

**Study on the situation of women with  
disabilities in light of the UN Convention  
for the Rights of Persons with Disabilities  
(VC/2007/317)**

A Final Report for the DG Employment, Social Affairs and  
Equal Opportunities of the European Commission

# **Study on the situation of women with disabilities in light of the UN Convention for the Rights of Persons with Disabilities (VC/2007/317)**

A Final Report for the DG Employment, Social Affairs and Equal Opportunities of the European Commission

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# Presentation of key findings

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This study analysed and interpreted information on the situation of women with disabilities in Europe in light of the UN Convention on the Rights of Persons with Disabilities. The key findings are as follows.

- Women with long-standing health problems or disabilities form around 16% of the total population of women in Europe, about the same as for men.
- Women with disabilities face the "intersection" of gender and disability, which combines to create a distinct and particular experience of disadvantage and discrimination, not suffered by others.
- Women with disabilities are under-represented in democratic processes and decision-making more generally, as well as in recreational activities, culture and sport.
- Intersectionality is particularly strong in the area of respect for home and the family. Countries are not directly in breach of these rights but women with disabilities do not yet fully enjoy them.
- Women with disabilities typically receive health services that are targeted at women in general or at people with disabilities in general, but rarely targeted specifically at them.
- Women with mental or psychological disabilities are at greater risk of being abused than are others; legislation to prevent exploitation, violence and abuse typically lacks a focus on disability.
- Intersectionality also occurs in respect of employment, although the relative strength of gender and disability "disadvantages" differs from country to country. Labour market participation of women with disabilities is closely related to the definitions, criteria and incentives of national welfare regimes.
- Social protection systems tend not to recognise gender differences and women with disabilities are not generally recognised as a legal term in that context.
- There is a significant disability disadvantage in education and training but the gender effect is more modest; vocational training has been highlighted as one area in which women with disabilities face a particular disadvantage and thus have lower rates of participation.

The study then specified what still has to be done to allow women with disabilities to enjoy their rights and fundamental freedoms. The key findings are as follows.

- The EU has made significant progress in recognising and acting on the needs of persons with disabilities, for example, through the Disability Action Plan (2003-10)<sup>1</sup> and through actions funded under programmes such as Daphne, the European Social Fund and the Lifelong Learning Programme.

<sup>1</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final.

- Although Member States generally go beyond the requirements of EU legislation related to gender and disability, there are few instances of national legislation that specifically addresses the intersectionality of gender and disability.
- There is, then, the need to strengthen the recognition and understanding of the intersectionality of gender and disability in EU and Member State legislation and policy; EU and Member State policy should ensure that the full range of issues in the UN Convention are addressed in respect of women with disabilities.
- There is merit in exploring the possibility of a European Directive for the equal treatment of persons with disabilities beyond the field of employment and fully incorporating the gender dimension.
- There is a need for policymakers at all levels to identify ways to increase the representation and participation of women with disabilities in decision-making, particularly within the processes related to the implementation of the UN Convention; this should include more extensive engagement with the women with disabilities "lobby", in addition to the disability lobby more generally.
- There is a need to strengthen the European Commission's inter-service working groups on disability and reinforce the analytical capacity of the Commission in respect of issues relating to women with disabilities.
- The EU also has the potential to support Member States in their own efforts to safeguard the rights and fundamental freedoms of women with disabilities, through the Open Method of Co-ordination, for example, through objectives or indicators specifically relating to women with disabilities or specific activities such as enhancement of statistical capacity and data collection, peer reviews or mutual learning.
- Member States are recommended to develop a National Strategy for Women with Disabilities, addressing the range of themes covered by the UN Convention.
- Member States are recommended to ensure that statistics and data collected in respect of Article 31 of the UN Convention have appropriate disaggregation by gender.

# Executive Summary

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## The United Nations Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities ("the UN Convention") is a comprehensive international convention which has been signed by all EU Member States as well as by the European Community (EC), the first time the EC has signed a core UN Human Rights Convention in its own right. This signature demonstrates a commitment at EU level to strengthen the rights of persons with disabilities across a range of policy fields. Article 6 of the Convention specifically recognises the obligation on States Parties to take measures to ensure that women and girls with disabilities are able to have full and equal enjoyment of all human rights and fundamental freedoms.

### Approach taken by the study

The purpose of this study was to analyse and interpret information on the situation of women with disabilities in Europe in light of the UN Convention. Based on this analysis, the study was then to specify what still has to be improved to allow them to enjoy their rights and fundamental freedoms.

The study gathered evidence at European level and at national level across 33 countries - the 27 EU Member States, three EEA Members (Iceland, Liechtenstein, Norway) and three EU Candidate Countries (Croatia, Macedonia, Turkey). Secondary data was gathered from existing sources, such as Eurostat and national statistical offices, as well as from previously-published research. Primary data was gathered through interviews with key stakeholders at all levels. The UN Convention does not provide a specific definition of disability and States Parties adopt differing definitions. Whilst the main focus of the study was not to explore definitions of disability in detail, it was necessary to examine the broad types of definitions that could be applied. For this purpose, the study considered disability both in terms of the "medical model", which situates the problems of disability on the individual, while paying little or no attention to physical or social environment, and also in terms of the "social model" whereby disabilities are created by the organisation of society on the basis of an idealised norm of the physically and mentally perfect person.

At the heart of the approach to the study was the concept of intersectionality, which is "*an integrated approach that addresses forms of multiple discrimination. Intersectional discrimination is ... a distinct and particular experience of discrimination unified in one person or group*".<sup>2</sup> In the case of women with disabilities, two or more forms of discrimination combine to create specific types of discrimination not experienced by women without disabilities or men with disabilities. The intention of the study was thus to identify what was specific to the experience of women with disabilities, as opposed to the experience of women in general or persons with disabilities in general.

Given this, the report seeks to present a realistic picture of the situation of women with disabilities in Europe using the data available, as well as examples of good practice in legislation, policies and programmes intended to help women with disabilities enjoy the rights and fundamental freedoms set out in the UN Convention.

<sup>2</sup> United Nations (2001) *Background briefing on intersectionality*. Working Group on Women and Human Rights, 45<sup>th</sup> session of the UN, quoted in Bradley, H., Healy, G., Forson, C. and Kaul, P. (2007) *Moving on up? Ethnic minority women and work*, Manchester, Equal Opportunities Commission.

## Population of women with disabilities

Whilst estimates of the number of women with disabilities vary widely according to sources and definitions, a Labour Force Survey ad hoc module in 2002 found that women with long-standing health problems or disabilities (LSHPD) form around 16% of the total population of women in Europe. This survey found that national variations in the prevalence of LSHPD are much more significant than gender differences: whilst the prevalence of LSHPD in the population of men in Europe is also around 16%, the proportion of women within each country reporting a disability varies widely, from 6.3% in Italy to 33.6% in Finland.<sup>3</sup>

Since the data was based on self-reporting, this suggests that individuals are highly influenced by the prevailing definitions of disability used in their countries, whether based on cultural notions or the benefits available. Some disabilities may simply be under-reported or under-recognised in some countries. As the incidence of LSHPD increases with age, the greater life-expectancy of women would also raise the incidence of LSHPD amongst women relative to men. However, anecdotal evidence suggests this variation could be offset (to a greater or lesser extent) by a higher incidence of LSHPD amongst men due to certain "lifestyle" factors, for example road accidents, industrial illnesses and accidents, sporting injuries or military service.

## Issues facing women with disabilities

The UN Convention provides the fundamental basis or reference point for the rights of women with disabilities, with the expectation that its requirements will be transposed into national legislation. For women with disabilities to enjoy their fundamental rights and freedoms, there is also the need for public authorities to mainstream disability and gender across all policy areas and to instigate targeted actions, where appropriate. There is also the need to change attitudes of public authorities, private enterprises, civil society and of society more generally. Evidence from the research identified that, whilst significant progress had been made, much remained to be done. With this in mind, we draw some conclusions about the most pressing issues facing women with disabilities:

- Women with disabilities remain under-represented in democratic processes and decision-making more generally; there is a desire for greater consultation and active participation of women with disabilities in decision-making, in order for their particular concerns to be taken into account.
- Intersectionality is particularly strong in the area of home and the family; there is a body of research demonstrating that women with disabilities, in particular, do not yet fully enjoy the right to marry and form a family, decide freely on the number and spacing of their children, have access to family planning information and retain their fertility on an equal basis with others.
- Access to health services is a particular priority; in most countries gender and disability issues in health and social services are not covered by the same legislation; as a result, women with disabilities often receive health services that are targeted at women in general or at persons with disabilities in general, but rarely targeted specifically at them.
- Intersectionality is also strong in respect of access to justice and protection from abuse; women with disabilities are at greater risk of being abused than other people; however, national legislation typically addresses gender-based violence but lacks a strong focus on disability.

<sup>3</sup> Labour Force Survey 2002 ad-hoc module on employment of disabled people (EC) No 1566/2001

- Intersectionality also occurs in respect of employment, although the relative strength of the gender and disability dimensions differs from country to country; whilst employment rates for women with disabilities are consistently lower than those of men with disabilities and of women without disabilities, the different strength of these dimensions calls for different policy approaches at national level.
- The extent of participation by women with disabilities in the labour market is closely related to the definitions, criteria and incentives of welfare regimes; efforts to raise the labour market participation of women with disabilities, therefore, needs to take the context of each regime into account.
- Social protection systems do not typically recognise gender and "women with disabilities" is not generally recognised as a legal term in that context; national systems of social protection are often based on the medical model of disability and, in such cases, tend not to take account of the extent to which women with disabilities are disabled by the working environment.
- There is a significant disability disadvantage in education and training with rates of participation and attainment in education for persons with disabilities significantly lower than for persons without disabilities; however, the gender effect is more modest; indeed rates of participation and attainment of women often exceed those of men; vocational training has been highlighted as one area in which women with disabilities face a particular disadvantage and thus have lower rates of participation.
- Women with disabilities are under-represented in recreational activities, culture and sport – in terms of participation, leadership, management and media coverage. Children with disabilities face significant barriers to participation and remain poorly-served by provision. In the case of girls with disabilities, this is exacerbated by the under-representation of women as coaches and fewer opportunities for female teams and events specific to women.

### **Policy responses to issues facing women with disabilities**

Women with disabilities do not form a homogenous and instantly identifiable group to whose needs and interests policymakers can easily respond. Policy responses will thus need to recognise and allow for diversity. In light of this, conclusions relating to the most effective policy responses are as follows.

- *Responses to the under-representation of women with disabilities in political and public life* have tended to focus on the physical accessibility of polling stations and other public buildings, and legislative approaches, for example, relating to the parity of candidates and equal visibility on ballot papers.
- *Responses to intersectionality in the area of respect for home and the family*; significant progress in this area has been made in many countries, through protection in law of the right to start a family, recognition of the needs of mothers with disabilities, certain pension entitlements for women with disabilities and mothers of children with disabilities, extended parental leave after having a child with a disability, and the right to early retirement for parents of children with disabilities.

- *Responses to the need for access to health services* have been most effective where they have been co-ordinated and strategic, for example, national health reports or action plans focussed specifically on women with disabilities. Effective responses usually encompass measures relating to the physical accessibility of services, training of medical staff, awareness-raising, and reproductive health services customised to the needs of women with disabilities.
- *Responses to the need for access to justice and protection from abuse* tend not to focus specifically on the needs of women with disabilities, for example, legal provisions relating to gender-based violence. Responses to date have thus mostly been ad hoc initiatives including training for police and judicial staff, dedicated telephone help-lines, sheltered homes, customised social services and assistance, accessible support centres, and awareness-raising campaigns.
- *Responses related to employment* have included quota systems, although these often result in the recruitment of individuals into low-skilled or even token jobs. More effective approaches tend to combine requirements for employers to make reasonable adjustments to workplaces and working conditions, with the possibility for individual cases of discrimination to be heard at employment tribunals. Whilst flexible employment can be an attractive option for women with disabilities, active labour market policy measures need to offer *choice*, in respect of whether individuals are supported into flexible, full-time employment or other destinations, such as education and training.
- *Responses to the barriers and disincentives posed by welfare regimes and social protection systems*; social protection systems tend to recognise certain types of disability rather than women with disabilities as such; given this, social services tend not to be gender-specific and include social assistance services, employment and training services, social housing and long-term care. Effective examples include customised services provided by the public employment service, special measures to ensure access to social policy programmes and poverty reduction programmes, and targeted training.
- *Responses to barriers in education and training* have tended to focus on people with disability in general; approaches to inclusive education have proved successful and have the potential to be applied and adapted more widely. In those areas where gender and disability intersect strongly, for example, vocational education and training, there is the potential for more research to be undertaken to identify and disseminate good practice.
- *Measures to raise the representation of women with disabilities in recreational activities, culture and sport* tend to be most effective when they mainstream gender into responses targeted at persons with disabilities in general, for example, national policies to promote access to sport for persons with disabilities or national strategies to promote participation of persons with disabilities in public and political life.

## Recommendations for the EU

The EU has made significant progress over the last decade in recognising and acting on the needs of persons with disabilities in general and thus also the needs of women with disabilities. The Disability Action Plan 2003-10 (DAP)<sup>4</sup> has acted as the core policy document to mainstream disability issues within all relevant EU policies, effected in two-year phases, with the current phase being the European Action Plan 2008-09.<sup>5</sup> There is also a significant amount of EU-funded activity serving women with disabilities that is not reflected in the DAP, for example actions funded under Daphne, the European Social Fund (ESF) and the Lifelong Learning Programme (LLP).

Building on these very significant developments, we offer the following recommendations for the EU:

- In its new DAP, the European Commission should incorporate a focus on the intersectionality of gender and disability and also ensure that the full range of relevant issues set out in the UN Convention is addressed and, where necessary, considered by further research. Intersectionality should be routinely considered by the monitoring and reporting of the implementation of the strategy. The new DAP should also reflect the full range of current activity and support greater co-ordination between programmes relevant to women with disabilities in order to capture synergies, enable cross-fertilisation of ideas and maximise impact.
- The Commission should explore the potential for the Disability High Level Group to address the issue of intersectionality of gender and disability, as well as any other issues not yet covered by the DAP. The Commission should also ensure that the High Level Group has an appropriate gender balance.
- There is merit in exploring the possibility of a European Directive for the equal treatment of persons with disabilities beyond the field of employment and fully incorporating the gender dimension.
- There is a need for the EU institutions to engage more extensively with the women with disabilities "lobby", in addition to the disability lobby more generally. Through PROGRESS, or other mechanisms, the Commission should consider supporting appropriate bodies or networks to articulate the interests and needs of women with disabilities at EU level.
- The division of responsibilities for issues facing women with disabilities across different parts of the European Commission, indeed across different EU bodies, risks reducing the focus on intersectionality in policymaking. There is a need to strengthen the inter-service working groups on disability within the Commission and to reinforce the analytical capacity of the Commission in respect of issues relating to women with disabilities.

<sup>4</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final.

<sup>5</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009; COM(2007) 738 final.

## Recommendations for actions to support Member States through the OMC

As well as taking its own actions, the EU also has the potential to support the Member States in their own efforts to safeguard the rights and fundamental freedoms of women with disabilities, through the Open Method of Co-ordination (OMC).

- The Commission should explore ways of increasing the women with disabilities dimension within the Social OMC, for example, by adopting objectives or indicators specifically relating to women with disabilities. Specific activities could include enhancement of statistical capacity and data collection, as well as peer reviews, mutual learning and involvement of all relevant actors.
- The Commission should consider facilitating a dialogue at EU level that brings together Member State bodies with policy responsibility for issues related to women with disabilities, as well as appropriate civil society bodies at European level.
- The Commission should encourage the mainstreaming of good practice in approaches to women with disabilities taken by Member States, through the dissemination of the results emerging from programmes that include a focus on women with disabilities, in particular Daphne, ESF and LLP.

## Recommendations for Member States

Although Member States generally go beyond the requirements of EU legislation related to gender and disability, there are few instances of national legislation that specifically addresses the intersectionality of gender and disability. There is, then, the need to strengthen the recognition and understanding of the intersectionality of gender and disability disadvantage in Member State policy. There is also a need for the principle of intersectionality to be adopted into anti-discrimination legislation, since women with disabilities are usually unable to bring claims on the grounds of multiple discrimination but are required to choose between discrimination on the grounds of gender or disability.

The research uncovered a diversity of policies and provision supporting women with disabilities. In order to strengthen the efforts of Member States, we offer broad guidance on the kinds of approaches that could prove effective.

- Member States are recommended to identify ways to increase the representation and participation of women with disabilities in decision-making. Increasing such representation and participation will require a co-ordinated range of measures, including consultation, training and awareness-raising.
- Member States are recommended to create specific mechanisms by which women with disabilities can participate in the process of ratifying the UN Convention, transposing it into national law and monitoring its implementation. Member States should give consideration to a co-ordination mechanism specifically created for the purpose of facilitating action related to the needs of women with disabilities.
- Member States are recommended to ensure that statistics and data collected in respect of Article 31 of the UN Convention have appropriate disaggregation by gender.
- Similarly, Member States are recommended to ensure that reports to the UN give consideration to the situation of women with disabilities throughout all the fields covered by the Convention.

- Member States are recommended to develop and implement a National Strategy for Women with Disabilities. Such strategies should be prepared, implemented and monitored with appropriate involvement of women with disabilities and cover the full range of fields set out in the UN Convention.
- In light of the issues of intersectionality of gender and disability, Member States are recommended to review their policy frameworks relating to respect for the home and the family and to consider an appropriate legislative framework that recognises and protects the rights of women with disabilities in respect of motherhood, adoption, assistive reproduction, child custody and other pertinent issues.
- Member States are recommended to review their provision of health services for women with disabilities and consider strategic responses to the needs of women with disabilities, encompassing measures relating to physical accessibility to services, training of staff, awareness-raising and reproductive health services customised to the needs of women with disabilities.
- Member States should review the access to justice and protection from abuse enjoyed by women with disabilities; where appropriate, they should seek to incorporate the disability dimension into legal provisions relating to gender-based violence. Member States are also recommended to consider specific national strategies relating to access to justice and protection from abuse for women with disabilities.
- Member States are recommended to review their legislative and policy frameworks in respect of the labour market participation of women with disabilities; they are encouraged to draw on best practice around Europe in combining requirements for employers to make reasonable adjustments to workplaces and working conditions with the possibility for individual cases of discrimination to be heard at employment tribunals. They are also encouraged to adopt active labour market policy measures for women with disabilities that offer choice for the individual, including effective routes into flexible, part-time and full-time employment.
- Member States are recommended to investigate the extent to which their welfare regimes and social protection systems create barriers and disincentives to the participation of women with disabilities in the labour market or are detrimental to their welfare in other ways. Where appropriate, social assistance services should be provided to offset the negative impact of regimes and social protection systems.
- Where not already in place, Member States should develop specific strategies to promote the participation of women with disabilities in education and training; such strategies should address issues such as adaption of training premises, the need to balance training and childcare commitments, the need to widen the range of training provision available where it is overly focused on areas of traditional interest to men and the need for targeted promotional and outreach activities.
- Where not already in place, Member States are recommended to develop specific strategies to promote the participation of women with disabilities in recreational activities, culture and sport; where strategies already exist for the promotion of women in general or persons with disabilities in general, these strategies should incorporate the intersection of disability and gender.

