit. Claimants may also be entitled to extra money when they start or stay in work.

Source: <http://www.dwp.gov.uk/policy/welfare-reform/pathways-to-work/>.

Research conducted by Bewley H. et al. (2009) concluded that the programme increased the number of recipients in paid work after making an enquiry about claiming incapacity benefits. Furthermore the likelihood of having a health problem that affected day-to-day activities was reduced.

### Job placement

A third category of measures targeting people with disabilities is job placement, in which individuals are placed in jobs matching their abilities. They can either be employed in regular or subsidised employment. One of the most common types of job-placement initiatives for people with disabilities is sheltered employment. In many European countries, amongst others Denmark, Germany, Spain and the United Kingdom, this example of subsidised employment is obligatory by legislation. These businesses, which offer work opportunities in a supportive environment, operate in the open market but are funded by a combination of self-generated income, charitable donations and government grant aids. The highest share of sheltered employment is found in Belgium, Italy and Spain.

**Box 3: Case example – Sheltered work in Flanders, Belgium**

*Beschutte werkplaatsen*, or work shelters, offer a sheltered working environment in Flanders, as well as specific training, to prepare people with a disability for their reintegration into 'normal' working environments. The service is managed by the Flemish Federation of Sheltered Workplaces. The centres prepare and help people through the following measures: cooperation with ATB and Job Shop services; assessment of individual competencies; job matching and subsequent analysis of the job; identification of possible required ergonomic changes; cooperation with organisations that provide necessary training.

**Source:** Grégoire (2008).

Many sheltered employment schemes also provide training and support to enable people to access supported or normal employment (Arsenjeva, 2009). Moreover, developments considering sheltered employment differ across countries. Greve (2009) reports that there is no clear evidence of effective transition from sheltered jobs into regular employment. Greve states that there is some evidence of the transition from sheltered towards supported employment (e.g. Finland) and some evidence that supported employment schemes for people with intellectual impairments have been successful (e.g. in Latvia). Greve (2009) also finds that where sheltered employment can lead to supported employment, supported employment itself is seen as a pathway to regular employment.

A distinction with employment measures, which target the demand side, is made between specific measures and general measures.

**Specific measures: Employment quotas**

An important instrument used in several EU countries is employment quotas: depending on the number of employees, the company is required to hire a minimum percentage of disabled workers. Quotas can be set for either the private or the public sector and differ according to the country. The majority of European countries have some sort of system in place, including: Austria, Bulgaria, the Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, Luxemburg, Malta, Poland, Portugal, Romania, Slovakia, Spain and the Netherlands. In Belgium, Cyprus, Ireland and Slovenia only partial quota schemes apply. Countries where no quota systems are in force are: Denmark, Estonia, Finland, Iceland, Latvia, Norway, Sweden and the United Kingdom. Quotas can also reserve a fixed proportion of total jobs or specific occupations (for example telephonist) for people with disabilities. Examples are shown in Table 6.

**Table 6: Examples of European Quota Rates**

Country	Rate %	Countries
Austria	4 %	The Disabled Persons Employment Act (BEinstG) includes a quota scheme. Employers with a minimum of 25 employees have to employ a registered disabled person per 25 employees.
France	6 %	Travailleur handicapé (TH) count towards the fulfillment of the quota, which operates in mainstream employment.
Germany	5 %	The quota rate is coupled with increased penalties for non-compliance. Penalties are now graduated, so that firms which fail the most (those which employ fewer than 2 per cent of severely disabled workers) pay a higher rate per quota place unfilled.
Greece	5 %	The quota system applies to other groups of people seen as deserving an income from employment such as war invalids, members of the family of a disabled person, as well as parents in families with many children, ex-members of the national resistance. The global quota is 8 %, of which 2 % is for people with special needs and 3 % in the public sector.
Italy	7 %	The quota carries penalties for non-compliance. Five main groups of disabled people qualify : civil invalids, work invalids, war invalids and people with sensory impairment.
Luxembourg	5 %	A quota exists for both the public and private sector.
Netherlands	5 %	In 1986, the Employment of Handicapped Workers Act (W.A.G.W.) came into force and established the quota.
Portugal	5 %	A quota in the area of public administration was introduced in 2000 for people with disabilities or with cerebral paralysis with a degree of incapacity equal or higher than 60 %.
Spain	2 %	A quota for the employment of people with disabilities obliges employers with a workforce of over 50 employees to set aside 2 per cent of posts for disabled workers. Eligibility for the quota requires a degree of disability of 33 %.

**Source:** Brennan and Conroy (2009).



In some of these countries, financial sanctions exist for the practical enforcement of the quota. In countries like Austria, France, Germany and Poland, these financial levies are invested in a national fund aimed at increasing the employment of disabled people.

Considering the effectiveness of quota systems, assessments are far from conclusive. The impact of using this instrument is not well documented, and in some countries, the rules and levies are not effectively enforced. One argument in favour of quotas is that they can make work more accessible. Greve (2009) finds 'some concern that quota positions are often filled through internal rather than external recruitment, and that employers' fulfilment of quota obligations is most likely to target those disabled people who are closest to the labour market.' Another argument why quota systems tend not to be effective is that they result in employers recruiting individuals into low-skilled or even token jobs.

#### **Box 4: Case example: The quota-system in France**

France has had a quota system to assist with the recruitment of disabled workers since 1987. In the French system, a company with 20 or more employees must employ at least 6 % disabled people. If the company does not comply, it must pay into a fund for the vocational integration of those who are disabled. The results have been encouraging, although only a third of the companies fulfil the quota.

The legislation was strengthened in 2005 to create the right to part-time work for disabled workers and modernise the recruitment of disabled people. This legislation also reinforced the role of L'Association Nationale pour la Gestion du Fonds pour l'Insertion Professionnelle des Personnes Handicapées (AGEFIPH), a private association. If employers do not meet the requirements of the quota system, they can do so by contributing to a fund for the vocational integration of people with disabilities. AGEFIPH claims to achieve its quota objectives by a combination of sanction and incentive. However, evidence suggests that many employers prefer to pay the contribution rather than consider employing a person with a disability.

According to employers, one difficulty is that there is no longer any differentiation between levels of disability. Whereas previously a severely disabled person would have been considered as equivalent to 2.5 posts, now the recruitment of a disabled person counts as one post no matter what the nature of the disability is. As a consequence, companies tend to recruit only moderately disabled people.

**Source:** NDA (2007).

### **Anti-discrimination laws**

Anti-discrimination measures and accessibility measures target in general a whole group of vulnerable people, and not only disabled people. Anti-discrimination laws can include requirements for employers to make all reasonable accommodations necessary for a disabled worker to fully perform his or her duties. Quota systems and anti-discrimination laws seem to be two contradictory measures, but European legislation on disability leaves enough space for quotas without interfering with anti-discrimination law. The US began with anti-discrimination law (Americans with Disability Act or ADA) and was soon followed by similar acts in the UK, Canada and Australia. In the United Kingdom for example, the discrimination law in the Disability Discrimination Act 1995 prohibits discrimination against disabled people. Consequently, positive action for disabled people cannot be challenged as discrimination against non-disabled people. The same legal approach regarding disability was also reported in Sweden, Norway and Germany.

In an attempt to move away from mandatory quotas based on medical certification, some countries have, as mentioned before, modified their employment policies to include elements of anti-discrimination laws or other legislation.

Since 2000, in addition to laws covering the equal treatment of men and women, EU anti-discrimination legislation has been in place to ensure minimum levels of equal treatment and protection for everyone living and working in Europe. These laws are designed to ensure equal treatment irrespective of racial or ethnic origin, religion and belief, disability, sexual orientation and age. These laws aim to ensure equal treatment in many aspects of daily life – from the workplace to issues covering education, healthcare and access to goods and services.

### **Accessibility measures and flexicurity**

Accessibility is a general term used to describe the degree to which an environment, a product, device, service, or even information is accessible by as many people as possible. Accessibility is often used to focus on people with disabilities and their right of access to entities, often through the use of assistive technology.

With regard to the labour market, employers should make reasonable adjustments to improve accessibility to workplaces, working conditions and to information:

- **Adjustments to workplaces** are physical adjustments to the work environment and investments with which the employer could be helped. Technological solutions can help adjusting workspaces for disabled people. A good practice is an accessibility project in Canada. An under-representation of disabled people within the workforce led to a review of potential barriers. As a result, the accommodation policy was enhanced and streamlined to help employees and managers to assess and request adaptive technology solutions (European Commission, 2009b). Technological solutions can also facilitate flexible working.
- **Adjustments to labour conditions** could include possibilities of flexible working. Making work accessible or more attractive and feasible to disabled people requires a more suitable synthesis between benefits and employment. Disabled people who choose not to work full-time should not feel economically endangered. Flexicurity (see Section 9) is also an important aspect within this accessibility approach. For example, flexible employment potentially reflects the preferences of women with disabilities, e.g. in respect of access to regular medical treatment or childcare. Flexible working includes several types of employment arrangements, including part-time and temporary work, distance and tele-working, which can allow women with disabilities (or disabled people in general) to work on their own terms and with favourable conditions. However, such routes into flexible employment generally need to operate on the basis of choice offered to individual women with disabilities, in respect of whether they are supported into flexible, full-time employment or other possibilities, such as education and training.
- Finally, there is also need for **accessibility of information**. Information and guidance in accessible formats are also an essential element of such a provision. Appropriate steps should be taken to ensure that communication with people with disabilities is as effective as communication with others. In this regard, accessibility of information includes special requirements for computer terminals and websites.

**Box 5: Case example: The US 'Americans with Disabilities Act'**

The ADA took effect in 1992 and has two major components: prohibition for employers from discriminating against people with disabilities with regards to compensation, hiring, firing or promotion, and a requirement for employers to provide reasonable accommodations. The overall effect of ADA is difficult to measure, as the impact depends on the definition of disability that is used. 'Among people with functional limitations who identify themselves as being able to work, it appears that the ADA has increased employment. Among those reporting themselves as not able to work because of a disability, the effect is not as positive.' One conclusion, however, is that the ADA is probably most effective at preventing job terminations resulting from the onset of a disability.

**Source:** Mont (2004).

**3.3 Assessment of the measures used**

The findings of the study on positive action show a combination of legal measures to be a key driver for positive action. Disabled people, apart from women and minority ethnic groups, appear to have benefited the most from positive action, with legislation and social attitudes playing an important role in promoting initiatives to benefit these groups. Hence, several policy measures together, targeted at employers, can have a positive effect.

A potentially challenging issue is the compatibility of the Employment Equality Directive with employment quotas for people with disabilities. But as Directive 2000/78/EC indicates that more far-reaching measures are permitted in relation to disability, this challenge appears to be solved for the moment. This corresponds with national practice; for the most part, disability is the only ground where Member States have taken measures such as quotas.

Considering the effectiveness of quota systems, assessments are far from conclusive. One argument in favour of quotas is that they can make work accessible. Often quota positions are occupied by internal instead of external recruitment and affects most likely people with disabilities who are already in range of the labour market. These positions are mainly characterized by low-skilled and token jobs. If the impact is positive or negative cannot be said which is due to the fact that this instrument is not well documented. Furthermore, the rules and levies are not effectively enforced in all countries of the European Union (Greve 2009).

Technological solutions can help adjusting workspaces for disabled people. A good practice is an accessibility project in Canada, where an under-representation of disabled people within the employer's workforce led to a review of potential barriers. As a result, the accommodation policy was enhanced and streamlined to help provide a better experience for employees and managers to assess and request adaptive technology solutions (European Commission 2009b). Technological solutions can also facilitate flexible working.

As a complement to legislation, active labour market policy measures for women with disabilities can be most effective when they offer effective routes into flexible employment, since these potentially reflect the preferences of women with disabilities, e.g. in respect of access to regular medical treatment or childcare responsibilities. Flexible working includes several types of employment arrangement, including part-time and temporary work, distance and tele-working which can allow women with disabilities to work on their own terms and with favourable conditions of work.

However, such routes into flexible employment generally need to operate on the basis of choice offered to individual women with disabilities, in respect of whether they are supported into flexible, full-time employment or other destination, such as education and training.

### **3.4 The implementation of these measures**

As discussed, several ALMPs exist, either in the form of measures targeting disabled people, or in the form of employment measures. However, several barriers are found to obstruct an effective implementation of these measures and policies. Most of these barriers apply equally to the supply side as to the demand side of the labour market.

- First, limited resources constitute a major barrier to implementation. Even if instruments are available, it is important to be aware of whether the necessary economic support for the use of the instruments is also implemented (Arsenjeva, 2009).
- Second, availability of information plays a role. Although most countries pursue active strategies to include and integrate people with disabilities into the labour market, the degree of success is rarely measured or evaluated. The lack of information and disaggregated data on policy effects means the effectiveness of those policies can hardly be assessed comprehensively.
- Third, the particular economic climate at that time also plays a role. Labour market activation and inclusion for disabled people are easier to address in periods of high labour demand and low levels of unemployment than in times of recession (Greve, 2009).
- In addition, on the supply side of the labour market, some barriers with regard to several more specific target groups can be distinguished. Some of them have extra opportunities, but policy should be adapted to them, for example disabled people who did work before but have become long-term disability claimants during their working lives. According to Wynne et al. (2006), this is an important group consisting mainly of older workers.
- Another barrier, only on the demand side of the labour market, is prejudice among employers.

A coherent combination of measures is often seen to be the most effective. For example, activation must be connected with accommodation in the workplace as a way of combining different types of policies for disabled people. Some studies find that several policy measures together, targeted at employers, can have a positive effect. With regards to quotas, for example, without a system of support for creating appropriate work environments, quotas have a limited effect. Consequently, effective approaches tend to combine anti-discrimination laws with requirements for employers to make reasonable adjustments to workplaces and working conditions.

In addition, active labour market policies and legislation cannot work without proper structures of service provision and implementation (European Commission, 2009b). This kind of institutional reform has already taken place in some countries (such as Denmark and the Netherlands). The OECD (2009a) states that 'an entrenched *disability benefit culture* is undermining various efforts being made to improve outcomes for persons with partial work capacity.'

In general, the idea is to create a culture of ability (instead of a culture of disability). This also means a shift from a medical approach to disability to a social approach.

The OECD presents several recommendations for institutional reform to improve the effectiveness of policy on disabled people. The review finds (OECD, 2009b):

- In a medically-driven model, significant numbers of people with partial work capacity are being deemed unable to work.
- Recent trends show positive gains when focusing on what people with partial work capacity can do instead of focusing on what they cannot.

The review did note a slow shift in conceptualisation from disability to ability. In some countries, a shift is trying to be made from a medical approach of disabled people to a social approach based on universally acknowledged principles. These principles are participation, dignity, accessibility, quality (Arsenjeva, 2009; Greve, 2009). Here the need for data based less on health and more on social inclusion is obvious.

#### **Box 6: Best-practice example: Institutional reform in Denmark**

The disability scheme in Denmark was fundamentally reformed in 2003. Disability assessment is now focused on what a person can do (rather than their loss of capacity) or the extent to which a person is able to carry out a subsidised job, named 'flex-job'. A disability benefit is only granted when a flex-job cannot be performed (and rehabilitation would not help to restore this). A comprehensive individual resource profile is being assembled which includes measures of health, social and labour market proximity criteria.

**Source:** OECD (2009a).

## 4. TARGETING AND MAINSTREAMING

### KEY FINDINGS

- At the policy level, mainstreaming should become visible in National Strategy Reports and National Action Plans. An analysis of these plans shows that disability has been mainstreamed in different ways, and it is more prominent in some countries than in others.
- At the individual level, a dilemma exists between mainstreaming and the stigmatising effect attached to targeted policies.
- Implementation in practice, and not simply in law, is a prerequisite for effective mainstreaming.
- Not only is it important to find the right balance between mainstreaming and targeted policies, but both systems need to be accompanied with an accurate system of monitoring.

Mainstreaming is an approach which seeks to promote equality by mobilising all areas of law and policy. Mainstreaming implies that equality needs to be pursued in all activities. In practice, this means that equality needs to be taken into account during policy formulation, implementation and evaluation. The needs and experiences of disabled people should be at the heart of policy making that has a direct or indirect impact on their lives (Greve, 2009). At the most basic policy level, successful mainstreaming of disability issues should be demonstrated by an increasing visibility and prominence of the situation and the needs of disabled people in the National Strategy Reports (NSRs) and National Action Plans (NAPs) of the EU Member States.

