



Instituto Superior  
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UNIVERSIDADE DE LISBOA

# A new hierarchy of social exclusion? The implementation of the right to work and employment (UN CRPD) in the national context of Germany

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*Questioning contemporary societies  
through the lens of disability*

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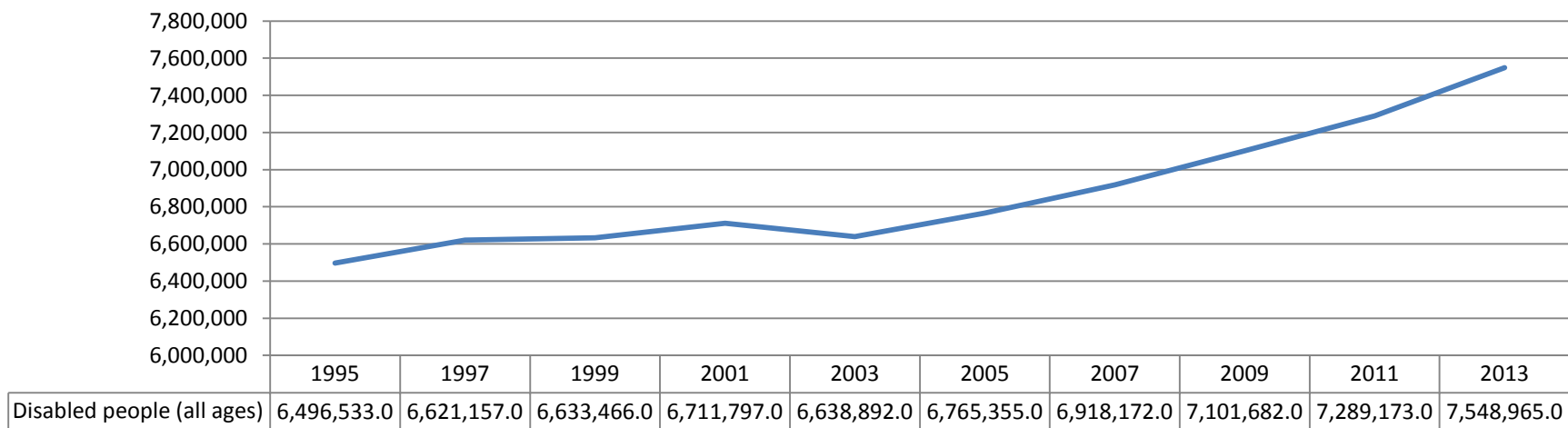
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## Presentation outline

- 1. Disability in Germany – a brief overview**
- 2. Disability and work**
- 3. Employment policies for Persons with Disabilities in Germany**
- 4. Résumé**

# Disability in Germany

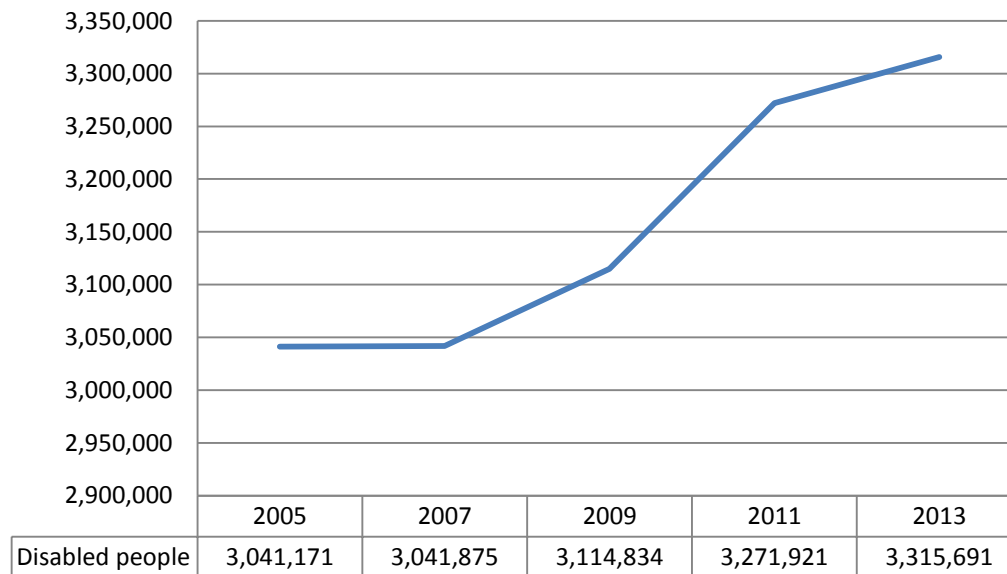
## Disabled people (all ages)