# 1.0 Introduction

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This report presents the findings of a “Study on the situation of women with disabilities in Europe in light of the UN Convention on the Rights of Persons with Disabilities” (VC/2007/0317). The study aimed firstly to analyse and interpret information on the current situation of women and girls with disabilities in the European Union (EU) and secondly, to specify what has still to be improved to allow them to enjoy their rights and fundamental freedoms. The study has been carried out by ECOTEC Research and Consulting on behalf of the European Commission’s Directorate General for Employment and Social Affairs. However, the information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

In this introductory section we outline the broad policy context for the study before detailing the main areas which the study focused on and the structure of the remainder of the report.

## 1.1 Context for the study

### 1.1.1 UN Convention on the Rights of Persons with Disabilities

The main driver for this study is the UN Convention on the Rights of Persons with Disabilities (“the UN Convention”), the full text of which is presented in Annex One of this report. The UN Convention is a comprehensive and integral international convention which promotes and protects the rights of persons with disabilities, including women and girls. It makes a significant contribution to the promotion of the participation of persons with disabilities in the civil, political, economic, social and cultural spheres within the context of equal opportunities, in both developing and developed countries. Article 6 of the UN Convention, in particular, recognises the obligation on countries to take measures to ensure that women and girls are able to have full and equal enjoyment of all human rights and fundamental freedoms. Article 6 and other relevant provisions of the UN Convention, thus creates the “twin-track approach” – providing a solid legal basis for mainstreaming disability and gender in the other articles of the Convention.

The Convention represents a significant move towards the realisation of full civil and human rights for persons with disabilities and, importantly, includes recognition of the more specific issues faced by women and girls with disabilities. The breadth of the issues covered in the Convention regarding women with disabilities is significant. It includes reference to prevention of violence, exploitation and abuse, gender-sensitive health services for persons with disabilities, and the need for higher levels of social protection and specific poverty-reduction programmes for women and girls.

In addition to the States Parties<sup>6</sup>, the European Community (EC) has also signed the Convention, the first time the EC has signed a core UN Human Rights Convention in its own right. As leading experts in the field of disability have noted<sup>7</sup>, this signature demonstrates a commitment at an EU level to strengthen the rights of persons with disabilities, building on the impetus provided by the European Year of People with Disabilities in 2003 (EYPD) and the European Year of Equal Opportunities for All in 2007 (EYEO). As many of the issues covered by the UN Convention fall under the remit of Member States, they in turn have committed to sign the Convention individually.

In signing the UN Convention, the EC and States Parties are committed to upholding the following principles:

- there will be an enforced legal basis for mainstreaming disability in all policy areas; and
- it is not sufficient to have credible and effective policies on gender equality and disability - there is now a requirement to take "all appropriate measures" across a wide spectrum of policy fields to ensure the full development, advancement and empowerment of women with disabilities.

Having signed the UN Convention, States Parties were required to proceed with a process of ratification, to transpose the UN Convention into national law – ensuring that persons with disabilities enjoy the rights set out within the UN Convention. This process involved the introduction of a framework, as outlined in the UN Convention, for the implementation and monitoring of the UN Convention. In short, ratification of the UN Convention, kick-started a policy process that sought to enable persons with disabilities to enjoy *de facto* the rights set out in the UN Convention.

### 1.1.2 The policy process at EU level

Prior to the signing of the UN Convention there was activity at an EU level in the field of disability. Most notably the Employment Framework Directive (2000/78/EC), which established a framework for equal treatment in employment irrespective of disability. Wider policy at an EU level has been influenced by the EU Disability Action Plan 2003-2010 (DAP)<sup>8</sup> which seeks to mainstream disability issues within all relevant EU policies and is enacted in two-year phases. The current DAP (2008-09)<sup>9</sup> includes an annex focusing on the situation of women with disabilities which draws heavily on the ad hoc module of the 2002 Labour Force Survey<sup>10</sup>.

<sup>6</sup> States Parties are countries which have adhered to the UN Convention.

<sup>7</sup> Mrs Nyman and Mrs Beraza, Final Conference report, "Recognising the Rights of Girls and Women with Disabilities – An Added Value for tomorrow", Madrid, November 2007; Speech by Director of CERMI Seminar on "Gender and Disabilities" held in Madrid in the "Women Worlds" Congress, 7 July 2008.

<sup>8</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final.

<sup>9</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009; COM(2007) 738 final.

<sup>10</sup> Labour Force Survey 2002 ad-hoc module on employment of disabled people (EC) No 1566/2001

Although the DAP was established before the UN Convention, it now operates as one of the main mechanisms for the implementation of the Convention. Indeed, the current DAP includes a specific set of actions to facilitate the implementation of the UN Convention including:

- screening of existing Community legislation to establish the scope of Community competences;
- assessment of the need to amend secondary European legislation or adjust relevant policies;
- assessment of the impact that the ratification of the UN Convention would have on European institutions;
- the Disability High-Level Group acting to monitor the progress made in implementing the UN Convention and regularly reporting back to the European Commission (its first report was published on 2 July 2008);
- participation of the Commission in the UN Global Initiative for Inclusive ICT;
- continuing the dialogue and cooperation with European Non-Governmental Organisations (NGOs), organisations representing persons with disabilities; and,
- supporting the actions undertaken at regional and local levels in the Member States by developing training modules to raise awareness and facilitate the interpretation of laws in the light of the UN Convention.

In implementing the DAP, provision will also respond to the UN Convention's mandate for Member States to take measures which combine the mainstreaming of gender issues and specific gender-sensitive issues in the disabilities field.

As the current DAP expires at the end of 2009, the European Commission is currently considering the future shape of EU disability strategy. As with EU policy in the employment and social policy field more generally, the DAP operates largely through the Open Method of Co-ordination (OMC)<sup>11</sup> and this is expected to continue in whatever policy is adopted beyond 2009.

Safeguarding the rights and fundamental freedoms of women with disabilities (as set out in the UN Convention) is also a priority of the European Parliament. Indeed, the Parliament has called upon the European Commission and the Member States to ensure the removal of existing barriers and obstacles with the view to creating equal rights and opportunities for women and girls with disabilities to play a full part in family, political, cultural social and professional life. There is recognition that this could be achieved particularly through better implementation of Community anti-discrimination and gender-equality legislation.<sup>12</sup> The Parliament has also called on the Member States to provide updates to the Commission and Parliament on the situation of women and girls with disabilities as part of their country reports, alongside details of the measures which they have taken to comply with the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>13</sup>

<sup>11</sup> For a description of the OMC, see: [http://ec.europa.eu/employment\\_social/spsi/the\\_process\\_en.htm](http://ec.europa.eu/employment_social/spsi/the_process_en.htm)

<sup>12</sup> European Parliament, (2007) Report on the Situation of Women with Disabilities in the EU.

<sup>13</sup> *ibid.*

### 1.1.3 The policy process at a national level

As noted above, the UN Convention kick-started a ratification process at EU and national level to safeguard the rights of persons with disabilities. This ratification process involved ensuring compliance and compatibility with national constitutions, amending existing legislation and gaining legal and parliamentary approval.

Having signed the UN Convention, States Parties were required to designate a focal point, establish a co-ordination mechanism and develop a framework in which to promote, protect and monitor the implementation of the UN Convention (Article 3). States Parties are also subject to ongoing monitoring undertaken at an international level (Articles 34 to 40). This includes the submission of progress reports (the first reporting point being May 2010), co-operation with the UN's Committee on the Rights of Persons with Disabilities and participation in a conference.

## 1.2 Study focus

In light of the UN Convention on the Rights of Persons with Disabilities, the purpose of this study – as set out in the Terms of Reference<sup>14</sup> – is to:

1. Analyse and interpret information on the situation of women with disabilities and in doing so:
  - include comparisons with the situation of men with disabilities and women without disabilities;
  - include comparisons between countries;
  - monitor the implementation of the non-discrimination principle with regards to gender and disability; and,
  - acknowledge the mainstreaming methodology and tools being used by Member States.
  
2. Specify what still has to be improved to allow women with disabilities to enjoy their rights and fundamental freedoms; specifically:
  - define the best methods, methodologies and tools for gender and disability mainstreaming; and,
  - define specific actions to positively impact on the situation of women with disabilities

The study has gathered evidence at a European level and also at national level across 33 countries which included the 27 EU Member States, three EEA Members (Iceland, Liechtenstein, Norway) and three candidate countries (Croatia, Macedonia, Turkey). Specific evidence related to each of these countries is provided in national fiches that constitute Annex Four of this final report. The main body of the report synthesises this evidence into thematic chapters and provides overall conclusions and recommendations drawn at the European level.

This study was not concerned with monitoring the ratification process and whether the UN Convention has been transposed into national law. Likewise it did not explore the impact of that transposition on the real-life situation of women with disabilities and is, therefore, not concerned with the situation of women with disabilities in respect of the legal rights introduced/strengthened by the UN Convention.

<sup>14</sup> Annex Two of this report.

The study instead was focused on the 'starting-point' of each country, in respect of the situation of women with disabilities and the extent to which they enjoy fundamental rights and freedoms. The study also examined the policy processes that States Parties have adopted to allow persons with disabilities to enjoy their rights de facto and the extent to which those processes reflect the Article 6 requirements to have a gender dimension. The purpose of the study was not to evaluate the effectiveness of these policy processes in every country, but to identify the most effective approaches with the potential to inform approaches in other countries through the OMC.

Given this focus on policy approaches, the study was, therefore, not primarily concerned with practical activities on the ground. Moreover, the sheer breadth of the study, in terms of themes and countries, means that it did not consider themes in depth. For example, the study does not extend to identifying best practice in making technical adaptations to buildings or premises in light of the needs of women with disabilities; but it sought to identify policy approaches that enable such adaptations to be introduced/enforced across an entire country.

It should also be noted that exploring definitions was not the main focus of the study. Whilst definitions of disability are important, the scope and scale of this study has not allowed for extensive consideration of different definitions of disability. The UN Convention itself does not provide a specific definition of disability. Indeed, in its preamble it acknowledges that disability is an evolving concept which is influenced by the developments in society.

The study was reliant on existing data and previously-published research, as there was no single source of data for all countries. As such, the report seeks to present a realistic picture of the situation of women with disabilities in Europe using the data available.

### 1.3 Structure of the report

The remainder of the report is structured as follows:

- Section 2 outlines the methodology, including issues around the availability and consistency of data.
- Section 3 examines the theoretical underpinnings of the study.
- Section 4 provides an overview of the population of women with disabilities
- Section 5 provides an overview of legislation related to the rights and fundamental freedoms of women with disabilities
- A summary of research findings regarding the situation of women with disabilities in respect of key themes is then reported in subsequent sections including Economic and employment situation (Section 6), Education, training and lifelong learning (Section 7), Independent living (Section 8), Access to social and health services (Section 9), Standard of living and social protection (Section 10), Access to goods and services (Section 11), Access to justice and protection from exploitation, violence and abuse (Section 12), Participation in political, public and cultural life (Section 13).
- Conclusions and recommendations for the EU and its Member States are provided in Sections 14 and 15.

## 2.0 Methodology

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This chapter outlines the methodology used for the study and highlights some of the methodological issues encountered.

### 2.1 Study aims and objectives

Throughout the life of the project, our approach has been to fulfil the overall objectives of the study, as indicated in the Terms of Reference (ToR)<sup>15</sup>, which were to analyse and interpret information on the situation of women with disabilities and to specify what still has to be improved to allow them to enjoy their rights and fundamental freedoms. The key areas of activity, therefore, focussed on:

- collection of information on the situation of women and girls with disabilities in 33 European countries<sup>16</sup>;
- analysis and interpretation of the information gathered, in the light of the provisions of the UN Convention; and
- production of a report outlining the findings of the study, including summary reports relating to each of the topics analysed.

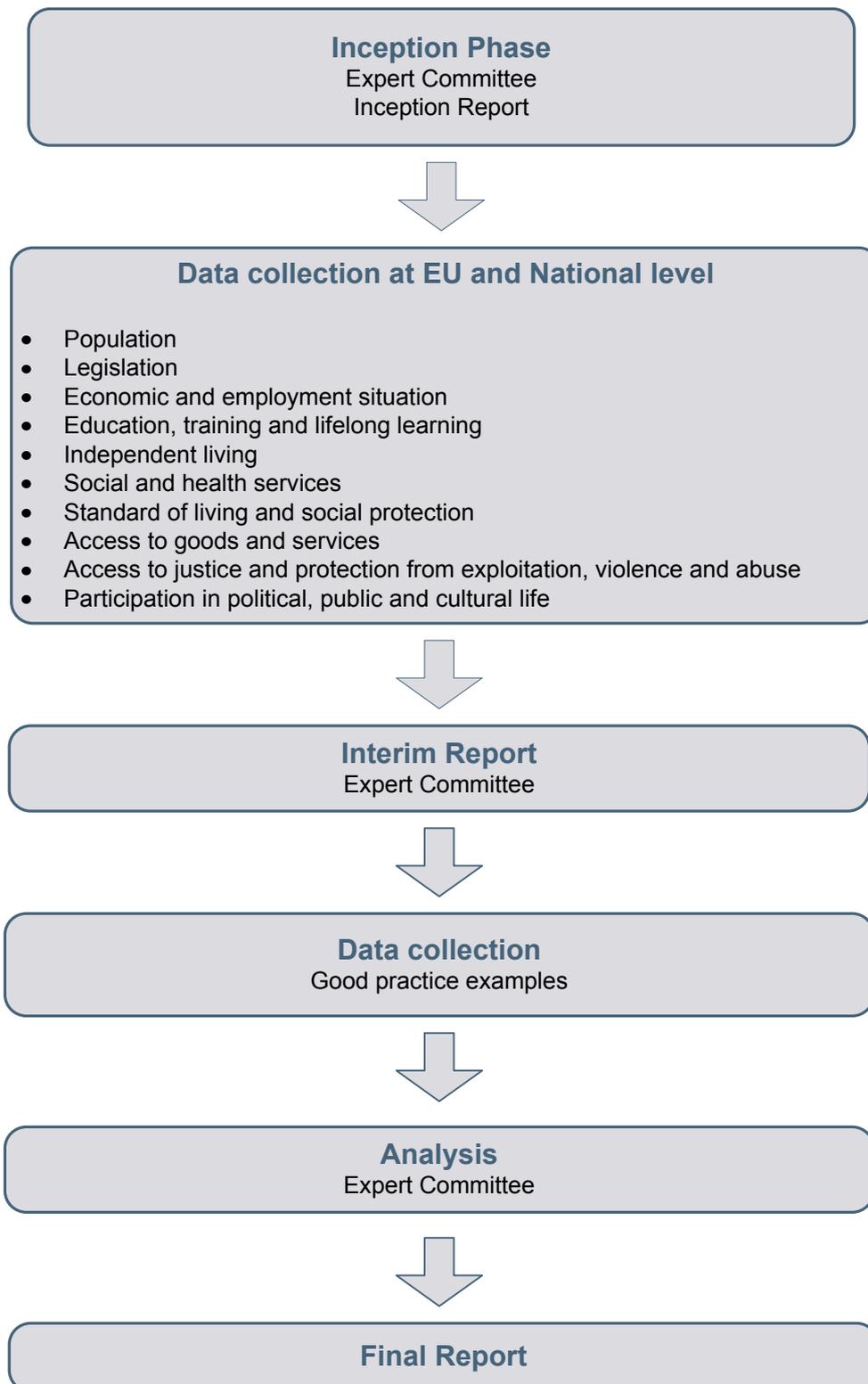
The following sections detail our methodological approach.

### 2.2 Methodological approach

The diagram overleaf illustrates the overall methodological approach followed in gathering and analysing data for this study.

<sup>15</sup> See Annex Two of this report.

<sup>16</sup> 27 EU Member States, Croatia, Iceland, Liechtenstein, Macedonia, Norway and Turkey



## 2.3 Inception phase

An inception phase was crucial in refining ECOTEC's approach to the study in line with the Commission's comments. The key tasks undertaken included:

- recruitment of Expert Committee Members;
- preliminary research, including consideration of the availability of data and the development of a 'library' of resources, which served as a basis for in-depth research, throughout the study;
- finalising the methodology; following the preliminary research and in light of the Commission's comments; and
- developing research tools, in particular a 'country fiche' for collecting data at national level. The use of a standard template helped improve consistency in the data collected across the countries covered by the study and guided the researchers in what information to look for.

## 2.4 Expert Committee

In order to guide the study and verify its conclusions, ECOTEC was advised by an Expert Committee, comprised of highly experienced figures in the field of disability. The Committee helped identify priorities for the research, possible contacts for interview and opportunities for further mainstreaming activities. The Expert Committee met three times during the course of the study. Whilst the input of the experts is reflected as far as possible in this report, responsibility for all errors and inaccuracies remains with ECOTEC.

### Expert Committee membership

Gunta Anca	Gunta Anca is co-chair of the European Disability Forum (EDF) Women's Committee. She is one of the founders of <i>Aspazija</i> , the Latvian Association of Women with Disabilities and has been a board member of the Association for six years. In 2002 she was elected chair of <i>SUSTENTO</i> , the Latvian Umbrella Body for disability organisations.
Sigrid Arnade (first two meetings only)	Sigrid Arnade is currently working on gender issues within the German national council for persons with disabilities. She was also actively involved in the drafting of the UN Convention on the Rights of Persons with Disabilities and its Articles on women and gender mainstreaming.
Catherine Casserley	Catherine Casserley is a qualified barrister (LLB (Hons), LLM) of 16 years and previously employed as Senior Legislation Adviser at the UK's Disability Rights Commission.
Ana Pelaez (final meeting only)	Ana Pelaez is Chair of the EDF Women's Committee. She is also currently International Relations Director of the Spanish National Organisation for the Blind (ONCE) and Executive Vice-President of the ONCE Foundation for Latin America (FOAL), as well as is chairwoman of the CERMI Women's Commission and CERMI Commissioner for Gender Affairs.

## 2.5 European-level research

Following the inception phase, a review of EU-level studies was undertaken. These studies were used to flag up key issues or themes that needed to be taken into account during the research. The following themes were identified from the EU-level review.

- Population of women with disabilities.
- Legislation and policy
- Economic and employment situation
- Education, training and lifelong learning
- Independent living.
- Access to social and health services
- Standard of living and social protection
- Access to goods and services
- Access to justice and protection from exploitation, violence and abuse
- Participation in political, public and cultural life

The review identified the key EU data and legislation in each thematic area. Trends and patterns were also drawn out of the data, for instance, on the extent of differences between countries or groups of countries and particular issues facing women with certain types or severities of disability. The review of EU-level studies played a key role in informing the approach to the national research and in the analysis, synthesis and final reporting stages.

### 2.5.1 Literature review

In addition to the review of EU studies, an extensive review of the literature on gender and disability was also undertaken. Literature included EU and national legislation, policy papers, statistical summaries and research and reports from non-government sources such as charities and research institutes. A project library was constructed, arranged by theme area and country coverage to ensure a balanced collection of literature.

### 2.5.2 Interviews

Initial interviews were carried out with the European Disability Forum (EDF), the European Women's Lobby (EWL) and Eurostat. These interviews served several purposes:

- identification of in-country researchers;
- identification of future interviewees;
- gaining expertise/feedback on development of research tools, for example, the country fiche; and
- gaining information about relevant data sources and future EU level data collection strategies/surveys.