The ANED was commissioned in 2008 to write individual country reports of all EU Member States on national strategies and plans on social protection and inclusion from a disability equality perspective.<sup>7</sup> Their report showed significant improvements in mainstreaming disability in the Open Method of Coordination (OMC) process, by putting into action legislative and new policy measures. However, there seems to be wide variation to the degree in which disability is integrated into mainstream national employment policies, and mainstreaming is more embedded within some countries (such as Finland and Slovenia) than others. An analysis of the 2008 NSRs by Priestley (2008) found:

- Disability has been mainstreamed in markedly different ways.
- Disabled people are often included within 'vulnerable groups' or broad statements of intent and strategy, but there was often an absence of mainstreaming in defining specific targets or practical implementation measures.
- The NSRs did indicate a wide diversity of employment activation and facilitation policies but, again, this differed from country to country.

Nevertheless, given the prominence of the "accessibility" concept in the EU DAP, there is scope for considerable improvement in the mainstreaming concept in the NSRs (Priestley, 2008). Creating an accessible working environment is a prerequisite for mainstream employment opportunities.

<sup>7</sup> A synthesis of the country reports is to be found on the ANED website: [www.disability-europe.net](http://www.disability-europe.net).

Actions on the accessibility of workplace buildings, assistive technologies, ICTs, public transport, and the availability of support to make work possible are increasingly evident, at least from a legislative perspective. However, Greve (2009) states that there are very few references to such accessibility measures in national employment policies relevant to disabled people. Compared to the emphasis given by the EU Action Plan and UN Convention, there is insufficient attention paid to the accessibility of work and workplaces.

The consequence of mainstreaming is that the issues connected with disability should be treated as a whole and not isolated into separate components. Disability issues need to be incorporated into legislation and society; and in doing so, the needs of disabled people can be recognised as well as what they can contribute. Policy has to be seen from disabled people's perspectives (including disability beneficiaries with mental health problems). Moreover, this should also be conducted during the policy development stage, so that the diverse needs of disabled people are taken into consideration. With the help of various instruments, fully integrated measures should be encouraged to meet the individual requirements of people both with and without disabilities. However, the ANED review (Priestley 2009) also reports that attention has been targeted more at the specific needs than at mainstreaming disability in all strands of the social inclusion and social protection strategies of the EU Member States.

At the level of the individual person, there is a dilemma between mainstreaming and the stigmatising effect attached to targeted and specific activities for disabled people. This dilemma may be experienced in decisions relating to registration as a disabled person or the receipt of stigmatising services. Nevertheless, the consequences can sometimes be that information and knowledge about how disabled people are supported are not available.

According to Greve (2009), there is a clear tension between mainstreaming and targeted policy intervention. In cases where disability issues are mainstreamed, there may be a reduction in specific measures. Nevertheless, targeted or specific measures for disabled people should complement mainstreaming. Activation of disabled people, for example, is best treated within the whole activation policy (such as services for guidance, training, job placement for unemployed people). Consequently, there should be a continuum of social activation into regular activation. Within the service of regular activation, a more targeted approach is then needed for disabled people with extra needs or extra problems.

## 5. MULTIPLE RISKS OF POVERTY AND EXCLUSION

### KEY FINDINGS

- Compared to people without any disability, disabled people have a higher risk of poverty and exclusion, in particular if they are not employed.
- Health issues of the disabled are not addressed adequately in the workplace, therefore focusing solely on monetary indicators leads to a misleading assessment of the situation of the disabled relative to the non-disabled.

The risk of poverty rate is defined as the percentage of the population in households whose equivalised<sup>8</sup> disposable income lies below the 60% threshold of the median income of a given year. In addition, non-monetary aspects of poverty are taken into account. The extent of social exclusion of disabled people in the European Union can be gauged by analysing the non-monetary household deprivation, physical, social environment and health indicators.

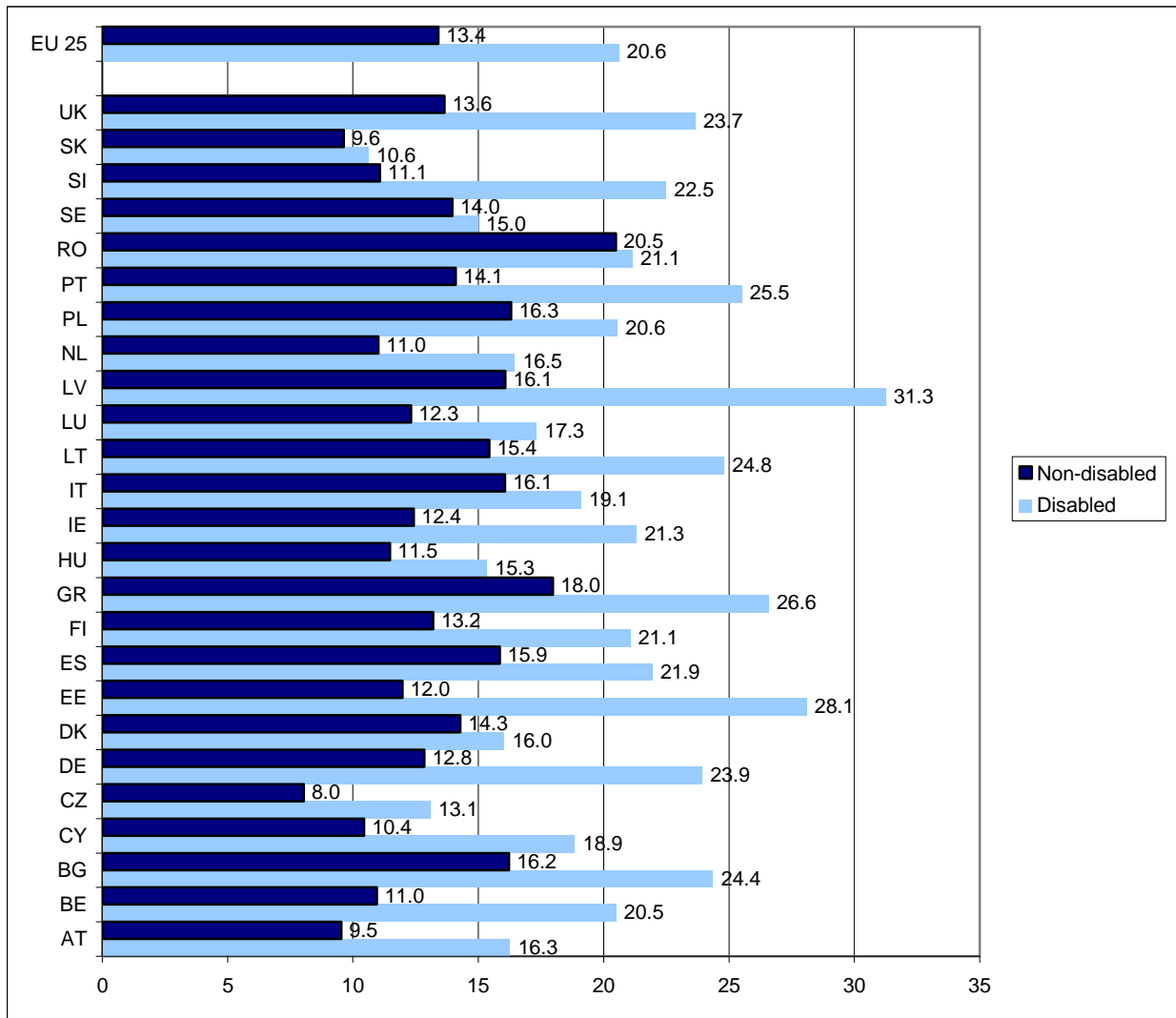
The results illustrated in Figure 2 contrast the poverty risk of non-disabled people with that of disabled people for the working-age population (between 15 and 64 years): a heterogeneous picture of the risk of poverty in the European Union emerges even though the risk of poverty of disabled people is higher than for non-disabled people throughout the Member States examined. The correlation of around 0.5 between the risk of poverty of the non-disabled and the disabled is low; and hence, poverty of the disabled is a distinct phenomenon which cannot strictly be linked to the national average household income levels. The highest proportion of disabled people between 15 and 64 years of age at risk of poverty is found in Latvia (31.3 %), followed by Estonia (28.1 %) and Greece (26.6 %). These poverty risk figures suggest that more than every fourth disabled person in those countries lives in a poor household. The European Union average at-risk-of-poverty rate of non-disabled people amounts to 13.4 % and for disabled people to 20.6 %, i.e. the risk of poverty of the disabled is on average 54 % greater relative to the non-disabled European population. The lowest risk of poverty rates for disabled people are in Slovakia (10.6%), the Czech Republic (13.1%) and Sweden (15.0%).

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<sup>8</sup> The equivalent individual income is derived by adjusting the household income for differences in household size. Single individuals are considered as one-person households. Hence, the concept of equivalised incomes presumes that larger households require more income than smaller households to reach a given standard of living. However, as disabled individuals often require more cost-intensive medication and have a need for additional resources to compensate for the lack of adaptation, this concept could lead to an underestimation of the extent of poverty amongst the disabled.



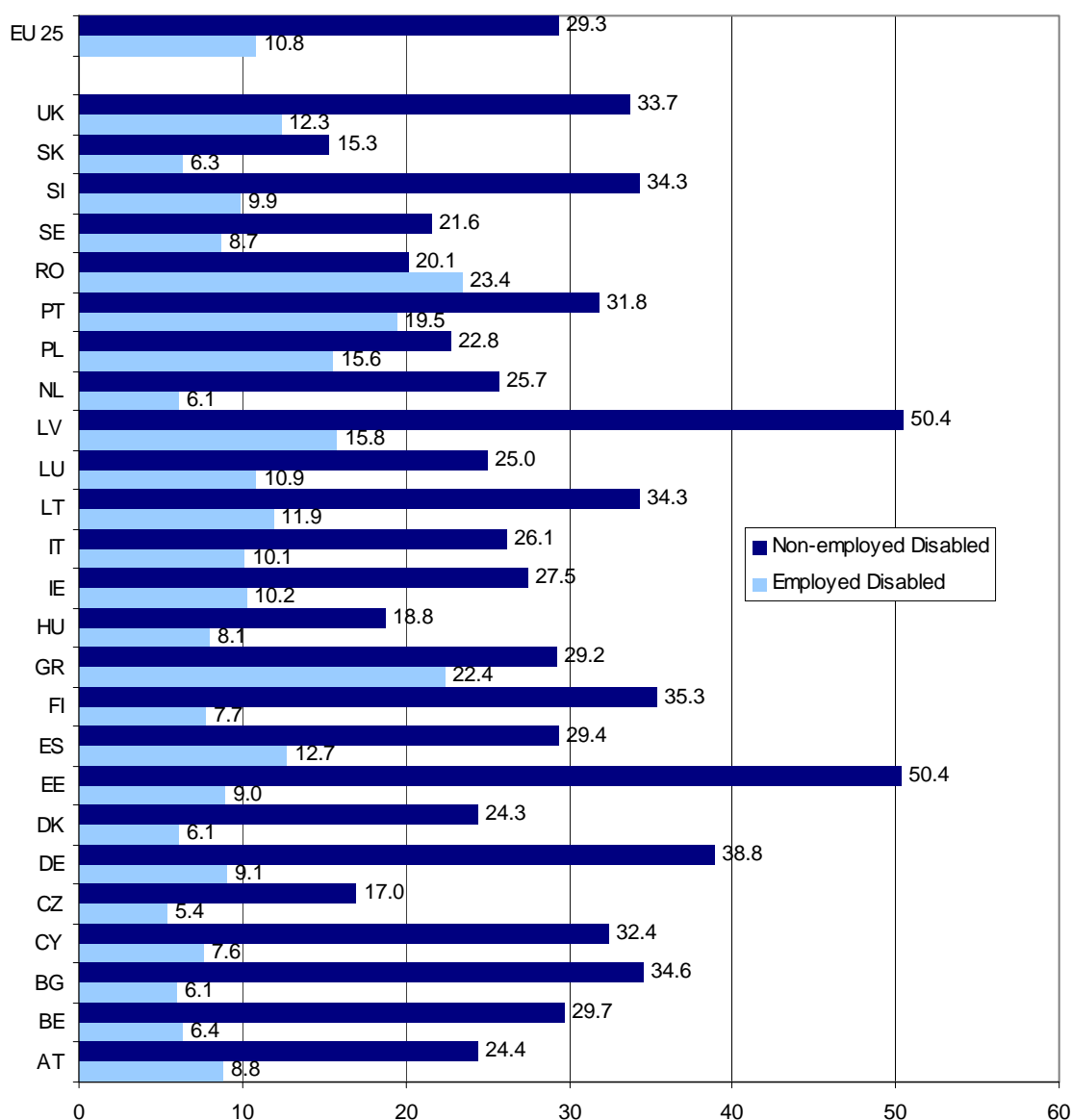
**Figure 2: Proportion of non-disabled and disabled people between 15-64 years (the working-age population) at risk of poverty (after social transfers), 2007 (%)**



**Source:** EU- SILC (2008) (excluding France and Malta).

Calculating the differences (non-disabled minus disabled) between the relative risks after social transfers reveals that the gap is largest in Estonia (16.1 percentage points), followed by Latvia (15.2) and Slovenia (11.4). These large discrepancies may be attributed to a number of reasons, including the extent of public transfers to disabled people, but it may also be an inadequate measurement of disability and income. The lowest difference in poverty risk between non-disabled and disabled people is found in Romania (0.6 percentage points), followed by Slovakia (1.0) and Sweden (1.0). While in the latter two countries the overall risk of poverty is comparatively low, in Romania every fifth person, regardless whether disabled or not, lives in a poor household.

**Figure 3: Proportion of non-employed disabled and employed disabled people between 15-64 years at risk of poverty (after social transfers), 2007 (%)**



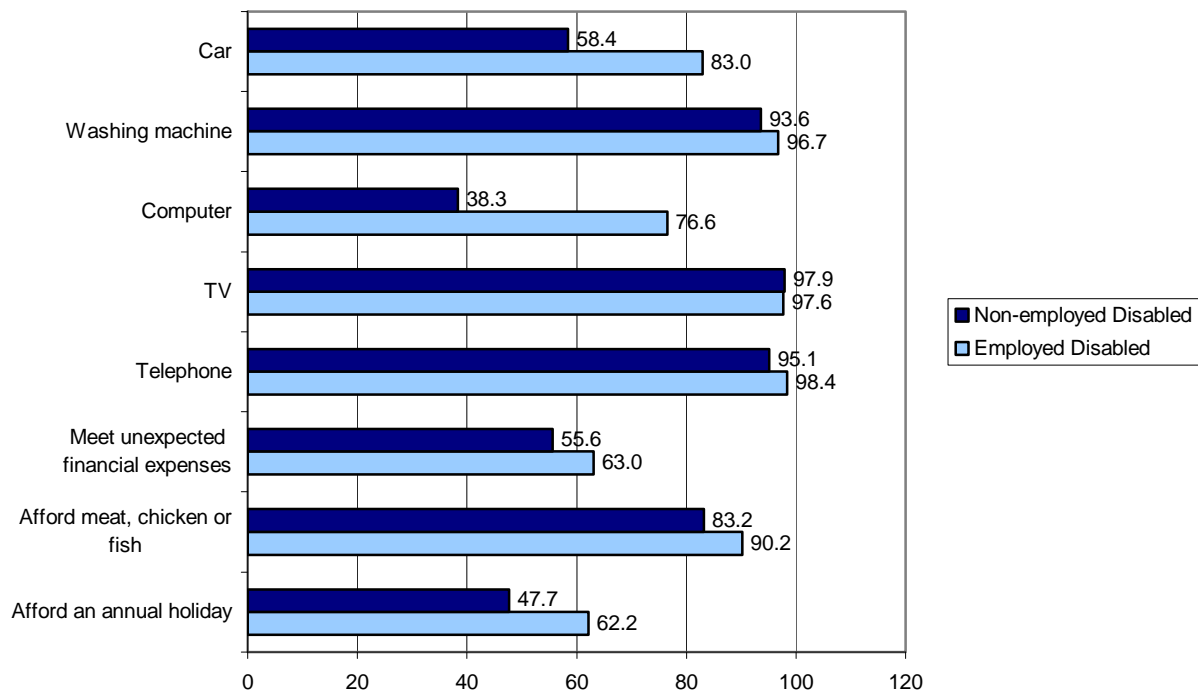
**Source:** EU-SILC (2008) (without France and Malta).