Source: Destatis

## Disability in Germany

### People with a disability aged between 15-65



Source: Destatis

# Disability and Work

## European Disability Strategy 2010-2020

- Employment has been identified as a main area for action
- The economic and social participation of people with disabilities is essential of the EU Europe 2020 strategy is to succeed

## National Action Plan (NAP)

- was adopted by the Federal Cabinet on 15 June 2011
- 12 areas of action: **(1) Work and Employment**, (2) Education, (3) Prevention, Rehabilitation, Health and Care (4) Children, Youths, Family and Partnership, (5) Women, (6) Older People, (7) Construction and Living, (8) Mobility, (9) Culture and Leisure time, (10) Social and political Participation, (11) Personal rights, (12) international Cooperation
- The **main objective** is for people with and without disabilities to **live in a self-determined manner and to live together in all areas of life** (BMAS 2013)

## Work and Employment (NAP)

“Having work means personal independence and self-affirmation. It is fundamental for the self-realisation of most people in our working society” (BMAS 2011)

- Development of an **inclusive world of work**
- **Inclusion in society = inclusion in work and employment**
- Policy shift from passive support measures to **active labour market policies**:
  - Anti-discrimination legislation
  - Quota System
  - Dismissal protection
  - Occupational Integration Management
  - Additional annual leave, etc.

(Welti 2005, Doose 2003, Fuchs 2010)

# Disability and Work

## Guiding question

“Do disability policies which are in place to promote the inclusion in work and employment discriminate against certain types of disability?”

## Methodology

- qualitative content analysis of the existing legal framework
- secondary analysis of recently published studies on the topic

# Employment policies for Persons with Disabilities in Germany

## Social Code Book IX (SGB IX, 2001)

### §§ 33ff Measures aiming at the people's participation in work:

- Integration Incentives for Employers (e.g. wage subsidies, training subsidies)
- Vocational training centres
- Work assistance
- Occupational Integration Management [Betriebliches Eingliederungsmanagement (BEM)]
- Quota System
- Special protection against dismissal
- Integration Offices [Integrationsämter]
- Exceptions for extra work
- Additional five days of annual leave
- Supported employment
- Integration projects
- Sheltered employment workshops



# Employment policies for Persons with Disabilities in Germany

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- **Sheltered employment workshops**

## Integration subsidies

### § 34 SGB IX

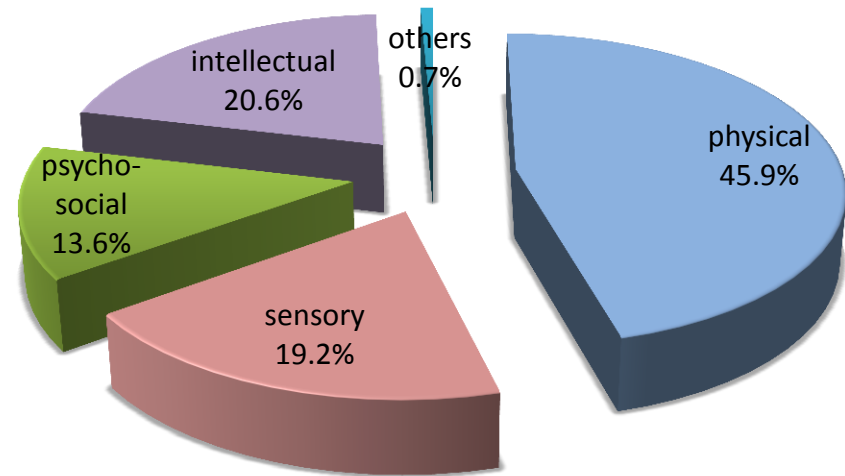
- Coverage of up to 50% of the wage for a time period of 12 months
- If necessary the amount can be increased to 70 % and the support period can be extended to 24 months
- Reimbursement of part of the funding is PWD is dismissed the support period and a obligatory “protection period”
- Every 12 months (24 month for severely disabled ) people the wage subsidies is to be reduced by 10 %