Later interviews were used to aid the analysis process, for example, to fill identified gaps in the data, to explore qualitative issues and confirm emerging analytical ideas. Interviewees were identified through national research and through the networks of Expert Committee members and ECOTEC itself.

### 2.5.3 Quantitative data

In parallel to the literature review, data was gathered from European-level sources such as Eurostat, the International Labour Organisation and the OECD. This European-level data was later used to contrast and supplement the data emerging from national sources.

## 2.6 National-level research

The country fiche template was finalised following consultation with EDF, EWL and Eurostat, as well as the client unit at DG Employment, Social Affairs and Equal Opportunities. As far as possible, all national research was undertaken by in-country experts with appropriate linguistic expertise and proximity to / in-depth understanding of the roles and responsibilities of key stakeholders. The in-country experts were a mixture of in-house researchers with relevant language skills and researchers from external organisations with appropriate policy and subject experience.

In order to maximise the involvement of women with disabilities, the briefing for national researchers specified that contact with EDF researchers was essential and contact details were subsequently provided. The briefing also included references and links to reports and information sources tailored to specific countries. Several of these were EU-level sources with information sorted by country, for example, the national page for particular countries from the European Agency for Development in Special Needs Education and country reports from the European 'study of compilation of disability statistical data from the administrative registers of the Member States'.

## 2.7 Interim report

An interim report was submitted in September 2008, which outlined progress made during the data collection phase, the EU-level research and much of the national research.

## 2.8 Good practice examples

Based on the research undertaken at EU and national levels, a large number of approaches to serving the needs of women with disabilities were identified. These primarily consisted of national legislation, national policies and national programmes. This choice of examples reflected the focus of the study on the policy processes that Member States have adopted to allow persons with disabilities to enjoy their rights de facto and the extent to which those processes reflect Article 6, in that they have a gender dimension.

## 2.9 Synthesis research and final report

Following the collection of data at European and national level, and following the input from the second and third Expert Committee meetings, ECOTEC proceeded with the synthesis analysis of the data to inform the thematic chapters of the report. Following the submission of the draft report and the receipt of comments from the client, ECOTEC invited final comments from the members of the Expert Committee, before producing this final version.

## 2.10 Methodological issues

It is widely acknowledged that the absence of a single definition of 'disability' poses difficulties when analysing research on disability across the EU and beyond. Around half of the Member States have not included a definition of 'disability' in the national laws transposing the EU directives. Where definitions are used, they are seldom directly comparable. This research has been carried out with both the medical and the social models of disability in mind (as discussed in Section 3.1). This reflects the ethos of the Convention which is largely based on a human rights approach to disability.

Examination of data across 33 countries is, therefore, made difficult by these definitional differences as well as by variances in data collection methods and the limited extent to which national data is disaggregated by both gender and disability. Given the breadth of this study, it is necessarily reliant on existing data and previously-published research. Where data has been collected, this has been from European sources (such as Eurostat) and national statistical offices, but also from discrete projects and studies. However, a rich vein of data emerges from the writings of women with disabilities themselves, collected through the European Disability Forum and through the EU's Daphne initiative. However, these data reflect lived experience rather than robust research findings in the traditional sense, and are reported as such.

In relation to national legislation and action plans, there are many positive initiatives on the equal rights of women on the one hand and of persons with disabilities on the other hand. The perspective of women with disabilities is often lost in unrelated disability and gender policies. This reflects the separate tracks along which disability and gender legislation and policy are pursued in Member States. However, reporting on the specific situation of women with disabilities is now becoming more common, in part through the impetus provided by the UN Convention. For example, Finland is cited as a good example in its coverage of disability within its CEDAW country report. Similarly, the *Spanish Action Plan on Women and Disability* also provides discrete reporting on the development of issues relating to women with disabilities. This issue is considered in more depth in the relevant thematic chapters.

## 3.0 Theoretical underpinnings: Concepts of multiple disadvantage – gender and disability

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This chapter explores the theoretical concepts underpinning the study and outlines the key research questions for the study.

### 3.1 Defining disability

As noted in Section 1, the UN Convention itself does not provide a specific definition and States Parties adopt differing definitions. Whilst the main focus of the study was not to explore definitions of disability in detail, it was necessary to apply an understanding of the broad types of definitions that could be applied. For this, the study drew on the guidelines issued by the International Labour Organisation.<sup>17</sup> The ILO stresses that the definition of disability largely depends on the goals a particular country wishes to pursue and highlights two concepts of disability:

- The first concept stresses the health/medical dimension of disability (or impairment)
- The second concept stresses the societal dimension of disability whereby the social norms and standards set the image of 'ability' and 'disability' thus making disability essentially a social construct.

Whilst both concepts have advantages and constraints, there are different implications for policy and measures targeted at persons with disabilities stemming from these two definitions. While in the first case the focus is on the individual (e.g. the provision of various types of aids), in the second case the focus shifts towards overcoming environmental and other barriers in order to enable persons with disabilities to fully participate in society. These definitions are thus either narrow or targeted at specific groups of beneficiaries, in order to ensure that financial support is targeted at people who need it most or broad and aimed at protection from discrimination on grounds of disability.

Given the focus of the study on the UN Convention, the terminology applied throughout this study reflects, as far as possible, that used by the Convention. We therefore use the terms "persons with disabilities", "women with disabilities", etc. rather than the terms "disabled people" or "disabled women". Exceptions mostly constitute references to specific sources, e.g. "LSF ad hoc module ad-hoc module on employment of disabled people".

### 3.2 Addressing discrimination on several grounds – the concept of intersectionality

The term 'multiple discrimination' is used to describe situations where people can be subjected to discrimination on the grounds of more than one issue. Most commonly, this term has been applied in situations where race discrimination is compounded by other forms of discrimination, such as gender or age. However, it has clear relevance for a study of the situation of women with disabilities, because

<sup>17</sup> International Labour Organisation (2004). Achieving Equal Employment Opportunities for People with Disabilities through Legislation. Guidelines.

they are also likely to suffer multiple discrimination and consequently disadvantage. Indeed, women with disabilities may experience 'intersectional discrimination', where two or more forms of discrimination combine to create specific types of discrimination not experienced by women without disabilities or men with disabilities.

The concept of 'intersectionality' has been developed to address precisely these distinct types of discrimination and the experiences of people who are subject to them. Fagan et al (2006) have noted that intersectionality provides a more 'nuanced' tool than 'double disadvantage' for understanding gender-based differences in exposure to various forms of discrimination and social exclusion.<sup>18</sup>

The UN uses the following definition of intersectionality, which we applied to this study:

*"Intersectionality is an integrated approach that addresses forms of multiple discrimination. Intersectional discrimination is ... a distinct and particular experience of discrimination unified in one person or group (United Nations 2001)."*<sup>19</sup>

The concept of intersectional discrimination has appeared in the jurisdictions of the USA, Canada, Ireland and the UK, though it has received less attention in the other Member States of the European Union (European Commission 2007). Nevertheless, EU Directives do recognise that different grounds for discrimination can intersect; the preamble to both the Race<sup>20</sup> and Employment<sup>21</sup> Equality Directives states that "women are often the victims of multiple discrimination".

The European Commission's Roadmap for Equality between Women and Men (2006) also draws attention to the importance of tackling multiple discrimination, in order that the employment potential and social participation of all women is maximised.<sup>22</sup> However, notwithstanding the attention given by some EU policies to the concept of multiple discrimination, that concept has not been comprehensively adopted into European policymaking more generally. Indeed, although the Disability Action Plan (DAP) itself does make reference to "dual discrimination", it does not include actions specifically addressing the needs of women with disabilities.

<sup>18</sup> Fagan, C., Urwin, P. and Melling, K. (2006) *Gender inequalities in the risks of poverty and social exclusion for disadvantaged groups in thirty European countries*, Brussels, European Commission.

<sup>19</sup> United Nations (2001) *Background briefing on intersectionality*. Working Group on Women and Human Rights, 45<sup>th</sup> session of the UN, quoted in Bradley, H., Healy, G., Forson, C. and Kaul, P. (2007) *Moving on up? Ethnic minority women and work*, Manchester, Equal Opportunities Commission.

<sup>20</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

<sup>21</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

<sup>22</sup> Commission of the European Communities (2006) *A Roadmap for equality between women and men*, Brussels, COM (2006) 92 final.

The importance of recognising the concept of multiple discrimination is strongly supported by the European Disability Forum (EDF). EDF supports the position that as multiple forms of discrimination intersect they create new 'hybrid forms of discrimination, which need a separate strand of analysis to understand and separate remedial actions:

*“The double discrimination faced by women with disabilities is not the result of adding together their needs as persons with disabilities and women; as both variables combine, a different and special status arises that must be understood and recognised. Given that it is a structural status, it requires a specific, innovative and long-term approach.....”<sup>23</sup>*

EDF goes on to lament the lack of recognition of multiple discrimination: “women with disabilities have to choose one type of discrimination (usually the one which is easier to prove or more blatant) when they present a case in court, for instance. Therefore, there is a need for raised awareness and concrete solutions on how to tackle multiple discrimination at all levels.”<sup>24</sup>

### 3.3 Framework for the study

As with other approaches to intersectional discrimination which emphasise the additive or accumulative qualities of different forms of discrimination, central to our conceptual approach is the assumption that this intersection of structures will create a third and very specific set of social structures in which women with disabilities are located and which shape their social experiences.

This informed a framework for the study, which is summarised in the table below:

**Table 3.1 Framework for studying intersectional discrimination**

Form of Discrimination	Discrimination	Mainstreaming Strategy
<b>Gender Discrimination</b>	Women experience discrimination on the grounds of their sex	<b>Mainstreaming gender</b> Needs of women as a single group taken into account in the design and implementation of legislation, public policies and social practices
<b>Disability Discrimination</b>	Persons with disabilities experience discrimination of the grounds of their disability	<b>Mainstreaming disability</b> Needs of persons with disabilities as a single group taken into account in the design and implementation of legislation, public policies and social practices
<b>Intersectional Discrimination</b>	Women with disabilities experience specific types of discrimination which intersect and are distinct from those experienced by women without disabilities or by men with disabilities	<b>Mainstreaming gender and disability</b> Specific needs and experiences of women with disabilities are identified, understood and taken into account in the design and implementation of legislation, public policies and social practices

<sup>23</sup> Lola Linares Márquez de Prado

<sup>24</sup> Maria Nyman (European Disability Forum), Natalia Beraza (CERMI Commission of Women with Disabilities)

## 3.4 Research questions

Using this concept of intersecting gender-disability disadvantages, a series of research questions were developed to underpin the analysis of the empirical material collected for this study. These research questions are as follows:

- What are the combined effects of gender and disability on women with disabilities?  
Is there a qualitative difference between being a woman with disability, and being a woman, or being a man with disability? Is the difference between women with disabilities and men with disabilities greater than the difference between all women and men?
- Are women with disabilities in a worse social position than men with disabilities, and if so, what are the reasons for this?
- How great is the relative disadvantage of women with disabilities, and what effect does this have in different social settings (employment, education, social protection, housing, justice, and so on)?
- What types and levels of disadvantage are experienced by women with disabilities?
- What differences exist between EU countries in the situation of women with disabilities?
- Which countries are furthest on in the journey of implementing the UN Convention? Which are the worst in their treatment of women with disabilities?

## 4.0 Population / Prevalence of Women with Disabilities

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This chapter explores the data on the prevalence of women with disabilities across the EU and provides an overview of the population and distribution of women with disabilities across the EU.

### 4.1 Overview of prevalence at EU level

The data available suggests that women with disabilities form around 16% of the total population of women in Europe. The same level of prevalence is displayed within the male population (see Table 4.1 overleaf).

Population and prevalence statistics are drawn from EU level survey data, where identical surveys are undertaken by central governments in EU Member States. Examples include the 2002 Labour Force Survey (LFS) special ad hoc module on employment of people with disabilities and long-term health problems, European Community Household Panel (ECHP) and EU Statistics on Incomes and Living Conditions (EU-SILC).

The LFS and EU-SILC differ in terms of country coverage, sample size and definition of 'restriction'. The LFS ad hoc module of 2002 covered the then 15 EU Member States as well as Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Malta, Norway, Romania, Slovakia and Slovenia. The EU-SILC, however, covers all 27 EU Member States, as well as Iceland, Norway, Switzerland and Turkey. The term 'restriction' refers specifically to employment within the LFS, whereas it has a more generalised application in the EU-SILC. The data collected through these surveys has been extensively analysed in number of previous reports,<sup>25</sup> therefore, we present only the main findings in this chapter.

The data shows that the prevalence of long-standing health problems or disabilities (LSHPD) varies greatly by country and less so by gender. For example, statistical analysis of the LFS ad hoc module on people with disabilities (2002) displays marked variation in prevalence of women with disabilities across EU Member States. It ranges from 33% in Finland, 28% in the UK and 26% in the Netherlands to 8-9% in Spain, Lithuania, Malta and Slovakia and less than 7% in Italy and Romania. However, within countries the difference of LSHPD between men and women was, at its greatest, only 4 percentage points.

<sup>25</sup> For example, Applica, Cesep & Alphametrics (2007) Men and Women with Disabilities in the EU: Statistical Analysis of the LFS ad hoc module and the EU-SILC; Study financed by the European Commission DG Employment, Social Affairs and Equal Opportunities.

**Table 4.1 Proportion of men and women aged 16-64 with a long-standing health problem or disability**

Country	Women (as % of total population)	Men (as % of total population)
BE	17.9	18.9
CZ	21.2	19.2
DK	21.1	18.8
DE	10.3	12.2
EE	24.2	23.1
IE	10.5	11.6
EL	10.0	9.1
ES	7.9	9.3
FR	24.8	24.3
IT	6.3	7.0
CY	11.1	13.4
LT	8.5	8.3
LU	9.6	13.7
HU	11.4	11.3
MT	7.3	9.7
NL	26.4	24.5
AT	11.6	14.0
PT	21.8	18.6
SI	19.1	19.9
SK	8.2	8.1
FI	33.6	30.7
SE	21.7	18.2
UK	27.8	27.0
RO	6.5	5.0
NO	17.4	15.5
EU	15.6	16.2

*LSF ad hoc module ad-hoc module on employment of disabled people (2002); EC No 1566/20012002*

The marked national variations in the prevalence of LSHPD are surprising, given that the data was gathered via pan-European surveys and based on self-reporting rather than definitions and classifications used by Member States. It is likely, therefore, that respondents may have drawn on culturally specific notions of disability as well as available benefits in order to classify themselves as having a disability.

In line with the UN Convention 'social model' underpinnings (Preamble section E), data collected on disability not only identifies those who are medically defined as having a disability but also explores disability in terms of how 'restricted' people are in employment situations and their daily activities. For instance, 34% of women who reported a LSHPD felt they were not restricted in the kind or amount of work they could do or in their mobility to and from work<sup>26</sup>. These measurements of disability as lived experience also reveal that 38% of women in Europe with a LSHPD view themselves as 'considerably restricted' and 27% 'to some extent restricted'<sup>27</sup>.

The main data sources used to measure the prevalence of disability at an EU level give a clear breakdown by age group. European women's experience of being restricted in connection with LSHPD appears to increase significantly with age. Some 3% of European women aged 16-24 reported being restricted in their daily lives in connection with a LSHPD. This rose to 8% for those aged 25-54 and 19% for those aged 55-64<sup>28</sup>. These proportions were, however, similar to those reported by male respondents (see Table 4.2).

**Table 4.2 Percentage of EU men and women who consider themselves restricted, by age**

Age	Women	Men
16-24	3.1	3.6
25-54	8.4	8.3
55-64	18.8	22.0

*LFS ad hoc module 2002*

Gendered population data at the EU level has also been disaggregated by type of disability. The conditions most commonly reported by women with disabilities in Europe were related to back and neck (20%), heart, blood and circulation (11%), legs or feet (11%), mental, nervous or emotional problems (10%) and chest or breathing problems (9%). A very similar distribution is displayed for European men; however, men tend to describe themselves as having chest and breathing problems (10%) more frequently than mental, nervous or emotional problems (9%)<sup>29</sup>.

<sup>26</sup> Applica, CESEP and Alphametrics (2007) Men and Women with Disabilities in the EU: Statistical Analysis of the LFS Ad Hoc Module and the EU-SILC.

<sup>27</sup> Ibid

<sup>28</sup> Ibid

<sup>29</sup> Labour Force Survey Ad Hoc Module on Employment of People with Disabilities, (2002).

## 4.2 Overview of prevalence at a national level

National level research conducted for this study provided information on the definitions of disability used and data on the profile and prevalence of women with disabilities in a particular country.

### 4.2.1 Definitions of disability

The UN Convention does not provide a specific definition of disability but does acknowledge in its preamble that disability is an evolving concept which is influenced by developments in society.<sup>30</sup> It also emphasises the need to shift from a medical approach to a social approach towards disability. Therefore, the focus is on how to ensure that physical environment and social attitudes do not constitute the barriers but empowers persons with disabilities to fully enjoy their rights and participate in society.

The national level research demonstrated that there is variation among countries in the extent to which they have adopted a social approach to the definition of disability. Member States such as Ireland and Austria have a strong focus on the social definition of disability. However, in other countries such as Iceland and the Czech Republic the medical definition dominates. A summary of the broad types of definitions identified as being used across countries is presented below.

**Table 4.3 Definitions of disability used in countries covered in the study**

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

*Source: Information gathered through national research during this study*

Table 4.3 also shows that most of the countries involved in this study incorporate at least some elements of the social definition of disability. However, the national research identified that only two countries incorporate a strong social approach to their definition of disability. According to the Austrian definition, a person with a disability is someone who is not able to: "sustain regular social relationships, acquire and perform gainful employment and achieve a reasonable and adequate income without assistance." According to the Irish definition, disability is defined as "a condition limiting one or more basic physical activities, difficulty working or attending school/college and/or difficulty in going outside the home alone."

<sup>30</sup> Department of Economic and Social Affairs (UN-DESA), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Inter-Parliamentary Union (IPU), 2007, *From Exclusion to Equality: Realising the Rights of Persons with Disabilities*, Geneva.

The definitions of disability in Italy and Macedonia incorporate both medical and social models and therefore, they did not fit into any of the categories of the table above. In other countries, the definition of disability was not identified during the national research. In Denmark, for example, there is no legal definition of disability and persons with disabilities are not registered except in certain situations, such as when they reach pension age.

#### 4.2.2 Prevalence of women with disabilities

The national research conducted for this study identified a number of information sources and official statistics in the 33 countries covered by this study. However, it is important to note that the quality of the data gathered varied between countries. Data from different countries was gathered over different timeframes and data sets used varying definitions and data collection methods. This should be taken into account while comparing the data across countries.

The size of the population of women with disabilities in different countries and the data sources are summarised in the table below. The table also includes data for men with disabilities and women without disabilities, where this data is available. Given the different timeframes, definitions and data collection methods used, the sum and average for all countries should be viewed as an indicative figure rather than a reliable statistic.

