



European Semester 2020-2021 country fiche on disability equality

Germany

February – 2021

EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion

Directorate C — Social Affairs

Unit C3 — Disability & Inclusion

European Commission

B-1049 Brussels

European Semester 2020-2021 country fiche on disability equality

With comparative data annex provided by EDE

Germany

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European Disability Expertise (EDE) provides independent scientific support to the Commission's policy Unit responsible for disability issues. It aims to mainstream disability equality in EU policy processes, including implementation of the United Nations Convention on the Rights of Persons with Disabilities.

This country report has been prepared as input for the European Semester in 2021² and has been developed under Contract VC/2020/0273 with the European Commission.

¹ We gratefully thank Clarissa von Drygalski and Peter Litschke for their profound support.

² For an introduction to the Semester process, see <https://www.consilium.europa.eu/en/policies/european-semester/how-european-semester-works/>.

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Manuscript completed in February 2021

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Luxembourg: Publications Office of the European Union, 2021

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1 Executive summary and recommendations

1.1 Key points and main challenges for the European Semester in 2021

Labour market

- Labour market of persons with disabilities in Germany participation is low and unemployment is high in comparison to others.
- More than 300.000 persons with disabilities are employed in sheltered workshops. They do not have full labour rights. The transition rate to the general Labour market is very low. There are efforts to increase transition options to the Labour market through the budget for work and supported employment. Still, the effectiveness of these efforts has to improve.
- A quota system with a levy for non-compliance is in force. However, many enterprises fail to employ 5 % of severely disabled persons as required. For severely disabled persons there are many regulations about workplace accommodation and accessibility. However, a general right to reasonable accommodation and an effective workplace accessibility regulation are missing.

Social policies and healthcare

- Recent reforms of health care and rehabilitation try to improve accessibility and specialised services. However, these efforts have not been successful yet enough.
- The division between public and private health insurance systems is a problem for persons with disabilities. Equal access and non-discrimination in the private health insurance system are not properly regulated.
- Pensions for persons with reduced earning capacity are often insufficient for a living on minimum level. Recent reforms have improved the situation for new pensioners but failed to support persons with already reduced earning capacity. In effect, lifelong and long-time disabled persons are in disadvantage.
- The Federal Participation Law from 2018 and 2020 aims to support deinstitutionalization. Income benefits and assistance have been separated. Choice and independent living shall be improved. However, especially for persons with need for long-term care, there are still disadvantages.

Education

- An inclusive school system has still not been achieved. Reforms in responsibility of the *Länder* to close special schools and to invest in inclusive schools properly are continuing very slowly.
- Reasonable Accommodation and Accessibility in the educational system are still insufficient.
- Accessibility of schools is still insufficient. The process of extending accessibility in all schools is very slowly and varies between the *Länder*.

1.2 Recommendations for Germany

These recommendations are based on the evidence and analysis presented in the following chapters of our report.

Recommendation: Germany should intensify transformation of sheltered workshops and enhancement of opportunities for transition on the regular Labour Market.

Rationale: The transition rate on the regular labour market from sheltered work is low. Remuneration below minimum wage could be discriminative.

Recommendation: Germany should regulate reasonable accommodation in its antidiscrimination law (AGG) for all disabled employees.

Rationale: There is no clear definition and claim for reasonable accommodation.

Recommendation: Germany should revise its pension law (SGB VI) to raise the level of reduced earning capacity pensions also for disabled long-time pensioners.

Rationale: Latest reforms have not helped disabled persons who already receive pensions to overcome a very low level of income support.

Recommendation: Germany should intensify its efforts to reach accessibility of all health care facilities.

Rationale: Many facilities of hospital and primary health care are still not accessible for disabled people.

Recommendation: Germany should clarify the principle of non-discrimination in the access to private health insurance.

Rationale: Risk-dependant premiums in German private health insurance (§ 20 AGG) are still allowed. This is discriminating against disabled persons.

Recommendation: Germany should equalize the conditions for attaining long-term care for persons living in different settings.

Rationale: The present regulation (§ 43a SGB XI) fails to obtain deinstitutionalization and is discriminative.

Recommendation: Germany should invent a national framework regulation for inclusive education including reasonable accommodation and accessibility.

Rationale: Germany fails to have clear responsibilities for reasonable accommodation and accessibility in *Länder*-regulated schools and universities.

Recommendation: Germany should conclude a federal pact on accessibility in schools comparable to the federal pact on digital facilities for schools.

Rationale: The *Länder* fail to invest in proper accessibility of schools. Therefore, a federal fund would be possible to support the *Länder*.

2 Opportunities to mainstream disability equality in the Semester documents

2.1 [Country Report](#) for Germany (Staff Working Document)

In 2020, the Country Report for Germany included the following direct references to disability issues:

- 'p. 46 Among persons with disabilities, the tertiary attainment rate is lower in Germany than the EU.
- p. 6 As environmental taxes are typically regressive, their increased use needs to be coupled with policy measures mitigating the impact on the vulnerable population groups.'

The Commission's Country Report for Germany was somewhat lacking in reference to the situation of disabled people or disability policies. The reports concerning most other Member States achieved a higher level of mainstreaming in recent years and Germany stands out as an example where greater attention of disability issues is needed. There is an opportunity to correct this in the 2021 Semester, using the data and examples contained in our report.

2.2 [Country Specific Recommendation](#) for Germany (CSR)

In 2020, the Country Specific Recommendation for Germany included the following direct references to disability issues:

- '23. The sudden shift to a more digitalised society and home-based education may pose a particular challenge for vulnerable pupils and students who do not have access to digital solutions and support at home. This includes students with disabilities.'

It is positive that the situation of learners with disabilities was acknowledged in the 2020 recommendation, but more could be done to mainstream relevant disability issues. For example, CSR1 refers to the the resilience of the health system, and eHealth services, where access and accessibility for persons with disabilities should be targeted. CSR2 targets investment towards green and digital transition, including sustainable transport, digital infrastructure and skills, housing and education and research and innovation. These are all areas in which the specific needs of persons with disabilities need to be acknowledged and targeted to ensure inclusion, including through compliance with Article 9 CRPD on accessibility and EU procurements rules.

3 Disability and the labour market - analysis of the situation and the effectiveness of policies

In 2015, the UN CRPD Committee made the following recommendations to Germany:

[Article 27 UN CRPD](#) addresses Work and Employment.

'50. The Committee recommends that the State party provide regulations that effectively create an inclusive labour market in accordance with the Convention by:

- (a) Creating employment opportunities in accessible workplaces, in line with general comment No. 2 of the Committee, in particular for women with disabilities;
- (b) Phasing out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market;
- (c) Ensuring that persons with disabilities do not face any reduction in social protection and pension insurance currently tied to sheltered workshops;
- (d) Collecting data on the accessibility of workplaces in the open labour market.'

Germany is under review of its second and third combined State party report. In its List of Issues prior to reporting, the Committee asked for information regarding the transition from sheltered workshops to the general labour market.³

The National Action Plan 2.0 (2016-2021)⁴ (pp. 25-50) plans intensified promotion of vocational orientation and training in the education system, more supported employment, integration projects and transition from sheltered workshops to the general labour market, programmes to raise awareness among employers, strengthening the participation of severely disabled councils and the evaluation of these initiatives.

3.1 Summary of the labour market situation of persons with disabilities

Data from EU-SILC indicate that persons with disabilities are more affected by unemployment than those without (see Tables 5-7): Whereas in 2018 the unemployment rate of persons without disabilities was only 3.7 %, the rate of persons with disabilities was six times higher, at 22.8 % (with no significant gender differences). Looking at the employment rate, one gets similar results (see Tables 2-4): whilst 81.4 % of persons with no disability were employed in 2018 only every second person with a disability was employed (Table 2). Consequently, the data indicate a disability

³ Committee on the Rights of Persons with Disabilities (2018), *List of issues prior to submission of the combined second and third periodic report of Germany*, CRPD/C/DEU/QPR/2-3, 10.10.2018; online: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/DEU/QPR/2-3.

⁴ Bundesministerium für Arbeit und Soziales (2016): 'Unser Weg in eine inklusive Gesellschaft', Nationaler Aktionsplan 2.0. der Bundesregierung zur UN-Behindertenrechtskonvention (UN-BRK), online: https://www.bmas.de/SharedDocs/Downloads/DE/PDF-Schwerpunkte/inklusion-nationaler-aktionsplan-2.pdf;jsessionid=908590B7BAAE0DB713FAF0ABDCF42010.delivery2-master?__blob=publicationFile&v=1.

employment gap of approximately 31 percentage points (EU27 average gap 24.2). The economic activity rate for persons with disabilities in Germany was 64.7 %, compared to 84.6 % for other persons (Tables 8-10). These indications are broken down by gender and age in the respective tables in annex.

The outcome of the Mikrozensus 2017 shows similar results: in the group of persons aged 15-65 years, persons with disabilities face an employment rate of 57.1 % while 81 % of the persons without disabilities are employed (Table 11).

Ten years after the CRPD came into force in Germany in 2009, the labour market in Germany is not inclusive. There are still segregated areas where only people with disabilities work in sheltered workshops (*Werkstatt für behinderte Menschen – WfbM*).

The CRPD Committee criticized financial disincentives for persons with disabilities preventing their entry or transition to the mainstream labour market resulting from specific privileged access to pension insurance for sheltered workshop employees. It recommended to phase out sheltered workshops and to promote employment in the open labour market without reduction in social protection and pension insurance currently tied to sheltered workshops.

The CRPD-Committee criticized inadequate implementation of reasonable accommodations and recommended that they are enshrined in law as an immediately enforceable right in all areas of law and policy, with an explicit definition in the law in line with Article 2 CRPD and that the denial of reasonable accommodation is recognized and punishable as a form of discrimination.⁵

3.2 Analysis of labour market policies relevant to the Semester

The 2020 [National Reform Programme](#) for Germany references the National Action Plan. It also announces a new federal programme *Barrierefreiheit verwirklichen* (Realising accessibility) (No. 78) and mentions vocational training for persons with disabilities (No. 91).

Sheltered workshops / budget for work

According to the annual report of BAG WfbM (*Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e.V.*; German Federal Association of Sheltered Workshops), over 700 Sheltered Workshops were part of this association in 2019,⁶ 93% of all Sheltered Workshops in Germany. Almost 270,000 persons with disabilities worked there in over 3,000 locations.⁷ 75 % of them have an intellectual disability, 20% a psycho-social disability.⁸ Sheltered Workshop Councils (*Werkstatträte*) represent the interests of employees, according to the Sheltered Workshops Participation Decree (*Werkstätten-Mitwirkungsverordnung, WMVO*). They monitor

⁵ Concluding observations on the initial report of Germany, 13.05.2015, CRPD/C/DEU/CO/1, No. 13, 14.

⁶ See BAG WfbM (*Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e.V.*) (2020): *'Zukunft gestalten. Jahresbericht 2019'*, Frankfurt am Main: BAG WfbM; online: <https://www.bagwfbm.de/file/1323>, 45.

⁷ See BAG WfbM (2020), 45.

⁸ See BAG WfbM (2020), 48.

legal compliance, take complaints by the employees (§ 4 WMVO), and have certain rights of participation in decision making, for example regarding working hours, vacation schedule, or wages in a similar way to works councils (§ 5 WMVO).

Since CRPD ratification in 2008, the number of employees in Sheltered Workshops has increased by 13 % to 14 % (see Table 12). The workshops have not succeeded in opening pathways into the general labour market. Under the reform of the Federal Participation Act (*Bundesteilhabegesetz* – BTHG) the Federal Government is holding on to the current structure of *WfbM*.⁹ However, some new instruments were introduced for gradually reforming the employment system.

To strengthen the choice for benefit recipients further service providers were admitted providing occupational participation assistance as an alternative to the sheltered workshops (§ 60 SGB IX). The budget for work (§ 61 SGB IX) was implemented in 2018 to promote the transition to the open labour market.¹⁰ Since 2020 the budget for vocational training offers an alternative to the entrance qualification and the vocational training area of *WfbM* (§ 61 a SGB IX).

Persons with disabilities in *WfbM* do not receive the minimum wage,¹¹ and get on average less than EUR 200 per month as remuneration.¹² Additionally they get benefits: Work Promotion Money (*Arbeitsförderungsgeld*), Basic Income Support (*Grundsicherung*) or Reduced Earning Capacity Pension (*Erwerbsminderungsrente*).

This Budget is intended to facilitate transition to the general labour market for people with disabilities working in a Sheltered Workshop. Employers receive a wage subsidy. Costs for assistance and support services are also covered. The wage subsidy can amount to 75% of the gross wage, but not more than 40 % of the monthly reference base (which is related to the development of salaries as a whole). The individual *Länder* may increase this percentage of the reference base by their own legislation (§ 61(2) sentence 4 SGB IX), which leads to varying regulations (e.g. Bavaria: 48 %, Rhineland-Palatinate: 60 %).¹³ The budget for work is a promising instrument to promote the equal right to work for persons with disabilities according to Article 27 CRPD. However, the available statistical data suggest that transition to the first labour market while receiving the budget is well below 1 %.¹⁴ In its CRPD State party report of September 2019, the Federal Government stated that, according 'to initial

⁹ See *Gesetzesentwurf der Bundesregierung zum BTHG*, BT-Drs. 18/9522, p. 255.

¹⁰ See *Combined Second and Third Periodic Report of the Federal Republic of Germany on the United Nations Convention on the Rights of Persons with Disabilities*, 18.07.2019, BT-Drs. 19/11745, p. 49. More detailed information see: *Von Drygalski: Die Werkstatt für behinderte Menschen in der zweiten Staatenprüfung Deutschlands zur Umsetzung der UN-Behindertenrechtskonvention; Beitrag D11-2020*, at www.reha-recht.de, 13.05.2020.

¹¹ See DIMR (2016): 1.

¹² See DIMR (2018): 2.

¹³ For an overview of the implementation of the BTHG see: <https://umsetzungsbegleitung-bthg.de/gesetz/umsetzung-laender/>, 30.10.2020. For the implementation of the budget for work in the *Länder*, see *Falk, Landesrechtliche Abweichungen vom bundesgesetzlichen Lohnkostenzuschuss nach § 61 Abs. 2 S. 4 SGB IX (Budget für Arbeit) – Ein Überblick zum Umsetzungsstand in den Bundesländern; Beitrag A2-2019*, at www.reha-recht.de, 17.01.2019.

