

# REPORT ON THE COMPARISON OF THE AVAILABLE STRATEGIES FOR PROFESSIONAL INTEGRATION AND REINTEGRATION OF PERSONS WITH CHRONIC DISEASES AND MENTAL HEALTH ISSUES

BASED ON FIVE CATEGORIES OF SOCIAL WELFARE MODELS IN EUROPE

## Germany: country report

### *Main legislative frameworks on chronic diseases, mental health and employment*

Chronic diseases may lead to “disability” or “incapacity for work” and if such assessment is made then all the provisions for people with such a status apply. However, there are some policies at the level of the firm (e.g. Betriebliches Eingliederungssystem (BEM), see further) which aim at (chronic) disease as such.

One of the main challenges in establishing policies for the chronically ill as such or in applying policies for the disabled to chronically ill people is that their situation often fluctuates. With some health conditions, people may be 100% productive today but much less or not at all tomorrow. This calls for tailor-made solutions and not for categories or systems where you’re completely in or out. Personal budgets (see below), “case management” and other individualised measures may in some cases be a solution because they allow for a maximum of flexibility.

### *Main legislative frameworks on disability and employment*

- Code of Social Law II (Sozialgesetzbuch II): Basic provisions for job-seekers
- Code of Social Law III (Sozialgesetzbuch III): Employment Promotion
- Code of Social Law IV (Sozialgesetzbuch VI): Statutory Pension Insurance
- Code of Social Law VII (Sozialgesetzbuch VII): Statutory Accident Insurance
- Code of Social Law IX (Sozialgesetzbuch IX): Integration and Rehabilitation of Disabled People
- Regulation of the severely disabled countervailing charge (Schwerbehinderten-Ausgleichsabgabeverordnung, SchwbAV)
- General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz)
- Equal Opportunities for People with Disabilities Act (Behindertengleichstellungsgesetz)

### *Policy provisions on mainstream and specialist employment programmes*

The Federal Employment Agency runs local Job centres which provide case management for people who are difficult to place (including disabled people and chronically ill).

The Integration Offices (Integrationsämter), of which there were 208 in 2011, aim to improve the labour market participation of persons with severe disabilities in Germany. The Integration Offices are public authorities (“Behörde”). Their services are funded by the compensation tax (applied when companies do not comply with the mandatory employment quota for people with disabilities). The Offices aim to sustain a link between the Federal Employment Agency (which is responsible for the placement of persons into the labour market) and the Integration Services (Integrationsfachdienste) (amongst other things responsible for supporting severely disabled people to get the employment help they are entitled to) and Rehabilitation service providers (which are responsible for the re-integration of people with disabilities into the open labour market). The main tasks of the Integration Offices include:

- support (financial, information, other) to people with severe disabilities and their employers;
- supervision of the application of the special protection against dismissal for people with severe disabilities;
- training/information courses and public relations work;
- collection and assignment of the compensation tax.

A great deal of the information on employment for people with a chronic disease is part of the information aimed at people with disabilities. There are many agencies, social services and also patient organizations providing information.

A Federal Government Commissioner for Matters relating to Disabled Persons is appointed by the Federal Cabinet for one legislative term. Since 1 May 2002 the Act on Equal Opportunities of Disabled People (Behindertengleichstellungsgesetz, BGG) has defined the tasks of the Federal Government Commissioner for Matters relating to Disabled Persons. The Commissioner provides information about the legal situation, initiates law change, offers practical tips and explains how disabled persons can be integrated into society and the world of work. There are also commissioners in each State (“Landesbeauftragten für Menschen mit Behinderungen”).

### *Policy provisions on access to employment support*

There are two important concepts which define the target groups of the policies. Both focus on the disability.