**Table 4.4 Size of population of women with disabilities**

Country	Size of population		Year	Data source
	Number	Percentage		
Austria	W*: 668, 400 M**: 594,000	W: 16.2% of female population	2002	Statistics Austria; based on the micro census of June 2002.
Belgium		W: 18.8% of total population (age 15-64) M: 17.7% of total population (age 15-64)	2003	Samoy, E. (2003), 'Met één been op de arbeidsmarkt in Vlaanderen' Jaarboek.
Bulgaria	W: 113,391 M: 111,159	W: 1.43% of total population and 2.89% of female population M: 1.4% of total population	2001	National Statistical Institute, 2001 Census Data
Croatia	W: 192,443 M: 282,948		2007	Croatian Public Health Institute on Persons with disabilities
Czech Republic	W: 525,121 M: 490,427	W: 5.1% of total population and 10% of female population; M: 4.8% of total population	2006	Czech Statistical Office, Survey on Persons with disabilities (2007)
Estonia	W: 71,793 M: 45,853	W: 5.4% of total population and 11.6% of female population; M: 3.4% of total population	2008	Data is provided by the Ministry of Social Affairs of Estonia
Finland <sup>31</sup>	W: 119,600 M: 136,600	W: 2.25% of total population and 4.4% of female population; M: 2.6% of total population	2006	Statistical Yearbook of Pensions in Finland

<sup>31</sup> In Finland the information on disability and health is treated as sensitive personal information and the collection of such data is prohibited by law. Therefore, the data is based on estimates. The data presented in this table covers people who are claiming disability pensions.

Country	Size of population		Year	Data source
	Number	Percentage		
Germany	W: 3,330,922 M: 3,587,250	W: 4.05% of total population and 7.93% of female population; M: 2.8% of total population	2007	Statistisches Bundesamt: Scherbehindertenstatistik Statistisches Bundesamt: Wiesbaden
	2008			
Hungary	W: 294,138 M: 282,868	W: 2.9% of total population and 5.5% of female population; M: 2.8% of total population	2001	Hungarian Central Statistic Office, Census
Iceland	W: 7,382 M: 4,917	W: 8% of female population	2004	Statistics Iceland
Ireland	W: 190,695 M: 169,834	W: 4.9% of total population and 8.7% of female population; M: 4.3% of total population and 7.8% of males.	2002	Central Statistics office Cork
Italy <sup>32</sup>	W: 1,727,000 M: 882,000			ISTAT (National Institute for Statistics)
Lithuania	W: 110,900 M: 100,300	W: 3.28% of total population and 6.13% of female population; M: 2.97% of total population	2006	Statistics Lithuania
Malta		W: 2.96% of total population 5.89% of female population M: 2.94% of total population	2005	NSO 2005 Census
Netherlands		W: 15.4% of total population M: 9.8% of total population	2000	OECD indicator
Norway	W: 305,000 M: 250,000	W: 9.4% of total population and 19% of female population M: 7.7% of total population	2008	Labour Force Survey, Statistics Norway
Poland	W: 2,888,491 M: 2,568,220	W: 7.56% of total population and 14.65% of female population.		
Portugal	W: 301,180 M: 334,879	W: 2.9% of total population and 5.6% of female population M: 3.2% of total population	2001	National Statistical Institute (INE), <i>Population Census 2001</i>
Romania	W: 308,812 M: 258,730	W: 2.8% of female population		
Turkey	W: 503,734 M: 730,405	W: 13.45% of the total population; M: 11.10% of the total population	2000	2000 General Population Census
UK	W: 3.4 m M: 3.7 m	W: 9.2% of total population M: 9.7% of total population	2002	Smith, A. and Twoney, B. (2002) 'Labour market experience of people with disabilities, Analysis from the Labour Force Survey on the characteristics and

<sup>32</sup> The size of the population depends on the definition used. The evidence from the national research shows that when using different definition the size of the population is 137,101 for women with disabilities and 53,033 for men with disabilities.

Country	Size of population		Year	Data source
	Number	Percentage		
				labour market participation of people with long-term disabilities and health problems, Labour market experience of people with disabilities', Labour Market Trends, vol. 110, no 8
<b>TOTAL</b>	W=16,145,792 M=21,415,098	<b>Percentage of total Population</b> W=3.76% M=4.98% <b>Percentage of population 15-64 years</b> W=4.96% M=7.12%	2000-2008	Data on Total Population between 2000 and 2008 downloaded from Eurostat. Data on Population (15-64) between 2000 and 2008 downloaded from AMECO (DG ECFIN). Data on persons with disabilities is taken from the above-mentioned sources.

\*W = women with disabilities

\*\*M = men with disabilities

The data shows that in most countries, where the data is available, the percentage of the total population which are women with disabilities is higher when compared to the number of men with disabilities. This is likely to reflect the fact that women are more likely to live longer and since the likelihood of disability increases with age, the number of women with disabilities is in turn likely to exceed the number of men with men with disabilities. However, anecdotal evidence suggests this variation could be offset (to a greater or lesser extent) by a greater incidence of LSHPD amongst men due to certain 'lifestyle' factors such as road accidents, industrial illnesses and accidents, sporting injuries or military service.

## 5.0 Legislation

This chapter examines the progress made by the European Union and Member States in the implementation and monitoring of the UN Convention, and gives a general overview of anti-discriminatory legislation at a national level.

National legislation tends to address either disability *or* gender *or* equality more generally. There were very few examples of legislation which pertains specifically to women with disabilities. Furthermore, limited evidence was found regarding the implementation and monitoring mechanisms set up to enforce the UN Convention itself. In this respect, as confirmed at the Seminar on Gender and Disability in the framework of the Women World Congress held in Madrid on 7 July 2008, progress has been slow. Indeed, of the 33 countries covered by this study only eight (AT, DE, ES, HR, HU, IT, SE, SI) had ratified the UN Convention by May 2009.

### 5.1 The European policy and legislative background

In respect of women with disabilities, the legislative framework for the EU continues to address disability and gender largely as separate issues. In particular, it is worth noting that there is currently no protection under the EU legal framework against discrimination on the grounds of disability which takes place outside of the field of employment and access to goods and services. Until now, three Directives have been adopted to give effect to Article 13 of the Treaty:

**Table 5.1 European Directives relating to equal treatment**

DIRECTIVES	Deadline for transposition into national law
Council Directive 2000/43/EC of 29th June 2000, implementing the principle of Equal Treatment between persons irrespective of their racial or ethnic origin <sup>33</sup>	19 July 2003
Council Directive 2000/78/EC of 27th November 2000 establishing a general framework for Equal Treatment in employment and occupation <sup>34</sup>	2 December 2003 (EU-15) 1 May 2004 (EU-10); and 1 January 2007 (BG and RO) Possibility of up to 3 additional years to transpose age and disability provisions.
Council Directive 2004/113/EC of 13th December 2004 implementing the principle of Equal Treatment between men and women in the access to and supply of goods and services <sup>35</sup>	21 December 2007

<sup>33</sup> OJ L 180, 19.07.2000.

<sup>34</sup> OJ L 303, 02.12.2000.

<sup>35</sup> OJ L 373, 21.12.2004.

In respect of the 'gender disability' dimension, the EU Directives address disability and gender issues individually. The three Council Directives reflect the European Community's aim to eliminate inequalities, and to promote equality between men and women. Multiple discrimination (or intersectionality) has only recently begun to be recognised in their preambles, acknowledging that "women are often the victims of multiple discrimination".

Council Directive 2000/78/EC (employment and occupation) gives more detail regarding the issue of disability, in particular with the provision of measures to accommodate the needs of persons with disabilities at the workplace (Article 3 of the Directive relates to Reasonable Accommodation for Persons with Disabilities) and the eventual positive action measures undertaken by the Member States (Article 7). However, Council Directives 2000/43/EC and Council Directive 2004/113/EC do not include any references to the issue of disability.

According to the report on the application of the Council Directive 2000/78/EC (employment and occupation)<sup>36</sup>, the two main aspects relating to the prohibition of discrimination on the grounds of disability have been transposed in all Member States. This includes, firstly, a ban on discrimination on grounds of disability; and secondly, the positive duty of 'reasonable accommodation' in favour of persons with disabilities as an integral part of the equal treatment principle.

The obligation to provide 'reasonable accommodation' has been transposed by most Member States, though the report also notes that some Member States have not included this concept in their national laws or have done so inadequately (for instance, Germany, Hungary and Italy). The EU Directives do not, however, define 'disability', and there are no consistent definitions of these concepts in the field of international law. In the absence of such accepted definitions, countries themselves have adopted domestically-applicable definitions.

Around half the Member States have not included a definition of 'disability' in the national laws transposing the Directive (though most of them have a definition for social security purposes). The European Court of Justice has shed some light with a uniform interpretation of the term 'disability' in the *Chacón Navas* case,<sup>37</sup> specifically that: "the concept of disability must be understood as referring to a limitation which results from physical, mental or psychological impairments and which hinders the participation of the persons concerned in professional life".

The issue of the lack of a definition of 'disability' has been dealt with by numerous studies and reports. For example, a report of the EU Network of Experts on Disability Discrimination noted that the Framework Directive (2000/78/EC) clearly endorses the social model of disability but provides no definition of disability.<sup>38</sup> The same report also stressed the importance of a definition of disability in disability discrimination laws but notes that any definitions "should not describe the group protected under the law, but rather define the act declared prohibited. Thus, the definition should describe the term "disability-based", rather than the term "disabled person".

<sup>36</sup> COM (2008)225 final, 19.06.2008, page 5.

<sup>37</sup> Case C-13/05, *Chacón Navas*, Judgement of 11 July 2006.

<sup>38</sup> Definition of Disability, Theresia Degener; EU Network of Experts on Disability Discrimination

Although the Council Directive 2000/78/EC refers to the fields of employment, occupation and vocational training, most Member States have gone beyond its requirements by applying similar protection to most or all grounds of discrimination (this is the case, for instance, in BE, DE, IE, LU, HU, NL, SI, and FI). According to the report on the implementation of the Council Directive 2000/78/EC, a large number of Member States allow for positive action measures under this Directive and many have specific legislation in place for disability. Only EE, FR, IT, LV, LT, SK do not provide for the possibility of positive action.

Key aspects of the transposition of the Council Directive 2000/78/EC concern procedural issues such as the burden of proof and sanctions. As noted in the report, most Member States have provision in their national laws for shifting the burden of proof with a few exceptions. EE, IT, LT and PL have not yet transposed provisions on the burden of proof; MT has done so with the exception of disability-based discrimination.

The European Commission is currently reviewing the national legislative measures adopted or in place to transpose the obligations within the existing three Council Directives on equal treatment. In monitoring the compliance of national laws with the provisions of the Council Directives, the European Commission is paying particular attention to the use by Member States of rules that appear neutral, but which could in practice have advantageous impact upon one group. These rules would be permissible only if they are reasonable and pursue a justifiable aim.

## 5.2 Trends and patterns at a national level

There are substantial differences between Member States with regard to legislation relating to discrimination in general and in measures to prevent discrimination on specific grounds (age, gender, disability, etc.) and within specific areas (education, employment, health services, etc.).

Most of the Member States have expanded their legislation to cover the field of disability and often their legal frameworks go far beyond the requirements of EU legislation. A recent study entitled "Study on discrimination on grounds of religion or belief, age, disability and sexual orientation outside of employment"<sup>39</sup>, analyses the nature and extent of discrimination outside of employment in the EU, and the potential (direct and indirect) costs this may have for individuals and society.

A previous study "Comparative analysis on national measures to combat discrimination outside of employment and occupation"<sup>40</sup> provides a comprehensive review of the existing national legislative measures and their impact in tackling discrimination outside the field of employment and occupation on the grounds of sex, religion or belief, disability, age and sexual orientation. The analysis covered the extent of protection provided by national laws; the nature of such protection; as well as the coverage provided by national laws on ground of discrimination and its scope (i.e. employment, social protection and social advantages, education, goods and services, etc.).

<sup>39</sup> 2007, GHK.Ltd-EPEC, Study on discrimination on grounds of religion or belief, age, disability and sexual orientation outside of employment, available at: [http://ec.europa.eu/employment\\_social/fundamental\\_rights/org/imass\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/org/imass_en.htm)

<sup>40</sup> McColgan A., Niessen J., Palmer F. (2006). Comparative analyses on national measures to combat discrimination outside employment and occupation. Mapping study on existing national legislative measures – and their impact in – tackling discrimination outside the field of employment and occupation on the grounds of sex, religion or belief, disability, age and sexual orientation, VT/2005/062.

However, the study did not cover the issue of 'multiple discrimination' and, therefore, the protection provided for women with disabilities by the national laws were not addressed. Generally, the findings do provide useful context for a review of national legislation. The study concluded that:

- most of the surveyed Member States go well beyond the current EC requirements and provide legal protection of some form in respect of much of the discrimination examined in this report; and
- there is a very wide variation between countries as to the degree of, as well as the nature of, such protection.

The study classified the EU Member States in three categories:

- A small number of countries have constitutional or detailed statutory provisions covering all grounds and the entire scope of Council Directive 2000/43/EC (BG, IE, LU, RO, SI);
- A second group of countries (ES, PT, FI, CY, EE, EL, FR) do not have comprehensive across-the-board legislation, but have an amalgam of constitutional and/or detailed statutory civil and/or penal prohibitions on discrimination and/or other civil or penal provisions, which together, regulate discrimination on the relevant grounds across a similarly broad scope (housing, social protection, etc.). This group differs from the first group in that some, or all, of their prohibitions on direct discrimination are subject to a general justification defence rather than, or as well as, the particular exception permitted by the first category of countries; and
- A third group of countries have legislation that covers some or all relevant grounds of discrimination, but which is more limited in its material scope (AT, BE, HU, LT, SK, PL, DE, IT, CZ, UK, NL, SE).

Looking specifically at disabilities, the study classified the Member States on the basis of the differing degree of protection provided by their national laws and the material scope covered by them. These classifications were (in order of decreasing protection):

- BG, IE, LU, RO, SI and UK provide the most protection from discrimination on the grounds of disability in relation to social protection, social advantages, education and access to goods and services, including housing, though there are some differences in the duties imposed by them regarding reasonable accommodation;
- AT, BE, CY, DE, EE, ES, FI, HU, IT, LT and PT provide a significant degree of protection in this context; though with important differences in the duties imposed for reasonable accommodation in one or more contexts;
- CZ, FR, LV, MT, NL, SE and SK provide some measure of protection;
- In DK, EL and PL, there is little in the way of legal control of disability discrimination outside of the employment field, though Denmark imposes a general principle of equality to public administrations and the Polish Constitution contains specific provisions on the rights of persons with disabilities.

With regard to the progress made by Member States, the first Disability High-Level Group report on the implementation of the UN Convention on the Rights of Persons with Disabilities<sup>41</sup> provides comprehensive information about the actions undertaken at a national level to implement the UN Convention. This report was drafted based on questionnaire responses from most Member States<sup>42</sup> and some non-governmental stakeholders. The findings are summarised below.

## Responsibilities

Almost all countries have identified a focal point for coordinating the work (except DE, EL, FR, HU, LU, PT and RO). Some countries have also established coordination mechanisms to improve the coherence of their work. Most countries have also involved non-governmental organisations in the consultation and coordination processes.

## Screening of relevant national legislation

The majority of Member States are screening their national laws, though some countries have not yet started this process (for instance, HU, IT and LT). Several Member States have already identified national legislation that needs to be adjusted to comply with the provisions of the UN Convention (for example, BE, FI, IE, MT and PL)<sup>43</sup>. Slovenia has completed the screening process, concluding that its legislation does guarantee the rights of the Convention.

The First Disability High-Level Group report acknowledged that the UN Convention covers matters that fall within the remit of the Member States, but also matters that fall within the responsibility of the European Community. The European Commission (DG Employment, Social Affairs and Equal Opportunities in cooperation with other services) has already screened EU legislation. As noted in the High Level Group's report, the definitive list of relevant legal bases and secondary legislation will be annexed to the Council Decision on conclusion of the UN Convention required by Article 44(1)<sup>44</sup>.

## Training

At this stage, some but not all Member States plan to organise training on the UN Convention (CZ, DE, ES, FI, FR, IE, IT, LT, LV, MT, NL, PT, RO, SI and UK) and most have not yet decided what form this training will take. However, some countries have already undertaken some training actions. For example:

- Spain: targeting of responsible people within the relevant administrations at all levels (national, regional and local);
- Ireland: training on various aspects of the Convention targeting different stakeholders;
- Italy: information seminars on the principles of the Convention under the EYEO in 2007;
- Slovenia: training seminars and meetings on the UN Convention at the level of the Ministry of Labour and Social Affairs.

<sup>41</sup> Available at: [http://ec.europa.eu/employment\\_social/index/7003\\_en.html](http://ec.europa.eu/employment_social/index/7003_en.html)

<sup>42</sup> AT, BE, BG, CY, CZ, DE, DK, EE, EL; ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, RO, SE, SK, SI, UK – all 26 Member States that have signed the Convention.

<sup>43</sup> Information regarding this question was made available only by some countries: BE, FI, DE, HU, IE, IT, LT, MT, LU, PL, SI.

<sup>44</sup> This Council Decision has already been presented to the Council but is not made available on the web or enclosed to the report.

## Awareness-raising activities and information on implementation

As with training activities, a number of countries have already undertaken awareness-raising and information activities (EE, ES, FI, HU, IE, IT, LU, MT, PL, UK) of different types, including awareness raising days, conferences organised with NGOs, briefing sessions on the Convention, events related to the International Day of Persons with Disabilities, newsletters and press releases. In this respect, the report of the High Level Group also highlighted the role of the European Community in raising awareness of the UN Convention.

### 5.3 Results of the review of national legislation

National legislation and institutions tend to treat gender and disability separately. Whilst the legislation and anti-discrimination measures on the grounds of disability and gender are applicable for women with disabilities they do not tackle the intersectionality of multiple discrimination on the grounds of gender and disability.

The results of national research examining anti-discrimination measures applicable for women with disabilities are summarised in Table A1 in Annex Three of this report. Whilst this list is not exhaustive, it shows that there is wide diversity in the national legislation in different countries which targets women with disabilities. In some countries, there is special anti-discrimination legislation targeting persons with disabilities. In other countries, the more general anti-discrimination legislation includes measures related to anti-discrimination on the grounds of disability. In most countries, the constitution includes a clause on anti-discrimination on the grounds of disability and/or gender; however, this is not included in the table which presents more specific legislative measures related to anti-discrimination.

Spain is exceptional in its treatment of the issue of women with disabilities. This country alone directly addresses women with disabilities in its state law, specifically:

- Law 51/2003, of 2nd December 2003, on Equal Opportunities, non-Discrimination, and Universal Access for Persons with Disabilities<sup>45</sup>. Article 8.2 of the act refers specifically to women with disabilities in relation to positive action measures: "public powers shall adopt additional positive action measures for those people who objectively suffer from a higher degree of discrimination or enjoy less equal opportunities, such as women with disabilities".
- The first reference to multiple discrimination in Spanish law can be found in Organic Law (OL) 3/2007, of 23rd October, on the effective equality of women and men. Its preamble stressed that the law takes special consideration with regard to "cases of double discrimination and the particular difficulties faced by vulnerable women, such as women belonging to ethnic minority groups, migrant women and women with disabilities. Article 20 of OL 3/2007 states that "public authorities shall, in the preparation of studies and statistics, devise and introduce the necessary mechanisms and indicators to show the incidence of other variables whose recurrence generates a situation of multiple discrimination in the various spheres of action".
- Spain is also alone in having a National Action Plan for Women with Disabilities (2007).