¹⁴ *Mattern, Das Budget für Arbeit – Diskussionsstand und offene Fragen, Teil 1: Eckpunkte, Umsetzungsstand und leistungsberechtigter Personenkreis, Beitrag D5-2020*, at www.reha-recht.de, 23.01.2020, pp. 3-5.

estimations of the *Länder*, around 1,800 workshop workers have transitioned to the general labour [market] since 2018, particularly by taking advantage of the Budget for Work'.¹⁵

There is no official data available regarding the Work Budget. The Federal Government stated that due to the short period since the Work Budget came into force no statistics could be provided. Data regarding the Work Budget are expected in 2021.¹⁶ While the Federal Ministry of Labour and Social Affairs expected 3,000 persons with disabilities working in Sheltered Workshops to make use of the Work Budget in 2018, 6,000 in 2019 and 9,000 in 2020,¹⁷ recent research shows that the numbers are lower. In 2019, approximately 1,000 persons with disabilities have benefited.¹⁸

The transition to regular employment subject to compulsory social security often has a negative impact on the level of old-age pension entitlements, since the privileges under pension insurance law are tied to the place of *WfbM*.¹⁹ This could create financial disincentives to remain in the *WfbM*, which have been explicitly criticized by the CRPD-Committee.

In summary, the measures taken so far are not yet sufficient to meet the requirements of Article 27 CRPD. Other options for persons with disabilities, such as supported employment (§ 55 SGB IX) and employment in inclusion companies (§ 215 et seq. SGB IX), should be used more widely. A reorganization of the *WfbM* seems to be necessary. More inclusion could be created by equaling the labour law position of the employees in *WfbM* and such in the open labour market and therefore applying the minimum wage law.²⁰ This could be necessary according to EU law as applied by the ECJ in the case *Fenoll*.²¹ The employees should be included in unemployment insurance both in the *WfbM* and when receiving the budget for work, as well as implementing a sufficient social security which is not tied to the place of *WfbM* or inclusion company.

The compensatory levy (*Ausgleichsabgabe*) is intended to promote an inclusive labour market. This must be paid by companies with more than 20 employees if they less than 5 % of severely disabled people (§ 160 SGB IX). At the end of 2017, 37,000 companies in Germany had to pay the levy,²² which is used exclusively for promoting

¹⁵ BT-Drs. 19/11745, No. 28.

¹⁶ See BT-Drs. 19/8047, 27.02.2019, 2.

¹⁷ See Mattern (2020): 3.

¹⁸ See Mattern (2020): 5.

¹⁹ Nebe/Waldenburger, *Budget für Arbeit. Forschungsprojekt im Auftrag des Integrationsamtes des Landschaftsverbandes Rheinland*, 2014, p. 154.

²⁰ See Welti/Nachtschatt, Equal Rights of Persons with Disabilities to Work per Article 27 of the UN-Convention on the Rights of Persons with Disabilities in Wansing/Welti/Schäfers, *The Right to Work for Persons with Disabilities*, 2018, p. 78; there is also a current research project on the remuneration system in *WfbM* by the Federal Ministry of Labour and Social Affairs (BMAS) which runs until 2023.

²¹ ECJ, 26/03/2015, C-316/13 (Gérard Fenoll vs. Centre d'aide par le travail 'La Jouvène'); Sabine Wendt, *Behinderte Menschen in europäischen Behindertenwerkstätten sind unionsrechtlich Arbeitnehmer*, www.reha-recht.de, B 14-2015.

²² See DIMR (2019): *Wer Inklusion will, sucht Wege. Zehn Jahre UN-Behindertenrechtskonvention in Deutschland*, Berlin: Deutsches Institut für Menschenrechte; available: <https://www.institut-fuer->

the employment of disabled persons. With this large number of companies paying a levy rather than employing severely disabled people, the question arises whether the measure is suitable to promote an inclusive labour market. There is an ongoing discussion about raising the levy and improving the conditions for the employment of disabled persons.

Reasonable accommodation and workplace accessibility

For persons with the status of being severely disabled (by having a degree of 50-100 % disability or having 30-40 % disability but unable to keep or get employment without it) there are specific labour rights, including a clearly defined catalogue of reasonable accommodation at work (§ 164(4) SGB IX). Persons without this status () fall within the scope of the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*).

The AGG aims to prevent discrimination on the ground of disability (§ 1 AGG). It lays down the principle of non-discrimination (§ 7 AGG) and defines under which circumstances unequal treatment due to occupational requirements is admissible (§ 8 AGG). In case of discrimination, the law obliges the employer to pay compensation (§ 15 AGG). The employer is also obliged to take the necessary measures to protect the employees against discrimination based on disability (§ 12 AGG).

The AGG implemented the Directive 2000/78/EC on non-discrimination in employment and occupation but, despite the requirement of this Directive to oblige the employer to provide reasonable accommodation, such an obligation does not appear in the AGG. The employers obligation under § 12 AGG does not give a clear legal claim to reasonable accommodation to the employee.

A definition of reasonable accommodation is given in the Act on Equal Opportunities for Persons with Disabilities (*Gesetz zur Gleichstellung von Menschen mit Behinderungen – BGG*, § 7(2)). This law applies directly only to federal public authorities. The individual *Länder* have corresponding regulations in their state law. In the equality acts of Bremen, North Rhine-Westphalia, Saarland, Saxony, Saxony-Anhalt, and Thuringia, reasonable accommodations are defined in line with CRPD and the denial of reasonable accommodation is recognized as discrimination.²³

Apart from that, employers employing persons with disabilities are obliged to set up and operate the workplaces taking account special concerns of these employees as regards safety and health (§ 3a(2) Workplace Ordinance –

[menschenrechte.de/fileadmin/Redaktion/Publikationen/Wer Inklusion will sucht Wege Zehn Jahre UN BRK in Deutschland.pdf](https://menschenrechte.de/fileadmin/Redaktion/Publikationen/Wer_Inklusion_will_sucht_Wege_Zehn_Jahre_UN_BRK_in_Deutschland.pdf): 39.

²³ § 7(3) *Bremisches Behindertengleichstellungsgesetz* (BremBGG), § 3 *Behindertengleichstellungsgesetz Nordrhein-Westfalen* (BGG NRW), § 7(2) *Saarländisches Behindertengleichstellungsgesetz* (SBGG), § 4(3) *Sächsisches Inklusionsgesetz*, § 4 *Behindertengleichstellungsgesetz Sachsen-Anhalt* (BGG LAS), § 4(3) *Thüringer Gesetz zur Inklusion und Gleichstellung von Menschen mit Behinderungen* (ThürGIG); see also DIMR (2019): 57f.

Arbeitsstättenverordnung).²⁴ If these obligations are not met, a fine can be imposed (§ 9(1) No. 5 *Arbeitsstättenverordnung*). Beyond that recognized severely disabled persons can claim necessary technical tools for work under the SGB IX (§ 164(4) sentence 1 No. 5). There are no official statistics available on the accessibility of workplaces. Within the current state party report review the CRPD Committee asked to provide data on accessibility of workplaces.²⁵ The Federal government did not respond to this request.²⁶

The Federal Labour Court (BAG) concluded that the right to reasonable accommodation can be included in the employer's obligation to provide for the welfare of employees.²⁷ This conclusion is based on seeing EU legislation on equal treatment as well as the CRPD are an integral part of the German legal system and are applicable therein. Accordingly, the employer's obligation is to be interpreted in line with Article 5 of the Directive 2000/78/EC and Article 27(1) sentence 2 lit. i) CRPD. Therefore, even though the right to reasonable accommodation cannot be found literally in the AGG, it has to be taken into account when examining if unequal treatment due to occupational requirements is admissible.

Even though the case law recognizes the right to reasonable accommodation, it should appear verbatim in the AGG. The implementation of EU-law and CRPD requires that the content of reasonable accommodation is clearly defined so that it becomes clear to everyone who is affected by it. This has been explained and stated in an expertise for the Federal Anti-Discrimination Agency by *Eberhard Eichenhofer*.²⁸

²⁴ See *Combined Second and Third Periodic Report of the Federal Republic of Germany on the United Nations Convention on the Rights of Persons with Disabilities*, 18.07.2019, BT-Drs. 19/11745, p. 48.

²⁵ See Committee on the Rights of Persons with Disabilities (2018): *List of issues prior to submission of the combined second and third periodic report of Germany*, CRPD/C/DEU/QPR/2-3, 10.10.2018: para. 28d.

²⁶ See BT-Drs. 19/11745, 28d.

²⁷ BAG, 19 December 2013 – 6 AZR 190/12.

²⁸ Eberhard Eichenhofer, *Angemessene Vorkehrungen als Diskriminierungsdimension im Recht*, 2019.

4 Poverty, independent living and access to healthcare

In 2015, the UN CRPD Committee made the following recommendations to Germany:

[Article 28 UN CRPD](#) addresses Adequate standard of living and social protection.

'50. The Committee recommends that the State party provide regulations that effectively create an inclusive labour market in accordance with the Convention by:

- (a) Creating employment opportunities in accessible workplaces, in line with general comment No. 2 of the Committee, in particular for women with disabilities;
- (b) Phasing out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market;
- (c) Ensuring that persons with disabilities do not face any reduction in social protection and pension insurance currently tied to sheltered workshops;
- (d) Collecting data on the accessibility of workplaces in the open labour market.'

[Article 19 UN CRPD](#) addresses Living independently in the community.

'42. The Committee recommends that the State party:

- (a) Take steps towards the legal reform of section 13, paragraph 1(3), of the Twelfth Book of the Social Code for increased social assistance services to enable inclusion, self-determination and the choice to live in the community;
- (b) Allocate sufficient financial resources to facilitate deinstitutionalization and promote independent living, including increased financial resources to provide community-based outpatient services providing the required support to persons with intellectual or psychosocial disabilities based on the free and informed consent of the individual concerned, across the whole country;
- (c) Increase access to programmes and benefits to support living in the community and ensure they cover disability-related costs.'

[Article 25 UN CRPD](#) addresses Health.

'48. The Committee recommends that the State party develop and implement plans and allocate resources for the accessibility of health-care services, including services for refugees, rights-based training for health-care professionals, communication, information, respect for free and informed individual consent, and universally designed equipment.'

The National Action Plan²⁹ (pp. 64-82) refers to programmes supporting accessibility in primary health care, reforms through the Federal Participation Law, reforms for

²⁹ *Nationaler Aktionsplan 2.0. der Bundesregierung zur UN-Behindertenrechtskonvention (UN-BRK) – Unser Weg in eine inklusive Gesellschaft*, BT-Drs. 18/9000, 29.06.2016.

children's rehabilitation and specific services for persons with disabilities in the health care system. There is no specific reference to the income situation of persons with disabilities.

4.1 Summary of the social situation of persons with disabilities

Data from EU-SILC indicate the poverty risk rate for working age persons with disabilities in Germany was 30.5 % in 2018, compared to 13 % for other persons of similar age - an estimated disability poverty gap of approximately 18 percentage points (see Table 14). For people aged over 65, the disability poverty gap was 2.5 points (19.6 % for older persons with disabilities and 17.1 % for other persons of similar age). The tables in annex also indicate the respective rates of AROPE and break these down by gender as well age.

4.2 Analysis of social policies relevant to the Semester

The 2020 [National Reform Programme](#) for Germany does not specifically mention health care and income situation of persons with disabilities. Persons, who depend on basic provision for reduced earning-capacity shall profit from a lower charging of pensions for these income-related benefits (No. 68).

Poverty risk and reduced-earning-capacity pension

Persons with disabilities are far more affected by the risk of poverty or social exclusion than persons without disabilities (see Annex, Tables 13-16). This is the case for persons with disabilities with low-work intensity, low income and who are materially deprived (see Annex, Table 13). Disabled women have a higher risk of poverty or social exclusion than men with disabilities (see Annex, Table 14).

The 2017's Second Federal Government Report on Participation comes to similar conclusions. As the rate of risk of poverty for disabled people is 20 % persons without disabilities are facing a risk-of-poverty rate of 13 % (numbers from the 2013's *Mikrozensus*).³⁰ The 2017's *Mikrozensus* data show similar results: still, 19 % of persons with disabilities have a risk of poverty of 19 % (see Annex, Table 20). Although disability is not a cross-cutting issue in the indicators of the 5th German Federal Government's Report on Poverty and Wealth³¹ (this has to be changed in the next reports³²), one chapter of the report is devoted to disability.³³ The risk of poverty for persons with disabilities increased since 2005, when the risk of poverty was similar for persons with and without disabilities (13 % and 14 % respectively). The rate for persons without disabilities remained constant (2009: 14 %, 2013: 13 %, 2017: 14 %), for persons with disabilities it increased in the following years: 17 % in 2009, 20 % in 2013 and 19 % in 2017.³⁴

³⁰ The Third Participation Report is expected to be published in 2021.

³¹ See BMAS (2017a); Executive summary in English (BMAS (2017b)).

³² See Aichele / Fräßdorf (2019).

³³ See BMAS (2017a): 471ff.

³⁴ See BMAS (2017a): 473; MAGS (2020): 124.

Factors as unemployment, poverty or a low education level can lead to a higher risk of becoming disabled or receive an impairment. Contemporaneously, existing disabilities increase the risk of poverty and social descent.³⁵ Related to this, the average net income of persons with disabilities is lower than that of persons without disabilities.³⁶

Persons whose earning capacity is reduced can receive a reduced-earning-capacity pension (*Erwerbsminderungsrente*) (§ 43 SGB VI statutory pension insurance). Depending on the severity of the incapacity to work applicants are entitled to either a full pension (inability to work more than three hours a day) or a half pension (ability to work three to six hours a day). The amount of the pension benefit is related to the individual contribution to the statutory pension insurance system and the general pension level, which is related to the development of salaries as a whole.³⁷ On 31 December 2020, 1.815.258 persons (956.842 women, 858.416 men) received a reduced earning capacity pension. The average net pension was EUR 835.³⁸

Persons who are unable or not sufficiently able to cover their necessary living costs from income and assets can receive basic provision in old age and in the event of reduced earning capacity (*Grundsicherung im Alter und bei dauerhafter Erwerbsminderung*; § 41 SGB XII). In December 2018, approx. 1.079.000 persons (548.000 women, 530.000 men) received this basic provision (see Annex, Table 18). In 2017 recipients of basic provision due to reduced earning capacity received an average of EUR 561 net.³⁹

Almost all pensioners are affected by deductions (up to 10,8 %) on their pension benefits. The regulation puts pensioners of the reduced-earning-capacity pension on an equal footing with old-age pensioners who voluntarily retire early. This is to that extent precarious that the pensioners of the reduced-earning-capacity pension must take up the pension for compelling health reasons and do not decide voluntarily for it. To be entitled to a reduced-earning-capacity pension the applicants have to have completed a five-year qualifying period and paid into statutory pension insurance for at least three years before the reduction in earning capacity took place. This discriminates those who are disabled and have a reduction in earning capacity from birth or youth on. These persons can only be entitled to EM pension if they have completed a qualifying period of 20 years with contributions to the statutory pension insurance system in sheltered workshops or an inclusive company.