Figure 3 plots the country-specific risks of poverty of non-employed disabled people against the risks of employed disabled people. Once again, a heterogeneous picture emerges. In all EU Member States – with the exception of Romania – employed disabled people are less at risk of falling below the poverty threshold than disabled people not in employment. This outcome suggests that employment can be interpreted as a shelter from poverty for disabled people. However, differing outcomes might also be due to the diverging extent and magnitude of social transfers received by disabled people across the EU. In Estonia and Latvia, 50.4 % are at risk of poverty – in these countries every second disabled person out-of-work is poor. The difference in risks between those disabled people who are in employment relative to those not is comparatively small in Greece and Slovakia. The risk of poverty for those disabled who are not in work is lowest in Slovakia (15.3%), the Czech Republic (17.0%) and Hungary (18.8%), relative to other Member States.

## Social exclusion: Non-employed vs. employed disabled people

As income poverty does not show how much households with disabled family members are deprived from fully participating in society, the following subsection provides an overview of the social exclusion indicators available within the EU-SILC dataset. Figure 4 displays the results of the non-monetary household deprivation indicators for non-employed and employed disabled people.

**Figure 4: Proportion of non-employed disabled people vs. employed disabled people in the EU, 2007 (%), having a/able to afford**



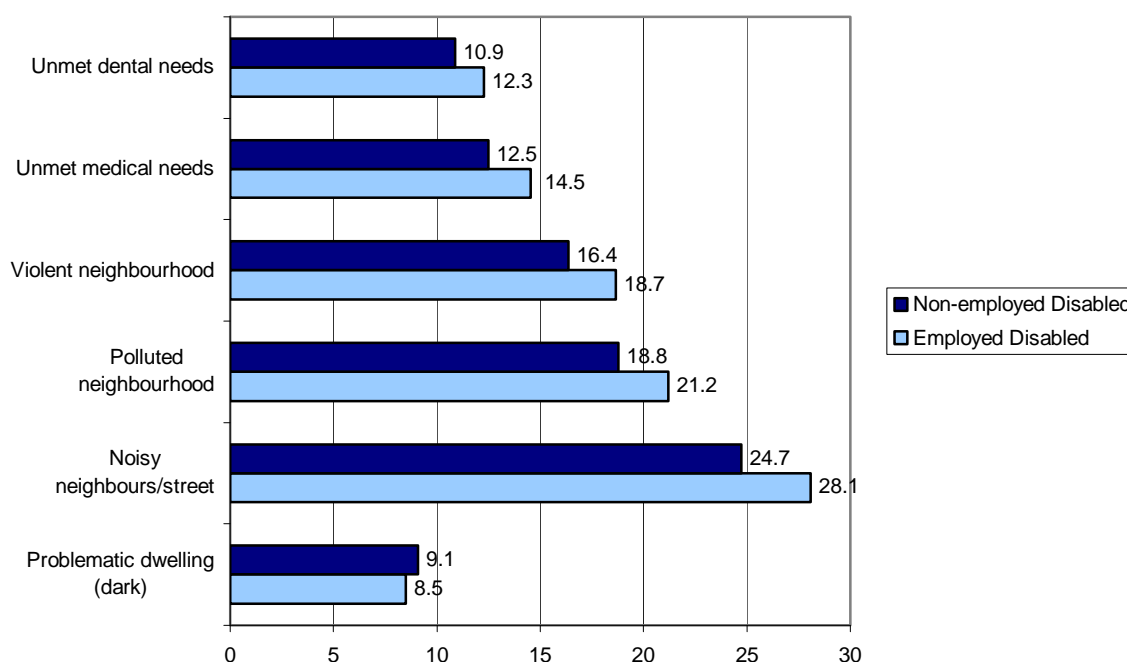
**Source:** EU-SILC (2008) (excluding France and Malta); non-monetary household deprivation indicators of social exclusion.

Compared to the employed disabled the non-employed disabled are on average less likely to have

- a car (83.0 vs. 58.4 %)
- a washing machine (96.7 vs. 93.6 %)
- a computer (76.6 vs. 38.3 %)
- a telephone (including mobile phone) (98.4 vs. 95.1 %)
- the capacity to face unexpected financial expenses (63.0 vs. 55.6 %)
- the capacity to afford a meal with meat, chicken or fish every second day (90.2 vs. 83.2 %)
- the capacity to afford paying for one week annual holiday away from home (62.2 vs. 47.7 %)

Figure 5 displays the survey results of the physical and social environment indicators within the EU-SILC for non-employed disabled and employed disabled people.

**Figure 5: Proportion of non-employed disabled people vs. employed disabled people in the EU, 2007 (%), having problems with**



**Source:** EU-SILC (2008) (excluding France and Malta); physical and social environment indicators of social exclusion and health indicators.

Surprisingly, the EU-averages of the physical and social environment indicators of the employed disabled are higher than those of the non-employed disabled population. Relative to the non-working disabled the employed disabled are on average more likely to be negatively affected by noise from neighbours or from the street (24.7 vs. 28.1 %), pollution, grime or other environmental problems (18.8 vs. 21.2 %) and crime violence or vandalism in the area (16.4 vs. 18.7 %). Non-employed disabled people are, however, more prone to having problems with their dwelling ('dark, not enough light' – 9.1 vs. 8.5 %) than employed disabled people. The figure also shows the EU-wide average rates of two health indicators – firstly, "unmet need for medical examination or treatment" and secondly, "unmet need for dental examination or treatment" over the last twelve months. Relative to the disabled non-employed population, the employed disabled have slightly more unmet medical needs (14.5 vs. 12.5 %) and unmet dental needs (12.3 vs. 10.9 %). These figures suggest that on average health issues of the disabled are not addressed adequately in the workplace, therefore focusing solely on monetary indicators such as the risk of poverty – which is throughout the analysis lower for the employed disabled – leads to a misleading assessment of the situation of the disabled relative to the non-disabled. The EDF (2010) report confirms this notion and believes 'a distinction needs to be made between the income as such on the one hand, and the provision of services such as personal assistance and the coverage of disability related expenses on the other.'

## 6. WORK INCAPACITY AND MENTAL ISSUES

### KEY FINDINGS

- Mental ill-health accounts for one third of all new disability benefit claims. Young people represent the fastest growing age-group claiming disability benefits, with mental ill-health accounting for two thirds of the people under the age of 35 on disability benefit schemes.
- Less than 2 % of people on disability benefit schemes re-enter the labour market. Mental ill-health and current practices therefore increasingly cause exclusion and early exit from the labour market.
- Disability should be addressed from a broader scope by focusing on remaining or partial work capacity rather than work incapacity.
- Structural reforms of disability benefit systems are necessary in order to promote a culture of inclusion.
- The role of employers is important: there is a strong connection between sickness absence and the inflow to disability benefits. Efforts to reduce sickness absence from the workplace due to mental ill-health can reduce inflows into long-term disability benefits.
- Further research is needed on the causes of increased benefits dependency among, in particular, young people and the barriers to economic and social participation that they face.

### 6.1 Main issues and trends

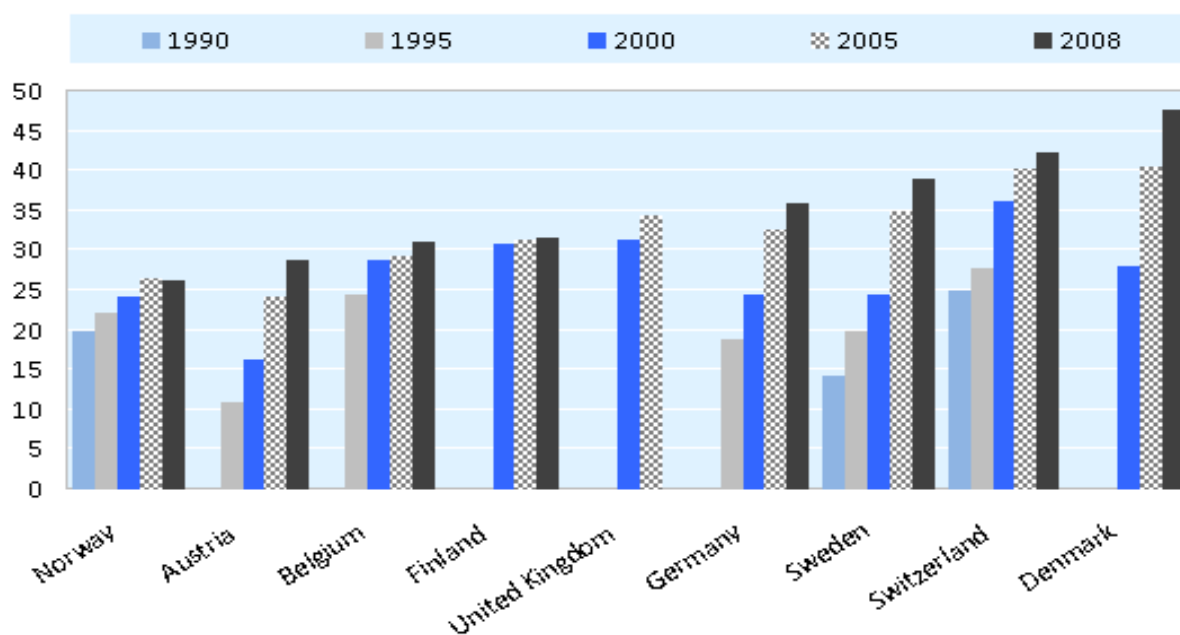
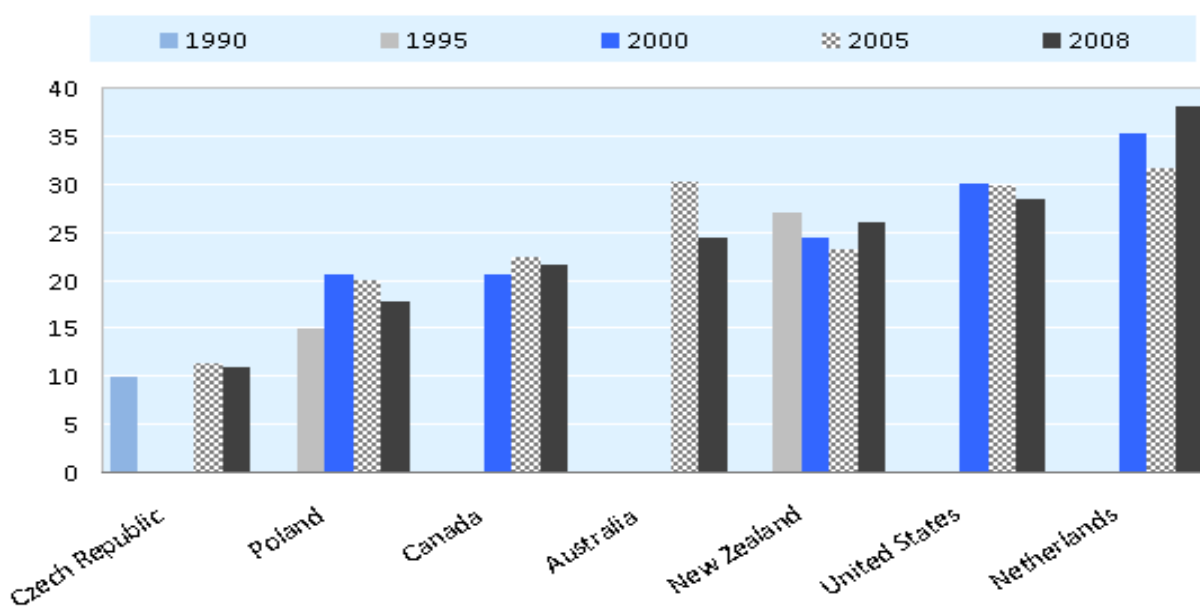
The issue of disability policy has been subject to much attention through the OECD Sickness, Disability and Work Project. Since the launch of the project, the thematic review of policies and practices in selected OECD member countries has produced an array of information highlighting interesting features and elements to learn from. The issue of rising numbers of people on disability and sickness benefits has been of major concern to OECD member countries, as well as the observation that people with mental health problems are the fastest growing group of new disability benefit claimants.

Mental ill-health is an increasing cause for exclusion and early exit and is defined in a broad sense, comprising both mental disorders<sup>9</sup> and mild or moderate mental health problems such as depression or anxiety (OECD, 2010).

#### **Increasing levels of disability beneficiaries with mental health problems**

Many studies point to the trend towards an increasing inflow of people with mental health problems to the disability benefit schemes in a number of OECD countries. This is especially the case in European countries. On average, mental health problems account for one third of all new disability benefit claims (see Figure 6) (OECD, 2010: 4; OECD, 2009a: 10).

<sup>9</sup> Mental disorders are mental health problems severe enough to reach the threshold of a diagnosis within the internationally agreed psychiatric classification system (OECD, 2010:6).

**Figure 6: Percentage of new disability grants due to mental ill-health, 1990-2008****Panel A. Increasing trends in mental health inflows****Panel B. Varying trends in mental health inflows**

**Source:** OECD 2010.

In the vast majority of cases, mental health problems are labelled as disabilities, and thus eligible for disability benefits. However, in most cases mental health problems only lead to reduced work capacity and in addition, mental health related problems are often more episodic in their impact (OECD, 2009a: 18). An increasing inflow of people with mental health problems to the disability schemes leads to the situation in which a number of people with partial work capacity are excluded from the labour market, thereby wasting the remaining capacity to work. In most cases, this is for life since 'the probability of returning to work after being granted a disability benefit is below 2 % annually across OECD member countries' (OECD, 2009a: 9).

There is a broad agreement that exclusion of individuals from the labour market due to mental ill-health results in significant costs for individuals, employers and the state (OECD, 2010):

- In relation to the individual, the rising levels of people with mental health problems becoming economically inactive is worrying in that increasing evidence shows that work in many ways is good for a person's health. Being unemployed or inactive can have detrimental effects, especially on mental health (OECD, 2008).
- For employers, there are substantial costs associated with mental health problems: either due to absenteeism, reduced productivity while at work, providing cover for absent staff, training and recruitment of new staff, etc. (OECD, 2010).
- At the societal level, increasing levels of beneficiaries with mental health problems and partial work capacity are unsustainable in the long run, in that both sickness and disability generate considerable costs to society. On average, OECD countries spend 1.2 % of GDP on disability benefits alone, and it reaches 2 % when including sickness benefits (OECD 2009a). It is therefore necessary to turn the trend around and reduce the number of people with partial work capacity who are economically inactive.

The changing profile of disability beneficiaries may require a rethinking of approaches and methodologies in terms of determining eligibility, needs and rehabilitation strategies (OECD, 2009b; Wynne and McAnaney, 2010).

### **The issue of young people on disability benefits**

Another alarming trend which deserves attention is the significant increase in the number of young people on disability benefits witnessed in a number of EU Member States. Traditionally, the profile of a disability benefit recipient was an older, male worker in a manual job using disability benefits as an early retirement scheme. However, the profile is changing towards young people and represents the fastest growing age-group claiming disability benefits (Eurofound, 2009).

In line with the trend shown above, mental health problems seem to constitute the main reason for the increasing number of young people claiming disability benefits. As noted by the OECD, mental health problems account for around two thirds of people under the age of 35 claiming disability benefits (OECD, 2009a). Within this age range, it is possible to distinguish between two groups with different sets of problems in relation to the labour market. The main issue for people struggling with health problems or disabilities in the age-group from 16 to 24 years is the transition from education to employment. In many cases, this transition is unsuccessful, so that this group tends to enter the disability benefit systems. For the second group, ranging from 25 to 34 years, the main concern constitutes the risk of exclusion from the labour market due to health factors influencing a reduction in their work capacity (Wynne and McAnaney, 2010).