<sup>45</sup> Ley 51/2003, de 2 de Diciembre 2003 de Igualdad de Oportunidades, No Discriminación y Accesibilidad Universal de las personas con discapacidad.

## 5.4 Summary

All countries covered in this study have some form of general anti-discrimination legislation. However, many have gone further by creating separate laws on disability and employment or new anti-discrimination acts specifically addressing persons with disabilities<sup>46</sup>, whilst others have taken the approach of incorporating anti-discrimination clauses into all legislation over the last two decades. This mainstreaming is also evident within many of the countries which retain separate, generic anti-discrimination acts.

The majority of countries in this study (20 of 33) have a specific disability act. This legislation covers all areas of society where discrimination may occur in relation to persons with disabilities. For instance, employment, education, access to goods, facilities and services, buying or renting land or property and making disability-related adjustments to property, complaints and appeals procedures, restrictions on genetic testing and awareness-raising. Employment tends to be a key feature of these legislative acts, even in countries where separate anti-discrimination employment legislation exists. In many, countries Disability Acts are long-standing and well established aspects of national legislation, most notably, the Disability Discrimination Act (1995) in the UK and the Federal Disability Act (1990) Austria.

This type of consolidation of anti-discrimination laws for persons with disabilities is seen to be beneficial. For example, in 2002 the Norwegian Royal Commission proposed changes in existing legislation; presenting a new draft disability specific law on 18 May 2005. Its main conclusion is that "Any person with disabilities should have strengthened their legal status through protection against discrimination and increased demands to adaptation of society"<sup>47</sup>.

<sup>46</sup> For example: Equal Treatment Act, Hungary; Non-Discrimination Act and Equality Act, Finland; General Equal Treatment Act, Germany; Equality Act, UK; Equal Treatment Act, Greece; Equality of treatment Law, Luxembourg; Anti-Discrimination Act, Slovak Republic.

<sup>47</sup> Proposition for a disability specific anti-discrimination law in Norway, Disabled Peoples' International – Vox Nostra, available at: <http://v1.dpi.org/lang-en/resources/details?page=185>

## 6.0 Economic and Employment Situation

This chapter examines the economic situation and employment of women with disabilities. It presents data on rates of labour market participation and examines the legislation and policy interventions in different countries which seek to enhance the economic situation of women with disabilities.

### 6.1 Economic and employment situation of women with disabilities

Improving the employment situation of women with disabilities is not only a matter of social justice, it is important in the light of a shrinking workforce due to demographic change. If the EU is to achieve the Lisbon target of a 70% employment rate, then the rate of employment for women with disabilities will need to rise significantly. However, few countries systematically collect data about unemployment, inactivity and self-employment among women with disabilities. Comparisons between countries are, therefore, difficult and the 2002 LFS ad hoc module remains one of the few sources with consistent data.

#### 6.1.1 Labour market participation rates

Based on LFS data, employment rates for persons with disabilities are below those of people without disabilities in every country. Rates for women are below those of men in every category of restriction, with just a few exceptions. Regardless of the definition of disability used, rates of employment are generally highest for men without disabilities, followed by women without disabilities, men with disabilities and finally women with disabilities.

Disability is, then, the first and most important issue shaping access to work, but gender tends to have a multiplier effect, creating multiple disadvantage. However, the extent of the gender “gap” tends to reduce as the severity of disability increases. Looking at the EU as a whole, the LFS data shows that the employment rate for men who are considerably restricted is only marginally above that of women that are considerably restricted by disability. The disparity is greater between men and women restricted by disability to some extent and greater still between men and women with no disability restrictions.

**Table 6.1 Employment rates based on degree of restriction**

Degree of restriction	% Employment Rate (M)	% Employment Rate (W)
Considerable	33.4	30.4
To some extent	78.2	63.1
No restrictions	89.9	69.4

*Labour Force Survey Ad Hoc Module on Employment of People with Disabilities (2002)*

However, the relative impacts of the disability dimension and the gender dimension manifest themselves in different ways in different countries:

**Table 6.2 Employment situation of European countries**

Employment situation	Countries
Low employment generally (all/most rates below EU average)	EL, ES, IT (mild disability effect), RO
Strong disability effect (rate for “no restrictions” close to/above EU average; rates for “considerably/some restrictions” below EU average)	CZ, EE, CY, LT, HU, SK (low male employment)
Strong gender effect (male employment rates (all types) close to/above EU average; female rates (all types) below EU average)	IE, LU, MT <sup>48</sup>
High employment generally (all rates close to/above EU average)	AT (mild disability effect), BE, DK, DE, FI, FR, NL, NO, PT, SE, SI, UK (mild disability effect)

Source: ECOTEC Research & Consulting (based on LFS ad hoc module 2002)

In general, employment rates for women with disabilities are lowest in countries where employment in general is low (notably ES, RO, SK). This suggests that women with disabilities in these countries face the intersection of disability, gender and a poor national employment situation. Similarly, the highest rates of employment for women with disabilities are generally in those countries with an overall high level of employment (FI, NO, SE, SI). In short, women with disabilities in countries such as Romania, Spain or Greece will face barriers to employment that few, if any men without disabilities could imagine in Norway or Slovenia. The policy implication is that different approaches need to be taken in different countries. In countries with a strong gender effect, measures to help women with disabilities will be of limited impact unless those barriers facing all women are addressed. In countries with low employment generally, for specific approaches to women with disabilities to be effective, they must be accompanied by wider reforms of employment policy more generally. In countries with high employment overall, and where employment rates for women restricted to some extent by disability already exceed 70%, the greatest potential for impact may be in measures that focus on helping women facing the most severe restrictions.

Turning to data drawn from national sources, Table 6.3 shows that the patterns are not entirely dissimilar to the situation suggested by the LFS data – despite the different methods of defining disability and collecting data.

<sup>48</sup> In fact, Malta’s low rate of female employment (the lowest in the EU) makes Malta’s overall employment rate the lowest in the EU, despite male employment exceeding the EU average.

**Table 6.3 Employment rates of women with disabilities, women without disabilities, and men with disabilities, percentages of each population, various dates**

COUNTRY (data collection date)	WOMEN WITH DISABILITIES	WOMEN WITHOUT DISABILITIES	MEN WITH DISABILITIES
SE (2006)	60	75	66
DK (2006)	52	73.2 <sup>#</sup>	48
UK (2006)	46	75	48
NO (2008)	43	92	48
NL (2006)	43	69.6 <sup>#</sup>	*
DE (2005)	39	64.0 <sup>#</sup>	45
BE (2001)	39	65	63
FR (2003)	38	60.0 <sup>#</sup>	40
EE (2006)	34.2	65.1	31.1
AT (2007)	26	64.4 <sup>#</sup>	45
ES (2002)	22	54.7 <sup>#</sup>	34
PO (2007)	10	42	18
HU (2001)	7	33	11
SI (2007)	7	62.6 <sup>#</sup>	9
MT (2005)	7	36.9 <sup>#</sup>	22
TR (2002)	7	23.9 <sup>^</sup>	32
IT (?)	2	37	7
SK (2007)	1	53.0 <sup>#</sup>	1

Source: ECOTEC national correspondents (\* data not available).

# 2007 figure for all women (with and without disabilities); Employment in Europe 2008

^ 2006 figure for all women (with and without disabilities); Employment in Europe 2008

Note: EU, EFTA and Accession States which do not disaggregate data by gender are not included above. Turkish figures are for labour force participation rates, not employment rates.

Table 6.3 ranks countries by the employment rates of women with disabilities. The data is not strictly comparable across countries because national labour force data is collected at different times. We have indicated after each country the year in which the data was collected. With this caveat, some tentative conclusions can be drawn. Employment rates for women with disabilities are highest in the Nordic countries and the UK, with 60% of women with disabilities in Sweden in employment. The southern and south-eastern countries have rates below 10%. Employment rates for women overall follow similar country patterns, with women in the Nordic countries having high levels of labour market participation, owing to the childcare systems and a 'shared breadwinner model' operating in these countries, both of which promote female labour market participation.<sup>49</sup>

<sup>49</sup> Pfau-Effinger (1998) distinguishes between several types of 'breadwinner model' which operate in different European countries and shape women's labour market participation.

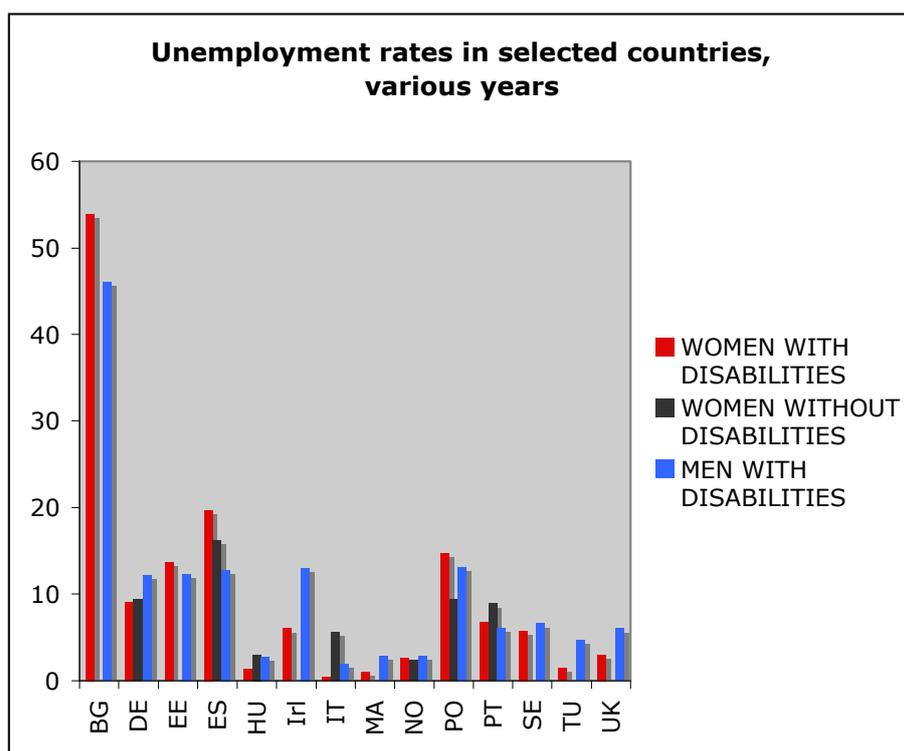
The employment rates for men with disabilities show similar country differences, with rates highest in the Nordic countries and the UK. The notable exception to this is Belgium where the rate was 63% in 2001. We might expect that it would have risen still further since then, due to a mixture of improved awareness of the potential of persons with disabilities and social policies which encourage their labour market participation.

Though several countries do not provide data on women without disabilities specifically, it is clear from the figures that are available that across all countries (with the exception of Denmark), the highest employment rates are enjoyed by women without disabilities, followed by men with disabilities, and that women with disabilities have the lowest employment rates of these three groups. The most marked differences between the employment rates of women and men with disabilities are in Austria, Belgium, Malta, Spain and Turkey. In many countries, however, the differences between the employment rates of women and men with disabilities are negligible.

### 6.1.2 Non-participation in the labour market: unemployment and inactivity rates

Figures 6.1 and 6.2 show national unemployment and inactivity data for women and men with disabilities, in selected countries for which this data is available.

**Figure 6.1 Unemployment rates of women with and without disabilities and men with disabilities, selected countries, various years**

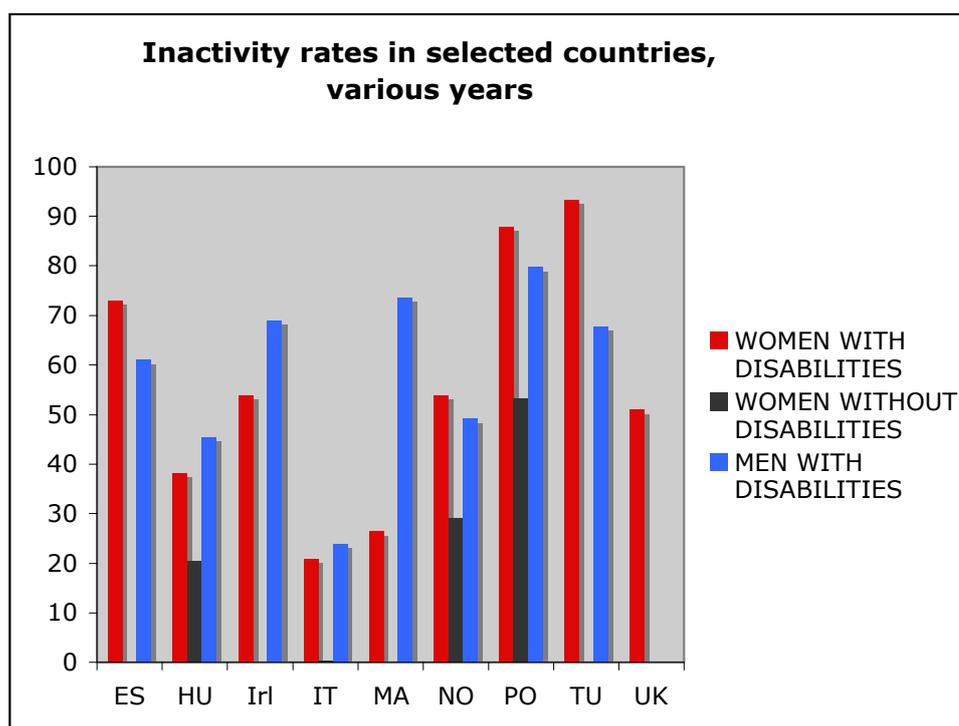


Source: ECOTEC national correspondents (see national fiches in Annex Four)

Figure 6.1 tells us that unemployment rates among women with disabilities are in excess of 10% in Bulgaria, Estonia, Poland, and Spain. The unemployment rates of men with disabilities are also highest in these countries, though they are lower than those of women with disabilities. In the other countries (DE, UK, IRE, SE), men with disabilities and women without disabilities have higher unemployment rates than women with disabilities.

In some countries (HU, IT, PT), unemployment rates of women (and indeed men) with disabilities are very low, particularly when compared with those of women without disabilities. In Figure 6.2 below, the available data shows that inactivity rates among women and men with disabilities are much higher than those of women without disabilities. This is perhaps because women and men with disabilities are more likely to declare themselves to be economically inactive rather than active in the labour market, and consequently do not appear in the unemployment statistics. In all countries for which data is available, inactivity rates of women with disabilities are above 20%. In Poland, Spain and Turkey, they are above 70%. Though lower overall, inactivity rates of men with disabilities are also above 20%; in most countries for which data is available, they are in excess of 50%.

**Figure 6.2 Inactivity rates of women with and without disabilities and men with disabilities, selected countries, various years**



Source: ECOTEC national correspondents (see national fiches in Annex Four)

Taken together with the data on employment rates, these figures clearly indicate that women with disabilities do not have the opportunity to participate in the labour market on the same basis as women without disabilities, or even as men with disabilities.

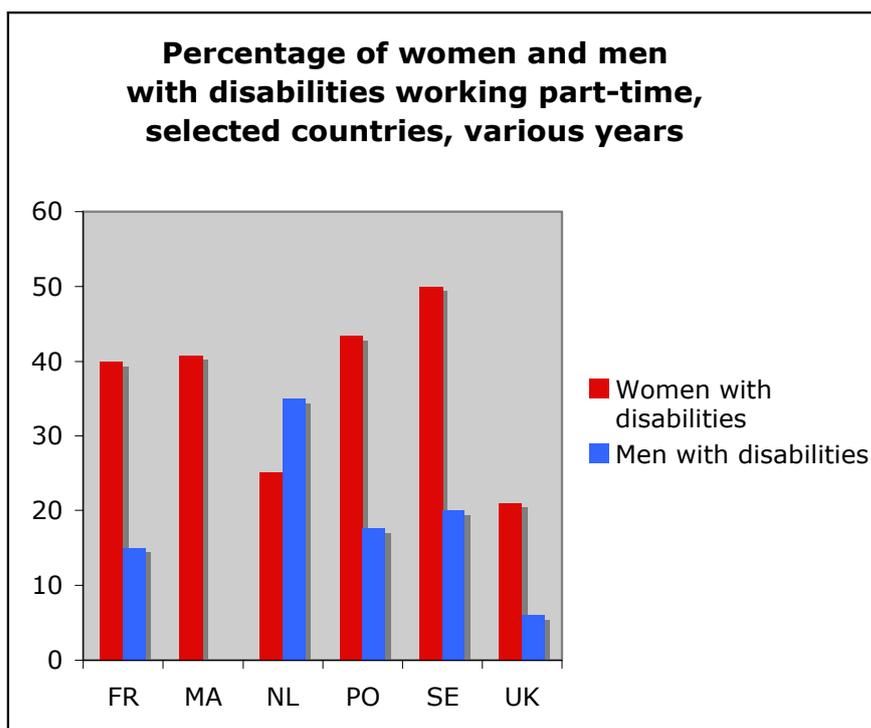
### 6.1.3 Flexible working and self-employment

Flexible working includes several types of employment arrangement, including part-time working, temporary working, distance and tele-working which can allow women with disabilities to work on their own terms and with favourable conditions of work. Only Malta provided data on self-employment, which covers 1.53% of women with disabilities. A very small number of countries provided data on part-time working among women with disabilities.

For those in employment, Figure 6.3 shows that levels of part-time working are high for women with disabilities (especially in France, Malta, Poland and Sweden) and higher than for men with disabilities.

This may reflect either the preferences of women with disabilities for flexible working or simply the limited choices available to them in respect of employment. However, the policy implication is that active labour market policy measures for women with disabilities *might* be most effective where they offer effective routes into flexible employment, since these potentially reflect the preferences of women with disabilities. In fact, anecdotal evidence (for example, the views of the Expert Committee) supports the view that many women with disabilities prefer flexible working arrangements that allow other needs to be met, such as regular medical treatments or childcare responsibilities.

**Figure 6.3 Part-time working rates among women and men with disabilities, selected countries, various dates**



Source: ECOTEC national correspondents (see national fiches in Annex Four)

Indeed, Article 27 of the UN Convention states that persons with disabilities have the right to work, to gain a living by work freely chosen, and to just and favourable conditions of work. The right to work in such a way implies that women with disabilities must be able to choose the terms on which they participate in the labour market, and this includes their working hours and employment arrangements.

Compliance with the UN Convention should include supporting women with disabilities who wish to work flexibly, for example, part-time, without sacrificing employment security, status, pay, development, or progression prospects. An indicator of compliance would be high rates of flexible working by women in disabilities, in 'high quality jobs'. A further indicator would be the availability of suitable childcare for working mothers generally and also specifically for mothers who have a disability, for example, childcare premises with suitable physical adaptations.