With a new legislation in 2018⁴⁰ the Federal Government has increased the reduced-earning-capacity pension benefits for the third time since 2014. Since 2019 newly entitled persons are treated as if they had earned their current average income and therefore had contributed to the statutory pension insurance system up to the standard retirement age for old-age pension. With raising the “as-if contribution” missing

³⁵ See BMAS (2017a): 472f.

³⁶ See BMAS (2016): 204.

³⁷ See Welti, *Work disability Policy in Germany, The Science and Politics of Work Disability Prevention*, in MacEachen, *The Science and Politics of Work Disability Prevention*, 2018.

³⁸ See *Deutsche Rentenversicherung* (2020): 2.

³⁹ See *Statistische Ämter des Bundes und der Länder* (2019): 24.

⁴⁰ *Gesetz über Leistungsverbesserungen und Stabilisierung in der gesetzlichen Rentenversicherung*, 28.11.2018, BGBl. 2018 I, p. 2016.

contribution periods due to the reduced earning capacity are filled in when calculating old-age pension entitlements. This is an important step towards improving social protection and reducing poverty among the persons receiving reduced-earning-capacity pension. However, there is still a need for further reformation.⁴¹ The improvement affects only the reduced-earning-capacity pensions that start from 2019 onwards while the current pensions that started earlier are not covered.

A new basic pension (*Grundrente*)⁴² will be introduced from 2021 on. The basic pension provides an individual surcharge to old age pensions for those who contributed payments to the statutory pension insurance system for at least 33-years and had a below-average income. However, periods of reduced-earning-capacity pension benefits or of long-term-sickness are not taken into account when calculating the duration of contribution. As a result, many disabled pensioners do not benefit from the supplements to the basic pension.

Accessibility in the healthcare system

At the federal level, no reliable data on the accessibility of health care facilities are available. Based on § 75 (1a) SGB V,⁴³ the Associations of Statutory Health Insurance Physicians of the *Länder* are obliged since 1 January 2020 to publish information on accessibility for persons with disability. This information can be found on the websites of the associations.⁴⁴ The Federal Association of Statutory Health Physicians (*Kassenärztliche Bundesvereinigung*) maintains a database, called Federal register of physicians / German medical register (*Bundesarztregister*). The extension of the database by the feature 'accessibility' is currently being set up. According to estimations of the Federal government, based on this register, 26.4 % of the general practitioner practices and 26.1 % of the specialist practices are 'unrestrictedly' accessible for persons with disabilities.⁴⁵

According to a survey based on the self-assessment of medical practices, only 11 % said they met three criteria of accessibility (barrier-free access, barrier-free premises, and barrier-free communication).⁴⁶ A total of 21 % reported that the access to medical practices is accessible, and 23% reported that the premises of the practices are accessible for wheelchair users. Only 3 % have accessible examination furniture and accessible toilets. And only 1 % have guidance for visually impaired persons.⁴⁷ In a data collection on health, the German Institute for Human Rights estimates that only 21 % of medical practices are accessible for wheelchair users.⁴⁸ No data are available on the extent to which access to gender-specific health services, for example

⁴¹ See Welti, *Erwerbsminderungsrenten: Ein Schritt nach vorn - aber es bleibt noch viel Reformbedarf*, *Soziale Sicherheit* (2019), p. 339 ff.

⁴² *Gesetz zur Einführung der Grundrente für langjährige Versicherung in der gesetzlichen Rentenversicherung mit unterdurchschnittlichem Einkommen und für weitere Maßnahmen zur Erhöhung der Alterseinkommen (Grundrentengesetz)*, 12.08.2020, BGBl. 2020 I, p. 1879.

⁴³ https://www.gesetze-im-internet.de/sgeb_5/75.html.

⁴⁴ See <https://www.kbv.de/html/arzt suche.php>.

⁴⁵ See *Deutscher Bundestag* (2020): 4.

⁴⁶ See BMAS (2016): 320f.

⁴⁷ See BMAS (2016): 321.

⁴⁸ <https://www.institut-fuer-menschenrechte.de/aktuelles/detail/menschenrechtsinstitut-fordert-mehr-barrierefreie-arztpraxen>.

gynaecological medical practices, is provided in Germany.⁴⁹ The same applies to accessible information on health services.⁵⁰

Especially in the outpatient sector persons with disabilities have to face difficulties, as only few medical practices are accessible.⁵¹ Accessibility is also not sufficiently implemented by health insurance authorities, hospitals and other service providers in the health care system.

The Act on Equal Opportunities for Persons with Disabilities (*Behindertengleichstellungsgesetz – BGG*), various regulations in the Social Code (SGB) and law the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz – AGG*) provide a framework for protection against discrimination and accessibility (*Barrierefreiheit*).⁵² The BGG regulates accessibility for institutions of the public sector. Within the framework of their general structural responsibility in the Social Code (§ 17(1) No. 4 SGB I), the public authorities are obliged to ensure accessibility of their administrative and service buildings and to implement measures designed to increase the number of accessible medical practices, hospitals, rehabilitation facilities, pharmacies, etc.⁵³ The prohibition of discrimination under civil law in the AGG (§§ 1, 19 AGG) also applies to medical treatment and care contracts. Further specifications on the accessibility of health care facilities are provided by building regulations. Up to now, these regulations lack efficiency. The requirements for accessibility of health care facilities are not sufficiently implemented and further regulations and implementation steps are needed.

Independent living

Two major trends can be observed in the area of independent living since the CRPD came into force in Germany: Both, the number of people with disabilities living in residential institutions (*stationäre Wohnrichtungen*) and in ambulant assisted living forms (*ambulantes betreutes Wohnen*) has increased (see Annex, Table 21).

The number of persons with disabilities in residential forms of outpatient care (both, in an own flat and in shared flats) has doubled in the last decade: While there were 96.272 persons with disabilities living in ambulant assisted living forms in 2009, there were 189.236 persons with disabilities in 2017. In 2009, 177.259 persons with disabilities lived in stationary assisted living forms, and 196.501 persons with disabilities in ambulant assisted living settings. In 2017, 50.9 % of those entitled to benefits lived in inpatient forms of housing, and 49.1 % in ambulant setting.⁵⁴ This rate (ratio of stationary to ambulant) largely varies in the individual federal states (*Länder*).⁵⁵

⁴⁹ See BMAS (2016): 321.

⁵⁰ See BMAS (2016): 321.

⁵¹ See *Zweiter Teilhabericht der Bundesregierung über die Lebenslagen von Menschen mit Beeinträchtigungen* (2016), p. 9.

⁵² See Hlava, *Barrierefreie Gesundheitsversorgung – Rechtliche Gewährleistung unter besonderer Berücksichtigung der Rechtsdurchsetzung*, 2018.

⁵³ See Welti: *Zugänglichkeit und Barrierefreiheit der gesundheitlichen Infrastruktur – rechtliche Anforderungen – Teil 1; Beitrag D7-2016*, at: www.reha-recht.de; 09.03.2016.

⁵⁴ See DIMR (2019), 19.

⁵⁵ See DIMR (2019), 19.

In addition, not all persons with disabilities benefit equally from the expansion of ambulant housing offers: Especially persons with psychological disabilities live in ambulatory forms of housing (71 % of all residents in 2016). In stationary living setting, two thirds of the residents have intellectual or severely multiple disabilities.⁵⁶

The aim of the Federal Participation Law (*Bundesteilhabegesetz – BTHG*) is the equal, full and effective participation of people with disabilities in political, social, economic and cultural life and an independent and self-determined lifestyle.⁵⁷ The reform is in parts a reaction to the concluding observations of the CRPD-Committee, which under Article 19 CRPD recommended to strengthen social assistance services to enable inclusion, self-determination and the choice to live in the community.⁵⁸ The first amendments under the BTHG came into force in 2017.

Before 2020, services in institutional living were provided as a complex benefit, which, in addition to the actual integration assistance, also included securing livelihoods. The provision was paid to the inpatient institution. The benefit recipient only received a little amount of pocket money. The complex benefit was regulated as a part of social assistance (SGB XII). Now a clear distinction is made between provisions of integration assistance (SGB IX) and social assistance (SGB XII). The people with disabilities are provided with own accommodation- and care contracts. The social assistance benefits are paid directly to them. The benefits shall be person-centred and no longer defined by a specific living arrangement. The wishes of and the choices on how to live made by the benefit recipients have to be taken into account.

The benefits for social participation (§ 76 et seq. SGB IX) were restructured.⁵⁹ The assistance service was newly introduced, which combines various previous services such as help for a self-determined life in sheltered housing and for participation in the community and cultural life.

Integration assistance benefits continue to be dependent on income and assets, which under certain conditions must be used to finance the benefits. However, the consideration will be changed to a contribution system that is linked to tax income. The allowances for assets will be significantly increased (§§ 139, 140 SGB IX). Spouses and partners are no longer required to contribute towards integration assistance benefits.

Since 2009, expenditure on social long-term care insurance has doubled overall (see Annex, Table 22). While the costs were EUR 18.63 billion in 2009, it was already EUR 37.54 billion in 2019. The share of costs for ambulatory / semi-stationary care rose faster than that for stationary care. While in 2009 EUR 9.09 billion and thus 47.6 % of the total costs were spent for the former, in 2019 it was already EUR 24.12 billion and thus 64.3 % of the total costs.

The number of recipients of social long-term care insurance in fully inpatient care and in fully inpatient care in homes for persons with disabilities has risen continuously over

⁵⁶ See DIMR (2019), 19.

⁵⁷ *Gesetzesentwurf BTHG*, BT-Drs. 18/9522, p. 188.

⁵⁸ *Concluding observations on the initial report of Germany*, CRPD/C/DEU/CO/1, 13.05.2015.

⁵⁹ See *Bundestags-Drucksache* 18/9522, pp. 228, 261.

the last ten years (see Annex, Table 23). 2009 there were 693.203 (of which 613.746 were in fully inpatient care and 79.457 in fully inpatient care in homes for persons with disabilities), and in 2019 864.930 (of which 726.970 in fully inpatient care and 137.960 in fully inpatient care in homes for persons with disabilities).

The distinction between integration assistance and long-term care benefits remains problematic. Under § 43a SGB XI, persons in need of long-term care in institutional living facilities for persons with disabilities receive considerably fewer benefits than people in a long-term care facility. With regard to the Basic Law and the CRPD, this is discriminating.⁶⁰

Statutory Health Insurance system (SHI) / Private Insurance system (PHI)

Since 2009 people in Germany have a general obligation to health insurance, either from a public body (§ 5(1) No. 13 SGB V – Statutory Health Insurance), either from a private company (§ 193(3) *Versicherungsvertragsgesetz* (VVG) – Insurance Contract Act), therefore only a small part of the population is without insurance cover. The statutory health insurance system (SHI) is the compulsory insurance for all persons who are not classified by law as exempt from that obligation and who have no other entitlement to cover in the event of illness. The SHI contains a broad range of benefits that provide insured persons with all necessary medical services (SGB V). The law of the statutory health insurance system also enshrines the principle that the special interests of people with disabilities must be taken into account (§ 2a SGB V). This principle is concretised in the more specific provisions of SGB V and must always be observed when interpreting provisions of SGB V in order to enable greater participation and to compensate for disadvantages.

In private health insurance (PHI), the principle of freedom of contract prevails, i.e. the contractual partners can be freely chosen, or it can be decided not to conclude a contract with certain persons. The scope of benefits depends on the agreed tariffs. The PHIs check the individual risk of the person to be insured when concluding the contract. Age and state of health, e.g. previous illnesses or underlying diseases are taken into account. The insurance contributions are calculated according to the identified individual risk of illness.

The protection against discrimination under civil law in the AGG (§§ 1, 19 AGG) also applies to insurance contracts. It is therefore not permitted to refuse an insurance contract or to place a person in a less favourable position within an existing insurance contract on the grounds of disability. Difficulties exist in the differentiation between disability and pre-existing illness. The latter allows unequal treatment (including refusal to conclude a contract) under insurance law. Therefore, there is a risk of discrimination on this issue. Problems arise in cases where illness had led to a disability or illness leads to a risk of disability. If then the PHI refuses to conclude the contract, there might be an indirect discrimination, which also falls within the scope of the AGG (§ 19).

Unequal treatment of a person with disabilities is legal when determining the amount of contributions and insurance benefits (§ 20(2) AGG), provided that this is based on

⁶⁰ More detailed: Welti, [Verstößt § 43a SGB XI gegen das Grundgesetz und die UN-Behindertenrechtskonvention?](#), Soziale Sicherheit 2018, p. 418 ff.

recognised principles of risk-adequate calculation. As a result of the individual health check, people with disabilities will therefore often be affected by risk surcharges and/or exclusions of benefits. This makes their access to private health insurance de facto more difficult or even factual impossible.

Since 2009, the PHIs have to offer a basic tariff that is standardized in the insurance-sector. Exclusions of benefits or risk surcharges are not permitted in this tariff (§ 203(1) sentence 2 VVG) and there is an obligation to enter into a contract (§ 193(5) sentence 1 VVG). The benefits must be comparable in type, scope and amount to those of statutory health insurance (§ 152(1) sentence 1 Versicherungsaufsichtsgesetz – Insurance Supervision Act). The basic tariff is quite expensive and does not compensate the discrimination of persons with disabilities in the general system.

5 Disability, education and skills – analysis of the situation and the effectiveness of policies

In 2015, the UN CRPD Committee made the following recommendations to Germany:

[Article 24 UN CRPD](#) addresses Education.

'46. The Committee recommends that the State party:

- (a) Immediately develop a strategy, action plan, timeline and targets to provide access to a high-quality, inclusive education system across all *Länder*, including the required financial resources and personnel at all levels;
- (b) Scale down segregated schools to facilitate inclusion and ensure that the law and policies uphold the duty that mainstream schools enrol children with disabilities with immediate effect if that is their choice;
- (c) Ensure that reasonable accommodation is provided at all levels of education and that the right to such accommodation is legally enforceable and justiciable before the courts;
- (d) Ensure the training of all teachers in inclusive education, increased accessibility of the school environment, materials and curricula, and the provision of sign language in mainstream schools, including at the post-doctoral level.'

The National Action Plan 2.0.⁶¹ (pp. 51-63) refers to national research on inclusive education and the promotion of information and counselling for students with disabilities. Structural changes in the educational system are in responsibility of the *Länder*.