The trend of an increasing uptake of disability benefits among this age-group is worrying in that disability benefits in most cases are still treated as lifelong pension schemes, meaning that a young person entering this scheme will most likely be excluded from the labour market for the remaining working-age life. This is especially worrying in light of mental health problems increasingly being the reason for the take up of disability benefits, while in most cases they only influence the capacity to work partially. The scenario of a young person with clinical depression entering the disability benefit system at the age of 20 is disturbing in that it most likely means a life on benefits of around forty years (OECD, 2009a).

For society, people entering the benefit system at an early age represents significant costs in terms of lost productivity and an increased burden on the social protection system (Wynne and McAnaney, 2010). Thus, there is a clear need for policies to address this issue among this segment of the labour force.

### **Box 7: The Wajong Scheme in the Netherlands**

Wajong is the Dutch disability benefits scheme for young disabled people who have never worked. Beneficiaries generally enter the scheme at the age of 18 and it lasts until retirement at 65. In the Netherlands, a sharp rise in the number of young claimants to disability benefits has been registered under the Wajong scheme. The numbers rose from 40 000 beneficiaries in 1976 to 120 000 in 2000 and 165 000 in 2008. Since the mid-1990s, the nature of a claimant's illnesses has changed, with a significant increase in mental health problems and a fall in physical illnesses. It was estimated that around 70% of the people on the Wajong scheme could have been active in the labour market, yet only 26% of them were in employment (it is possible under this scheme to maintain benefits while working, although there is a cap on earnings). The Wajong scheme was reformed in 2009.

**Source:** Wynne (2009).

## **6.2 From incapacity to work capacity**

The general underlying paradigm across EU Member States is that the policies and practices towards people with disabilities is one in which disability is equated with full work incapacity (OECD, 2010). This is especially the case with the design of disability benefit systems which still primarily treat beneficiaries as passive recipients without any obligations to contribute in the labour market following the assumption that they have nothing to contribute with (Wynne and McAnaney, 2004).

One of the main reasons for the exclusion of people with partial work capacity is that the majority of disability benefit systems are outdated in their design and not suitable to cope with new forms of disabilities which only partially reduce work capacity. Originally, disability benefit schemes were designed to compensate for chronic and mainly physical and congenital disabilities rather than mental health problems and their more episodic impact on work capacity (OECD, 2009b; Wynne and McAnaney, 2010). Therefore, in many cases disability benefit systems support people being *out of work*, not *in work*. Beneficiaries are essentially regarded as inactive and incapacitated, even though they may still possess a partial degree of work incapacity. As highlighted by the OECD, the benefit systems themselves have a disabling effect on people who have some productive labour to contribute to the economy (OECD, 2009b).

Both the OECD and Eurofound note that structural reforms of disability benefit systems are necessary in order to promote a culture of inclusion. This should be done by focusing on work capacity rather than incapacity as the underlying paradigm of the systems.

Such a change in approach also requires that benefit systems transform from being pure income replacement to a labour market oriented intervention (OECD, 2009b). Hence, there is a need to address the issue of disability from a broader scope mainly understood in terms of work incapacity to a focus on remaining or partial work capacity, since current practices has led to the exclusion of a number of people with partial work capacity.



In some EU Member States, there is therefore an increasing tendency towards supporting the return to work of disability beneficiaries with mental health problems, which in most cases only influence the capacity to work partially (c.f. Box 7: Reform of the Danish Disability Benefit System).

Thus, it is important to ensure that measures are put in place to manage the increasing group of people with labour market disadvantages as job-seekers. The OECD (2007) reports that:

*"[...] it will not only be necessary for countries to have strong labour markets with substantial opportunities for part-time employment, but also to have good (re)employment support systems in place. Otherwise, reforms may only translate into higher unemployment and increase the inflow into, for example, social assistance. [...] A successful outcome of the recent benefit reforms in the form of higher employment rates of people with partially-reduced work capacity requires more places in training and employment programmes as well as new activation strategies."*

## Best practices

The OECD review of a number of member countries in the realm of the *Sickness, Work Disability Project* noted a slow shift in the fundamental conceptualisation of disability to ability. Such change has led to a refocus in operational policies around what people with health problems can still do at work as well as the development of supports and entitlements that empower them in this regard. For instance, Denmark has been highlighted as a best-practice example within the OECD after its disability scheme reform in 2003, which led to a fundamental conceptual shift towards focusing on work capacity (OECD, 2009a). Luxembourg equally underwent significant reform in 2002. Now it is only individuals with continued work incapacity who can remain on benefits. The OECD (2007) found that in Luxembourg, "those who are no longer entitled to sickness benefits are provided with job-search support, in the form of clearly defined redeployment procedures to support access to employment."

### Box 8: Best practice example - The Danish disability benefit scheme reform

The disability scheme was reformed in 2003 and involved a conceptual shift in the assessment of disabilities. With this, focus is on what a person can do rather than the loss of capacity: more precisely, the extent to which a person can carry out a subsidised job (a flex-job). Disability benefit is only granted where capacity is held to be permanently reduced to the extent that a flex-job cannot be performed and participation in rehabilitation would not help to restore this capacity. A permanent wage subsidy is paid to employers of people on a flex-job to compensate for their reduced work capacity, while flex-job workers receive a standard wage. In determining capacity, a comprehensive individual resource profile is being assembled which includes measures of health, social and labour market proximity criteria.

As there has been a reported increase in young people on early retirement benefits, another reform of the benefit system has recently been discussed. It has been suggested that early retirement benefit should only be temporary. This should enhance the focus on work capacity, as a person on early retirement benefit will be continually assessed.

**Source:** OECD (2009a).

However, as noted by the OECD, the work capacity issue is closely tied to socio-political ideologies about the purposes of social protection. Countries, therefore, have to find a way forward that works in their respective jurisdictions (OECD, 2009a). Thus, in order to overcome the problem of people with partial work capacity being excluded from the labour market, the main recommendation is a change in perspective from work incapacity to capacity as the underlying guiding principle for disability benefit schemes. In this manner the disability benefit culture entrenched in many systems can be overcome. It is necessary to promote a culture of inclusion through structural reform of the benefit and employment support schemes, where people with partial work capacity are presented with alternatives to that of a life on disability benefits (OECD, 2008, 2009b). This is especially urgent in light of the changing profile of disability beneficiaries characterised with mental health problems, which most of the time is a matter of partial work capacity rather than work incapacity.

### **6.3 Preventing sickness turning into disability**

Addressing the weaknesses of existing disability benefit schemes is an important and necessary area of action, however it alone is not sufficient. The increasing number of people with mental health problems on disability benefits is in many cases the result of a long process, starting with sickness turning into long-term absence from work, which in turn may lead to the enrolment in the disability benefit system (at least as long as the benefit systems have not yet been reformed).

Extended duration of sick leave often leads to high inflows into long-term disability benefits. In fact, about 50 to 90 % of disability beneficiaries have received sickness benefits before, and the OECD considers there is a fairly strong correlation between sickness absence levels and disability inflow rates (OECD, 2009a). Further to this, Wynne and McAnaney (2004) find that a growing incidence of 'chronic illnesses and illnesses related to stress such as depression, anxiety and burnout are increasingly causes of long-term absence from work.'. This suggests that a focus on the causes and processes related to work absence is advisable, since it may lead to suggestions on the ways to avoid sickness turning into disability.

Often the process from sickness to disability benefit is caused by a lack of initiatives trying to retain sick people in work. In many cases, this leads to people with remaining work capacity ending up on permanent disability benefits due to a lack of effort (OECD, 2009b). In the OECD review of initiatives and policies in selected member countries in the realm of the Sickness, Disability and Work Project, it was noted that much greater attention was needed on the role and responsibilities of some of the key players involved in the management of workers with different types of health problems. In order to avoid sickness turning into disability, more attention should be directed towards the role of employers as well as medical practitioners (OECD, 2009a).

#### **The role of employers**

The workplace is considered a potential source of the increasing level of mental health problems, since it can play a significant role in the development of the more mild and moderate types of mental health problems due to culture, organisation and demands of the working environment (OECD, 2010). The evidence on whether or not work has become more demanding is still inconclusive; however, surveys show that the move towards a service society has caused changes in work practices, such as longer hours also outside normal hours; more jobs involving high-risk work intensity and complex tasks; less job security; and more workers reporting low work satisfaction. All of which are correlated with more stress and as a result, inferior health (OECD, 2008).

In this light, employers come to play an instrumental role in preventing people with mental health problems becoming absent from work for long periods of time or even being enrolled into a disability benefit scheme. However, most employers lack the awareness of what can be done to overcome long-term illness and disability, in particular in cases related to mental health problems. Procedures do not exist which return those people concerned to work (Eurofound, 2007). According to the OECD, employers need support and incentives to be able to offer appropriate work environments and to ensure that workers remain in the labour market (OECD, 2009a).

Both the OECD and Eurofound recommend a number of possible measures involving employers, which may support them in avoiding high long-term absence levels, and thereby potential inflows to the disability benefit schemes.

Policies focusing on good mental health at the workplace are necessary preventive measures, in that they can reduce the development of stress-related mental health problems. As noted by the OECD, such policies are critical, not only for government policy but also in general for the productivity and competitiveness of private businesses (OECD, 2010). In Denmark and Finland, for instance, policies aimed at promoting well-being at work through target prevention, treatment and rehabilitation have been introduced (Wynne and McAnaney, 2010).

Making support more employer-friendly and reconsidering the role of and incentives for employers in early phases of ill-health are equally necessary. In Finland, greater emphasis on employers' legal obligations to purchase private or community-run preventive occupational health services and create healthy working environments have been addressed, (OECD 2009a).

Sickness management responsibility for employers is another way of avoiding absence from work due to sickness turning into disability benefit dependency. Past evidence shows that some employers have downsized their labour force in times of economic hardship by transferring unwanted staff via long-term sick leave onto disability benefit.

In order to avoid such a repetition, the OECD suggests that an effective way of curtailing the incentive to downsize in this way is to transfer larger shares of financial liability for sickness benefits to employers. In the Netherlands, employers are obliged to pay the costs of sickness benefits for as long as two years, during which workers cannot be dismissed. However, it is noted that there are risks to such an approach, as it may lead to reduced hiring opportunities for sick and disabled people (OECD, 2009a).

The OECD (2009a) also recommends 'stronger responsibilities for employers need to be matched better from public employment agencies and the like to help employers fulfil their obligations. Employers vary in their experience and expertise in managing sick workers.' It is therefore necessary to avoid cumbersome administrative procedures and contacts if the employers are to be involved. In this relation, a partnership approach is recommended. Norway has been highlighted as a good practice example of this type of approach, where a personal contact officer is assigned to employers who are part of the Inclusive Workplace Network. This serves as a way to get helpful information in a timely manner for employers who deal with sickness and disability issues (OECD, 2009a).

## **The role of medical professionals**

Medical professionals are also considered to play a key role in preventing inappropriate sick leave and potential entrance to disability benefit schemes. Firstly, medical professionals in many countries play a key role in the assessment of eligibility for disability benefits. However, it is not unusual for medical professionals to have little or no training in assessing how ailments or other impairments reduce work capacity.

This often leads to an assessment of people with partial work capacity, such as those with mental health problems, to be classified as eligible despite the remaining level of partial work capacity. The OECD refers to this problem as the “medicalisation” of labour market issues, in that reduced work capacity makes a person less competitive as a job seeker in the labour market. Medicalisation occurs when medical professionals who assess the work ability are often more inclined to maximise the benefits their clients can receive by extending (inappropriate) sick leave or recommend a transfer onto disability benefits. However, when it comes to the assessment for entitlements to benefits, the starting point is not the level of labour market competitiveness but rather a medical assessment of the level of incapacity (OECD, 2009). Thus, the medicalisation of labour market problems leads to a situation in which a significant number of people with only partial work capacity are defined as unable to work (OECD, 2009a).

Another significant issue is that the dual role of the health system in treating illnesses and gate-keeping benefit eligibility is inherently contradictory. Health practitioners are expected to act as gatekeepers for the return-to-work process, however, generally the role as advocate for their patients is often considered more important. The main incentive for medical professionals is often the patient’s demand for more sick leave, and in most cases practitioners cannot be rewarded nor sanctioned for providing more or less leave (OECD, 2009a). This is why clear guidelines for the practitioners authorising sick leave is required (for a good practice example, see Box 9).

#### **Box 9: Medical practitioners in Sweden**

In Sweden, the National Board of Welfare and Health have shown that there has been practitioners who unwittingly authorised more sick leave than was necessary, and this often led to diminishing health outcomes. As a consequence, guidelines for assessment are now provided to medical professionals in order to maximise health outcomes and minimise inappropriate sick leave.

**Source:** OECD (2009a).

Thus, taking a short-term view of the needs of the patient, practitioners may be more likely to extend (inappropriate) sick leave or recommend a transfer onto disability benefits. In addition, from a long-term perspective much evidence points to the benefits of mental health by returning to work (OECD, 2010). As noted by the OECD, it is important that countries start to explore ways of improving incentives for medical professionals to help sick workers return to their jobs, as high levels of inappropriate sick leave are costly both for employers and for the public purse. For the individual, it can be equally costly, as there is a risk of labour market detachment and exclusion (OECD, 2009a).

### **6.4 Tackling the issue of young people on disability benefits**

There is an increasing trend towards young people receiving disability benefits, and increasingly due to mental health problems. This clearly indicates the need for a specific policy focus on the constellation of young people with mental health problems and also the combination, in general, of young people with disabilities, since there is a labour market problem for this segment of the workforce (Wynne and McAnaney, 2010). Little is known about the underlying causes and reasons for this development. However, Eurofound suggests that improved diagnostics and more openness to mental health problems may play a role, as may a higher acceptance of living on this type of benefit. Furthermore, diminishing opportunities in the labour market is given as a possible influential factor and so too are the rules for accessing benefits, as laid out in this section; higher awareness of the availability of such schemes may also be explanatory factors (Eurofound, 2009).

It is possible to make a distinction within the group of young people who experience different sets of problems. Within the age-group from 16-24 years, the increasing number of disability benefit claimants with mental ill-health is problematic, since in most cases they seem to be transferring directly from education into the benefit system. As noted by the OECD, this could be due to some combination of broader changes in society or the consequences of medicalisation of behavioural problems among children and the interaction of the education and social security systems (OECD, 2009b).

The interaction between the education system and the employment and social protection systems is highlighted by Eurofound as a significant problem, which in many cases leads to young people with disabilities and mental health problems to choose the social protection system due to transitional gaps from one system to another (Eurofound, 2009).

The early school-leaving rate of students with disabilities is significantly higher and the opportunities for them in the mainstream system are limited. As a result, they often move into specialised disability service sectors looking for the support and intervention that they require, despite having progressed through their school careers in mainstream settings.

Access to these services often requires a disability pension to achieve eligibility – another factor in motivating young people with health problems to seek social protection (Wynne and McAnaney, 2010).

Although a number of countries have intervened to help young people in the transition to working life, current strategies do not seem to prioritise mental health problems. The existing interventions risk capturing those more likely to find work anyway and miss others with mental health problems or lower school qualifications (OECD, 2009a). Thus, there is a need to review current mainstream and specialised systems to support the transition to work for young people with health problems and to identify cases of innovation and good practice to break the cycle of unemployment and exclusion (NDA, 2006).

A second issue highlighted by both the OECD and Eurofound is the role of diminishing opportunities on the labour market for people with reduced work capacity, which may well be a significant problem. Over the past two decades, there has been a shift in social norms in favour of placing people on disability benefits rather than unemployment benefits, even though, as noted earlier, reduced work capacity is a labour market problem rather than a health problem. In fact, in many countries there is a trend towards accepting large numbers of people on disability benefits in exchange for lower unemployment rates. People who were once managed as unemployed are now increasingly being treated as incapable of working (OECD, 2009b).

From the perspective of young people with disabilities or mental health problems which only partially reduces the capacity to work, such a trend is particularly worrying. In the Netherlands, a study showed that almost 7 % is in receipt of disability benefit before the age of 30, and with the current policies, this number is projected to double by the year 2040 (Schoonheim and Smits, 2008).

One possible explanation for the rising levels of young people with disabilities moving into the social protection systems may well be due to a wider issue relating to the dynamics of the labour market in general (Wynne and McAnaney, 2010). With social norms favouring a placement in disability benefits rather than unemployment benefits, the issue of youth unemployment may be partly disguised by accepting more young people on disability benefits rather than making an effort to integrate them into the labour market. If this is the case, this clearly needs to be addressed.