## 6.2 Legislation and policy

### 6.2.1 European legislation and policy

Faced with a shrinking workforce resulting from demographic change, in recent years the economic dimension of the exclusion of persons with disabilities from the labour market has been especially pronounced. The Lisbon Council set the overall target of reaching a 70% employment rate by the year 2010, with the special target of raising the employment rate for women to more than 60%. The 2006 Spring European Council highlighted the need to make the most of the untapped potential of the many people excluded from the labour market and identified persons with disabilities as one of the key priority groups.<sup>50</sup>

The employment targets of the Lisbon process are intended to be achieved by the implementation of the European Employment Strategy, which consists of eight Employment Guidelines; themselves part of a set of 24 Integrated Guidelines also covering macro-economic reform and competitiveness. The Guidelines offer a specific commitment to address gender inequality in employment (for example, through a commitment to “resolute action to increase female participation and reduce gender gaps in employment, unemployment and pay” in Guideline 18) and to reducing employment gaps for persons with disabilities. However, the Guidelines do not explicitly recognise the intersection of gender and disability disadvantage in employment.

As noted in the previous chapter, the key legislative tool relating to the safeguarding of the rights of women with disabilities in respect of employment is the Employment Framework Directive (2000/78/EC). The directive establishes a framework for equal treatment in employment focusing on:

- Implementation of the principle of equal treatment in employment and training irrespective of religion or belief, disability, age or sexual orientation in employment, training and membership and involvement in organisations of workers and employers.
- Inclusion of identical provisions to the Racial Equality Directive on definitions of discrimination and harassment, the prohibition of instruction to discriminate and victimisation, on positive action, rights of legal redress and the sharing of the burden of proof.
- Requirement of employers to make reasonable accommodation to enable a person with a disability who is qualified to do the job in question to participate in training or paid labour.
- Provision for limited exceptions to the principle of equal treatment, for example, where the ethos of a religious organisation needs to be preserved, or where an employer legitimately requires an employee to be from a certain age group to be recruited.

<sup>50</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009; COM(2007) 738 final.

## 6.2.2 National legislation

The overall governance rules and documentation for state entities often include statements of individuals' rights and state responsibilities regarding the employment of persons with disabilities. The specificity of the legislation varies according to the age of the constitutions. For instance, the French National Constitution of 1946 establishes that 'Each person has the duty to work and the right to employment. No person may suffer prejudice in his work or employment by virtue of his origins, opinions or beliefs'<sup>51</sup>. The more recent Constitution of the Slovak Republic 1992, addresses specific employment issues for men with disabilities and women with disabilities. It lays down the scope of guaranteed fundamental rights including the rights of persons with disabilities. Alongside fundamental rights, it guarantees for persons with disabilities (Article 38) an enhanced protection of their health at work as well as special working conditions; and special protection in labour relations as well as assistance in vocational training<sup>52</sup>.

An extensive examination of national constitutions as they relate to disability and gender rights has been omitted from this study on the grounds that the provisions in Article 7 of the Employment Framework Directive, permitting Member States to take positive measures for the employment and work integration of persons with disability, took precedence over national constitutions as countries entered the EU. Further to this, even in countries outside of the EU constitutional legislation, this has been superseded by more specific legislation in this area. For example, the Turkish Constitution covers basic provisions for the right to work, working environment and special provision for persons with disabilities<sup>53</sup>. However the Turkish Disabled People Act (2005) and Labour Code (2003) cover rights, obligations and implementation strategies in much greater depth.

In most European countries, employment outcomes and the related economic situation of men with disabilities and women with disabilities are well covered by legislation and various policy initiatives. In many countries, anti-discrimination measures have been mainstreamed into the main employment acts or labour codes. For example, the Bulgarian Labour Code contains special disability protections. Article 333 of the Labour Code does not allow employers to dismiss workers with disabilities without the permission of the Labour Inspection Office and re-enforces the quota requirement of 4% disability-adjusted jobs for all employers hiring over 50 employees.<sup>54</sup>

Similarly in the Czech Republic, employment law requires a mandatory proportion of employees with disabilities for employers with more than 25 staff. Such employers have to ensure that persons with disabilities constitute at least 4% of their total workforce<sup>55</sup>. Similar quota systems are in place in most European countries including Belgium, France, Hungary, Portugal and Spain<sup>56</sup>.

<sup>51</sup> Preamble to the 27th of October 1946 Constitution, available at : [http://www.elysee.fr/elysee/anglais/the\\_institutions/founding\\_texts/preamble\\_to\\_the\\_27th\\_of\\_october\\_1946\\_constitution/preamble\\_to\\_the\\_27th\\_of\\_october\\_1946\\_constitution.20243.html](http://www.elysee.fr/elysee/anglais/the_institutions/founding_texts/preamble_to_the_27th_of_october_1946_constitution/preamble_to_the_27th_of_october_1946_constitution.20243.html)

<sup>52</sup> Constitution of the Slovak Republic (1992), National Council of the Slovak Republic, available at: <http://www.nrsr.sk/default.aspx?sid=nrsr/dokumenty>

<sup>53</sup> The Constitution of the Republic of Turkey (2001 revision), T.C. Anayasa Mahkemesi, available at: [http://www.anayasa.gov.tr/images/loaded/pdf\\_dosyalari/THE\\_CONSTITUTION\\_OF\\_THE\\_REPUBLIC\\_OF\\_TURKEY.pdf](http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf)

<sup>54</sup> ECOTEC national correspondents

<sup>55</sup> ECOTEC national correspondents

<sup>56</sup> ECOTEC national correspondents

In Austria, employment quotas incorporate a gender mainstreaming approach, specifically addressing women with disabilities. This includes a target of 50% for the national employment rate of women with disabilities. It is anticipated that this target will be reached through special programmes ensuring the sustainable integration of women with disabilities in the framework of the European Social Fund as well as through the Federal Government's Additional Programme on Employment of People with Disabilities.

Although quota systems go some way to protecting those who are 'registered' as having or are known to have a disability, they are not mandatory aspects of anti-discriminatory legislation in EU Member States. For instance, in the UK the 1944 Disabled Persons (Employment) Act contained laws requiring employers of over 20 staff to have 3% of their employees registered as having a disability. This law was removed when the 1944 Act was superseded by the Disability Discrimination Act (DDA) in 1995. There were several problems noted with the quota system which led to its removal. Primarily it did not take each individual case of work discrimination into account. Once the quota had been reached by employers, individuals had no redress if they felt they had been discriminated against. A secondary concern around quota systems was that the type of job was not addressed within the system. This led to persons with disabilities being taken on in low-skilled jobs in order for companies to meet quota requirements. The current UK legislative system requires reasonable adjustments to be made by employers to allow the integration of persons with disabilities into all positions.

### 6.2.3 National policy

Although the EC directive (2000/78/EC) enforces legislative measures to protect persons with disabilities in employment, it does not always ensure that this protection is enacted in practice. It has been necessary for individual countries to formulate clear policy strategies at a national level and to create suitable organisations and networks to oversee the implementation of these strategies. All countries in the study have some form of policy action plan relating to employment for persons with disabilities. In most countries, this is included within an overall strategy for the integration of persons with disabilities, e.g. National Action Plan for Integration of Persons with disabilities and Incapacities, Portugal; Equal Opportunities for All, Latvia; National Action Plan on Disability Policy, Sweden; The National Disability Strategy, Ireland. National Strategy of Equalisation of Possibilities for Persons with Disabilities 2007-15, Croatia.

Some countries display more specific targeting of employment issues for persons with disabilities. For instance, in Turkey, 2005 was declared as the 'Employment Year for Disabled People' by the Prime Minister, Tayyip Erdogan,<sup>57</sup> with a view to promoting the participation of persons with disabilities in social life and the labour market. The measures adopted within this framework included:

- Investigation of ways to effectively use national and international funds in the fields of vocational training, occupational rehabilitation and employment to promote the development of occupational skills by persons with disabilities;
- Fulfilling the quotas for employees having a disability and allocation of positions to employees having a disability;
- Formation of committees to prepare and evaluate the exams taken by persons with disabilities for civil servant positions;

<sup>57</sup> Circular on the Employment Year for Disabled People, *Official Gazette*, 3 December 2004, No. 25659

- Removal of application fees and documents (other than application forms and health reports) required by candidates sitting civil servant exams who have disabilities;
- Readjustment of public work places to facilitate the employment of persons with disabilities and provision of assistive tools;
- Adoption of measures to promote health and prohibition of employment of persons with disabilities in positions which have the potential to increase their disability;
- Enforcement and collection of administrative for private and public institutions and establishments, which do not fulfil their obligation to employ persons with disabilities;
- Provision of incentives for persons with disabilities to work independently, to establish SMEs and to increase their competitive strength;
- Promotion and awareness-raising about persons with disabilities as individuals who can participate in all areas of social life, hold a right and responsibility to work, and live independently.

These measures form the basis of an Action Plan for the years 2005-2010 which aims to formulate an employment policy towards persons with disabilities. The Action Plan gave specific attention to women with disabilities as people who are facing particular discrimination in terms of employment.

With the exceptions of Turkey and Germany, there tends to be more explicit attention paid to women with disabilities within the policy of countries that have ratified the UN Convention. The Slovenian Action Programme for Persons with disabilities 2007-2013<sup>58</sup>, contains several actions specifically for women with disabilities. These actions include 'encouraging and supporting inclusion of women with disabilities in the labour market' and 'ensuring access to persons with disabilities (in particular the most vulnerable groups, such as women and girls with disabilities and persons with severe disabilities) to social policy programmes and poverty reduction programmes'. Spain's Action Plan for Women with Disabilities<sup>59</sup> includes a focus on employment, in the form of measures in three fields: occupational training, working for a company and self-employment.

In Hungary, policy development involves a high level of stakeholder consultation. The Hungarian 'March for Disabled Women' conferences aim to direct public and political attention onto women with disabilities as a group especially exposed to discrimination and social exclusion.<sup>60</sup> The conferences feed into the New Hungary Development Plan and encourages cooperation between actors from public, private, scientific and non-profit sectors. One of the conferences had a specific employment theme to encourage projects in the following fields: integration of persons with disabilities into the labour market; atypical forms of employment; collection, management, and dissemination of best practices in the area of equal opportunities; planning, preparation, and review of social policy initiatives; and methodological developments. These activities were based on ensuring the realisation of the National Action Plan in terms of women with disabilities.

<sup>58</sup> Government of the Republic of Slovenia (2006) 'Action Programme for People with Disabilities 2007-2013'

<sup>59</sup> Government of Spain, 'Plan de Acción para las mujeres con discapacidad 2007', available at <http://www.asturias.es/portal/site/Asturias/menuitem>

<sup>60</sup> The Association of Womens' Career Development in Hungary, March for Disabled Womens' Conferences, Budapest 2006-2008, available at: <http://www.marchfordisabledwomen.com/index.php>

## 6.3 Programmes and provision

The structures in place for the delivery of employment services for persons with disabilities vary from country to country. However in most countries, services are focused within local employment centres which are government-funded, for example, Jobcentre Plus, part of the Department of Work and Pensions in the UK; ANPE the French national employment public service; Finnish Employment Service Centres (a one-stop-shop service which is part of the national employment service). These centres typically offer a range of rehabilitation and activating services for clients. They typically provide a service for a range of target groups including persons with disabilities or illnesses offering general guidance, work placements, training, job search support, financial support and advice, and environmental adaptations.

Many countries have specific employment programmes which provide overall strategies for persons with disabilities. In 2001, the Austrian government launched an Additional Programme on Employment of Persons with disabilities (Beschäftigungsoffensive der Bundesregierung – 'Behindertenmilliarde'), worth ATS 1 billion (€72.7m) financed mainly from the Austrian federal budget. The programme has been additionally supported with €78m in 2007 and €80m in 2008.<sup>61</sup> The programme concentrates on the employment of young persons with disabilities, persons with disabilities aged 50 or more, and persons with disabilities whose employment proves especially difficult. The programme delivers a wide variety of measures, such as wage subsidies, job coaching, vocational counselling in the framework of supported employment, training, creation of jobs, or incentives for self-employment. The programme is also used to co-finance EU-programmes such as EQUAL.

One of most common type of initiatives for persons with disabilities found in the countries assessed was sheltered employment. In several countries this provision is obligatory by legislation. Sheltered employment offers work opportunities for persons with disabilities in a supportive environment. These businesses operate in the open market, but are funded by a combination of self-generated income, charitable donations and government grant aids. Many sheltered employment schemes also provide training and support to enable people to access supported or open employment.

Long-established examples of sheltered employment can be found in the UK (Remploy) and Sweden (Samhall). Both initiatives are government-led and thus work very closely with other government-run employment advice services and programmes. Samhall and Remploy offer meaningful, developmental jobs to persons with occupational disabilities, in sectors where there is demand. This is done through the production of goods and services which are sold competitively in the commercial market. The location and size of the individual workplaces vary and are frequently factory environments. The workshops provide an important stepping stone to the open labour market, particularly for individuals with severe physical disabilities and people with intellectual disabilities. At Samhall each year, around 3-5% of employees leave for jobs in the regular labour market. Samhall provides employment for 25,000 people with occupational disabilities (46% of whom are women) and maintains workplaces in about 300 locations throughout Sweden. As well as acting as entry points to employment, these settings allow opportunities for broader personal and professional development. Many Remploy sites in the UK have dedicated learning centres that offer basic skill courses, National Vocational Qualifications (NVQs), internet access and learning packages. They also run job clubs to help increase applicant's confidence and provide advice on drafting CVs and interview techniques.

<sup>61</sup> Republic of Austria (2007), *Supplementary Report on Strategies for Social Protection and Social Inclusion – Austria*, Vienna, BMSK.

Other common measures and provisions evident in other countries are:

- Financial incentives (wage subsidies) for employers to retain and recruit persons with disabilities. Subsidies are often paid at different levels depending on how many employees with disabilities a company employs and whether the productivity of the worker is thought to be significantly diminished by the level of restriction.
- Financial support for employers and employees for adaptations to the physical environment, work related assistive devices, personal assistants and transport.
- Financial incentives for self-employment and entrepreneurship, typically for the first two or three years.
- Provision of training including job coaching and vocational counselling for employees and key skills for unemployed persons with disabilities such as computer skills, specific professional skills (for example, accounting) or foreign languages.
- Comprehensive advice services on job opportunities or benefits. Particularly advice and practical support that helps people move from disability and health-related benefits into paid employment.

NGO-led programmes and initiatives are common in the delivery of employment services tailored towards persons with disabilities and women. Several national charities and organisations run various work development schemes and offer work related advice and information to persons with disabilities and their families. Several NGOs offer advice and opportunities tailored to specific impairments, for example, in the UK the Royal National Institutes for the Deaf and Blind<sup>62</sup>, Scope<sup>63</sup> (Cerebral Palsy), Aspire<sup>64</sup> and the Back-up Trust<sup>65</sup> (spinal chord injuries).

## 6.4 Summary

In relation to the economy and employment, persons with disabilities experience particular forms of disadvantage and discrimination. Women also face particular obstacles in participating fully and freely in economic life, and in advancing in line with their potential. Countries which have ratified the Convention must, therefore, put in place measures which respond not only to the disadvantaged status of persons with disabilities in the economy and the employment sphere, but also to the additional and intersectional disadvantage in these spheres when gender is also involved. For example, the patterns of occupational segregation which apply to women in general and serve to cluster them in a narrow set of work areas may be amplified for women with disabilities, because of their impairments, or because of social stereotypes about what types of work are appropriate for persons with disabilities. Additionally, women with disabilities may find themselves excluded from work areas open to women without disabilities, owing to their particular difficulties in gaining equal access to education and training. In their implementation of the UN Convention, therefore, countries need to address the complexity and multi-dimensionality of the obstacles which confront women with disabilities in respect of employment.

<sup>62</sup> Royal National Institute for the Blind (<http://www.rnib.org.uk>).

<sup>63</sup> Scope ([http:// www.scope.org.uk/](http://www.scope.org.uk/)).

<sup>64</sup> Aspire, ([www.aspire.org.uk/](http://www.aspire.org.uk/)).

<sup>65</sup> The Back-up Trust ([www.backuptrust.org.uk/](http://www.backuptrust.org.uk/)).

## 7.0 Education, training and lifelong learning

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This chapter examines the issue of education, training and lifelong learning. The right to an education for persons with disabilities is recognised by Article 24 of the UN Convention and is one of the key rights for ensuring full enjoyment of all human rights and fundamental freedoms. Moreover, the UN Convention stresses the importance of providing inclusive education and creating an inclusive environment that enables persons with disabilities to access and participate in education. The UN Convention includes a number of measures which should be implemented by countries which ratify the convention in order to remove any obstacles faced by persons with disabilities.

Provision of education is also recognised as an important factor in implementing other measures foreseen in the Convention, such as awareness-raising, freedom from exploitation, violence and abuse, respect for home and family and rehabilitation. Moreover, indirect links between education and other areas can be identified such as the links between levels of educational attainment, employment and increased ability to live independently are proved by a number of academic studies.<sup>66</sup>

### 7.1 Education situation of women with disabilities

#### 7.1.1 Educational challenges

The European Disability Forum<sup>67</sup> suggests that persons with disabilities who wish to receive their education in a mainstream setting often face discrimination (from the provider institutions and from their peers without disabilities), which means that they are unable to develop to their full potential and they achieve lower educational qualifications.

In a report based on the European 'Hearing' entitled "Young Voices: Meeting Diversity in Education", young people with special educational needs outlined a number of challenges and needs they face:

- There are different accessibility barriers in education and in society for people with different special needs, for example:
  - ▶ During lessons and exams persons with disabilities may need more time.
  - ▶ There is a need for personal assistants in classes and to access adapted materials.
- Free choice of study topics is sometimes limited by accessibility of buildings, insufficient technology and accessibility of materials.
- The subjects studied and skills taught need to be meaningful for future life.
- Good counselling throughout school education is needed, covering what is possible in the future, based upon individual needs.
- Teachers, other pupils and some parents can have a negative attitude towards people with disabilities.<sup>68</sup>

<sup>66</sup> OECD (2008), Education at a Glance 2008.

<sup>67</sup> EDF (2007). Promoting Equality and Combating Disability Discrimination: The Need for a Disability Specific Non-Discrimination Directive Going Beyond Employment

<sup>68</sup> Excerpt from *Young People's Views on Inclusive Education*. Available at: <http://www.european-agency.org/site/info/publications/agency/flyers/docs/Declaration%20EN.pdf>

This study relates to all young persons with disabilities and, therefore, does not address the question of the 'gender dimension' to these challenges and needs. However, it serves to illustrate some of the challenges and needs which young women with disabilities face in terms of accessing education.

The Council of Europe report on discrimination against women with disabilities<sup>69</sup> helps to identify elements of the 'gender dimension'. For instance, the report states that existing statistics on vocational training indicate that the percentage of women trainees is low – this suggests that women with disabilities may face obstacles to accessing vocational training. The report goes on to note that studies carried out in Switzerland have shown that on occasion, girls with disabilities spend so much time in hospital, it has negative consequences for their education. This may also be due to the problem identified elsewhere in this report that the families of women and girls with disabilities take a more 'protective' attitude than for men and boys with disabilities (for example out of a fear that they are in danger of being abused). Further, the report notes that it has been alleged that in many situations, girls with disabilities are more likely to be placed in special schools than boys with disabilities.