5.1 Summary of the educational situation of persons with disabilities

The EU-SILC estimates concerning educational attainment should be treated with some caution due to variable confidence levels, but they consistently indicate disability quality gaps. Table 16 indicates early school leaving rates disaggregated by disability status. Youth with disabilities (aged 18-24) tend to leave school significantly more than non-disabled peers of the same age groups (and this is reinforced by widening the sample size to age 18-29). Table 17 shows completion rate of tertiary education disaggregated by disability and age group. Persons with disabilities (age 30-34) are less likely to complete tertiary education than their peers (and this is reinforced in the wider sample for age 30-39).

According to these indicators, young persons with disabilities have a higher early school leaving rate than young persons without disabilities: 23.7 % (aged 18-24) and 26.1 % (aged 18-29) respectively of them leave school early, while this is only the case by 6.4 % (aged 18-24) and 7.0 % (aged 18-29) respectively for pupils without disabilities (see Annex, Table 24). Conversely, 44.2 % (aged 30-34) and 40.4 % (aged 30-39) respectively of persons without disabilities complete tertiary or equivalent education, whereas only 17 % (aged 30-34) and 18.7 % (aged 30-39) of the persons with disabilities achieve this level of education (Table 17).

⁶¹ BT-Drs. 18/9000.

The German school system is still far from being inclusive. Special schools still exist widely. On the one hand, the proportion of pupils with special educational needs at regular schools has risen by 22.5 percentage points since 2009 (2009: 19.8 %, 2018: 42.3 %).⁶² However, this rate does not say anything about the quality of the educational provision or practical difficulties.⁶³ More interesting is the exclusion rate, which has only fallen by 0.6 % since 2009 (i.e. the percentage of pupils with special educational needs being taught in special schools as a proportion of the total number of pupils, both in regular and special schools). This percentage was 4.9 % in 2009 and has slowly decreased over the years to 4.3 % until 2018 (see Table 26).

In 2018, a total of 556,300 pupils received special needs education (*sonderpädagogische Förderung*) in total: 320,992 of them attended a special school, 235,325 a mainstream school (Table 27). Almost three quarters of pupils with special educational needs leave special schools without a qualification (72.1 % in 2018)⁶⁴ and almost one quarter with a secondary school degree of mainstream schools (*Hauptschulabschluss*) (Table 28). Due to the long tradition of the separated school system in Germany, the regular school system is not as adequately equipped, as criticized in a study in 2009.⁶⁵ In most special schools, pupils receive no school leaving qualification. Several studies show not only the rate of inclusion growing but also the rate of exclusion stagnating in the school system.⁶⁶

Persons with disabilities do not have the same level of school education as persons without disabilities. 6.0 % of persons with disabilities leave school without general education, compared to only 3.2 % of persons without disabilities. Almost half of the persons with disabilities (50.2 %) have a secondary general school degree (*Hauptschulabschluss*), while only about a third of persons without disabilities (30.7 %) have this kind of degree. And while more than one quarter of persons without disabilities (27.1 %) have a general qualification on the access for higher education (*Abitur*), this is only the case for 12.1 % of persons with disabilities (Table 29).

Persons without disabilities have a higher professional qualification than the persons with disabilities. 12 % of them have a university degree and 6.1 % an advanced technical college degree (*Fachhochschulabschluss*), while this is only the case for 6.1 % and 4.4 % respectively of persons with disabilities. Conversely, 57.2 % of persons with disabilities have completed a vocational or professional practical training (*Lehre oder berufliches Praktikum*), compared to 48.3 % for persons without disabilities (Table 30).

In the 21st Social Survey of the German National Association for Student Affairs (*Deutsches Studentenwerk*), 11% of those questioned stated that they had one or more impairments having made their studies more difficult. This was 264,000 of the 2.37 million students studying in the summer semester 2016.⁶⁷ Most of them had a psycho-social disability (47 %).⁶⁸

⁶² See KMK (2020): XIX.

⁶³ See DIMR (2017): 1.

⁶⁴ See KMK (2020a): XXIII.

⁶⁵ See Klemm (2009): 7-8.

⁶⁶ See Klemm (2012, 2013, 2015, 2017).

⁶⁷ See BMBF (2017): 36.

⁶⁸ See BMBF (2017): 37.

Analysis of education policies relevant to the Semester

The 2020 [National Reform Programme](#) for Germany favours to avoid discrimination in education and to increase the educational participation of persons with disabilities (No. 125). Effective reforms in this field are in responsibility of the *Länder* and are not part of the Programme.

Budget for vocational training

2020 the budget for vocational training (§ 61 a SGB IX) was introduced within the framework of the Relief of the Fee Burden on Relatives Act – *Angehörigenentlastungsgesetz*. The budget for vocational training offers persons with disabilities an alternative to the entrance qualification and the vocational training area of sheltered workshops (*WfbM*). Strengthening career guidance and promoting inclusive vocational training and work is part of the CRPD-National Action Plan of the Federal Republic of Germany.⁶⁹

Persons with disabilities who are entitled to the entry procedure or to the vocational training area of a *WfbM* are entitled for the budget for vocational training. It is not required that these areas were actually attended, the entitlement is sufficient. The budget for vocational training covers training relationships subject to compulsory social security both in recognized training courses and in courses with less theoretical content but a focus on the practical content for a certain profession (regulated in § 66 Vocational Training Act (BbiG) and § 42m Crafts Code (HWO), so called “*Fachpraktikerberufe*”).

In terms of content, the budget for vocational training is orientated to the budget for work. It includes a wage subsidy coupled with instruction and assistance at the training place and at the vocational school. If attendance at a vocational school at the training place is not possible due to the nature or severity of the disability, the school-based part of the training can be carried out in vocational rehabilitation institutions. The costs incurred are also covered by the budget for vocational training. The budget is provided for as long as necessary, at the latest until the training has been successfully completed.

The budget for vocational training can be a suitable instrument to make training more inclusive and to reduce the number of persons going to the *WfbM*. It is problematic, however, that only persons with entitlement to benefits in the entry procedure or vocational training area of a *WfbM* are entitled to the budget for training. This excludes young people with a special need or rehabilitation status who are not entitled to the *WfbM*. Also excluded are young people who are not even entitled to a *WfbM* because of the severity of their disability. In addition, persons entitled to the working area of the *WfbM* should also be included in order to enable these people to have access to vocational training. The budget for vocational training should therefore be designed as a low-threshold offer to which all people with disabilities are entitled.⁷⁰ This could also

⁶⁹ *Nationaler Aktionsplan der Bundesregierung zur UN-BRK (NAP 2.0)*, 29.06.2016, BT-Drs. 18/9000, p. 26; see also *Zwischenbericht zum NAP 2.0*, 25.10.2018, BT-Drs. 19/5260, p. 5.

⁷⁰ See for the discussion in the legislation process, *Gast-Schimank, Das Budget für Ausbildung im Angehörigen-Entlastungsgesetz – Teil I: Analyse des Gesetzentwurfs und der Stellungnahmen, Beitrag D18-2019*, at: www.reha-recht.de, 15.10.2019.

better realize the right to an inclusive education system under Article 24 CRPD and access to an inclusive labour market under Article 27 CRPD.

So far, only training subject to compulsory social security in recognized programmes and the so-called *Fachpraktikerberufe* are covered by the budget for vocational training. This potentially excludes the majority of pupils at special need schools who leave these schools without a lower secondary school degree, as they find it more difficult to obtain a training relationship. In order to reduce the exclusion risk, vocational training preparation, further vocational training and retraining could also be included in the promotion. It is to be welcomed that the legislation refers to the fact that the competent provider should assist the person with disability in finding a suitable training place. It is equally important to inform potential pupils and companies about the possibilities offered by the budget for vocational training so that successful implementation can take place in practice.

According to the Federal Government's second Participation Report, no representative data are available on how the transition of persons with disabilities from school to vocational training takes place.⁷¹

According to § 64 BBiG and § 42p HwO, persons with disabilities should be trained in state-approved vocational occupations (*anerkannte Ausbildungsberufe*). However, the accountable statistics (on vocational education and training statistics of the Federal government and the *Länder*) do not record any individual characteristics of an existing disability.⁷² Only data are available for people with disabilities who, according to § 66 BBiG and § 42r HwO, are trained in specialist practitioner occupations (*Fachpraktiker-Berufe*) exclusively accessible to persons with disabilities.⁷³ In 2019, as in 2018, 7.668 new training contracts were reported for this group, which corresponds to 1.5 % of all newly concluded training contracts.⁷⁴

Since the Budget for vocational training (*Budget für Ausbildung*) entered into force on 1st January 2020, no official statistics are yet available due to the short duration of the programme so far.

School assistance /study assistance

In order to ensure the schooling of disabled children and young people, school assistance is the main tool used. This applies to both the regular school and the special needs school, which also lack adequate personal and constructional accessible infrastructure. The same applies to the higher education sector. Germany has increased the training capacities of special needs teachers and created corresponding positions in schools but refers to the provision of the integration assistance with regard to the needs specific to disabilities.⁷⁵

⁷¹ See BMAS (2017): 120.

⁷² See BMBF (2020a): 46f.

⁷³ See BMBF (2020b): 72.

⁷⁴ See BMBF (2020b): 55.

⁷⁵ See *Combined Second and Third Periodic Report of the Federal Republic of Germany on the United Nations Convention on the Rights of Persons with Disabilities*, 18.07.2019, BT-Drs. 19/11745, p. 31.

Statutory benefits for the school sector were previously classified as social participation and regulated in the Book of Social Assistance (SGB XII). With the BTHG-reform since 2020 these benefits are regulated in a separate chapter entitled 'Educational participation assistance' in Book IX of the Social Code – Rehabilitation and Participation of Persons with Disabilities (§§ 75, 112 SGB IX). These benefits also include study and school assistance. They can be provided within the framework of general school education and attendance of secondary schools up to university entrance qualification, including preparation for this and are independent of whether or not there is still compulsory school attendance.⁷⁶ In addition, the benefit can now also refer to all-day programmes in open form and may include an assistance for the way to school or with school events outside of lessons.⁷⁷ The new legislation extended the scope of integration assistance to the area of school-based and university-based continuing vocational training. Provision of the integration assistance now regularly encompasses Master's programmes. A second degree or PhD studies can now also be included in justified cases (§ 112 (2) sentence 2 and sentence 1, No. 3 SGB IX).⁷⁸ The previously required certificates of performance and competence for the choice of degree programme are no longer required. The pooling of benefits for the area of school support is now possible by the new legislation and can be provided – if it is reasonable – against the will of the benefit recipients.⁷⁹

Legislative competence in the education sector for school and university laws lies with the *Länder* (Article 70(1) of the Basic Law – *Grundgesetz*), so there are no uniform federation-wide regulations for school or study inclusion. As a result of Article 24 CRPD demanding for an inclusive education system, many school legislations have been amended and regulations have been inserted which deal with the inclusion of pupils with special needs. But school assistance is not regulated in the school laws but in social law. However, this does not exclude the possibility that school authorities may be obliged with regard to the equality of persons with disabilities to provide assistance as reasonable accommodation.⁸⁰

For this reason, school assistance is predominantly a provision of integration assistance (§§ 75, 112 SGB IX). This also means that this service is only provided if the requirements of integration assistance are met. The controversial discussion on how to define the group of persons entitled to such assistance has already been referred to. Even after the BTHG-reform, the integration assistance benefits remain dependent on income and assets. However, contributions have decreased. Certain benefits are also privileged, e.g. school assistance at general and secondary schools

⁷⁶ See *Entwurf eines Gesetzes zur Stärkung der Teilhabe und Selbstbestimmung von Menschen mit Behinderungen (Bundesteilhabegesetz – BTHG)*: BT-Drs. 18/9522, p. 284.

⁷⁷ See *Deutscher Städtetag, Deutscher Landkreistag, Bundesarbeitsgemeinschaft der überörtlichen Sozialhilfeträger (BAGüS), Orientierungshilfe zur Schulbegleitung unter besonderer Berücksichtigung der Bildung von Schulbegleiterpools*, Stand: Juni 2019.

⁷⁸ *Entwurf eines Gesetzes zur Stärkung der Teilhabe und Selbstbestimmung von Menschen mit Behinderungen (Bundesteilhabegesetz – BTHG)*, BT-Drs. 18/9522, p. 284.

⁷⁹ The effects of this regulation should be closely monitored.

⁸⁰ See Conrad-Giese, *Teilhabe durch Persönliche Assistenz für Kinder mit Behinderungen – Teil III: Assistenzleistungen in Bildungseinrichtungen; Beitrag A13-2019*, at: www.reha-recht.de, 06.08.2019, p. 8.

See also: *Combined Second and Third Periodic Report of the Federal Republic of Germany on the United Nations Convention on the Rights of Persons with Disabilities*, 18.07.2019, BT-Drs.19/11745, p. 32.

(§ 138(1) No. 4 SGB IX). for which the children's parents are not required to pay a contribution. However, this privilege applies to study assistance only insofar as the services are provided day and night for people with disabilities in special training centres. This should be critically examined in the light of Article 24 CRPD.

Children or young people with a mental disability are also entitled to integration assistance (§ 35a SGB VIII). In this case, the authorities of child and youth services are primarily responsible. In exceptional cases, the statutory health insurance and the long-term care insurance may also be the legally obliged authorities if the focus is on medical treatment care or long-term care. Where responsibilities are shared, this can lead to difficult coordination processes between the authorities involved.

School assistance only includes activities that lie outside the pure teaching of the learning content. The core pedagogical work lies solely in the responsibility of the school authorities. The school assistance is not aimed at conveying content, but at enabling the children to participate in lessons. It is often difficult to distinguish between school assistance as a social benefit and special educational needs as part of the school's responsibility. This can result in difficulties for those affected to obtain the help they need. Legally, the obligations of the school take precedence over integration assistance. However, the determination of this priority in proceedings before the social courts or under Child and Youth Services law does not yet result in an enforceable claim by the disabled child to the provision.⁸¹ A further problem is that the qualifications of school assistance are not defined by law. There is often a lack of school assistance on the labour market, which is due on the one hand to excessive demands in school activity because of a lack of qualifications or infrastructure in the schools, and on the other hand to poor pay.

According to Article 24 CRPD, the State Parties should ensure an inclusive school system. Currently the prevailing system still consists of mainstream schools and separated special need schools. It can also be seen that the proportion of people who are included in the education system steadily decreases in the course of an educational career, i.e. with increasing age of the affected people. Students who have health problems during their studies have often a longer duration of study and a higher risk of breaking off their studies. There is no sufficient school infrastructure for the inclusion of disabled pupils. Inclusive schooling is mostly only possible with integration assistance. It is often difficult to integrate school assistance into school activity and the teaching process. It is necessary to develop useful cooperation concepts between schools and school assistance or the providers of integration assistance behind them.