- Determination of a disability (Behinderung) affecting participation in one or more areas of life, including work life. Disability is defined as a restriction of the physical, intellectual or mental functions, compared to the normal condition of people of the same age, which probably lasts more than 6 months and hinders (or threatens to hinder) the participation in social life (Code of Social Law IX). Individuals with a disability can obtain a "disability pass" indicating the severity of the restrictions ("Grade of disability"), but they do not have to. This pass is issued by the social security offices. The percentages are calculated according to guidelines and a list of diseases and impairments developed by medical and legal experts. This pass is required for claiming of tax benefits, rights and compensation of disadvantages. The benefits and supports that a person can claim depend on the characteristics and severity of the disability. Persons with a Grade of Disability of 50% or more are categorized as "severely disabled". However, they can have a full capacity for work. A Grade  $\geq 50\%$  is a requisite to get some benefits (e.g. employment protection) Some individuals with a Grade of Disability of less than 50% but at least 30% are considered to be on a par with severely disabled persons ("gleichgestellt") when without the benefits of the severely disabled status they would not be able to get a job or keep their job. They get some of the benefits available for severely disabled persons. They do not get the following: one extra week holidays (but severely disabled do), free public transport, and anticipated pension for severely disabled.
- Incapacity for work (Arbeitsunfähigkeit) - A person is considered to have a full incapacity for work if she/he cannot work at least 3 hours/day. If this person can work between 3 and 6 hours a day, she/he is considered to have a partial incapacity for work. This decision is made by the pension insurance, based on medical documentation submitted and/or their own medical reports (according to the Code of Social Law VI). The decision is binding for the welfare authorities, professional associations and employment agencies (Code of Social Law II).  
It can also be decided, that a person cannot (or cannot yet) work at the general labour market (due to type or severity of the disability). These persons have the right to work at a sheltered workshop. They are considered to have a full incapacity for work and get a full disability pension and social protection.

This does not mean that there are no policies and practices focusing on the abilities of the person. The whole area of (vocational) rehabilitation e.g. assesses what a person can (still) do to build an individualized (re)-integration programme. The focus on individual abilities is also present in several programmes that are carried out across the federal states of Germany. These programmes cover different aspects, including training and guidance for people with disabilities, job placement schemes, awareness raising, aiding the transition of disabled people from sheltered employment to the open labour market. Initiative Inklusion and Job4000 are examples of such programmes. They combine activities such as awareness-raising, guidance, job placement and training in order to encourage the participation of persons with disabilities in the open labour market.

#### *Policy provisions promoting stakeholder cooperation and integration of services*

The Integration Offices (Integrationsämter) and Integration Services (Integrationsfachdienste) work together to integrate people with disabilities in the open labour market. They collaborate with rehabilitation agencies, employers' organizations and trade unions to ensure people with disabilities get the opportunities in the open labour market that they deserve.

However, there remains a need for institutional cooperation. There is an overlap of responsibilities and a massive volume of regulations about which pillar of social insurance is to pay for which rehabilitation measures under which conditions.

#### *Policy provisions promoting persons-centred approach and individualised service provision*

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

### *Policy provisions on localised and accessible employment service provision*

Many services are organized at a local level (employment offices, integration services, etc.)

### *Employment support in the open labour market*

A legal definition of supported employment was incorporated into section 38a of the Code of Social Law IX in 2009. This was due to several successful pilot projects which demonstrated the instrument's efficacy. One of the key principles of supported employment is the 'first place, then qualify' concept. In this regard, supported employment works to place people with disabilities into employment in the open labour market, subject to social insurance contributions. The disabled person is placed and trained in the company and, if necessary, is provided with workplace support after the training. This ongoing support is characterized by intensive job coaching and was received by some 3000 disabled people in 2014. In most cases, supported employment is coordinated by the local integration service.

Self-employment:

- Most of the help for adaptations at the workplace also apply when a disabled person is self-employed.
- There is also financial support (credit or interest rate subsidies, starting money) and coaching for disabled people starting their own business.

Protections and privileges:

- Severely disabled employees (or "gleichgestellte") who have been working for at least 6 months with the employer benefit from some employment protection. Dismissal of such an employee must be approved by the Integration Office ("Integrationsamt") that has to find out if the disability is not at the basis of the intended dismissal and could be prevented by some adaptation measures.
- The status of severely disabled employee comes with 5 additional days of annual leave, arrangements of the working time are a matter of negotiation with the employer (possibly with the help of the disabled staff representative at the workplace)
- Workplace adjustments are very individualized provisions (reimbursement of the costs may be up to 100%, depending on the case). The Integration Services assess which adaptations are best suited.