In the current economic circumstances, this can become a very serious problem. Currently, as noted by the OECD, the top priority in the majority of countries is not mobilising weaker parts of the labour force and tackling the disability benefit culture but rather tackling the job crisis experienced all over. The current crisis poses a great risk that disability benefits schemes are going to be increasingly used to ease labour market pressure associated with high and rising long-term unemployment (OECD, 2009b: 8). This is especially an issue of concern regarding young people as this group has been affected most by the economic crisis. In the first quarter of 2009, the seasonally adjusted unemployment rate in the EU27 for people aged 15-24 was 18.3 %, which was significantly higher than the total unemployment rate of 8.2 % (Wynne and McAnaney, 2010). Thus, the unemployment rate for young people is significantly higher in comparison to other groups, and unemployment rates among this group are rising faster than the total unemployment rate. Therefore, it is clear that a specific policy focus on young people is necessary and early intervention for young people with health problems is essential, since long-term dependency and disability is greatly increased in the absence of such measures. In addition, it should be noted that the compound problems associated with finding employment for younger people with disabilities are magnified when the causes of the disability have a mental component.

More people are receiving disability benefit and the growing number is not least due to mental ill-health – especially young people. This is a worrying trend, since most people (98 %) receiving disability benefit never re-enter the labour market.

This is despite many people receiving disability benefit due to mental ill-health still capable of work – at least for some hours a week. Current practices have led to the exclusion of a number of people with partial work capacity.

## 7. OBSTACLES TO MOBILITY WITHIN THE LABOUR MARKET

### KEY FINDINGS

- Mobility of disabled people into the labour market is important from both a human rights perspective (equal opportunities) and from an economic perspective (higher employment rates).
- Traditional barriers to mobility (i.e. legal and administrative obstacles, linguistic problems, acceptances of qualifications, cultural barriers) are exacerbated for people with disabilities.
- There are a number of specific barriers related to the concept of “independent living”, including the portability of support measures, equipment and personal assistance, the accessibility to buildings in relation to job-to-job mobility, and accessibility to transportation with respect to geographical mobility. In addition, cultural or attitudinal barriers exist at the societal level and the employers’ level.
- Cross-border mobility is further impeded by heterogeneous definitions of disability in different EU Member States, which indicates the variety of approaches to disability issues and leads to diverse disability-related policies and a possible lack of policy convergence across the EU.

Mobility is an important concept in the EU and has long been at the core of EU employment strategy. It has also been considered an important component for dealing with flexible labour markets (Andersen et al., 2008). Mobility plays an important role in making the European workforce more adaptable in times of rapidly changing labour markets. At an EU level, the European Job Mobility Action Plan for 2007-2010 emphasises how workers in Europe need to be mobile both between jobs and between regions and Member States in order to cope with the challenges facing the European economy (European Commission, 2007a).

In labour market mobility, a distinction is usually made between geographic and job mobility. The definition of geographic mobility applied here is in line with a previous study conducted for the European Commission (Bonin et al., 2008). The understanding of mobility is defined rather broadly, as it refers to a change of residence both within and across borders, and also cross-border and regional commuting. In this section, geographical mobility will be mainly understood as the change of residence across borders and between regions, not including commuting. In a parallel study on job mobility in the European Union (Andersen et al., 2008), a distinction is made between three dimensions of the general concept of job mobility:

- Job-to-job mobility is defined as change of employer.
- Occupational mobility is defined as a change in occupational status involving a change in job profile or content.
- Employment mobility is defined as transitions between different labour market states and the ease with which it is possible to move between employment states (i.e. employment, unemployment, inactive, self-employment) as well as between different types of contract.

Primary focus is given to the first two dimensions, job-to-job mobility and occupational mobility, when considering mobility obstacles on the European labour market for people with disabilities. The issue of job-to-job mobility is of specific importance, as the overall employment rate for people with disabilities across the EU is rather low, indicating that getting a job, let alone changing jobs, is more difficult for people with disabilities than for non-disabled people.

The focus on mobility of people with disabilities on the European labour market is to be understood from two perspectives. Firstly, it is a necessary focus, as it is a matter of human rights. The EU promotes active inclusion and full participation of disabled people in society, and considers disability as a rights issue. This approach is also at the core of the UN Convention of the Rights of Persons with Disabilities, to which the EU is a signatory. One of the key objectives of the European Commission's disability strategy since 2003 has been to ensure that equal opportunities for disabled people become a reality (Townsend et al., 2010). In this light, the issue of mobility becomes important, as it is closely connected to the fundamental right of free movement of people, applicable to all citizens. As citizens of the European Union, people with disabilities have the same rights to move freely across borders as their non-disabled fellow citizens. Therefore, it is essential to analyse potential barriers that may hinder people with disabilities taking advantage of one of their fundamental rights as citizens.

Secondly, it is also relevant to address this issue from an economic perspective. In an endeavour to increase the overall employment rate of the European Union, people with disabilities are seen as an untapped or neglected pool within the labour force, which can be activated and contribute to the development of the European economy. As noted by the European Disability Forum (EDF), with the headline target of reaching an employment rate of 75 % in the new Europe 2020 strategy, it is necessary to prioritise the potential of people with disabilities to contribute to this target, as approximately 15 % of the working-age population has some kind of disability or long-standing health problem (EDF 2010). Thus, it is necessary to consider potential barriers for people with disabilities to contribute to the overall development of the European labour market, which also includes making an assessment of the potential for mobility in this segment of workers.

The European Job Mobility Plan 2007-2010 (European Commission 2007b) highlights a number of general obstacles to geographic mobility, which affect both disabled and non-disabled alike:

- legal and administrative obstacles
- housing costs and availability
- employment of spouses and partners
- portability of pensions
- linguistic barriers
- acceptance of qualifications in other EU Member States

In addition to the obstacles above, Bonin et al. (2008) report cultural hurdles as significant barriers to geographic mobility.

Independent living is intricately involved in the labour market mobility of people with disabilities, and it involves a number of issues that hinder their mobility. Independent living refers to how disabled people should be able to decide where and how they live with access to a range of services to support their life in the community (Townsend et al., 2010).



The overall goal of independent living for disabled people is to ensure that they have choice and control over the decisions, equipment and assistance that they need to go about their daily lives, so they can participate in society on the same basis as other people. It is not only a matter of support services but also one of access to a wider range of services, such as appropriate housing, transport, education, employment and training (Townesley et al., 2010). To ensure the independent living of people with disabilities, a number of support measures and services need to be accessible. In any discussion on labour market mobility of disabled people, these considerations must be taken into account, as it is an essential part of securing the equal right to independent lives of people with disabilities.

It is possible to identify barriers to the mobility of people with disabilities in the European labour market with existing research and literature under three different headings: administrative barriers, accessibility barriers, and cultural and attitudinal barriers. Some of the main points arising from this section all relate to the overall problem of defining and approaching the issue of disability. The different definitions of disability across the EU (specifically the difference between the medical and social approach to disability) is the main reason for the range of policies aimed at people with disabilities. This results in problems of overall policy convergence across the EU, which in itself constitutes the main source for many of the barriers to geographic mobility experienced by people with disabilities. Many of the issues related to disability are the Member States' responsibility and can be considered a significant source for overall variations across the EU. However, attempts to coordinate some issues across borders are made through the Open Method of Coordination, but to a large extent, this has yet to incorporate concerns for people with disabilities to a satisfactory level.

## **7.1 Administrative and regulatory barriers**

Administrative barriers are often cited as an example of a mobility obstacle within the European Union. The wide variety of administrative procedures regarding social security transferability or the portability of pensions, taxation etc clearly have implications for both the disabled and non-disabled (Bonin 2008). There has so far been a lack of progress on the transferability or portability of services and support for independent living between EU Member States. This constitutes a significant barrier for the geographic mobility of people with disabilities, whether work-related or not (Townesley et al., 2010; Shima and Rodrigues, 2009). In many cases, portability of equipment as well as personal assistance (two necessities for many people with disabilities) is not only difficult across borders but also within a country. For instance, the supply of equipment is often under regional or municipal administrative procedures, and the allocation of equipment is specifically tied to one location. Moving from one area to another may, therefore, imply a re-application for the basic necessities with the new authorities. The main obstacle is that different local authorities may have different criteria for eligibility, and overall resources to allocate supportive equipment (Townesley et al., 2010).

In many European countries, the portability of personal assistance is also hampered by complex administrative systems. In fact, in thirteen European countries (Spain, Norway, Finland, Germany, the Netherlands, Sweden, Denmark, Ireland, Latvia, Lithuania, Italy, the Czech Republic and Belgium), benefits and arrangements are not portable between different states or regions of the country. In Lithuania, for instance, the administrative complexity is enormous. If people with disabilities want to receive aids or adaptations, they have to apply at the municipality of their place of residence. In Sweden, large variations exist in the provisions for assistive devices. This is considered a free service in some areas, but in others parts of the country it can result in high charges.

The only two European countries which already have in place arrangements of portability of support for independent living are Slovakia and Austria (Townesley et al., 2010).

**Box 10: Case examples: Austria and Slovakia**

In Austria, people with disabilities receiving support in the form of personal assistance from Centres for Independent Living in Tyrol or Vienna can take their support with them to other parts of the country and even to other European countries. However, this is only possible as long as their permanent address remains in Tyrol or Vienna. How long this arrangement is valid is not clear, and it clearly has obvious restrictions in terms of mobility, in that the permanent address has to remain the same.

In Slovakia, due to a system of direct payments, people with disabilities can also move from one region to another. However, when a person moves to another country, this service is maintained for a maximum of two months, after which it is terminated.

**Source:** Townsley et al. (2010).

The process of deciphering how benefits, direct payments, equipment and adaptations as well as personal assistance are to be made transferable clearly constitutes a challenge, specifically due to issues of subsidiarity. Nonetheless, the issue of transnational portability is one of great importance, which must be addressed as a matter of urgency if the right to move freely across borders is to be equally applicable to people with disabilities. One of the options worth exploring is the establishment of bilateral agreements between countries to reduce or remove barriers to mobility, as has been done regarding other measures of social protection (Townsley et al, 2010).

Turning to the issue of job mobility, administrative practices related to the allocation of services and support measures for people with disabilities also constitute significant barriers. In many cases, for instance, adaptations needed for work are assigned to the employer rather than the individual employee, which can serve as a disincentive for a disabled employee to change jobs, since such a move would require re-applying for certain adaptations, computer devices etc. (Townsley et al., 2010). This can be a considerable barrier to job-to-job mobility and an issue which has to be addressed in order to enhance the overall job mobility of people with disabilities.

## **7.2 Accessibility barriers: Transport and built environment**

In the discussion on mobility barriers for people with disabilities in the European labour market, the issue of accessibility must be included, since it constitutes a significant precondition for the independent living of people with disabilities. In contrast to non-disabled people, the accessibility of transport and buildings can be a determining factor for their participation in the labour market. As noted by the European Commission in its Disability Action Plan for 2008-2009, accessibility can make the difference between a disabled person being active in the labour market or being dependent on social welfare (European Commission, 2007a). Furthermore, in relation to geographic mobility a decent level of accessibility in EU Member States is a prerequisite for any decision made by a disabled person to move across borders in the pursuit of work.

However, accessibility has received very scattered attention across the EU. In terms of transport at the European level, the issue of mobility and transportation has gained in importance through regulations on accessibility and non-discrimination in public transport by land, sea and air.

Priestley (2009) finds that some countries deal with transport accessibility as a poverty issue rather than a matter of physical accessibility. Some countries have, however, made a more explicit link to the recommendations from the EU Disability High Level Group on disability mainstreaming in the European social protection and social inclusion process. Luxembourg, for instance, has recognised the general link between inclusion and physical mobility. However, very few countries highlight specific accessibility responses to this problem (Priestley 2009). ECOTEC (2009) reports that people with disabilities do not enjoy barrier-free public transport service across Europe. In some countries, transport is not fully accessible, and discrimination still persists due to inaccessible busses and bus stations, inaudible announcements, poor signage and assistance dogs not being allowed on trains.

Accessibility of workplace buildings is considered paramount in order to promote and mainstream accessible working environments for people with disabilities. Action on this issue is increasingly evident from a legislative point of view; however, there are only few references to such measures in national employment policies of relevance to disabled people across the EU (Greve 2009).

One interesting finding in relation to people with disabilities in the labour market is the tendency for a number of countries to emphasise individual rights and responsibility to work rather than the structural access required to enable this to happen (Priestley, 2008). This indicates that a number of countries still do not adhere to a social approach to disability where the environment is considered to be the disabling element for the inclusion to society.

### **7.3 Cultural and attitudinal barriers**

Cultural barriers have been highlighted as a significant hindrance to geographic mobility within the European Union (Bonin et al., 2008). Perceived difficulties related to becoming part of another culture can have a significant influence on any decision related to geographic mobility. In fact, it is found to be even more influential than barriers related to more institutional and practical matters. For people with disabilities, concerns about cultural differences might be further intensified. Thus, in any decision to migrate to another country for working purposes, it is likely that concerns related to the level of inclusiveness of and societal attitudes towards people with disabilities are influential. Cultural and attitudinal barriers exist at both societal level, in terms of national approaches to disability, and at an individual level, in terms of attitudes and workplace cultures etc. which will now be examined further.

#### **Barriers at a societal level**

There has been little research conducted on the cultural and attitudinal factors which constitute a barrier to geographic mobility. However, there is an implicit link to be made to the issue of geographic mobility through the literature on inclusive societies and the overall view and definitions of people with disabilities, since countries vary in their approach to inclusion of and overall attitudes towards people with disabilities.

There is much variation between EU Member States in how they define disability distinguishing between a medical and social approach. A social approach towards disability focuses, among other things, on how social attitudes should not constitute barriers for people with disabilities to fully enjoy their rights and participate in society on equal footing with non-disabled people. From a social perspective on disability, attitudes are considered a barrier for the overall inclusion in society. If countries differ in their approach to disability, they may also differ in the level of attention given to attitudinal barriers. In terms of geographic mobility, this can be a major concern to people with disabilities who wish to migrate.

Elaborating further on the issue of inclusive societies and overall societal attitudes towards people with disabilities, the degree of mainstreaming, the overall existence of anti-discrimination legislation and the inclusion of people with disabilities in decision-making processes constitute relevant factors to examine. These measures can be considered an overall reference frame, which in turn can serve to foster and guide societal attitudes towards people with disabilities.

As noted by ANED, for instance, anti-discrimination measures focus on wider society, where negative views and attitudes towards people with disabilities are produced and reproduced and therefore serve to foster a change towards non-discriminatory attitudes among participants in society. Thus, from a legal point, the existence of such legislation may provide an overall reference frame for the formation of attitudes and social norms of anti-discrimination in society towards people with disabilities. However, as noted by ANED, there are still differences in the level to which EU Member States have comprehensive anti-discrimination measures that confront the stigma attached to and perception of people with disabilities as not being able to assume socially included roles in society (Shima/Rodrigues 2009).

Mainstreaming is considered a central requirement for the integration and inclusion of people with disabilities into the labour market and society, as it fosters the integration of the needs of people with disabilities into the design and implementation of policies (Greve, 2009). Examining the level of mainstreaming is useful in terms of gaining an understanding of the overall inclusiveness of a society. More specifically, mainstreaming of disability in employment policies in the different European Member States is relevant. As noted in an ANED report on the labour market situation of disabled people in European countries, mainstreaming is more embedded in some countries than others (Greve 2009). Many EU governments continue to treat disability as a special issue and offer special programmes and measures for people with disabilities (Shima/Rodrigues, 2009). This is considered problematic since targeted and specific activities for people with disabilities can have a stigmatizing effect (Greve 2009).

A last point to emphasise is the level to which people with disabilities are involved in the decision-making processes. ANED considers this a key policy measure to contribute to combating the social exclusion of people with disabilities. Across the EU, there are large differences in whether or not people with disabilities participate in the decision-making process of policies aimed at them. From the perspective of effective mainstreaming, the involvement of disability organisations is considered a key issue (Shima/Rodrigues, 2009).

As long as there are significant differences between EU Member States in the level of inclusion this may be considered a potential barrier for geographic mobility among people with disabilities. The less inclusive a society is, the more likely it is that people with disabilities have to deal with negative attitudes and the stigma associated with being disabled.