Inclusive child day care centres

In 2020, there was a total of 57.594 day-care centres for children in Germany. 22.007 were open to children with and without disabilities (*integrative Tageseinrichtung*), and 221 for children with disabilities only. A total of 3.752.422 were looked after in the facilities, 1.686.740 of them in integrative day-care centres and 6.516 in separated facilities for children with disabilities (see Annex, Table 31).

⁸¹ Welti, *Verantwortlichkeit für angemessene Vorkehrungen und Barrierefreiheit in der Bildung*, RdJB 2015, 34, 43, 44.

Since 2006, the number of integrative day-care has increased, while at the same time the number of separated day-care centre for children with disability has decreased (see Annex, Table 32).

There is no statistic available on how many children with disabilities are visiting which kind of day-care centre. The official statistics only include the total number of children receiving integration aid based on Social Code IIV and IX. In 2020, this applied to 89.557 children, most of them with an imminent or mental disability (49.485), followed by intellectual (28.437) and physical disabilities (25.362) (see Annex, Table 33).

In contrast to the inclusive schooling of children with and without special needs, the proportion of inclusive care in day-care centres is much higher.

The legislative competence is shared between the *Länder* and the Federation (Article 7 4 (1) No. 7 Basic Law – *Grundgesetz*) with details of the tasks and services provided by day-care centres regulated by the *Länder* (§ 26 sentence 1 SGB VIII – Child and Youth Services). The basic principles and development of the day-care system are regulated by federal law, which clearly shows the high political significance of the promotion of children within the framework of child and youth services (SGB VIII).

The educational programme in day-care centres is characterized by the principle of holistic development. Children with and without disabilities in day-care centres are to be expressly fostered together, as far as their respective need permits it (§ 22a(4) sentence 1 SGB VIII). The providers of child and youth services are to cooperate with the providers of integration assistance in the planning, conceptual design and financing of the respective benefit (§ 22a, (4) sentence 2 SGB VIII). This objective is also enshrined in § 4(3) sentence 1 SGB IX, which stipulates that services for children with disabilities or children at risk of becoming disabled are developed in such a way that children don't have to be separated from their social environment and can be cared for together with children without disabilities.

In recent years, particularly under the influence of Article 7 and 24 CRPD, all *Länder* have included the development of inclusive day-care of children as a goal in their legislation (e.g., § 2(2) KiTaG – Baden Wuerttemberg, § 2(4) SächsKitaG – Saxony, § 1(3) No. 6 KitaFöG – Berlin). The legal claim on day-care benefits is enshrined in law (§ 24(1) – (4) SGB VIII) and also applies to children with disabilities. According to the social case law, such a claim is subject to available resources.⁸² The *Länder* legislation expressly lists inclusive day-care centres as being preferable.⁸³

The organizational forms of day care centres vary greatly among the *Länder*. In some *Länder* there are also special school kindergartens which only accept children with disabilities and extra needs (e.g. § 20 School Act – Baden-Württemberg). As in the school sector, benefits are provided primarily by the authorities of the child and youth

⁸² BVerfG, Beschl, 10.02.2006 – 1 BvR 91/06, NVwZ 2006, 679; BVerfG, Beschl., 8.10.1997 – 1 BvR 9/97 (*Sonderschulzuweisung*), BVerfGE 96, 288.

⁸³ E.g. (Article 12(1) BayKiBiG – Bavaria, § 2(2) KiTaG – Baden-Wuerttemberg, § 19 sentence 1 SächsKitaG – Saxony, § 6(1) sentence 2 KitaFöG – Berlin, § 3(7) sentence 1 KiTaG – Lower Saxony).

services and the integration assistance. Support for extra needs due to disability is mainly provided within the framework of integration assistance. Coordination between the different providers is therefore important and can have a negative impact on the granting of benefits (as it does on school assistance).

Since the CRPD came into force, there has been a noticeable improvement towards greater inclusion in day care centres for children. Nevertheless, a good 30% of children with extra needs are still taken care of in separate systems.⁸⁴

In order to further improvement of the structural quality of the day-care system, care must be taken also to ensure in sufficient number a supply of vocational and continuing training for specialist staff with regard to inclusion.⁸⁵

⁸⁴ Bildung in Deutschland 2014: *Ein indikatorengestützter Bericht mit einer Analyse zur Bildung von Menschen mit Behinderungen*, p. 169.

⁸⁵ Bildung in Deutschland 2014: *Ein indikatorengestützter Bericht mit einer Analyse zur Bildung von Menschen mit Behinderungen*, pp. 189, 190.

6 Investment priorities in relation to disability

6.1 Updates on use of existing EU funds (to 2020)

The analysis of European Structural and Investment Funds (ESIF)⁸⁶ has shown two results: First of all, disability is a minor issue not mentioned very often.

Secondly, disability is not regarded in general as an inclusive topic but often as a special topic, as well, exemplified by the following six projects of ERDF and ESF.

In the ERDF-funded project⁸⁷ 'Strongest together!' (2007-2013) more than 400 teachers and ca. 4000 students from 127 schools worked together in a cross-border initiative between Lower-Silesia (Poland) and Saxony (Germany) to fight against discrimination of disabled people. By various lesson plans, education projects and scenarios the project aimed at sensitising both students and teachers in mainstream schools to disabled people and their needs. Thereby, it enhanced equal opportunities for disabled people by improving the understanding and acceptance of this marginalised group in both regions.

A different project, funded by the ERDF (2007-2013), focuses on a screening of newborns for cystic fibrosis and other congenital diseases, being called 'Model region POMERANIA for a cross-border new-born screening'.⁸⁸ This health-related project shows the collaboration between the German Mecklenburg-Western Pomerania and the Polish Zachodniopomorskie exchanging know-how between the Greifswald medical school and the Szczecin screening lab, providing cross-border meetings of affected families, facilitated by interpreters, leading to exchanges of experiences, growing understanding, and encouragement.

In the funding programme of the European Social Fund (ESF) projects focus on separated support of persons with disabilities as in the project '100 additional training places for young people with disabilities in NRW'.⁸⁹ Having started in January 2007 more than 1,000 young people have received the additional opportunity of a traineeship in around 850 partner companies to learn 120 different job roles from media designer to retailer. The project is organised for disabled young people by the vocational training centre (bfw Düren) in Rhineland.

In contrast, the project 'Agrigent',⁹⁰ a biological farm in the district of Göppingen comprising 45 hectares, offered the long-term unemployed work experience and skills-building opportunities. It reached 412 long-term unemployed people, of whom 61 % were from a migrant background, 20 % had a severe disability and 45 % had no qualifications. Being funded 2007-2014, the project combined the integration of disadvantaged groups finding a way into the labour market with the aims of ecological

⁸⁶ For Germany, only the European Regional Development Fund (ERDF) and the European Social Fund (ESF) are relevant.

⁸⁷ https://ec.europa.eu/regional_policy/en/projects/germany/breaking-down-the-barriers-facing-disabled-people.

⁸⁸ https://ec.europa.eu/regional_policy/en/projects/germany/cross-border-newborn-screening-saves-lives-of-babies-in-pomerania-region.

⁸⁹ <https://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=1637>.

⁹⁰ <https://ec.europa.eu/esf/main.jsp?catId=46&langId=en&projectId=423>.

farming. A follow-up project contains an international element with partners in France and Austria.

As special support is useful in some regard it is essential to focus on deinstitutionalisation. Two projects exemplify this: The ESF and the ministry for social affairs Brandenburg fund the training of commissioners for women affairs in sheltered workplaces since 2017.⁹¹ As long as sheltered workplaces exist women's affair officers are important nevertheless they work in the separated labour market, still.

A different issue is shown with the ESF funding of the Centre for Disability Studies at the Protestant University of Applied Sciences, Rauhes Haus, in Hamburg (2014-2017), supporting disabled teaching staff at university for all students.⁹²

To sum it up, the extent to which investments fund inclusive projects is to be increased.

6.2 Priorities for future investment (after 2020)

The analysis in the preceding chapters indicates that investment is urgently needed to support a more integrated and inclusive approach to disability policy in employment, independent living and education. In terms of the Semester priorities, it is also relevant to highlight the disability perspective on the CSRs. For example, CSR1 refers to the resilience of the health system and eHealth services, where access and accessibility for persons with disabilities should be targeted. CSR2 targets investment towards green and digital transition, including sustainable transport, digital infrastructure and skills, housing and education and research and innovation. These are all areas in which the specific needs of persons with disabilities need to be acknowledged and targeted to ensure inclusion, including through compliance with Article 9 CRPD on accessibility and EU procurements.

The Commission's Country Report for Germany (2020) states that 'Among persons with disabilities, the tertiary attainment rate is lower in Germany (23.9 %) than the EU (32.4 %)'. This meets with our analysis of the situation of disabled people in the field of education regarding especially inclusive education (chapter 5).

The investment priorities of the Just transition Fund for Germany highlight the necessity to support economic transformation in three *Reviere*: *Lausitzer Revier*, *Mitteldeutsches Revier* and *Rheinisches Revier*. As the phasing-out of coal will lead to increased unemployment challenges in these geographical areas. In order to meet these transition challenges, the economic structure of the three areas will need to be transformed considerably.

Thereby, it is particularly relevant to ensure accessibility and reasonable accommodation providing alternative industrial jobs and more knowledge and service-based jobs in the regional economy.

⁹¹ <https://esf.brandenburg.de/esf/de/oeffentlichkeitsarbeit/pressemitteilung/detail/~13-01-2017-frauenbeauftragte-in-werkstaetten-fuer-behinderte-menschen>.

⁹² <https://www.hamburg.de/pressearchiv-fhh/4297280/2014-04-10-basfi-zedis/>.

Regarding the regional development investments after 2020 the opportunity of disability funding should be used focusing on the objective of a smarter Europe through digitalisation: businesses should be supported taking into account the accessibility of the internet for persons with disabilities.

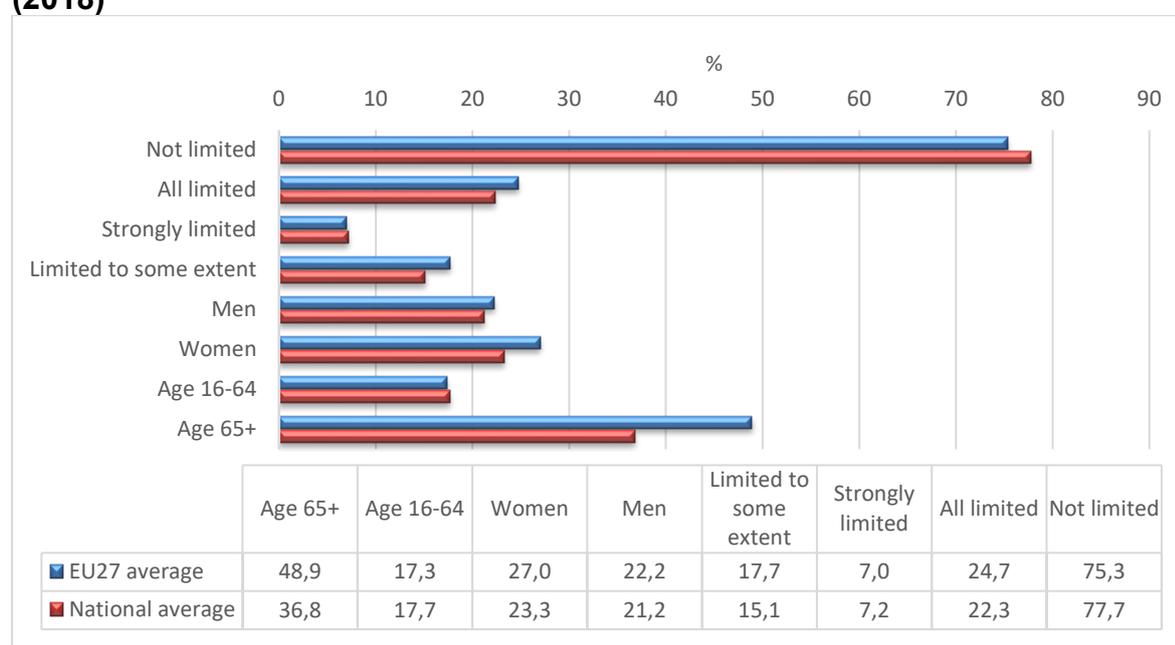
7 Annex: disability data relevant to the Semester

See also disability data published in the Eurostat database⁹³ and statistical reports.⁹⁴

Unless specified, the summary statistics are drawn from the most recent EU-SILC data available to researchers from Eurostat. The EU-SILC sample includes people living in private households and does not include people living in institutions (congregative households). The sampling methods vary somewhat in each country.

The proxy used to identify people with disabilities (impairments) is whether ‘for at least the past 6 months’ the respondent reports that they have been ‘limited because of a health problem in activities people usually do’.⁹⁵

Table 1: Self-reported ‘activity limitations’ as a proxy for impairment/disability (2018)



Source: EU-SILC 2018 Release 2020 version 1

In subsequent tables, these data are used to indicate ‘disability’ equality gaps and trends relevant to the analytical chapters – for the labour market, social policies and healthcare, and education – by comparing outcomes for persons who report and do not report ‘activity limitations’.⁹⁶ National estimates for Germany are compared with EU27 mean averages for the most recent year.⁹⁷

⁹³ Eurostat health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

⁹⁴ Eurostat (2019) *Disability Statistics* https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Disability_statistics.

⁹⁵ The SILC survey questions are contained in the Minimum European Health Module (MEHM) [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Special:WhatLinksHere/Glossary:Minimum_European_Health_Module_\(MEHM\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Special:WhatLinksHere/Glossary:Minimum_European_Health_Module_(MEHM)).

⁹⁶ This methodology was developed in the annual statistical reports of ANED, available at <http://www.disability-europe.net/theme/statistical-indicators>.

⁹⁷ The exit of the United Kingdom from the EU changes the EU average. Averages were also affected in 2015 by a discontinuity in the German disability data due to a definitional change.