- A gradual return to work after a (long-term) absence is possible. This period can last from a few weeks to a few months during which the person can work for a few hours and will keep receiving sick pay, but at no cost to the employer.

#### *Employment support through Social enterprises or social cooperatives*

There are integration workshops, integration companies and integration departments which employ severely disabled people. They are part of the open labour market and offer work, vocational support, advanced vocational training and ongoing employment support across the open labour market. The numbers of these projects are continuously increasing.

#### *Employment support through sheltered work*

There is an extensive network of sheltered workshops (some 300 000 disabled people in nearly 700 workshops in 2013). People who are not (yet) able to work at the general labour market (due to the type or severity of the disability) may get the right to work in a sheltered workshop.

#### *Incentives for persons with NCDs to participate in activation programmes*

To receive a disability pension it is necessary to fulfil the requirements of the Code of Social Law VII (mainly having paid the pension contribution for at least 3 years within the last five years, being insured at least the last five years). Otherwise the person gets only the social security provision due to reduced work capacity as it is stipulated in the Code of Social Law XII (social benefit but no pension). If after the assessment it is considered, that a person is able to work less than 3 hours/day (in any kind of job, not only the learned or regular occupation), then she/he becomes a full disability pension. This person can still have a side job (less than 3 hours/day), but if she/he earns more than a fixed amount, the pension is reduced. If the person can work between 3 or more hours/day but less than 6, then she/he becomes a partial pension (and can also have a side job).

A recent initiative is the “Personal budget for work” which allows disabled people to pay for the (employment) services of their choosing. It was first introduced in 2009 and until 2014 some 900 people had been using it.

### *Financial incentives for employers to recruit/retain persons with NCDs*

There are no permanent wage subsidies for the employment of disabled persons, but the Federal Employment Agency and other institutions (health insurance, pension insurance, etc.) provide some temporary measures, such as integration subsidies and financing of a trial employment (3 months), both as compensation for reduced productivity or low performance of severely disabled people. The amount is not standard but is decided after an individualized evaluation.

There is also a subsidy (awarded by various institutions) for in-firm education and training if this is the only possibility and a special subsidy for particularly affected young disabled people. Employers can also receive support when adapting the workplace to the person with disability.

### *Non-financial incentives for employers to recruit/retain persons with NCDs*

There is an annual (federal) award for good practice in Corporate Social Responsibility. In addition, there is a “National Strategy for Corporate Social Responsibility – Action Plan for CSR – of the German Federal Government.”<sup>1</sup>

### *Duties of persons with NCDs*

This is a guiding “rehabilitation-before-benefits” principle but is not clear how and to what extent it is implemented.

### *Duties of employers*

There is an obligation for both public and private sector organizations to employ people with disabilities. In companies with more than 20 employees at least 5% must have the status of “severely disabled” (or “gleichgestellt”). Otherwise, the employer has to pay a “countervailing charge”. The amount of this charge depends on the total number of employees and the number of employees with a disability that are employed.

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<sup>1</sup> <http://www.bmas.de/EN/Services/Publications/a398-csr-action-plan.html>

*General and specialised employment services for persons with NCDs*

- There are very many opportunities for training and re-training e.g. in Vocational training centres (Berufsförderungswerke and Berufsbildungswerke), financed by various rehabilitation agencies (Rehabilitationsträger). The Federal employment agency plays a role as well as the Integration Services.
- Re-training for another job of people who are employed but can no longer perform in their current job often is a problem (especially in smaller firms) because re-training may take long (e.g. up to 2 years) and there is no certainty that there will be such a job-opening in the firm at the time the training is finished.
- Peer-to-peer support is offered by organizations of (self-help) and for people with specific (chronic) health conditions.
- The Betriebliches Eingliederungssystem (BEM) is a Corporate Integration Management system which obliges employers to contact employees who were on sick leave for at least 42 days within a year and offer them the possibility to search together how to reduce the amount of sick days. Employees can deny this offer but it may also lead to placement in another job-position within the firm, re-training etc.