## **Barriers at an individual level: Attitudes of employers**

Attitudes and misconceptions of employers can constitute significant barriers for the employment of people with disabilities (Wynne and McAnaney, 2010) and workplace cultures and policies act as barriers to the employment (OECD 2009b). The negative attitudes found among some employers are often due to employers' lack of knowledge about the possibilities of reasonable accommodation and incentives that may facilitate the employment of disabled people (Wynne and McAnaney, 2010). Efforts to overcome such barriers are important, as opportunities for job-to-job mobility are significantly reduced if employers hesitate to hire people with disabilities.

However, it is difficult to change this problem overnight, since attitudes and work cultures are longstanding and entrenched, and any attempt to bring about a shift in employers' attitudes requires policy changes in a number of areas, together with the political will and leadership (OECD 2009b: 9). There is also a close and essential link with societal attitudes and norms and the effective implementation of policy initiatives and legislation.

At a more tangible level directly applicable to employers, disability awareness training has been identified as a possible strategy to change workplace culture, but it is equally important to integrate and address disability and employment at the level of the company's policy procedures (Wynne and McAnaney, 2010). Corporate social responsibility and inclusion of social partners may be important in terms of addressing the low levels of employment of people with disabilities (Greve, 2009). The European Disability Forum (EDF) emphasises that breaking down attitudinal barriers among employers towards people with disabilities is essential for increasing the employment rate among this group. The EDF (2010) suggests that creating attractive traineeship schemes could be a way forward.

Negative attitudes towards and the stigmatisation of people with disabilities at the societal level constitute a barrier for geographic mobility between different countries. At the individual level, attitudes of employers can be a significant barrier for job-mobility. Still, employers to a large extent have negative attitudes towards hiring people with disabilities.

## 8. FLEXICURITY

### KEY FINDINGS

- Flexicurity involves the combination of a) flexible and reliable contractual arrangements, b) lifelong learning strategies, c) active labour market policies, and d) social protection systems.
- Flexicurity is an effective measure to include disabled people in the labour market.
- It is key to promoting the right balance between flexibility and security, since high levels of social security include the risk of disabled people with partial work capacity being “trapped” in the disability benefit system.
- There is also a risk that the current economic crisis and higher unemployment levels may revive the use of disability benefits to control labour supply.
- Flexicurity is currently practiced with great variation among Member States.
- More research is needed on flexicurity as a pathway for promoting mobility and integration of disabled people into the labour market.

The EU faces many challenges to its welfare state models, including increasing competition from emerging economies; demographic development with an ageing population; high levels of non-employment (people outside the labour market); and, to some extent, high levels of unemployment. While flexible labour markets can be a partial solution to this, policy makers have also to address issues related to employee security. The combination of flexibility and security is known as *flexicurity*, which is defined as a balance between a flexible labour market with a high level of mobility and high levels of social security. More specifically, flexicurity involves the deliberate combination of the following four components:

1. Labour market flexibility – flexible and reliable contractual arrangements
2. Comprehensive lifelong learning strategies
3. Effective Active Labour Market Policies (ALMPs)
4. Modern, adequate and sustainable social protection systems

This definition is in line with the European Commission (2007d), in its communication ‘Towards common principles of flexicurity’ (COM(2007)359 final).

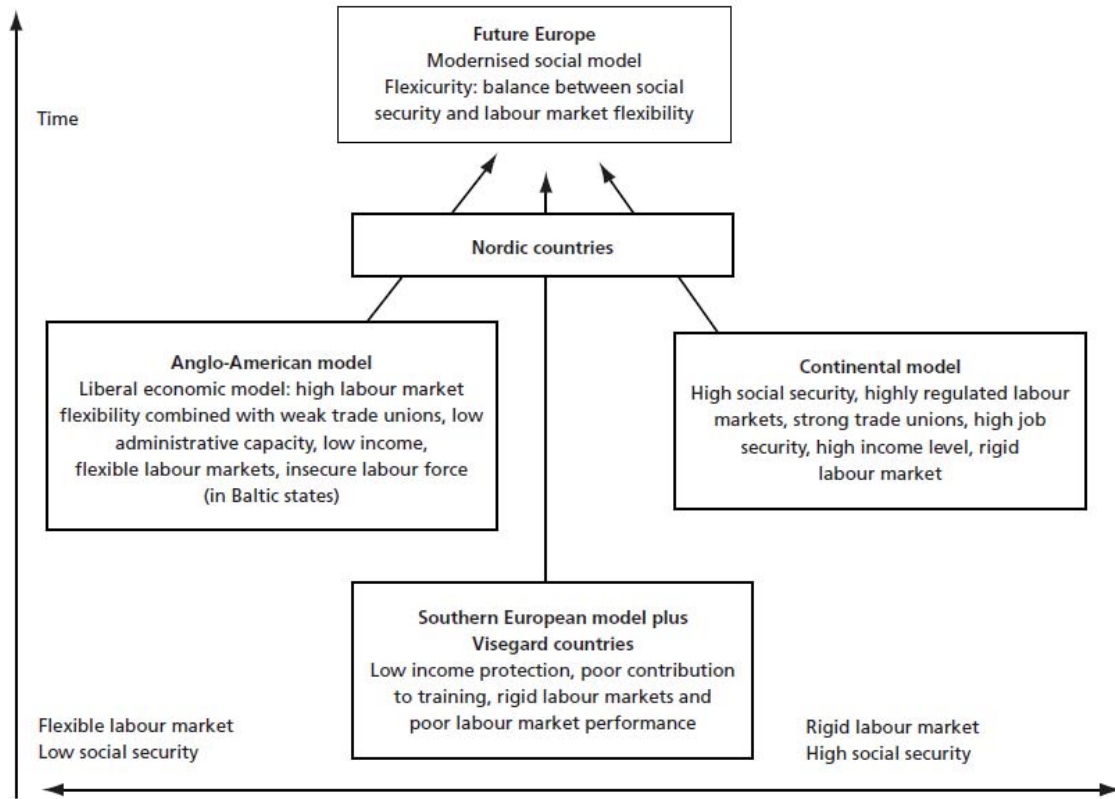
One aspect of the renewed Lisbon Strategy and the new Europe 2020 Strategy is to decrease both unemployment and economic inactivity, including that for disabled people, as they are overrepresented in both categories. Besides the general approach to labour market policy, flexicurity can also be seen as a means of helping disabled people enter or remain in the labour market – as will be discussed in the following sections.

Because the EU has adopted the term flexicurity in its policy strategies, it is no longer restricted to a specific Danish/Dutch model.<sup>10</sup> Instead, it is emphasised that no single flexicurity solution exists for all Member States, and therefore adopted reforms need to take into account the specific situation – encompassing the political, economic, social and legal environment – of each country.

<sup>10</sup> In attempting to trace its origin it appears closely connected to the Dutch labour market reform in the 1990s (Wilthagen and Trost, 2004). Both countries, Denmark and the Netherlands, are often seen as prime examples of flexible labour markets.

Figure 7 shows how EU Member States are placed on different dimensions when measuring against the flexicurity concept promoted by the European Union.

**Figure 7: Convergence of different EU flexicurity models in an EU-based flexicurity framework**



**Source:** Philips et al., (2007: 51).

Much research has been conducted on the general concept of flexicurity; but only limited data and research explicitly link flexicurity to the mobility and integration of people with disabilities into the labour market. Below, however, key opportunities as well as challenges within the four flexicurity components are discussed.

## 8.1 Labour market flexibility

The most famous distinction of labour market flexibility is given by Atkinson (Atkinson, 1985; Atkinson and Meager, 1986). Based on the strategies companies use, he notes that there can be four types of flexibility.

### Box 11: Four different types of flexibility

#### External numerical flexibility

External numerical flexibility refers to the adjustment of the labour intake, or the number of workers from the external market. This can be achieved by employing workers on temporary work or fixed-term contracts or through relaxed hiring and firing regulations or in other words relaxation of Employment Protection Legislation, where employers can hire and fire permanent employees according to the firms' needs.

#### Internal numerical flexibility

Internal numerical flexibility, sometimes known as working time flexibility or temporal flexibility, is achieved by adjusting working hours or schedules of workers already employed within the firm. This includes part-time, flexi-time or flexible working hours and shifts (including night shifts and weekend shifts), working time accounts, leave such as parental leave, overtime.

#### Functional flexibility

Functional flexibility or organisational flexibility is the extent employees can be transferred to different activities and tasks within the firm. It has to do with organization of operation or management and training workers. This can also be achieved by outsourcing activities.

#### Financial or wage flexibility

Financial or wage flexibility is when wage levels are not decided collectively, resulting in differences between the wages of workers. This is done so that pay and other employment costs reflect the supply and demand of labour. This can be achieved by rate-for-the-job systems, assessment-based pay systems, or individual performance wages.

**Source:** Jepsen and Klammer (2004).

Furthermore, there are other types of flexibility that can be used to enhance adaptability. One way worth mentioning is locational flexibility or flexibility of place. This entails employees working outside the normal workplace, such as home-based work, outworkers or teleworkers. This can also cover workers who are relocated to other offices within the establishment.



Labour market flexibility does not only refer to the strategies used by employers to adapt to their production/business cycles as it is in the definitions above. Increasingly the common view is that labour market flexibility can potentially be used for both workers and companies/employers and employees. It can also be used as a method to enable workers to 'adjust working life and working hours to their own preferences and to other activities (Jepsen and Klammer, 2004).

Priestley (2009) reports that flexible work time arrangements in particular offer considerable potential to create accessibility and security for many disabled people in the open labour market (including those with fluctuating long-term illness, mental health conditions, etc.). The main aim behind a flexible labour market is, therefore, to increase the supply of labour but also to increase the demand for labour, and in this respect many argue that the group of disabled people constitute unused potential as a labour source.

Strong employment protection can imply a barrier to the employment of disabled people (i.e. strong protection against dismissal has proven to reduce the incentive and willingness of employers to hire people). Therefore, the *2008-9 Disability Action Plan* prioritises the importance of successful employment policies through the concept of flexicurity (European Commission, 2007a).

At a general level, there is considerable variation with respect to flexibility of the labour markets in EU Member States, including policies towards disabled people (Priestley, 2008). However, the general tendency is that various policies are being implemented with the aim of improving the flexibility for disabled people and also increasing both the demand and supply of labour. Of the many different policies in place across Member States, only few however have documented effects.

**Box 12: Best practise examples****Increasing the supply of labour**

- Spain has reduced the working day for the care of minors or people with disabilities and also increased maternity leave by two weeks following the birth or adoption of a disabled child.
- The UK now provides the right to request flexible working for parents of disabled children.
- Belgium has identified the importance of an individual approach to labour market integration, an example is the “progressive employment” scheme in the public health care sector.
- The Swedish government has made part-time or short-term employment support easier for younger workers (aged 19-29), and sickness benefits are assessed more regularly (for people aged 30-64).

**Increasing the demand of labour**

- Spain has introduced incentives to encourage employers to offer more secure employment contracts (e.g. permanent recruitment of a disabled person may be rewarded with reductions in the employer’s social security contributions). This policy was adopted as a way to handle the high rate of temporary employment amongst disabled people.
- Other examples of policies increasing demand include the introduction of reimbursement of employers’ costs, examples of which can be found in both Estonia (up to 50%) and Bulgaria (for contracts of 24 and 36 months).

**Source:** Priestley (2008).

In general, Member States have implemented flexible labour market policies to facilitate higher employment amongst disabled people. However, due to a lack of reliable data concerning employment and an absence of direct evaluations of the implemented policies, it is difficult assessing the direct effect of these flexible policies with respect to the employment rate of disabled people (Greve, 2009).

## 8.2 Social security

It has been well documented that disabled people remain persistently amongst the poorest part of the population in both developed and under-developed countries (Priestley, 2008). It is therefore important that disabled people are made visible in national discussions of poverty and incomes, and that appropriate interventions are targeted to ensure adequate and sustainable incomes. The level of social security with respect to disabled people varies substantially between Member States. Nordic countries spent between 1.8–2.5 % of GDP on disability programmes in 2005; while Continental Europe spent between 0.9–1.3 %, Southern Europe between 0.8–1.8 %, and East European countries between 0.2–1.6 % of GDP on disability programmes (OECD 2009a).

These differences in public disability expenditure are also clear when focusing on the risk of poverty among disabled people: the risk is much lower in Nordic countries compared to East European countries – both in terms of absolute poverty and in relative terms compared to non-disabled people (OECD, 2009). An interesting point, however, is that public expenditure on disability benefits is much higher than on unemployment benefits. The OECD average expenditure of about 1.2 % of gross domestic product (GDP) on disability benefits alone is 200 % more than the unemployment benefit expenditure.

In addition, expenditure on disability benefit has increased substantially over the past ten years; since 2000, disability benefit expenditure has increased by 18.6 % within the EU-25. However, this increase has taken place during a time of economic growth. This indicates that disabled people are still not viewed as a source of labour and stresses the importance of integrating disabled people into the labour market – also from a fiscal point of view (Wynne and McAnaney, 2010).

In most EU Member States there is a growing focus on ensuring that disabled people receive a minimum income so they can sustain a decent living. But there is still considerable variation in the attention given to disabled people's income-levels. In some countries (e.g. Finland, Slovakia and Sweden), disabled people are largely invisible in discussions on social inequality, exclusion and poverty in general. In other countries (e.g. Austria, Czech Republic, France, Ireland and Slovenia), disabled people are recognised amongst the groups most at risk of poverty (Priestley, 2008).

The main aim of disability benefit is to ensure a decent standard of living for people who are not able to be employed. The challenge to this scheme is, however, to ensure flexibility, so people with only partial work incapacity are not excluded from the labour market. As noted earlier, only 2 % of the people receiving disability benefit re-enter the labour market. This could of course mean that the people receiving disability benefit are indeed fully disabled and not able to participate at the labour market. However, studies show that this is not the case and that many people on disability benefit would be able to have a part-time job. Therefore, ANED experts conclude that many of the existing disability benefit schemes today are outdated in their design, which leads to the exclusion of a number of people who are only partially reduced in their capacity to work. From the perspective of flexicurity, this is problematic and calls for an investigation of possible flexible security systems that take more into account those with reduced capacity to work.

This indicates that many people are "trapped" in the disability benefit scheme and thus excluded from the labour market. This is not only a problem for people with partial work incapacity and the general institutional setting of the flexicurity systems, but also a major economic challenge. In some countries, as noted by Wilthagen (2008), "social security systems often provide long-term benefits without frequent checks of availability or remaining work capacity. This may stimulate labour market exit and informal work rather than transition." Thus, there is tension between, on the one hand, maintaining adequate income with respect to disability benefits and, on the other hand, prioritising objectives to reduce eligibility to such benefits for those of working age.

There is a growing trend that EU Member States are beginning to focus more on how to reduce withdrawal from the labour market due to work disability, and the issue is becoming a top priority (e.g. Luxembourg, Romania, the UK, Malta, Hungary, the Netherlands, Romania and Slovenia). Furthermore, Priestley (2008) reports that Member States now are focusing more on this issue than, for example, on the number of disabled people unemployed or the number of disabled people living in poverty. Now Member States are focusing on a more detailed functional assessment of work capacity for disability benefit entitlement. Although this shift in focus from incapacity to work capacity seems warranted, the OECD notes that such systems have often achieved little more than create new categories for unemployed disabled people rather than create a real increase in disabled people re-entering the labour market (Priestly, 2009).

### 8.3 “New skills for new jobs” – lifelong learning

Lifelong learning is important in developing a mobile labour force for high skills knowledge economies. As with the other aspects of flexicurity, the main aim behind this policy is to increase the supply of labour – in this case the supply of qualified labour. From the perspective of people with disabilities, such a policy focus provides important potential because it has been well documented that people with disabilities tend to lack the skills and experience required to compete effectively in the labour market. As mentioned previously, they generally have lower qualifications than their non-disabled peers. The early school leaving rate of students with disabilities is significantly higher across EU Member States and, opportunities for them in the mainstream system are limited (Wynne and McAnaney, 2010). For example, 44 % of the disabled people born in Denmark in 1990 were enrolled in the secondary educational system by 2007, compared to 75 % of non-disabled people.<sup>11</sup> The same trend is found in Poland; as of late 2008, 34.5 % of disabled people of working-age were educated to secondary level or above, compared with almost 60 % of people without disabilities. Furthermore, just over 5% of disabled people held university degrees, compared with almost 20 % of people without disabilities (Towalski, 2009).