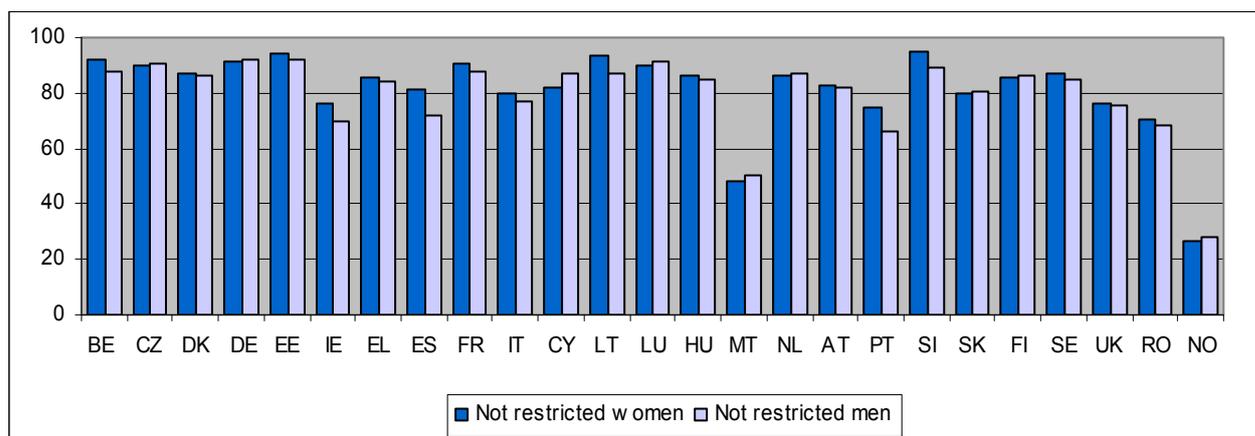
### 7.1.2 Participation

Whilst data from national sources is difficult to compare, given the inconsistency of definitions, such data (as captured in the national fiches) suggests that the participation of women with disabilities in absolute numbers is lower than for men with disabilities at all education levels in all countries for which data is available. The gaps in participation levels are different among different countries and for different levels of education; however, the participation of women and girls in education and training tends to be lower in all countries. In general, participation is the highest in primary and compulsory education for both girls and boys with disabilities across all the countries where information is available. The results from national research indicates that, in countries such as Greece, a significant number of pupils with disabilities remain outside of the education system as education for students with disabilities is not compulsory and it depends on the capacities of individual school to provide education for students with special needs.

However, the evidence from the 2002 LFS ad hoc module, as presented by the Alphametrics, Cesep and Applica study, suggests that gender is, in general, not the most important barrier for participation in education. This is shown in Figure 7.1 which presents levels of participation in education and training of people who are not restricted by disability and who are aged between 16-19 years, the age when people are most likely to be in education and training.

<sup>69</sup> Belez, Maria Leonor, in cooperation with the Drafting Group on Discrimination against Women with Disabilities (2003), *Discrimination against Women with Disabilities*, Council of Europe Publishing, Strasbourg

**Figure 7.1 Proportion of people who are not restricted in their ability to work aged 16-19 participating in education or training, 2002**

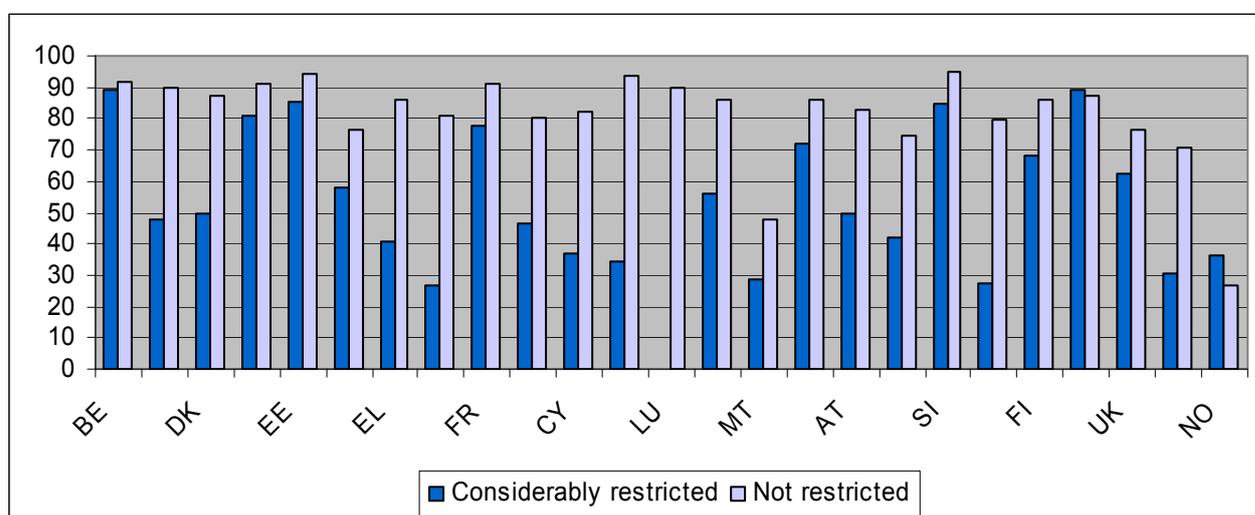


Source: LFS ad hoc module, 2002.

As shown in the figure above, the participation levels of women and men in education and training are very similar. In a number of countries, the proportion of women participating in education and training is higher than the proportion of men. Therefore, in the education systems in general, there are no formal gender barriers for women to participate in education and training per se.

A comparison of participation rates against the same age group of women who are considerably restricted and who are not restricted shows much bigger differences. The data is presented in Figure 7.2 below.

**Figure 7.2 Proportion of participation in education and training of women who are considerably restricted and not restricted in their capacity to work aged 16-19, 2002**



Source: LFS ad hoc module, 2002.

The data above shows that there are significant differences in participation in education and training between women who are not restricted and women who are considerably restricted. Only in Sweden and Norway is the proportion of women who are considerably restricted higher than for women who are not restricted. The difference in participation is lowest in countries such as Belgium, Denmark, Estonia and Slovenia. However, in countries such as Lithuania, Slovakia and Spain, the differences between the participation of women without restrictions and women with considerable restrictions are among the highest. It appears, therefore, that the impact of disability on participation in education and training is much more important than the impact of gender.

### 7.1.3 Attainment

The data on education attainment levels collected through the national research shows similar results to the data on levels of participation. Indeed, it is logical to assume that low participation rates will be reflected in the low education attainment levels. This is proved by the data from national sources, which suggests that women with disabilities have lower education attainment levels than women without disabilities across most countries. The data from Spain and Turkey also shows that women with disabilities have lower levels of educational attainment than men with disabilities. Moreover, the data in the case of Hungary shows that this is even more relevant for Roma women with disabilities. Only 0.1% of Roma women with disabilities have a high school or university education; however, some 72% of Roma women with disabilities have received a level of education lower than eighth grade in elementary school.

In countries like Ireland and the Netherlands, levels of educational attainment are very similar for women with disabilities and for men with disabilities. Moreover, in the Netherlands the level of educational attainment for women with disabilities is a little higher than for men with disabilities. In Bulgaria, the attainment level at primary and secondary education stage is higher for men than women with disabilities. However, the number of women with disabilities who study at the higher education stage is higher than men with disabilities.

The data from Italy allows us to compare levels of educational attainment for women with disabilities, with those of men with disabilities and women without disabilities. The data from the figure above shows that the proportion of women with disabilities receiving higher education levels is lower than for women without disabilities. However, the proportion of women with disabilities receiving higher secondary and university diplomas is much higher for women with disabilities than for men with disabilities. Therefore, in Italy the main factor influencing education is disability rather than gender. This position is reflected in other countries.

The data from the LFS and EU-SILC surveys<sup>70</sup> shows similar results in that the participation of young people in education and training is significantly lower for those with disability restrictions than for those without. In addition, across all countries covered by the data, the level of education is lower among persons with a Long Standing Health Problem or Disability (LSHPD) – a higher number do not have qualifications beyond basic schooling and fewer go on to complete tertiary education. Moreover, the level of education tends to be lower for those with more severe restrictions.

<sup>70</sup> Alphametrics, Cesep and Applica (2007). Men and Women with Disabilities in the EU: Statistical Analysis of the LFS Ad Hoc Module and the EU-SILC.

A clear and systematic relationship between having a LSHPD that restricts the work that people can do and their education level does not necessarily imply that the former is the cause of the latter<sup>71</sup>. Nevertheless, more detailed data from the LFS suggest that this is the case: there is a clear inverse relationship between having a LSHPD that restricts ability to work and the level of education.<sup>72</sup> Data from the LFS module indicates that participation of young people in education and training differs markedly between those with restrictions and those without and this is also the case as regards participation of those of working age in continuing training.<sup>73</sup>

Analysis of those with congenital disabilities and those who acquired problems later shows very clearly that those with problems since birth, who are considerably restricted, have much lower education levels than those who have acquired problems later in life. This, however, does not apply to those with congenital disabilities who are restricted only to some extent, which implies that it is important to differentiate between these two groups when considering the link between disability and education. The analysis suggests that education is an endogenous factor at least for some of the persons with disabilities.<sup>74</sup>

Although the differences in participation and attainment are generally similar for men with disabilities and women with disabilities, the LFS data show that among young women the effect of restrictions on participation in education is more pronounced than for men, especially within the 16-19 years age group. The lower level of participation is reflected in the level of education achieved - there were slightly more women than men with only basic schooling in all three categories (considerably restricted, to some extent or not restricted). In 2002, some 58% of women aged 25-64 who were considerably restricted had only basic schooling, as compared with 38% of those not restricted<sup>75</sup>. Only 10% had tertiary or university education, as against 21% of those not restricted. This pattern is evident to varying extents in every Member State<sup>76</sup>.

The data from the national research and the Alphametrics, Cesep and Applica study show similar results reaffirming that disability is a key aspect influencing access and participation in education. The data, therefore, confirms that persons with disabilities have more difficulties in accessing education and achieve lower levels of education than persons without disabilities. The data shows that persons with disabilities have lower participation in and lower levels of education and, therefore, with regard to education, disability is the more important factor influencing the education attainment levels than gender. The analysis above shows the complexity of the factors influencing the education attainment levels of women with disabilities. Moreover, the combination of a number of factors is likely to have more significant effects on the education level.

<sup>71</sup> Alphametrics, Cesep and Applica (2007). Men and Women with Disabilities in the EU: Statistical Analysis of the LFS Ad Hoc Module and the EU-SILC.

<sup>72</sup> *ibid*

<sup>73</sup> *ibid*

<sup>74</sup> *ibid*

<sup>75</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009; COM(2007) 738 final.

<sup>76</sup> *ibid*

## 7.2 Legislation and policy

### 7.2.1 EU legislation and policy

At a European level, it is possible to identify a number of policies and resolutions which recognise the importance of education and training for persons with disabilities and the role education has in ensuring their ability to take up their 'rightful place in society and in the economy'.<sup>77</sup> Within these policies, increasing emphasis is given to the integration of students with disabilities into mainstream education provision.

A 1990 resolution<sup>78</sup> called for Member States to intensify their efforts to integrate or encourage integration of pupils and students with disabilities, where necessary. It recommended that full integration into the system of mainstream education should be considered as a first option in all appropriate cases and that educational establishments should be in a position to respond to the needs of pupils and students with disabilities. However, the resolution made no specific reference to girls with disabilities.

The European Agency for Development in Special Needs Education<sup>79</sup> was established in 1996. It is a network of 26 European countries<sup>80</sup> which aims to facilitate collaboration in the field of special needs education. In particular, the Agency "*aims to provide policy makers and professionals with access to relevant information in the field of special needs education by providing mechanisms and services that facilitate contact and exchange between different users.*"<sup>81</sup>

During the 2003 European Year of People with Disabilities, the Education Council adopted a resolution on equal opportunities for pupils and students with disabilities in education and training. Further, the Disability Action Plan (2003-10)<sup>82</sup> recognises that a key element for improving access to employment, combating exclusion and improving social cohesion is equipping persons with disabilities with all available knowledge and competencies. In the Plan, the Commission commits to promoting the exchange of good practice and the identification of factors of success (or failure) in relation to the integration of persons with disabilities in education and training. The concrete priorities of the Disability Action Plan are defined in the biannual action plans. The current Disability Action Plan 2008<sup>83</sup> has a focus on accessibility, which includes the elimination of barriers to education.

<sup>77</sup> Quinn G. (2007). The UN Convention on the Human Rights of Persons with Disabilities. A Trigger for Worldwide Law Reform

<sup>78</sup> Resolution of the Council and the Ministers Concerning Integration of Children and Young People with Disabilities into Ordinary Systems of Education – Resolution of 31 May, 1990, Official journal NO. C 162 , 03/07/1990 P. 0002 - 0003

<sup>79</sup> [www.european-agency.org](http://www.european-agency.org)

<sup>80</sup> Member countries are: Austria, Belgium (Flemish and French speaking communities), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, UK (England, Scotland and Wales). Bulgaria and Slovenia participate as observers.

<sup>81</sup> Taken from the European Agency for Development in Special Needs Education website, [www.european-agency.org](http://www.european-agency.org), 09.05.08

<sup>82</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final.

<sup>83</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009; COM(2007) 738 final.

The Disability Action Plan (2003-10) noted that the Commission's proposal for an eLearning programme made specific reference to the needs of persons with disabilities.<sup>84</sup> It suggests that the use of modern information and communication technologies (ICTs) for eLearning can help to overcome barriers to education, training and lifelong learning for persons with disabilities. It also recognises the Commission's Action Plan on language learning and linguistic diversity, which proposes to collect and disseminate information about good practice in the teaching of foreign languages to learners with special needs. Further, it notes that the Action Plan on skills and mobility<sup>85</sup> points out that Member States should intensify support for integrating young people at a disadvantage, particularly those with disabilities and those with learning difficulties, into their education and training systems.

In the Disability Action Plan (2003-10), the Commission also brought attention to the needs of persons with disabilities in relation to education and training by committing to give special attention to projects involving persons with disabilities in programmes such as the [former] Socrates, Leonardo and YOUTH programmes (2000-06). This is further incorporated in the current Lifelong Learning Programme (2007-2013). A commitment was made to evaluate the impact of the programmes on the lifelong learning opportunities for persons with disabilities in the EU Member States, to disseminate their results and to take into account the needs of persons with disabilities in the design of future programmes.

There has been, then, limited explicit recognition of the need to specifically focus on women and girls with disability. However, the European Parliament<sup>86</sup> in 2007 expressed its concern "that women with disabilities have lower levels of educational achievement, which makes it more difficult for them to gain access to, stay in and be promoted in the labour market. Persons with disabilities must be given the same opportunities to study and must have the right of access to the labour market so that they can support themselves; Women and girls with disabilities should be encouraged to seek education and employment on the basis of their resources and interests rather than of what they are lacking". The intersectionality of disadvantage for women with disabilities is, therefore, recognised, but, again, not developed as a significant theme in its own right.

The Council of Europe Disability Action Plan<sup>87</sup> for 2006-2015 states that "equal access to education is a fundamental requirement for ensuring social inclusion as well as independence for persons with disabilities". It goes on to recommend that "mainstream education and specialised programmes, as appropriate, should be encouraged to work together to support persons with disabilities in their local communities". Further, the Plan suggests that "a mainstream approach can also contribute to non-disabled people's awareness and understanding of human diversity".

<sup>84</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final.

<sup>85</sup> COM(2002) 72 final on the "Commission's Action Plan on skills and mobility".

<sup>86</sup> EP (2007). on the situation of women with disabilities in the European Union (2006/2277(INI))

<sup>87</sup> Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015

## 7.2.2 National legislation

At a national level, as well as European, there is limited evidence of legislation or policies specifically targeting the education of women and girls with disabilities. In most countries, education legislation for persons with disabilities is covered by the general education legislation at all levels, special needs education legislation, anti discrimination legislation and legislation to ensure equality between women and men. Some countries have different legislation for disability and gender, as separate areas of activity. For example in Spain there is legislation on education in general (the Organic Law 2/2006, of 3 May, of Education), special needs education (Royal-Decree 696/1995, of 28 April, concerning the regulation of education for pupils with special educational needs); and, legislation on equality between women and men (Organic Law 3/2007, of 23 October, on effective equality of women and men). In other countries, such as Hungary, the Public Education Act is the main legislative framework governing public education, including special education. In addition, the amendments of this Act also prohibit discrimination on the grounds of disability.

In Sweden the Act on the Prohibition of Discrimination and Other Degrading Treatment of Children and Pupils (2006) is an example of more inclusive legislation. This act prohibits the discrimination of children within the education system on various grounds including disability and gender. The act also states that every school activity should have an equal treatment plan which includes the planned measures to eliminate direct and indirect discrimination and other mistreatment.

The general and special needs education legislation in all countries included in this study appear not to make any distinction between female and male students. Moreover, in some countries such as Denmark, Finland, Sweden there is a deliberate attempt not to make the distinction or treat differently any groups of students including students with disabilities. The aim is to ensure that the needs of all the students would be met in mainstream education; therefore, their rights are not stated separately.

A policy of educational provision for students with special needs in the mainstream education sector is increasingly applied in most of the countries covered by this report. Countries such as Austria, France, Germany, Norway and, Spain aim as far as possible to meet the special needs of students with disabilities in mainstream education by providing them with the appropriate support. In the Netherlands, the Back Together to School Act provides the opportunity for parents to choose to send their child to regular or special education.<sup>88</sup> In other countries, provision in special educational institutions is provided for those students whose needs are not met in mainstream education. Some of these countries still have strong special education institutions providing education for the majority of persons with disabilities. However, there is little evidence of a gender dimension in the operation of these special educational institutions.

<sup>88</sup> In case parents choose to send their child to special education, a special Commission examines whether the child is eligible to go to special education on the basis of a set of independent national criteria.

## 7.3 Educational programmes and provisions

Whilst educational policies and programmes specifically targeting women and girls with disabilities are not consistently and comprehensively implemented across EU Member States, the research has uncovered a number of initiatives and programmes that potentially demonstrate good practice.

In Austria 'clearing' measures – a link between school and the labour market for adolescents with special educational needs - have been implemented. These were set up through a national support programme provided by the Federal Social Welfare Authority in co-operation with the Provincial School Boards and the School Board of Vienna. A national 'clearing' concept has been developed that is implemented in the provinces by private organisations. Specially-trained experts closely collaborate with parents, teachers and pupils to find the best possible career for adolescents with an impairment or disability. The 'clearing' process starts with the preparation of a profile of the adolescent's strengths and weaknesses, describes his or her interests, wishes and needs for further training and aims to achieve close co-operation between school and the regional labour market.<sup>89</sup>

In Ireland, legislation ensures that individuals with special educational needs can be educated where possible in an inclusive environment. No specific national initiatives which target women with disabilities specifically are evident, but a Women's Education Initiative was established in 1998 with assistance under the 1994-1999 Community Support Framework to assist projects to address the current gaps in provision for educationally disadvantaged women. Thirteen projects were supported to develop models of good practice and thus improve provision for this target group. The aim was to develop models that were capable of wider application and impact on future policy, thereby bringing about long-term change in the further education opportunities for educationally disadvantaged women and men.<sup>90</sup>

In the UK, provision is strongly focused on inclusive education. It is supported by the networks and consortiums of organisations and charities working towards the goals of inclusive education. 'Inclusion UK' is a consortium of four organisations supporting inclusion in education: The Alliance for Inclusive Education; Centre for Studies on Inclusive Education; Disability Equality in Education; and Parents for Inclusion. These organisations provide services such as: training on disability and inclusion issues (both in the UK and worldwide); consultancy services; public information services and help lines; lobbying and campaigning; facilitation of stakeholder forums; and research. Supported by central government and the Disability Rights Commission, the Inclusion UK consortium is involved in various projects implementing the DDA in schools, for example through the Reasonable Adjustments Project.