7.1 EU data relevant to disability and the labour market (2018)

Table 2: Employment rates, by disability and gender (aged 20-64)

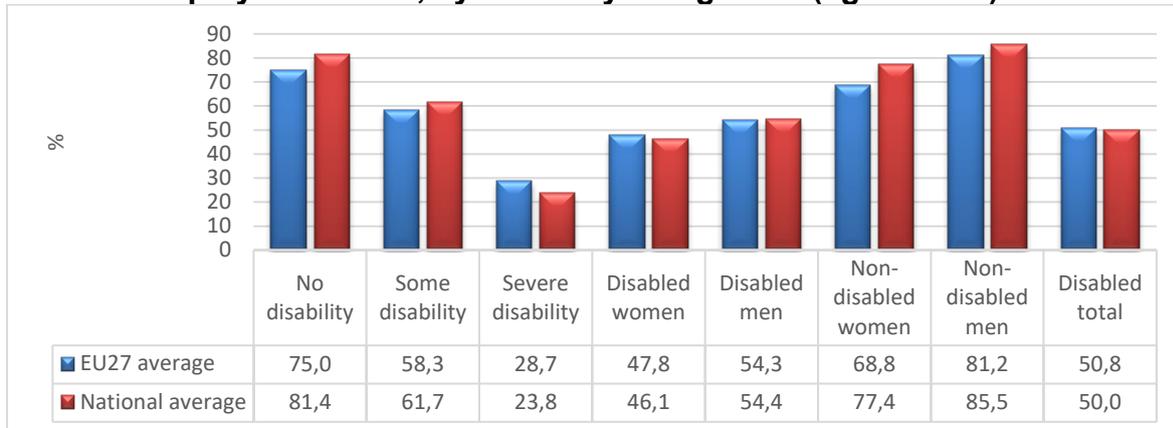


Table 3: Employment rates in Germany, by disability and age group

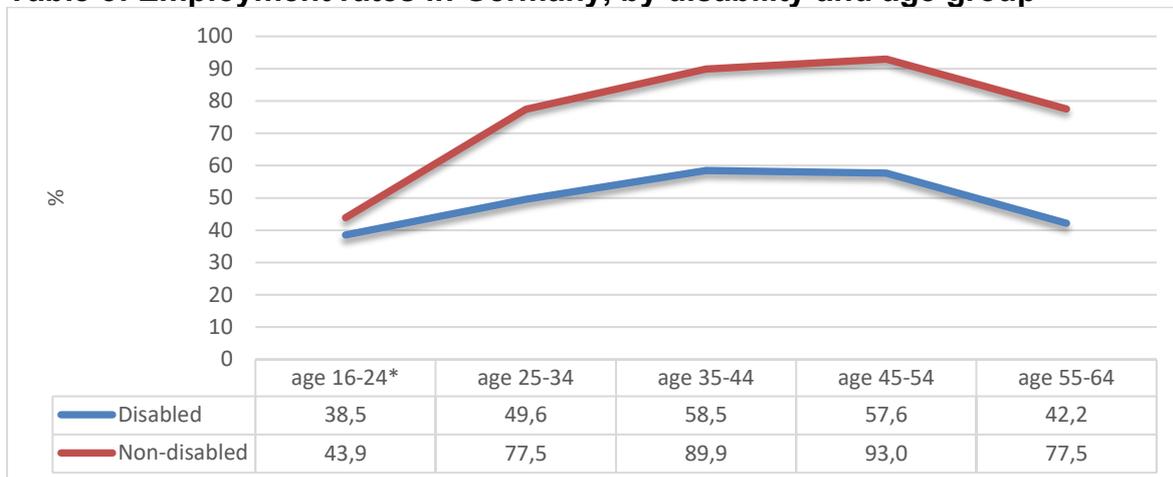
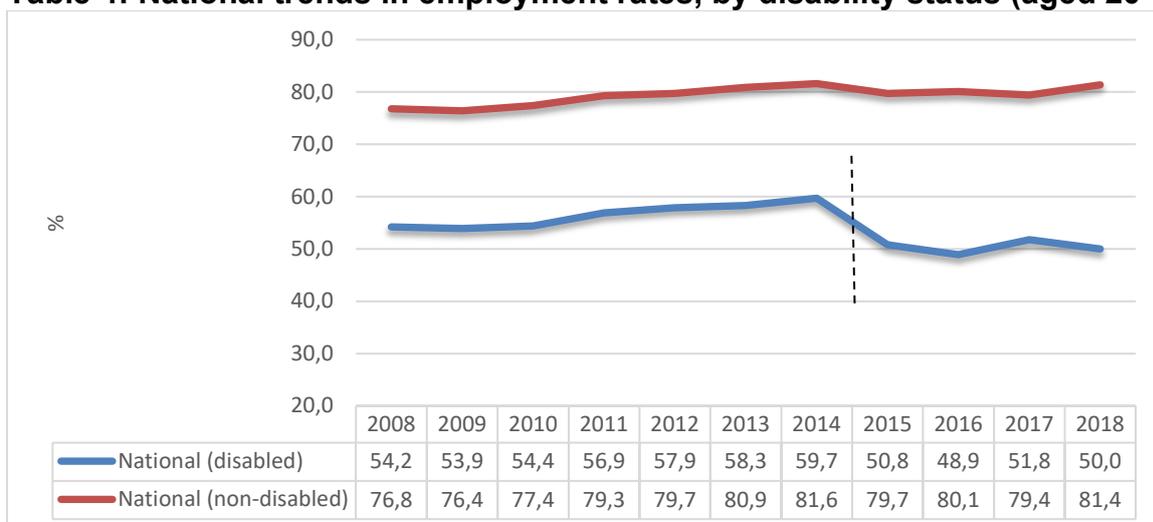


Table 4: National trends in employment rates, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

Note: There was a significant discontinuity in the German data in 2015 due to change of disability definition in the survey

7.1.1 Unemployment

Table 5: Unemployment rates by disability and gender (aged 20-64)

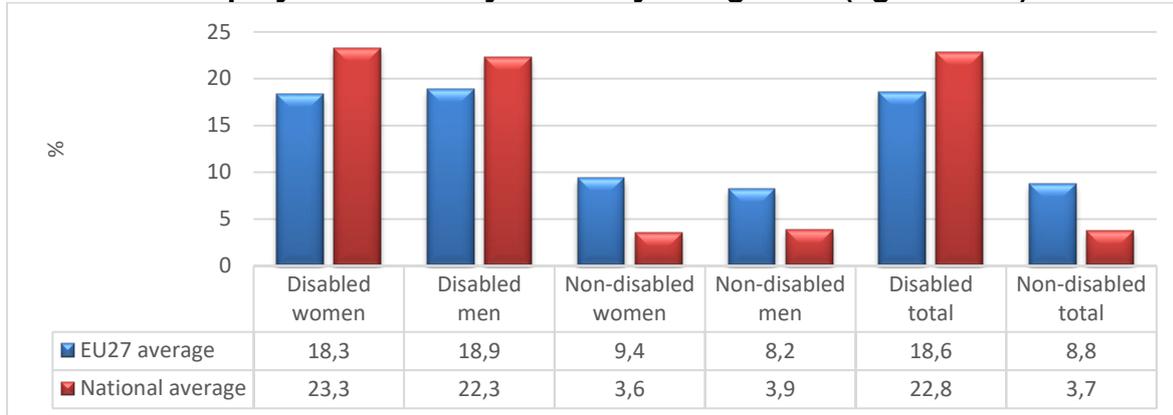


Table 6: Unemployment rates in Germany, by disability and age group

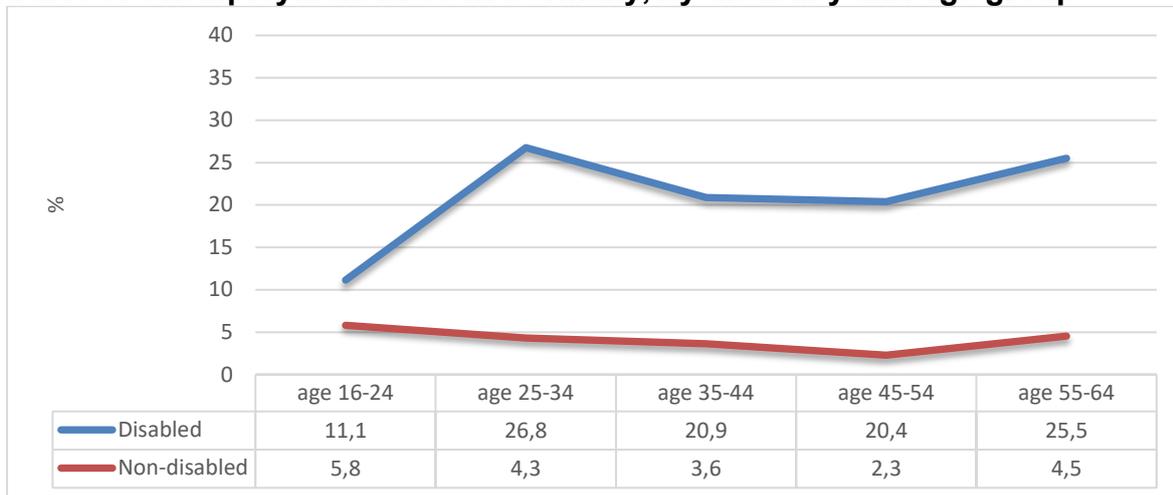
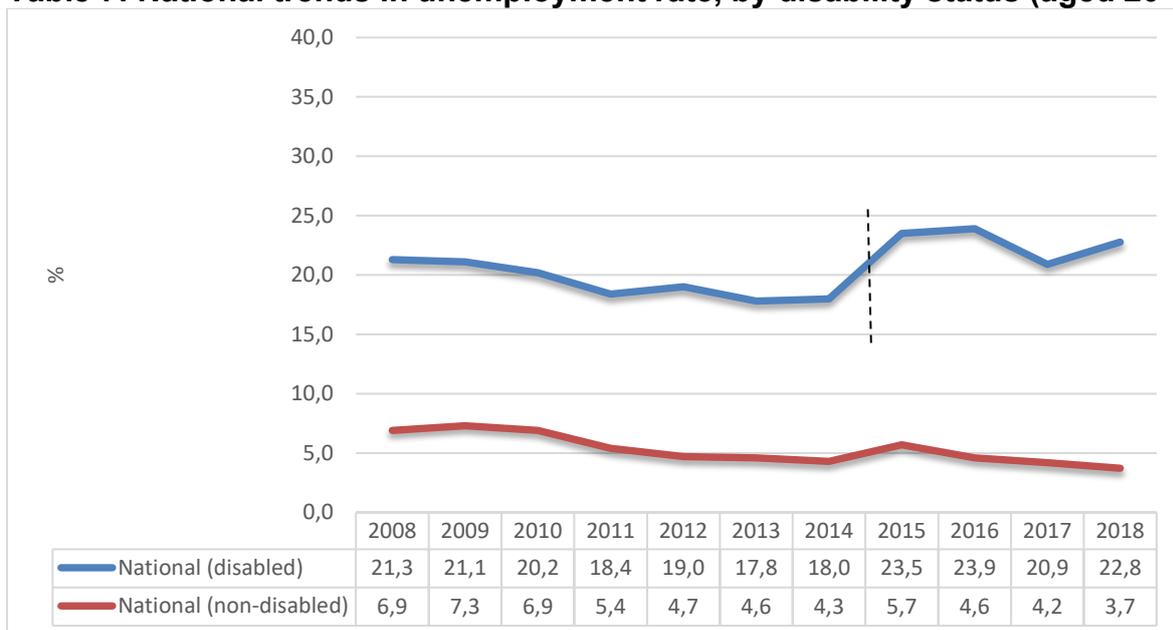


Table 7: National trends in unemployment rate, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

7.1.2 Economic activity

Table 8: Economic activity rates, by disability and gender (aged 20-64)