## Integration subsidies

### Type of disability of PWD being supported in the Program Job 4000 (Part 1 "Employment")

#### Program Job 4000:

- Took place between 2007-2012
- Founded with 31,25 Million Euro
- The main aim was to support the integration in the labour market of PWD
- Three areas of action(1) employment, (2) vocational training, (3) support through the integration office.
- (1) creation of 1.000 new jobs for PWD



Source: BMAS 2014

## Integration subsidies

### Critical

- Administrative complexities
- The policy seems to respond to the medical model of disability, because it tends to consider disability as something that is transitional and that, in consequence, can be “surpassed or cured” with time (CRPD 2014)
- A wage subsidy without time limitation (16e SGB II ) was abolished in 2012. The maximum subsidy period has been reduced to 24 months

### Consequence:

- People with severe, complex and unpredictable needs are less likely to benefit from the integration subsidies

## Work assistance

### § 102 sect. 4 SGB IX

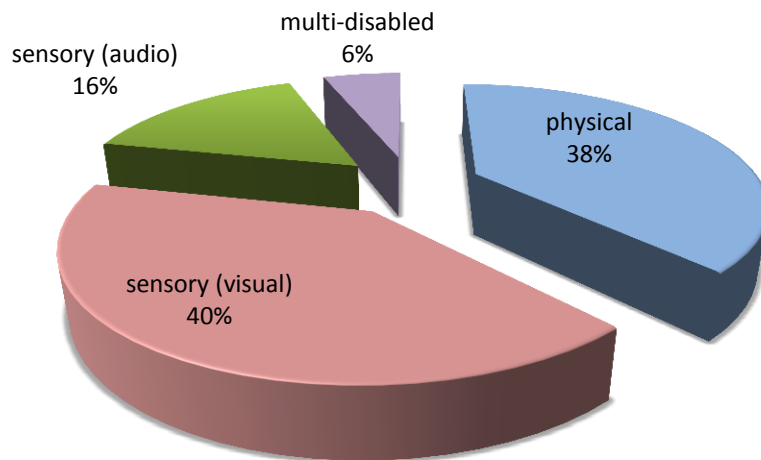
- Ongoing assistance on the workplace
- Maximal requirement of assistance is 4 hours (8 hours working day)
- Financial support to disabled people

Recommendations for the maximum amounts (BIH):

- Up to 1 hour: 275,00 €
- 1 to 2 hours: 550,00 €
- 2 to 3 hours: 825,00 €
- More than 3 hours 1.000,00 €

## Work assistance

### Type of disability of PWD who are supported by work assistance (Qualitative study with 126 PWD, Wulf et al. 2007)



#### Critical:

- Maximum amounts restrict people with high and severe assistance needs from being successful in the application process
- Supported is granted for a maximum time period of 3 years