With respect to lifelong learning, the EU has issued the strategic objectives in the report ‘New Skills for New Jobs’, with the main aim to provide policy recommendations on how to improve lifelong learning and facilitating job mobility towards higher skilled jobs. This is in order to be able to meet the changing working conditions which are taking place as a consequence of globalisation. In an era of increased globalisation and competition, a skilled workforce is a necessity. Improving the skills of the general workforce is exactly the aim of the lifelong learning programme. However, there is great variation between Member States on the expenditure level spent on lifelong learning. In Denmark and the Netherlands, expenditure on active labour market policies is relatively high, with an additional focus on further training. In addition, there is wide variance across countries in the importance of lifelong learning - especially with respect to the inclusion of social partners in terms of social dialogue and tripartism (Wiarda 1997).

However, from a policy perspective, general expenditure levels are not the only important factor. It is also important to focus on how the opportunities for training are distributed and how they are perceived by the population (Philips et al., 2007). The EU “new skills for new jobs” does not directly mention disabled people but refers to the more general term “social exclusion”, which encompasses many different groups with very diverse needs. As such, the EU should pay special attention on how to improve lifelong learning for disabled people, thus ensuring that this group also receives “new skills for new jobs”.

That there indeed seems to be a lacking focus on labour market policies and education for disabled people is also evident in a 2008 ANED analysis. The overall conclusion is that disabled people’s labour market skills are more likely to be addressed by Member States in terms of special vocational rehabilitation programmes than by tackling access to lifelong learning in the mainstream educational system. In only a few Member States is the risk of exclusion from education specifically identified for disabled people or related to consequent labour market risk (Priestley, 2008). Finland, for example, has identified strategies and actions to address the problem of disabled people facing a lower level of education than non-disabled. This same risk is acknowledged in Austria, where they are increasing the number of training measures for older people with disabilities. Priestley (2008) gives Lithuania and Slovakia as positive examples of showing progress in lifelong learning.

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<sup>11</sup> Danish Ministry of Education, *Educational Results and Patterns for Children and Young People with Disabilities*, 2009 (original report in Danish).

The combination of flexible labour markets and comprehensive social security – *flexicurity* – is assessed to be an effective strategy for integrating and ensuring the mobility of disabled people into the labour market. As described in the Disability Action Plan, the EU strategy of promoting flexicurity systems in Member States in order to achieve the goals of the Lisbon Strategy seems to have merits. The flexicurity model, however, entails both benefits and challenges (see table 7).

**Table 7: Overview of benefits and challenges from flexicurity**

	Benefits	Challenges
General aspects	<ul style="list-style-type: none"> <li>• Mobility (job and geographic)</li> <li>• Ensuring minimal income</li> <li>• Lifelong learning</li> </ul>	<ul style="list-style-type: none"> <li>• Economic crisis radically increases public spending</li> </ul>
Specific aspects for disabled people	<ul style="list-style-type: none"> <li>• Flexible working arrangements facilitating social inclusion (e.g. flex-job)</li> </ul>	<ul style="list-style-type: none"> <li>• Ensuring an active and flexible social security system (e.g. disability benefit vs. unemployment benefit)</li> <li>• Too high levels of social security might lead to social exclusion</li> <li>• Mainstreaming vs. special policies</li> </ul>

The link between flexicurity and conditions for disabled people is not straight forward. There is a trend towards higher employment rates in the Nordic countries (Finland, Denmark and Sweden all have employment rates for disabled people above the EU average), but in comparison with the Nordic countries' general employment rates, these differences seem relatively insignificant. Many Member States have higher employment rates for disabled people than the Nordic countries, which is probably because with higher levels of social security in Nordic countries, there is also a higher risk of being trapped in disability benefit. Data concerning expenditure levels seem to back this hypothesis, as the level is higher in the Nordic countries (in terms of percentage of GDP spent on disability benefit). Although this might reduce the employment rate, it also ensures that disabled people are not marginalised from an economic point of view.

A last, but very important point to make, is that systematic evaluation of flexicurity with respect to disabled people has yet to be conducted. In addition, only limited data are available regarding the effects of the economic crisis, which hence should be prioritised.

## 9. SELF-EMPLOYMENT

### KEY FINDINGS

- The higher the proportion of the self-employed who do not face any activity limitations, the more likely the disabled are also involved in business activity.
- The study faced serious data restrictions with regards to self-employment.
- High rates of self-employment for the disabled as well as for the non-disabled are predominantly found in southern Member States such as Greece, Italy, Portugal and Spain.
- Self-employment is a source of flexibility in order to accommodate for the impact of impairments on the ability to work. As disability rises with age, older people are more likely to be self-employed.
- The findings could also imply that older (disabled) workers have difficulties in finding employment and face prejudice because of their apparent limitations, therefore “choosing” self-employment for lack of a better alternative - to earn a living or to supplement existing income.
- Self-employment might be a pathway to integration, but if this flexible form of employment does not offer adequate income security, the risk of poverty and social exclusion of the disabled is high.

Self-employment may be an alternative pathway towards labour market integration, in particular for the disabled, as discrimination and accessibility restrictions imposed by employers may be less of an issue. So far, no consistent strategy to foster the integration of disabled people through supported start-up incentives exists at the European level. According to Eurostat (2009), only three Member States, Portugal, Slovakia and Sweden, currently provide for labour market interventions which can be categorized as start-up incentives specifically targeted at the disabled. The fraction of disabled entrants into these interventions relative to the non-disabled are, however, fairly small and amounted to only 0.7 % in Portugal, 2.7 % in Slovakia and 11.0 % in Sweden in 2008.

### Box 13: Start-up incentives for the disabled

**Portugal:** The Employment and Vocational Training Institute supports the formation of independent business activities of disabled individuals via subsidies and support. The Institute helps disabled people build vocational and business capacities and provides training and integration measures.

**Slovakia:** Grants and funding programmes to support self-employed disabled people are available from the government.

**Sweden:** Disabled people wishing to set-up a business are supported through a special scheme. This Special Business Start-up allowance covers the costs of workplace equipment, and disabled people can apply for wage support payments for the first six months after establishing the business.

Source: <http://www.Euroblind.org>.

As research on the extent of self-employment amongst the disabled is rare, the EU-SILC is used to compare the country-specific rates of self-employment for non-disabled people to those of the disabled. A very high correlation (of around 0.9) between the two rates exists, indicating that the higher the proportion of self-employed who do not face any activity limitations, the more likely the disabled are also involved in business activity. Accordingly, the highest self-employment rates for non-disabled people are observed in Greece (26.8 %), Italy (17.6 %) and Romania (21.0 %); and for disabled people the three countries with the highest self-employment rates are Greece (40.0 %), Portugal (27.3 %) and Romania (27.8 %). Hölzl (2010) shows that in Southern European countries the self-employment rate and the prevalence of micro-enterprises lies above the EU-15 average. The lowest self-employment rates for both groups are observed in Germany, Denmark and Estonia. In Germany, 5.8 % of the non-disabled and 2.8 % of the disabled are self-employed. In Denmark, the observed self-employment rate of the non-disabled is 5.7 %, whereas it is 2.3 % for the disabled. Rates for the self-employed Estonians are 4.7 % and 3.3 %, respectively.

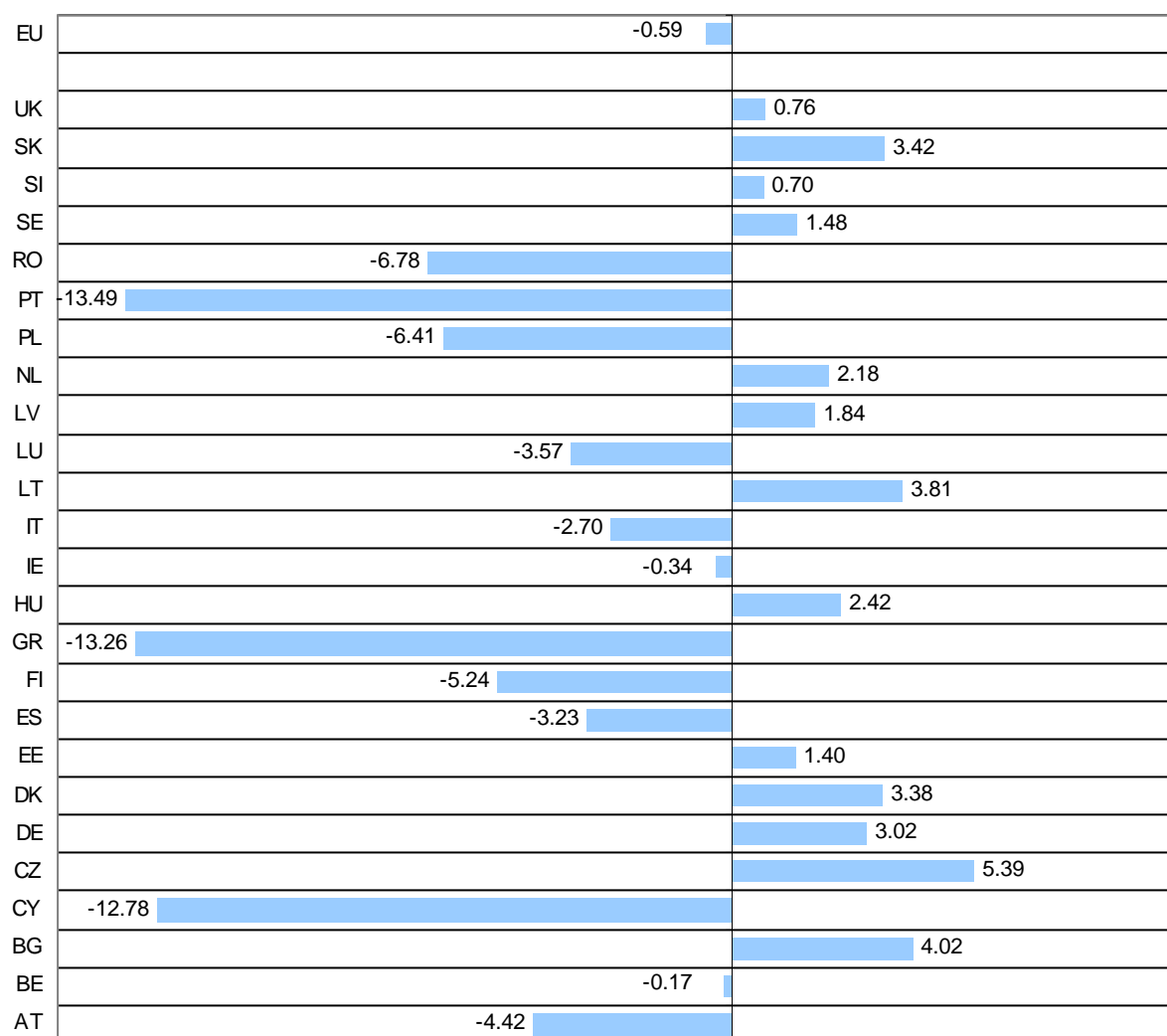
**Table 8: Self-employment of non-disabled and disabled people as part of the employed non-disabled and disabled in the EU, 2007 (%)<sup>12</sup>**

	Non-disabled			Disabled		
	%	N	Pop.	%	N	Pop.
Austria	10.56	839	508 998	14.98	474	303 068
Belgium	9.90	922	651 353	10.07	276	194 978
Bulgaria	8.02	633	431 138	4.00	55	42 728
Cyprus	12.11	779	62 109	24.89	423	28 564
Czech Republic	10.61	1 147	612 062	5.22	178	86 212
Germany	5.82	908	2 728 479	2.81	195	593 171
Denmark	5.65	294	112 526	2.26	44	16 978
Estonia	4.69	345	35 858	3.29	145	11 135
Spain	13.28	3 203	3 880 801	16.51	1 299	1 424 038
Finland	10.88	1 438	180 063	16.12	659	127 643
Greece	26.74	3 053	1 946 498	40.00	1 360	719 565
Hungary	8.49	861	492 752	6.08	308	144 243
Ireland	11.21	979	310 593	11.56	318	77 470
Italy	17.60	5 910	6 294 807	20.30	2 647	2 755 046
Lithuania	7.91	507	155 462	4.10	127	27 524
Luxembourg	6.97	490	20 680	10.54	188	8 147
Latvia	6.28	440	77 894	4.44	171	26 399
Netherlands	10.53	747	533 657	8.35	227	179 523
Poland	15.84	4 227	3 592 305	22.26	1 825	1 421 694
Portugal	13.78	1 029	846 744	27.27	982	722 860
Romania	21.02	3 018	3 020 092	27.79	1 142	933 316
Sweden	8.80	542	308 570	7.32	97	58 034
Slovenia	5.89	413	29 383	5.19	125	10 251
Slovakia	7.20	647	214 344	3.78	183	57 756
United Kingdom	9.46	1 322	3 666 652	8.70	323	818 147
<b>EU</b>	<b>12.16</b>	<b>34 693</b>	<b>30 713 821</b>	<b>12.74</b>	<b>13 771</b>	<b>10 788 490</b>

**Source:** EU-SILC (2008) (excluding France and Malta); self-defined status in employment; included are self-employed with and without employees, and family workers.

<sup>12</sup> Please note that N expresses the number of the people with disabilities within the sample, whereas Pop. displays the amount of people with disabilities projected onto the population of each country.



**Figure 8: Difference in self-employment rates as part of the employed for non-disabled and disabled people in the EU, 2007 (%)**

**Source:** EU-SILC (2008) (excluding France and Malta).

Although the self-employment rates extracted from the EU-SILC deviate substantially from the self-employment rates based on Eurostat data from the Labour Force Survey, the finding that high rates of self-employment for the disabled as well as the non-disabled are predominantly found in southern Member States such as Greece, Italy, Portugal and Spain (Pagán, 2009) is consistent.<sup>13</sup>

<sup>13</sup> The deviations between the self-employment rates extracted from the EU-SILC and the EU self-employment rates published by Eurostat are substantial and range from virtually no deviations in the number of self-employed for Latvia and Lithuania to deviations of about 73% and 75% for Greece and Romania, respectively. The definitions of self-employment are fairly uniform across the two surveys; however, within the EU-SILC, people who are working in a business, professional practice or farm and who are not paid are considered self-employed.

Figure 8 displays the relative intra-country differences between the non-disabled and the disabled self-employed. A negative sign indicates a higher share of self-employment amongst the disabled self-employed relative to the non-disabled. The southern Member States stand out, particularly Portugal and Greece, because more disabled than non-disabled people are self-employed relative to the other EU countries (13.5 % and 13.3 %). However, the observed large dissimilarity in percentage point-differences could result from different notions of self-employment. For example, disabled workers in sheltered jobs or farms are categorised as employees in one country and as self-employed in another. The distinction between the labour market states self-employment, employee or family worker is blurred in the EU-SILC: a respondent can fall in any of the three categories depending on the interpretation of the questionnaire and the interviewers' guidance.

Unfortunately, no further statistically secure information on the situation of the self-employed can be extracted from the EU-SILC, as the number of observations is too small. Pagán (2009) analyses the self-employment rates of disabled people in Europe with the European Community Household Panel (ECHP) and finds that disabled people with severe limitations in their activities are more likely to be self-employed than those with some or no limitations. This finding suggests that for the disabled, self-employment is a source of flexibility in order to accommodate for the impact of impairments on the ability to work. As disability rises with age, older people are more likely to be self-employed (Boylan and Burchardt, 2002).

On the other hand these findings could also imply that older (disabled) workers have difficulty in finding employment and face prejudice because of their apparent limitations, therefore "choosing" self-employment for lack of a better alternative. Additionally, labour market opportunities in rural areas are generally more limited and hence starting a shop, or informally selling agricultural or crafts products are often the sole source of income. As disabled people tend to be less mobile, they might be trapped in an unfavourable environment. Hence, economies which still have a larger primary sector and which face harsher labour market conditions are bound to have higher rates of involuntary self-employment. It would be useful to be able to distinguish between those disabled people who are self-employed because they choose to and those who are self-employed because they have no other options. Policies targeted at raising the level of self-employment amongst the disabled should therefore be designed with caution, as too little is known about the needs and circumstances of the disabled across the EU. Self-employment might be a pathway to integration, but if this flexible form of employment does not offer adequate income security, the risk of poverty and social exclusion of the disabled is high.