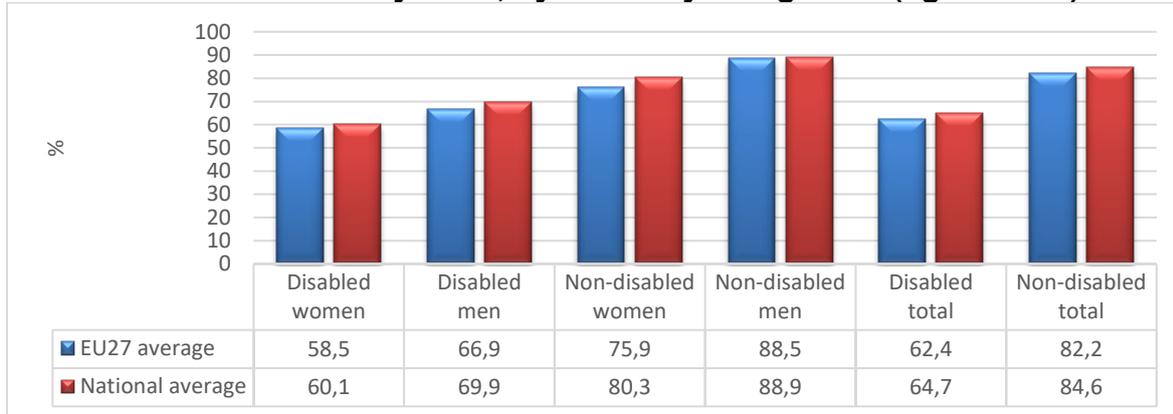


Table 9: Activity rates in Germany, by age group

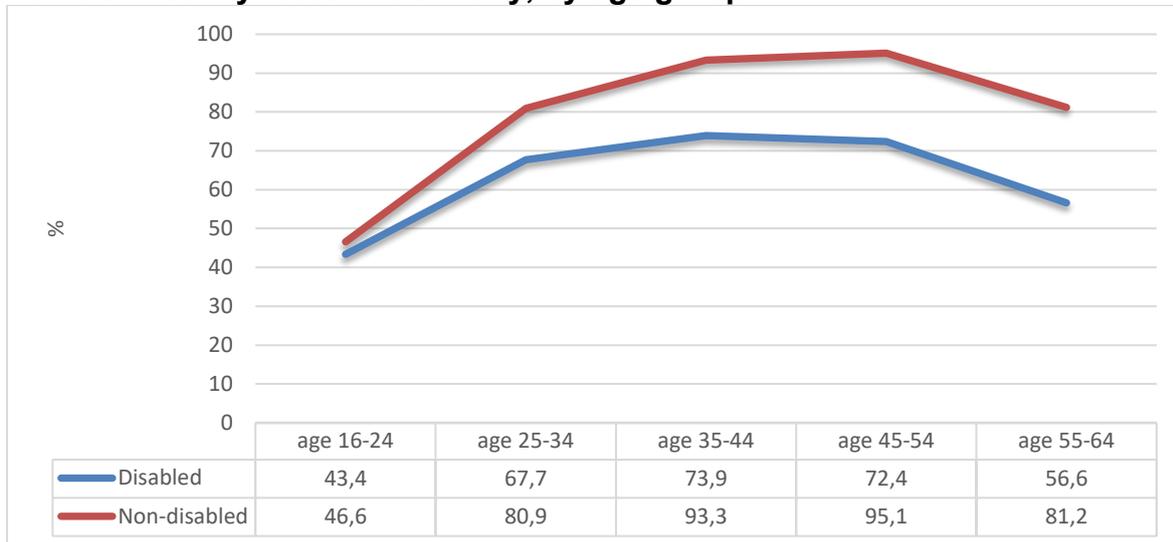
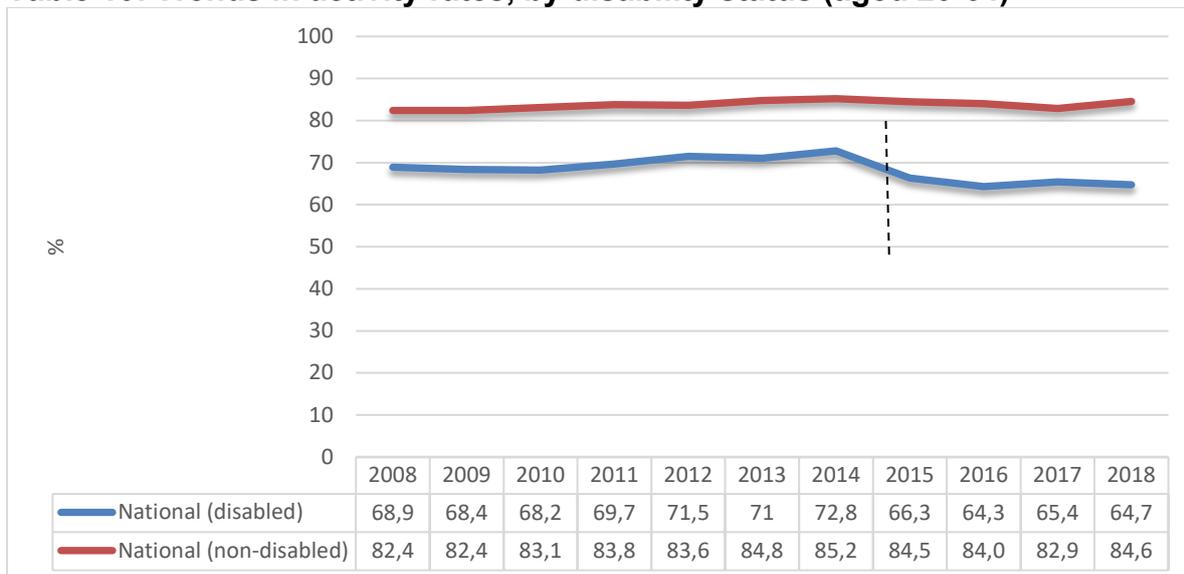


Table 10: Trends in activity rates, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

7.1.3 Alternative sources of labour market data in Germany

Disability data is not included in the core European Labour Force Survey but labour market indicators for Germany were disaggregated from ad modules conducted in 2001 and 2011. These can be found in the Eurostat disability database.⁹⁸

National statistics of the *Federal Statistical Office* (Destatis) and the *German Federal Association of Sheltered Workshops* (BAG WfbM) are useful concerning disability and employment rates.

Table 11: Employment rates of persons with and without disabilities

Age	Total		Female		Male	
	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities
15-25	44.5	50.6	46.3	49.1	43.1	51.9
25-45	70.4	87.7	67.5	82.4	73.1	92.8
45-55	65.8	92.4	62.2	88.8	69.2	96.0
55-60	59.3	88.2	54.9	83.5	63.4	93.1
60-65	39.1	67.6	34.4	61.5	43.5	74.4
65+	4.0	7.9	2.5	5.4	5.5	11.3
15-65	57.1	81.0	53.3	76.8	60.5	85.1

Source: Own presentation based on Destatis (2020a): 20

Table 12: Employees in the working area of Sheltered Workshops

YEAR	EMPLOYEES	
	Statistics by BAG WfbM	Social Welfare Statistics
2009	231,369	236,532
2010	238,304	240,472
2011	243,278	246,988
2012	249,584	256,820
2013	252,415	259,598
2014	256,449	264,842
2015	259,489	268,294
2016	261,562	269,616
2017	263,203	272,942
2018	264,895	n/a
2019	269,044	n/a
Increased by	14%	13,3%

Source: Own presentation based on statistics provided by BAG WfbM, <https://www.bagwfbm.de/category/34>, 'Belegte Plätze nach Bundesländern'; DIMR (2019): 43

⁹⁸ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

7.2 EU data relevant to disability, social policies and healthcare (2018)

Table 11: People at risk of poverty or social exclusion, by disability and risk (aged 16-59)

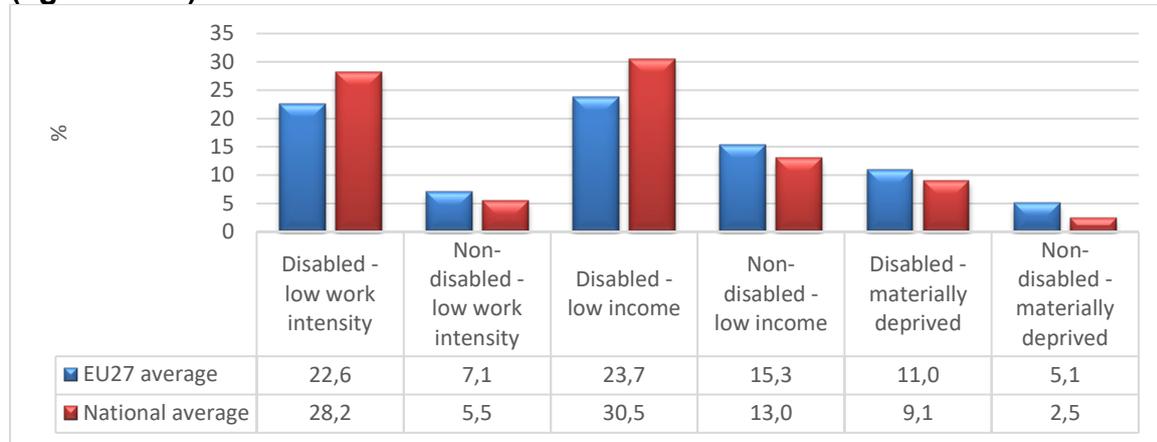


Table 12: People at risk of poverty or social exclusion, by disability and gender (aged 16+)

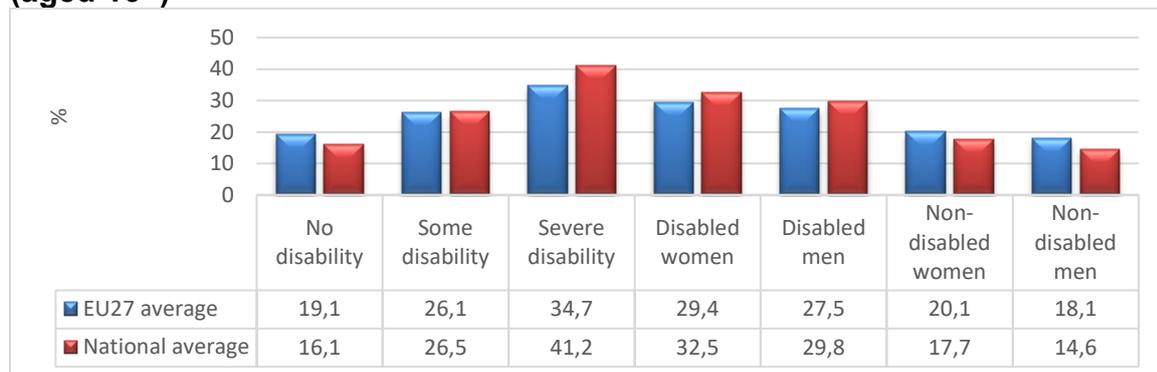
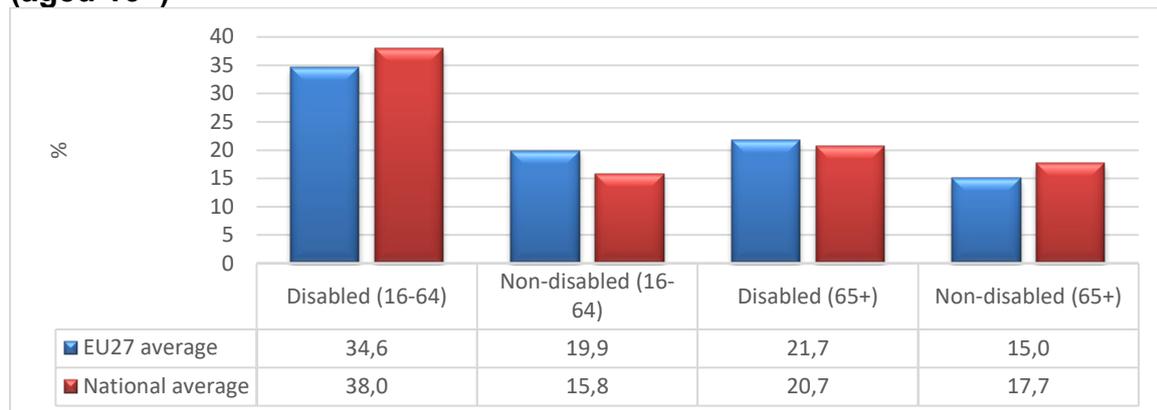
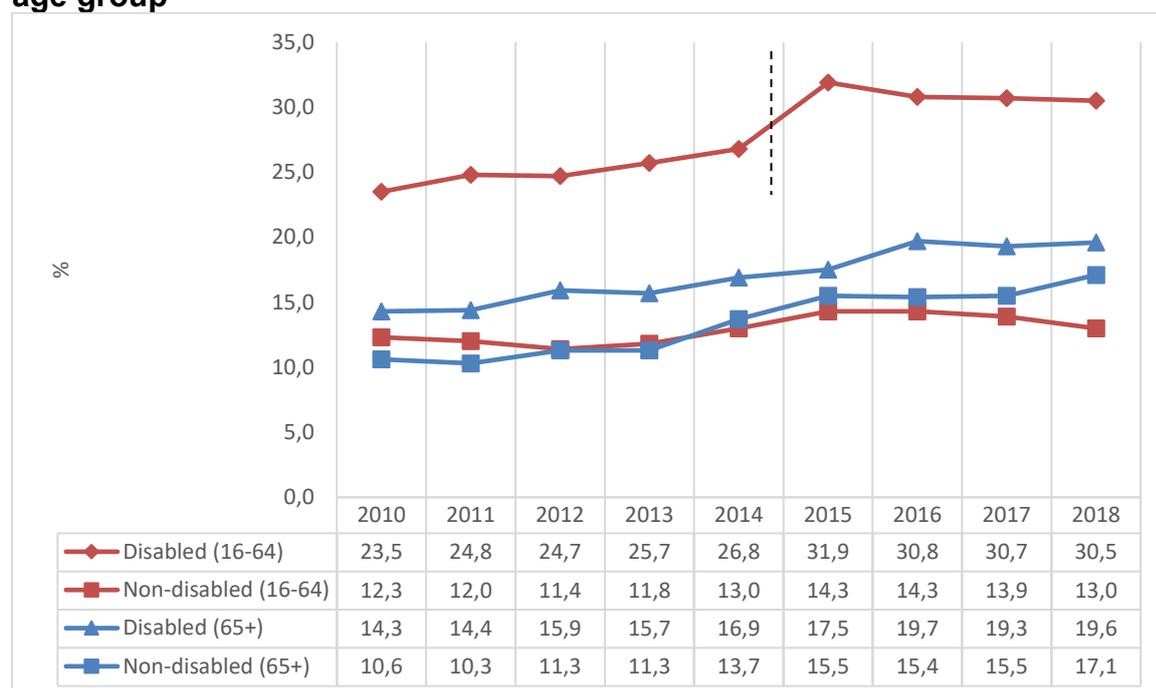


Table 13: Overall risk of household poverty or exclusion by disability and age (aged 16+)



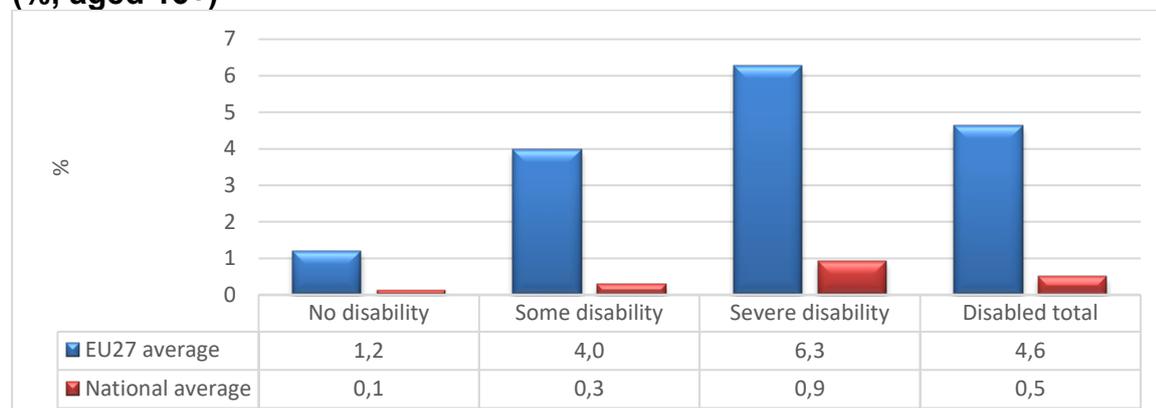
Source: EU-SILC 2018 Release 2020 version 1 (and previous UDB)

Table 14: Trends in the risk of poverty after social transfers, by disability and age group

Source: Eurostat Health Database [[hlth_dpe020](#)] - People at risk of poverty

Note: This table shows national trends in financial poverty risk, rather than the general AROPE indicator (which is not as comparable between age groups due to the effect of paid employment); the survey does not distinguish 'activity limitation' for children under 16.

Note: There was a significant discontinuity in the German data in 2015 due to change of disability definition in the survey.

Table 15: Self-reported unmet needs for medical examination, 3-year average (% , aged 16+)

Source: Eurostat Health Database [[hlth_dh030](#)] - 'Too expensive or too far to travel or waiting list'

Note: Due to large variations an average of three years is indicated. EU mean averages are also skewed by high values in a minority of countries within disability groups but median averages for the total disability and no disability groups in 2018 are consistent with the 3-year mean values.