Source: Wulf et al. 2007

## Sheltered Workshops (WfbM)

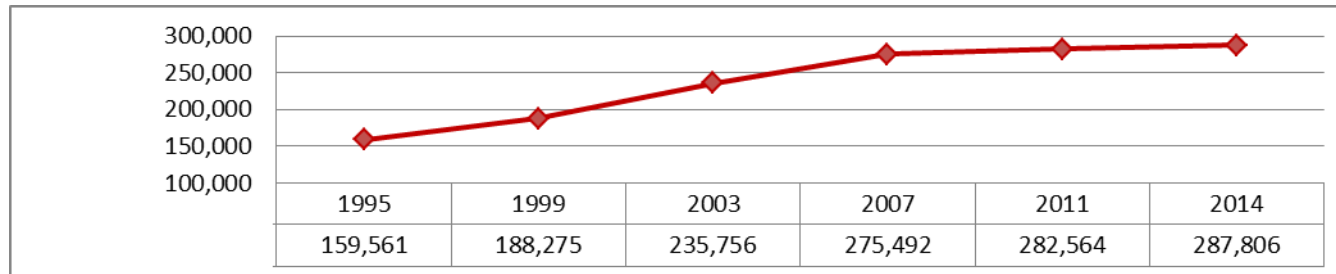
### § 39 ff SGB IX

- Social right to employment, legislation in force since 1974
- No kind and/or gravity of a disability,
- **BUT:** the requirement to be able to deliver a minimum of economically usable work and no extraordinary care needs and no endangerment is given to others or the own person
- Structure of sheltered employment in Germany:
  - **Admission procedure** (about 3 months)
  - **Vocational training section** (1-2 years)
  - **Working section** (unlimited, PWD are protected from dismissal)

## Sheltered Workshops (WfbM)

### Some facts and figures:

- Numbers of PWD working in sheltered employment:

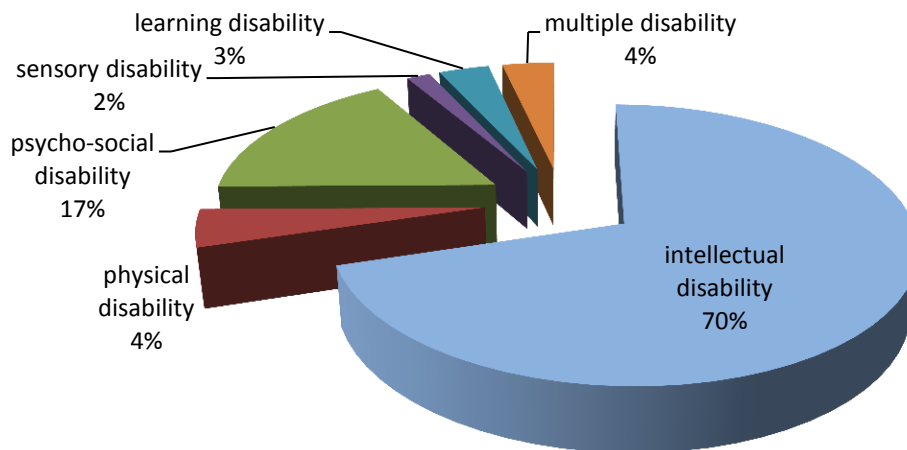


- Number of enclaves is growing. In 2006 only 3 % of PWD working sheltered employment have been employed in such a working place. Huge regional differences exist. (ISB 2008)
- Average monthly income (2011): 180 €
- Transmission rate into the open labour market between 2002-2006: 0.11%



## Sheltered Workshops (WfbM)

### Type of Disability (PWD in working section)



(Source ISB 2008)

- Percentage of people with psycho-social disabilities in the admission procedure: 37 %



## Résumé

The **type of disability** is an important **distinction** that determines which kind of support is provided:

- People with sensory or physical disabilities are more likely to be supported by measures that promote the inclusion in the open labour market
- People with intellectual, or psycho-social disabilities or PWD with high needs have often only the option to work in sheltered employment



## Résumé

"An **alternative kind of theory** can be seen as offering another future in so far as it rejects **work as crucially definitional of social membership** ... This is by no means to deny that the origins of our oppression, even for those with jobs, lie in our historical exclusion as a group from access to work; nor is it to oppose campaigns for increasing access to employment. It is, however, to point out that a consistently liberative analysis of disablement today must recognize that **full integration of impaired people in social production can never constitute the future to which all disabled people can aspire**"  
(Abberley 2002,135)



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**Je vous remercie de  
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