## 10. POLICY RECOMMENDATIONS

### KEY FINDINGS

- Implementation and enforcement of the principle of non-discrimination is necessary to increase employment of people with disabilities and the social inclusion in all Member States.
- There is a need to address the issue of disability from a broader scope by focusing more on remaining or partial work capacity rather than work incapacity.
- Building a social alliance and establishing barrier-free working conditions should be seen as a central objective regarding the activation of people with disabilities.
- Making work more attractive and feasible to people with disabilities requires a suitable synthesis between benefits and employment. EU Member States should therefore facilitate a balanced flexicurity approach in their countries.
- Overcoming the lack of empirical evidence by collecting harmonised data in order to better evaluate measures regarding the mobility of people with disabilities.
- Paying greater attention to policy coherence in order to link national employment policies and national strategies concerning social inclusion.
- The European Commission and the Member States should cooperate closely in creating the successor of the Disability Action Plan.

### Effective implementation and enforcement of the principle of non-discrimination

Legal protection to tackle discrimination has been much strengthened by both European legislation and policy. Together they have catalysed an approach to equality and discrimination which is both more coherent and more clearly focused on individual rights. The EU legal framework concerning the principle of non-discrimination is in place but in order to guarantee its effective implementation and enforcement, the primary political objective in the years to come is to ensure this is done in all Member States.

Non-discrimination legislation and policy play an important part within the integration process of the European Union. These measures are put in place to remove barriers disadvantaged groups, such as disabled people, face when seeking jobs and training. Furthermore, a successful implementation of non-discrimination policies not only helps people with disabilities demonstrate their potential to employers and co-workers, it can also dispel any stereotypes or prejudice.

However, the level of protection appears to be rather uneven. Legislation alone is not enough to eradicate discrimination. If a policy is to work, it also has to make people aware of the damaging effects of discrimination and of their rights to protection against discrimination and the positive benefits of diversity. Furthermore, everyone must be informed of their new rights under the law to protect themselves from discrimination and to challenge discriminatory attitudes and behaviour. The primary focus of these activities in all Member States is on employment and the workplace, as this is the area where legislation banning discrimination on grounds of disability is expected to have a major impact.

More effort should be made to implement anti-discrimination laws across the full range of policy areas beyond employment. At the same time, specific campaigns could raise awareness in society about the risk of discrimination. Changing the general perception of people with disabilities within society is a substantial issue in terms of social inclusion.

The actual implementation of the disability plan is the most important challenge. Practical implementation is a prerequisite for effective mainstreaming. Implementation must be fulfilled in practice, and not simply in law. Thus, the study highlights the importance of a proper implementation of the new Disability Action Plan in the different Member States.

The study observed gaps between proposed objectives in policy documents and actual implementation and outcomes. Little evaluation has been carried out in many of the key focus areas of concern. The European Parliament should therefore stress the need for a proper evaluation of measures and policies with regard to people with disabilities. Furthermore, Member States should conduct analyses of costs and social benefit monitoring the outcomes for beneficiaries.

### **Focusing on work capacity rather than work incapacity**

There is a need to address the issue of disability from a broader scope by focusing more on remaining or partial work capacity rather than work incapacity. In order to make successful benefit reforms to increase employment rates of people with partially-reduced work capacity, more focus on training and employment programmes as well as new activation strategies are required. The social security system needs to be flexible and focus more on providing incentives for the disabled people to activate them into the labour market. The European Parliament should emphasise within its next report on the issue of people with disabilities that political reforms of benefit systems within Member States should concentrate on capacity rather than incapacity of people with disabilities.

Evidence has shown a strong connection between sickness absence and the inflow to disability benefits, which in turn suggests that efforts to reduce sickness absence from the workplace can reduce inflows into long-term disability benefits. The role of employers in this process has become an important focal point in the search for policies aimed at turning this trend around.

The political discussion regarding structural reforms of the benefit systems should therefore be enforced. Transforming disability benefit systems into more active systems will be necessary but also particularly challenging in the current economic context. While it is necessary to protect people who are sick or injured, the other goal of benefit systems should be to help those who can work and want to remain in the labour force, even if they have lost part of their functioning. Therefore, it is necessary to turn disability benefits into re-employment payments in order to avoid the benefit systems remaining passive in nature, leading to exclusion. Disability benefit schemes predominantly support people in being out of work or inactive. Instead of retaining the status-quo, it is necessary to promote a culture of inclusiveness. Where countries are unable to accept people with partial work capacity as significant contributors to their labour markets, disability benefits become a trap that permanently excludes them from participating.

Member States of the European Union have to break the prevailing disability culture and help integrate people with partial work capacity into the labour market. This can be done by overcoming the medicalisation of labour market problems. In the longer run, opting out of the labour market needs to stop being an option, except for the small minority with very marginal capacity, and even then most beneficiaries should be periodically reassessed to see if they can return to the labour market in the future. The activation of people with only partial work capacity is a very realistic political option.

In this context, Active Labour Market Policy (ALMP) could help to integrate many disabled people who are only partly incapacitated and can as such maintain a part-time job. However, it is important to improve the research on the effects of ALMP on the employment of disabled people. Therefore, evaluations of the programmes initiated under the ALMP should be undertaken systematically across Member States.

### **Building a social alliance and establishing barrier-free working conditions**

Even where policies towards the integration of disabled people are in place, practical barriers to the realisation of opportunities still exist. Furthermore, the practical implementation of individual access and support provisions is often the responsibility of the disabled people themselves and at the discretion of social workers or assessors when deciding whether support is to be provided or not. In addition, whether sufficient resources are available in all countries to ensure that access is achieved is an open question, accentuated by current economic conditions.

Employment and social inclusion needs of young people and people with disabilities deserve closer attention. The policy challenge is to ensure that these two complementary fields of policy operate in a coordinated manner to address the specific needs of young people with health problems. Mainstreaming of both youth and disability issues into all policy fields is one recommended strategy.

Broader policies should focus on avoiding the inflow into disability benefits, for instance through the involvement of employers and medical practitioners, in particular taking into account young people. Incentives for all actors to keep people in or bring them back to work must be strengthened. Employers and medical professionals need to be targeted in an effort to reduce unnecessary sick leave. In addition, health problems should be addressed earlier in their infancy to avoid long-term disability.

Member States are recommended to review their provision of health services for people with disabilities; such reviews should establish the needs of people with disabilities and consider the suitability of current provisions in light of those needs. Member States are recommended to consider strategic responses to such needs, for example, encompassing measures relating to physical accessibility to services, training of medical staff, awareness-raising, information provided in accessible formats, customised counselling services (e.g. including translation into various languages)) and health services customised to the needs of people with disabilities. Member States should also consider the contribution of NGOs in such strategies.

Mental ill-health regarding young and prime-age adults constitutes a major future issue, since many of them are becoming trapped in disability benefits. There needs to be a concerted analysis of the causes of this alarming trend and what forms of rehabilitation can work to help them remain active. A social alliance can contribute to managing sickness absence and making work more health-friendly. Removing the weakness of benefit and employment support schemes is a necessary yet insufficient step. Equally important are prevention policies to make work more health-friendly or at least ensure that work performance is not unnecessarily affected by health problems. It is necessary to identify health problems early to be able to react as soon as they occur. For this the support of the employers is indispensable, since they can offer a healthy work environment, provide training and can make the necessary changes to the job, if workers are at risk of ill-health. Awareness-building campaigns to address companies' social responsibility should also be considered.

A number of barriers to the mobility of people with disabilities on the European labour market clearly exist; all of which need to be addressed if they are to have equal opportunities as non-disabled people to enjoy the right of free movement and contribute to the overall development of the economy.

Member States are recommended to investigate the extent to which their social protection systems create barriers and disincentives to the participation of people with disabilities in the labour market. Where appropriate, social assistance services should be provided to offset the negative impact of regimes and social protection systems. Barriers for people with disabilities must be prevented by focusing on measures that create accessibility in the working-environment.

Developing pilot strategies to increase the mobility of disabled people – within and between countries should be considered to enhance the employment of people with disabilities. This is necessary due to the lack of transferability of services and supports for independent living. Despite the challenges posed by the principle of subsidiarity, it is important to explore strategies to tackle this breach of equality with non-disabled workers. One avenue is the use of bilateral agreements between countries to reduce or remove barriers to freedom of mobility.

The Framework Directive Employment Equality aims to facilitate the integration of disabled people not simply by the prohibition of direct and indirect discrimination against them but by the imposition of a reasonable accommodation duty. The duty of reasonable accommodation means that employers should allow people with disabilities to take up a job position, if qualified, advance in it and to support them by training. Those adjustments made by the employers can be subsidised by Member States. With regards to the exact nature of such a duty, the directive explicitly states that workplaces must be adapted in order to facilitate the employment of people with disabilities. The success of any policy to promote the full inclusion of disabled people in mainstream society is likely to depend, at least in part, on the extent to which it is underpinned by such effective reasonable accommodation obligations, as such, obligations require duty-bearers, some examples being employers, providers of goods and services, public authorities, to take reasonable steps to adjust their policies. They might also require duty-bearers to provide special equipment, aids or services to enable disabled individuals to access workplaces, transport systems or other facilities.

## **Integrating a balanced flexicurity approach in EU Member States**

Making work more attractive and feasible to disabled people requires a more suitable synthesis between benefits and employment. Disabled people who choose not to work full-time should not feel economically endangered. Flexicurity is therefore an important aspect.

The flexicurity approach is likely to have positive effects on the employment of disabled people. Especially flexible work schemes and activation measures combined with social security ensuring a decent standard of living seem to be effective. The flexicurity approach contains the idea of lifelong learning. Increased focus on equality in the achievement of education and qualifications for the labour market through accessible lifelong learning provision must be a key objective which should be implemented in all NSRs. The reason is that lifelong learning strategies appear important, as they help narrow the educational gap between disabled and non-disabled. The educational gap can be seen as an important factor explaining the employment gap.

For the full merits of the flexicurity approach, the “right balance” between flexibility on the one hand and security on the other is required. Too much one sided “security” entails a risk that disabled people with partial work capacity are neglected as a labour capacity and thus are being trapped in the disability benefit system, with only limited possibilities of re-entering the labour market. Hence, flexibility within the social security systems is required. In addition, the economic crisis is a major challenge regarding the employment of disabled people. Unemployment is increasing more for disabled people than non-disabled and furthermore, there is a risk that disabled people are moved from unemployment benefit schemes to disability benefit schemes in order to control the supply of labour.

Within the European Union, there is great variation between the Member States’ flexicurity systems. Therefore the EU should not promote a flexicurity model of one type fits all. Instead, the EU should further support the core concepts of flexicurity – i.e. flexibility in the labour market combined with an adequate social security system. The pathway should be to create flexible and secure contractual arrangements and work organisations, effective active labour market policies, reliable and responsive lifelong learning systems as well as modern social security systems.

There is a need for improving lifelong learning, including the ‘new skills for new jobs’ programme for disabled people because this group is not addressed specifically at the EU or national level with respect to lifelong learning. This challenge is also an issue of mainstreaming versus issuing special policies towards disabled people.

### **Overcoming the lack of empirical evidence**

As the study observed, further research is needed, since the causes of increased benefits dependency especially among young people and the barriers to economic and social participation that they face are not fully documented. The extent to which mental health problems are implicated in the increasing number of young people claiming disability benefits needs to be documented and understood better in order to address these problems properly.

The study detected a considerable lack of empirical evidence concerning the monitoring and evaluation of the needs of disabled people, their actual situation, policy measures, activities and practical functioning of such policies. There is significant difficulty in accessing basic information and reliable data regarding the social situation of people with disabilities. The EU Member States should make considerable improvements in gathering and reporting such data as is required by the new UN Convention. Harmonised forms of data collection, availability and progress indicators will be required to meet these challenges. Future research should address the needs of people with different impairments, including all age categories, gender, ethnicity, people with multiple disabilities, etc. Data collection and access to best practice knowledge would help identify appropriate measures to enhance the mobility of people with disabilities. This could contribute to achieve the ambitious goals of equality in relation to the employment strategy.

More knowledge and information is needed to better understand the complex issue of mental ill health and evidence upon which to base informed policy decisions. More work is required to better understand the causes of the particular disadvantages of people with mental illness – and to devise adequate policies to overcome the resistance to retaining or hiring them. Similarly, more needs to be done to understand which prevention, workplace accommodation, and rehabilitation and employment measures are necessary for this group of people.

The European Commission should support the enhancement of statistical capacity and data collection related to the situation of people with disabilities. Member States are recommended to ensure that statistics and data collected with respect of Article 31 of the UN Convention are made publicly available.

There is a need to require EU Member States to routinely and effectively report on the situation of disabled people in relation to the development and evaluation of policies for social protection and social inclusion. Guidance at European level is helpful but there may be a need for more standardisation in the consideration given to disability in the Action Plans. There are numerous examples of positive policies and innovative practices in European countries. Highlighting and sharing more systematically examples of good practice and policy development between states would be target-aimed. The OMC model offers mechanisms for this, which could be developed with a specific focus on disability, involving information sharing, models of good practice, case studies and routine reporting.

### **Linking national employment policies and social inclusion by policy coherence**

An essential criterion in any set of EU instruments is coherence. Only by initiating a high degree of consistency, can the various initiatives, some of which are at different levels, work together in harmony. The key to achieving this is improved communication, not only within the different EU institutions and bodies but also between them. Stakeholders need to be made aware of the complexity involved with the topic of disability. This whole area has borne witness to many new developments in the last twenty years. Of which, the most significant has been a major shift in how the issue is tackled: a general, comprehensive approach has been superseded by a concept of tailoring solutions to the problems experienced by the individual. However, only when armed with comparable data, can the European Union produce coherent legal instruments and legislation.

There is scope to form greater connections between national employment policies and national strategies on social inclusion. According to the ANED, there is positive evidence that many Member States are developing coherent national disability strategies, and that disabled people are being involved in their development. Again, it is essential that Member States monitor the connections between strategic policy commitments and practical implementation.

### **Developing the successor of the Disability Action Plan**

The successive Action Plan needs to be developed and implemented in close cooperation between the EU and the Member States. Closer cooperation between the European Commission and Member States will be important in the follow-up to the current EU DAP. The new Action Plan could consider adopting a similar strategic aim to the PROGRESS programme – that of strengthening partnership between EU and national policy decision makers and stakeholders in order to forge a ‘shared understanding about key policy objectives’.

Some elements of the Open Method of Coordination (OMC) approach could be used as a mechanism for developing closer cooperation on disability issues between relevant EU and national policy makers. There may therefore be scope to include a stronger disability mainstreaming dimension through existing OMC processes in the areas of employment and social protection and social inclusion (SPSI). This would help ensure that disability issues are discussed more frequently by national and EU policy makers in relevant policy areas than presently is the case.



The new action plan should continue to address the core thematic priorities identified in the current DAP, which are long-term policy challenges. In particular, there should be a strong priority on promoting access to and the retention in employment of people with disabilities and on accessibility. Addressing the everyday challenges and obstacles experienced by disabled people to participating fully in society will require continuity in policy focus and in resource allocation over the long-term. For example, while progress has been made in mainstreaming disability issues in employment policies, there is a mixed picture with regard to the labour market participation of disabled people compared with 2003. Similarly, while progress in promoting disability rights has been made through the strengthened treatment of disability in EU programmes and in some legislation, accessibility barriers still remain for disabled people. These will continue to prevent the full participation of disabled people in society.

The objective of 'Promoting independent living for disabled people' should be included as a thematic priority in the successor Action Plan. 'Independent living' should be made an explicit priority in the next Action Plan. This is an area where considerable progress still needs to be made in many Member States. Moreover, in the context of the UN Convention and its optional protocol, the promotion of independent living (wherever possible) is relevant from the perspective of a rights-based approach to disability. It will also be an increasingly important issue given demographic ageing. The theme of independent living is closely linked to the goal of promoting enhanced quality of life for disabled people.

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