7.2.1 Alternative sources of poverty or health care data in Germany

The EU-SILC data provides a comprehensive and reliable source concerning poverty or social exclusion rates. In addition to the summary tables presented so far, the

Eurostat disability database also contains breakdowns concerning disability and poverty before and after social transfers, as well as in-work-poverty.⁹⁹

National statistics of the *Federal Statistical Office* (Destatis), the *Federal Ministry of Labour and Social Affairs* (BMAS), the *Ministry of Labour, Health and Social Affairs of the Federal State of North Rhine-Westphalia* (MAGS), the *Federal Health Reporting System* (Gesundheitsberichterstattung des Bundes) and the *Operating and Financial Results of the long-term Care Insurance* (Geschäfts- und Rechnungsergebnisse der sozialen Pflegeversicherung) are useful concerning poverty and social exclusion rates.

Table 18: Recipients of basic provision in old age and in event of reduced earning capacity in December 2018 (rounded figures)

	Total	Female	Male
Total	1,079,000	548,000	530,000
18 – age limit	519,000	225,000	294,000
age limit or older	559,000	323,000	236,000
<i>Outside of institutions</i>	<i>889,000</i>	<i>461,000</i>	<i>428,000</i>
18 – age limit	394,000	175,000	219,000
age limit or older	495,000	286,000	209,000
<i>In institutions</i>	<i>189,000</i>	<i>87,000</i>	<i>103,000</i>
18 – age limit	125,000	49,000	76,000
age limit or older	64,000	37,000	27,000

Source: Own presentation based on Destatis (2019): 245

Table 19: Recipients of care assistance in 2017 (rounded figures)

	Total	Female	Male
Care assistance	376,000	240,000	136,000
Outside of institutions	77,000	47,000	30,000
In institutions	302,000	195,000	107,000

Source: Own presentation based on Destatis (2019): 245

Table 20: Rate of risk of poverty

	2013		2017	
	People with disabilities	People without disabilities	People with disabilities	People without disabilities
Total	20%	13%	19%	14%
<i>Age</i>				
Under 18	13%	10%	22%	22%
18-44	31%	16%	36%	19%
54-64	23%	11%	23%	10%
65+	16%	16%	15%	15%
<i>Gender</i>				
Female	19%	14%	21%	17%
Male	22%	13%	20%	16%

Source: Own presentation based on BMAS (2016): 209; MAGS (2020): 124

⁹⁹ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

Table 21: Recipients of assistance for independent living

Year	Stationary assisted living form (<i>stationär betreutes Wohnen</i>)	Ambulant assisted living form (<i>ambulant betreutes Wohnen</i>)		
		Total	Own Apartment	Shared flat
2008	167,161	83,023	74,031	8,722
2009	177,259	96,272	84,056	12,216
2010	182,398	117,635	104,471	13,164
2011	181,564	134,715	120,684	14,031
2012	190,621	144,436	128,829	15,607
2013	191,595	153,581	136,671	16,910
2014	193,770	161,896	143,318	18,578
2015	194,820	174,558	154,962	19,596
2016	195,437	178,736	158,534	20,202
2017	196,501	189,236	167,953	21,373

Source: Own presentation based on DIMR (2019): 20

Table 22: Social long-term care insurance expenditures for ambulatory/semi-stationary and stationary care, in billion EUR

Year	Total	Ambulatory/semi-stationary care*		Stationary care**	
		Euro	Percent	Euro	Percent
2007	17.02	7.95	46.7	9.07	53.3
2008	17.73	8.44	47.6	9.29	52.4
2009	18.63	9.09	48.8	9.54	51.2
2010	19.48	9.66	49.6	9.82	50.4
2011	19.89	9.92	49.9	9.97	50.1
2012	20.81	10.59	50.9	10.22	49.1
2013	21.98	11.66	53	10.32	47
2014	22.87	12.34	54	10.53	46
2015	24.63	13.61	55.3	11.02	44.7
2016	26.01	14.81	57	11.2	43
2017	33.06	19.66	59.5	13.4	40.5
2018	35.48	22.09	62.3	13.39	37.7
2019	37.54	24.12	64.3	13.42	35.7

Source: Own presentation based on BMAS (2016): 289; Gesundheitsberichterstattung des Bundes: Einnahmen und Ausgaben der sozialen Pflegeversicherung, http://www.gbe-bund.de/oowa921-install/servlet/oowa/aw92/WS0100/XWD_PROC?XWD_910/4/XWD_CUBE.DRILL/XWD_938/D.409/28858.

*Geldleistung, Pflegesachleistung, Verhinderungspflege, Tages-/Nachtpflege, zusätzliche ambulante Betreuungs- und Entlastungsleistungen, Kurzzeitpflege, soziale Sicherung der Pflegeperson.

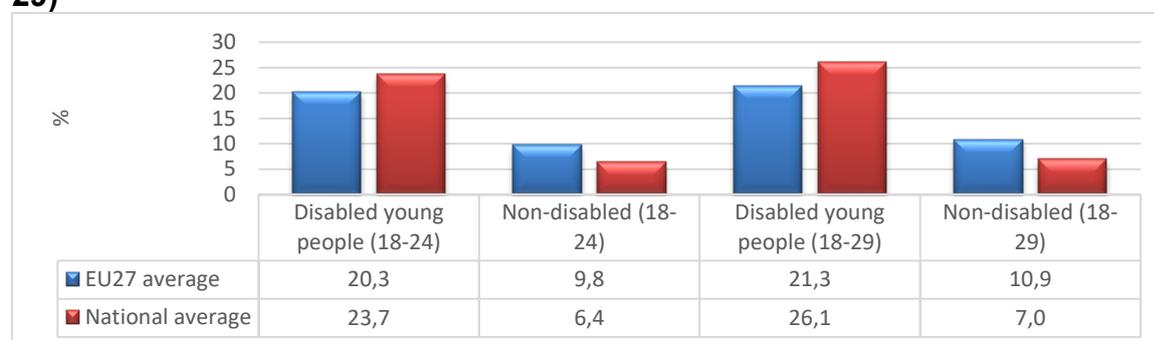
**Vollstationäre Pflege, vollstationäre Pflege in Behindertenwohnheimen.

Table 23: Recipients of social long-term care insurance benefits in fully inpatient care and fully inpatient care in homes for persons with disabilities on an annual average

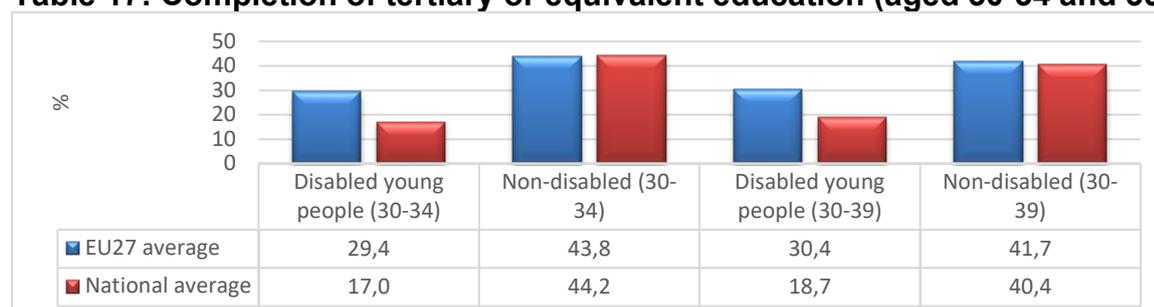
Year	Total	Fully inpatient care	Fully inpatient care in homes for persons with disabilities
2009	693,203	613,746	79,457
2010	702,159	621,949	80,210
2011	705,062	624,333	80,729
2012	723,506	642,334	81,172
2013	736,358	654,011	82,347
2014	764,791	679,767	85,024
2015	764,547	676,584	87,963
2016	797,430	706,037	91,393
2017	838,478	711,926	126,552
2018	860,650	722,986	137,664
2019	864,930	726,970	137,960

Source: Own presentation based on Gesundheitsberichterstattung des Bundes, Geschäfts- und Rechnungsergebnisse der sozialen Pflegeversicherung, http://www.gbe-bund.de/oowa921-install/servlet/oowa/aw92/WS0100/XWD_PROC?XWD_100/2/XWD_CUBE.DRILL/XWD_128/D.00/3727; Gesundheitsberichterstattung des Bundes, Geschäfts- und Rechnungsergebnisse der sozialen Pflegeversicherung, http://www.gbe-bund.de/oowa921-install/servlet/oowa/aw92/dboowasys921.xwdevkit/xwd_init?gbe.isgbetol/xs_start_neu/&p_aid=i&p_aid=35030211&nummer=71&p_sprache=D&p_indsp=-&p_aid=27644281.

7.3 EU data relevant to disability and education

Table 16: Early school leaving rates, by disability status (aged 18-24 and 18-29)¹⁰⁰

¹⁰⁰ There was a change from ISCED 1997 to ISCED 2011 qualification definitions in 2014 although some Member States continued to use the older definition after this time.

Table 17: Completion of tertiary or equivalent education (aged 30-34 and 30-39)

Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

Note: Confidence intervals for the disability group are large and reliability low (due to the small sample size in the target age group). An average of several years may be needed to establish trends or to compare breakdowns by gender.

7.3.1 Alternative sources of education data in Germany

Disability data is not included in the core European Labour Force Survey, but education and training indicators were disaggregated from ad hoc modules conducted in 2001 and 2011. These can be found in the Eurostat disability database.¹⁰¹ Similar caution is needed with this data.

Some administrative data is also provided in the European Agency's Statistics on Inclusive Education (EASIE), concerning the population of enrolled students identified with special educational needs in Germany.¹⁰²

Useful national statistics can be found with the *Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany* (KMK), and the *Federal Statistical Office* (Destatis).

¹⁰¹ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

¹⁰² European Agency for Special Needs and Inclusive Education, *Statistics on Inclusive Education*, <https://www.european-agency.org/data/data-tables-background-information>.

Table 26: Exclusion rate over the years in percent

Year	2009	2010	2011	2012	2013	2014	2015	2016	2017
Exclusion rate	4.9	4.9	4.8	4.7	4.7	4.6	4.4	4.3	4.3

Source: DIMR (2019): 32; KMK (2020b): 5.

Table 27: Special needs education in 2018, by pupils and focus

	Total	General schools	Special schools
Total	556,317	235,325	320,992
<i>Focus</i>			
Learning (<i>Lernen</i>)	192,600	107,404	85,196
Seeing (<i>Sehen</i>)	9,385	4,795	4,590
Hearing (<i>Hören</i>)	21,875	11,420	10,455
Speaking (<i>Sprache</i>)	56,345	27,649	28,696
Physical and motor development	37,661	13,795	23,866
Intellectual development	94,192	12,673	81,519
Emotional and social development	95,765	54,326	41,439
Comprehensive focus / without allocation	16,863	2,734	14,129
Learning, speaking, emotional and social development (LSE)	19,954	2,734	19,954
Illness	11,677	529	11,148

Source: Own presentation based on KMK (2020a): Viff.

Table 28: Graduates with special needs education in special schools in 2018, by graduation and in percent

<i>Graduation</i>	<i>Graduates</i>	<i>In percent</i>
Without graduation	23,765	72.1
With Secondary General School degree (<i>mit Hauptschulabschluss</i>)	7,742	23.5
With Intermediate Secondary School degree (<i>mit mittlerem Abschluss</i>)	1,354	4.1
With advanced technical college entrance qualification (<i>mit Fachhochschulreife</i>)	-/-	
With general qualification for university entrance (<i>mit Hochschulreife</i>)	91	0.3
Total	32,952	100

Source: Own presentation based on KMK (2020a): XXIII.

Table 29: Highest general educational graduation (age 15+)

Graduation	Total		Female		Male	
	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities
Without general graduation (<i>ohne allgemeinen Schulabschluss</i>)	6.0	3.2	5.9	3.3	6.1	3.1
Secondary General School (<i>Hauptschule</i>)	50.7	30.7	49.2	30.7	52.0	30.8
Intermediate Secondary School (<i>Realschule</i>)	25.4	30.3	28.8	32.6	22.1	28.0
Advanced technical college entrance qualification (<i>Fachhochschulreife</i>)	5.7	8.4	4.1	6.8	7.1	9.9

General qualification for university entrance (<i>Allgemeine Hochschulreife (Abitur)</i>)	12.1	27.1	11.7	26.3	12.4	27.9
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Source: Own presentation based on Destatis (2020a): 23

Table 30: Highest professional qualification (age 15+)

Professional qualification	Total		Female		Male	
	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities	Persons with Disabilities	Persons without Disabilities
No qualification	22.2	23.9	28.0	26.3	16.6	21.3
Vocational training, professional practical training (<i>Lehre, berufliches Praktikum</i>)	57.2	48.3	54.4	48.4	59.9	48.1
Technical school (<i>Fachschulabschluss</i>)	9.7	9.3	8.7	9.0	10.7	9.7
Advanced technical college degree (<i>Fachhochschulabschluss</i>)	4.4	6.1	2.9	4.5	5.9	7.8
University degree	6.1	12.0	5.7	11.4	6.6	12.7

Source: Own presentation based on Destatis (2020a): 24.

Table 31: Day-care centres for children

	Number of facilities	Children in care
Total	57.594	3.752.422
Integrative day-care centre ¹⁰³	22.007	1.686.740
Day-care centre for children with disabilities ¹⁰⁴	221	6.516

Source: Own presentation based on Destatis (2020b): 11.

¹⁰³ At least one child has a disability.

¹⁰⁴ At least 90 % of the children have a disability.

Table 32: Number of day-care centres, 2006-2020, by kind of the facility

Year	Total	Integrative day-care centre*	Day-care centre for children with disabilities**
2006	48,201	12,764	334
2007	48,652	13,414	346
2008	49,736	14,143	378
2009	50,299	14,296	365
2010	50,849	15,474	347
2011	51,484	16,397	299
2012	51,944	17,048	318
2013	52,484	17,864	285
2014	53,415	17,875	262
2015	54,536	18,572	260
2016	54,871	19,209	252
2017	55,293	19,657	251
2018	55,933	20,623	248
2019	56,708	21,218	228
2020	57,594	22,007	221

Source: Own presentation based on Destatis (2020b): 83f.

*By the reporting year 2011, 'integrative day-care centre' should be signed as soon as children with disabilities have received integrative care in the facility. As of the reporting year 2012, facilities are automatically counted under this category as soon as at least one child in the facility receives integration assistance due to physical, intellectual or (impending) mental disability).

**Until the reporting year 2011, a separate question was asked as to whether only children with disabilities were cared for in the facility. As of the reporting year 2012, facilities in which at least 90 % of children receive integration assistance due to physical, intellectual or (impending) mental disabilities will automatically be counted here.

Table 33: Children with disabilities in day-care centre, by disability

Number of children receiving integration aid based on SGB IX/VIII because of			
at least one disability	among them		
	physical disability	Intellectual disability	Imminent or mental disability
89.557	25,362	28,437	49,485

Source: Own presentation based on Destatis (2020b): 64.

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