In 2005, the Ministry of Science, Education and Sports in Croatia in cooperation with representatives of the civil sector initiated a project called A Network of Schools without Architectural Barriers in order to assess the need for adaptation of school premises for severely physically-impaired students. The project was intended to design a school network plan according to criteria of accessibility (ramps, toilet facilities, elevators) so that severely physically-impaired children can attend primary school.

<sup>89</sup> Federal Ministry of Social Security, Generations and Consumer Protection (BMSG) (2006), *Evaluierung Clearing*, Vienna, BMSG (now BMSK)

<sup>90</sup> Government of Ireland, Skills and Employability Department, 'Background Report on the Women's Educational Initiative' Available at: [http://www.oit.org/public/english/employment/skills/hrdr/init/irl\\_20.htm](http://www.oit.org/public/english/employment/skills/hrdr/init/irl_20.htm) International Labour Organisation Website (1996-2008)

Iceland operates an inclusive education system which means addressing and responding to the learning needs of all pupils without treating or defining pupils differently. As such, there is no separate legislation for special education at any level. The *Education for All* policy means that:

- There is equal opportunity for all to attend school and acquire education in accordance with their ability and needs.
- Schools must attend to the ability and needs of all pupils.
- Pupils and/or parents decide on which school they attend.
- Pupils in need of special support have the right to special provision.

The National Curriculum Guides for pre-school, compulsory school and upper secondary school were designed to ensure that access to study opportunities are as equal as possible for all pupils. Furthermore, the study and working practices of educational institutions are formulated to prevent discrimination on the basis of origin, gender, residence, class or religion. All school activities should also take into account the varied personalities, maturity, talent, ability and interests of pupils. Each school has to write a working guide which should include information on how it is going to meet the needs of pupils with special needs<sup>91</sup>. This system favours the individual needs of pupils regardless of gender.

### 7.3.1 Higher Education

Data from Sweden shows that a greater proportion of women with disabilities have attained a further or higher education degree, some 26% of women compared to 21% of men with disabilities. In spite of this, women are still less well represented within the Swedish labour market than men with disabilities. In general terms, in Sweden, the Act on Equal Treatment of Students at Universities was the first act to ban discrimination for reasons of gender, ethnic background, religion, sexual orientation and disability in a single law. The objective of the act was to promote equal rights for students and applicants and to combat discrimination. Colleges or universities must plan and document what measures are needed to promote equal treatment and prevent harassment. According to the data, the number of notifications of discrimination at colleges or universities received by the Disability Ombudsman has fluctuated in recent years. In 2002, nine notifications were received, while in 2003 25 notifications were received. In 2004, the number of cases fell to 12, while in 2005 some 11 notifications were received. The area that predominates is accessibility. Indeed, accessibility cases account for 47% of the number of notifications<sup>92</sup>.

In Iceland, there are no laws relating to special needs or students with disabilities in higher education. However, the University of Iceland has a regulation which allows students to apply for special study circumstances and examination procedures. It is reported that there has been a huge increase in the number of students needing special support at university level over the recent years.<sup>93</sup>

<sup>91</sup> European Agency for Development in Special Needs Education website: [http://www.european-agency.org/nat\\_ovs/iceland/9.html](http://www.european-agency.org/nat_ovs/iceland/9.html) accessed on 03/09/08

<sup>92</sup> CERMI (2008) *European Conference Recognising the Rights of Girls and Women with Disabilities: An Added Value for Tomorrow's Society*, Madrid: November 2007, Madrid: CERMI.

<sup>93</sup> European Agency for Development in Special Needs Education website: [http://www.european-agency.org/nat\\_ovs/iceland/9.html](http://www.european-agency.org/nat_ovs/iceland/9.html) accessed on 03/09/08

Elsewhere, in Norway, for example, there are no robust records of the number of students with disabilities in higher education. If estimations are based on registered applications to the advisory services of the educational institutions, there are signs that this number is increasing. In general, educational institutions are giving more attention than before to accessibility of study facilities and the requirements of universal design for the educational environment. The main impression is, however, that many educational institutions are struggling to understand the meaning of the principle of universal design.

In Hungary, in respect of including young persons with disabilities in higher education, a supplementary normative subsidy is provided by the State to educational institutions. Currently there are 559 students with disabilities studying in higher education.<sup>94</sup> Further evidence suggests that, in Hungary, 5% of persons with disabilities have university or other tertiary education (Tausz – Lakatos: A fogyatékos emberek helyzete (The situation of persons with disabilities) 2004.<sup>95</sup>

In the Netherlands, at post-secondary and higher education level, no specialist schools exist for people with a disability. Since the introduction of the Equal Treatment Act on the ground of Disability and Chronic Illness (Wet gelijke behandeling op grond van handicap of chronische ziekte, WGBH/CZ) in 2003, no post-secondary vocational education institute can refuse a student on the basis of a handicap or illness. Students up to the age of 30 in post-secondary vocational education can also apply for "Pupil-Bounded Finance" (Leerling gebonden financiering, LGF).<sup>96</sup>

Evidence from Italy illustrates that access to education is not only influenced by the presence of disability and the gender difference but also by age. The older generation has only a limited number of school integration initiatives at their disposal should they want to obtain a qualification or higher level qualifications. Some 35% of persons with disabilities between the age of 15 and 44 years have a secondary school diploma or a university degree compared to 16% of those between the age of 45 and 64 years. The percentages for people without disabilities are 53% and 32% respectively. In the last few years there has been a significant increase in university attendance. In fact in the academic year 2000-2001 there were 4,813 students with disabilities, while in 2004/2005 there were 9,134. During these five years there has been an increase of 90%.

### 7.3.2 Vocational Education and Training

In terms of vocational education and training, until very recently, persons with disabilities probably received the least attention in current training policy of all the 'at risk' groups examined in ECOTEC's report *Beyond the Maastricht Communiqué*<sup>97</sup> (other groups included women, migrants and ethnic minorities and older workers) which focused specifically on vocational education and training. Further, the Council of Europe report on discrimination against women with disabilities<sup>98</sup> (2003) helped to identify key elements of the 'gender dimension' of this particular topic. For instance, the report stated that existing statistics on vocational training indicate that the percentage of women trainees is low – suggesting that women with disabilities may face obstacles to accessing vocational training.

<sup>94</sup> National Strategy Report on Social Protection and Social Inclusion 2008 – 2010 (2008), Hungary. At: [http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2008/nap/hungary\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2008/nap/hungary_en.pdf)

<sup>95</sup> Statisztikai Szemle (Statistical Review, Vol. 82, pp. 370 -39)

<sup>96</sup> Meedoen met beperkingen, rapportage gehandicapten 2007, Sociaal en Cultureel Planbureau

<sup>97</sup> McCoshan, Dr., A, Drozd, A., Nelissen, E. and Nevala, A-M (2008), *Beyond the Maastricht Communiqué: developments in the opening up of VET pathways and the role of VET in labour market integration*

<sup>98</sup> Beleza, Maria Leonor, in cooperation with the Drafting Group on Discrimination against Women with Disabilities (2003), *Discrimination against Women with Disabilities*, Council of Europe Publishing, Strasbourg

This report also cited a study carried out by European Platform for Vocational Rehabilitation (EPVR) into participation rates of women in vocational rehabilitation. This study found that:

- full-time training appeared to be an unacceptable burden for women with family responsibilities;
- family responsibilities represented a considerable obstacle if no help was available;
- most training on offer was geared towards men's traditional areas of interest; and
- women were unwilling to leave home to participate in vocational training away from their immediate locality.

Within this context, analysis of the qualitative data gathered for this project illustrates that there are examples of efforts to ensure the inclusion of persons with disabilities in vocational education and training. However, in line with comments made elsewhere in this chapter, in the main, the examples available are all aimed at all young people or adults in general, with little specific reference or focus on girls or women with disabilities in particular.

## 7.4 Summary

The general principle dominating the education systems in the countries covered in this study is that education should be provided for all students without discrimination on the grounds of gender, disability, ethnicity and other. However, as mentioned above, gender-specific needs are rarely included in national legislation, programmes or provisions. One exception is Austria where gender-specific discrepancies are recognised and initiatives addressing them are identified.<sup>99</sup>

Inclusive education is increasingly developing in many countries. For example, Austria, Cyprus, Denmark, Finland, France, Iceland, Norway, Spain, Sweden and the UK are implementing the principle that all students with disabilities should receive an education in mainstream schools as far as possible. In some countries, such as Norway, special schools have been transformed into resource centres. In other countries, such as the Czech Republic, Germany, the Netherlands, Slovakia and Turkey, inclusive education is being developed with more attention given to the inclusion of students with disabilities in mainstream education. According to national research, more attention is needed in some other countries to promote the development of inclusive education. For example, only a small number of children are educated in mainstream schools and receive individualised measures in Latvia.

Girls and women with disabilities do not constitute a homogenous group and their education needs varies depending on the level of disability, type of disability, support they receive and other factors. Therefore, attention should be focused on addressing the individual needs of women and girls with disabilities without defining and treating them as one homogenous group.

<sup>99</sup> [www.bmukk.gv.at/enfr/school/educ/heading1.htm4596.xml](http://www.bmukk.gv.at/enfr/school/educ/heading1.htm4596.xml)

## 8.0 Independent Living

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This chapter focuses on independent living, a term which has a variety of meanings within the wider context of disability.

### 8.1 Introduction

In its most basic form, the concept of "independent living" refers to practical housing provision, for example where assistance within the home enables a person with a disability to live independently. Under a broader definition, it refers to a movement among persons with disabilities in support of enhanced self-esteem, self determination and the resources to choose an independent lifestyle. The focus for this chapter will be on 'independent living' in a practical sense.

Independent living among persons with disabilities is a priority area at a European level, with the integration of persons with disabilities into wider society being a recurring theme across various EU policy documents. Articles 19 and 20 of the UN Convention make specific reference to the needs and rights of persons with disabilities to independent living. Article 19 states that there should be "...equal right of all persons with disabilities to live in the community, with choices equal to others..." This includes persons with disabilities being able to choose their place of residence, having access to 'in home' residential and other community support services (including personal care assistance), and enjoying equality with the general population in terms of access to community services and facilities.

Article 20 outlines a requirement "to ensure personal mobility with the greatest possible independence for persons with disabilities". This Article highlights a number of key areas: the right to mobility in a manner and at a time of the person with a disability's choosing and which is affordable for them; the provision of assistance with mobility that is affordable and that utilises available aids, devices and technologies; the provision of training in mobility skills; and support for the production of mobility aids, devices and technologies that take into account all aspects of mobility for persons with disabilities.

### 8.2 The independent living situation of women with disabilities

Overall, at the European level, there is little information relating to independent living that is specific to women with disabilities. However, the gender dimension of independent living for persons with disabilities received specific attention in the Council of Europe Disability Action Plan 2006-2015.

Although some data is available concerning the number of single-sex institutions and the numbers of females in institutional care, the gender dimension of independent living remains largely unexplored. Where quantitative information on female residential placements is available, it is noted that there are significant gaps in the monitoring of this data by European countries<sup>100</sup>.

<sup>100</sup> Mansell, J. Knapp, M. Beadle-Brown, J. and Beecham, J. (2007) 'Deinstitutionalisation and Community Living: reports from a European study (I, ii & iii)'

The available data on gender distribution across European institutional care suggests that most (80%) institutions are of mixed gender. In general, across Europe, there are higher rates of residential living among men with the exception of Estonia, Portugal and Italy<sup>101</sup>. However, data on institutional places is unavailable for around seven countries and is incomplete for several others.

Available evidence does suggest that gender is a factor in terms of the uptake of 'home care' services and benefits across Member States. The majority of those receiving state benefits to live independent lifestyles are women. For example, data available for 2005 indicates that 83% of recipients of benefits for homecare services in Spain were female and that in Luxembourg (Dependent Insurance) and Finland (Pensioners' care) this figure was 68% and 63% respectively<sup>102</sup>. Interpretation of the home care data is complicated, however, by the fact that higher levels of uptake among women may reflect that fact that women tend to live longer than men.

In Germany, it is possible for women to live independently even if they require 24-hour care. However, those who have achieved this level of care have had to lobby for it. A key concern for German women with disabilities is when their care is provided by a man and they have had no choice in this decision (there is no legal entitlement for them to be cared for by a woman). In Belgium, it has been suggested that women with disabilities are often regarded as fragile and as such are in need of protection. This perception means that women tend to have limited autonomy and that the authorities retain close control of their situation.

Anecdotal evidence from Malta suggests that women with disabilities tend to make less use of the personal assistant services that are provided by the state when compared to men. However, it is possible that women with disabilities may be making use of other service provision such as community housing provided by churches.

Spain's National Plan for Women with Disabilities (2007) has identified independent living as one of the six principles that are important for promoting the capacity of women with disabilities to move towards self-determination. The plan included proposals to conduct further research with women with disabilities in order to assess their needs, identify gaps in service provision and to address the service needs of women with disabilities living in rural areas. However, it has been noted that the pursuit of the National Plan is compromised by a lack of resources.

In Ireland, the rates of females who are placed in long-term communal care establishments tend to be higher compared to males. The Disability Act (2005) provides a statutory right for people with a disability to an assessment of their disability-related health, personal, social and education needs. This Act also places an obligation on public bodies to make services and information accessible to persons with disabilities. Many of Ireland's 27 Centres for Independent Living provide a personal assistance service that helps to promote women's independent living.

<sup>101</sup> Deinstitutionalisation and Community Living Reports (2007)

<sup>102</sup> Applica and CESEP and European Centre (2007) Study of Compilation of Disability Statistical Data from the Administrative Registers of the Member States.

A partnership and joint working approach between local authorities and the health service in the UK has been developed to help support independent living. The emphasis placed on self-directed assessment of support needs and direct involvement of the person with a disability (who has control of their own individual budget) is of particular benefit for women. Gender-specific barriers or issues can, therefore, be fully incorporated into an effective assessment of their need and the subsequent implementation of a tailored package of care.

## 8.3 Legislation and policy

### 8.3.1 European Policy

The European Action Plan (2005)<sup>103</sup> outlines plans for the integration of persons with disabilities including 'research into cost-effective alternatives to help persons with disabilities live independently in the community or in the family instead of in closed institutions'. In order to support this de-institutionalisation, attention will be given to the strengthening of healthcare provision and to the long-term care and support services in the community necessary to cope with the anticipated growing demand.

The Council of Europe's Disability Action Plan (DAP) 2006-2015 also draws attention to the right of children with disabilities to stay with their families, rather than being placed in long-stay institutions. In 2003, the European Commission funded the "Included in Society" project as part of the European Year of Disability. This project analysed the prevalence of large residential institutions and the conditions within them across 25 European countries. Its findings formed the basis for policy recommendations addressing the need for more community-based services for persons with disabilities.

### 8.3.2 National legislation and policy

A majority of countries that have been included in this study have legislation in place that addresses the right of citizens to independent living. A proportion have implemented general legislation that places an emphasis on equal rights for persons with disabilities through provisions for equal opportunities for all, or the prohibition of discrimination on the grounds of disability. Such legislation does not necessarily make specific reference to a requirement for independent living for persons with disabilities.

A small number of countries have implemented legislation covering adjustments to housing for persons with disabilities or for the provision of statutory financial support for adjustments to accommodation. Other national policies in place emphasise the right of persons with disabilities to appropriate housing.

A strong feature of national legislation is the right to access social services, independent living or social support, and, in a small number of countries, an emphasis on the integration of persons with disabilities into society. Legislation recognising that the living conditions of persons with disabilities should be comparable to those of people without disabilities in society is a specific feature of national policy in three countries. A further three countries have identified independent living as a priority area through the policy approach that they have adopted or via an action plan they have introduced, for example, Spain National Action Plan on Women with Disabilities.

<sup>103</sup> EC Communication (2005) 'Situation of disabled people in the enlarged European Union: the European Action Plan 2006-2007'

National policy commitments regarding the de-institutionalisation of persons with disabilities have been outlined by Cyprus, Hungary, Macedonia and Poland. This underpins recognition of the need to provide greater support for persons with disabilities to live as part of the wider community. In contrast to this, the available evidence indicates that in some instances countries are supportive of an institutionalisation policy in certain circumstances, due to a perception that persons with disabilities or groups of persons with disabilities require the protection that might be offered by an institution. Institutionalisation is also perceived, in some instances, as a more cost-effective option.

## **8.4 Responsibility for independent living**

The European Coalition for Community Living (ECCL) constitutes a network of organisations across 22 EU Member States that together are seeking to ensure that persons with disabilities have access to comprehensive and quality community-based services.

At a national level, the evidence from the countries included in this study indicate that the responsibility for enforcement of disability related legislation lies with the national government and usually a specific Ministry or Ministries, typically the Ministry for Labour, Social policy, Social Security or Social Affairs. In the Czech Republic, the Ministry of Regional Development has a responsibility in relation to persons with disabilities, primarily through its remit to construct subsidised housing for this group. In Italy, local municipalities and the health services work in partnership to oversee the implementation of relevant policies.

Independent Living Centres are locally-based centres that play an important role in representing their members that have a disability and in supporting them towards independent living. Some also provide a personal assistance service. Generally, they perform an important advocacy and lobbying function and, as such, are influential at government level, offering support to and representation of persons with disabilities. In the UK, the National Centre for Independent Living is a non-profit organisation staffed and run by persons with disabilities. This centre works closely with the Department of Health to help ensure that persons with disabilities can live independently.

## **8.5 Programmes and provision**

Independent living is high on the European policy agenda. The gender dimension of independent living is addressed via a policy emphasis on supporting families and carers through individualised need assessments, which can incorporate the specific needs of both women and girls.

Across the countries included in this study a variety of independent living programmes and provision were identified. Overall, there was a strong emphasis on programmes that provide support in the home setting through, for example, provision of personal assistance services. In addition, programmes to provide grant funding for the purchase of technical and mobility aids are also in place.

Actions undertaken by Member States that have a gender dimension include:

- a recognition of the status of carers, by providing them with support and relevant training;
- assessments of the needs of families as providers of informal care especially where there are children with disabilities or where high levels of care support are required;
- the provision of psychological support to enable cohesive families, for example, reconciling private and professional life and addressing gender equality; and
- the provision of complementary services offering respite such as day centres, short stay centres and support groups.

Examples of best practice in relation to independent living that are connected to gender include:

- short-term breaks for children with disabilities to enable parents to regain strength, cope better and to prevent 'burnout';
- access to advocacy services for carers, parents, children and young people to highlight rights and responsibilities and to facilitate the delivery of empowering and fair services; and,
- personalised programmes of provision that allow individuals to plan and control their own care services.

Those programmes and initiatives that offer respite services to families have particular benefits for women due to the predominance of women as carers. Personalised programmes that place an emphasis on needs assessment and the development of a tailored package of care will also have particular benefits for marginalised groups including women with disabilities.

In 2004, Slovenia introduced a family assistance scheme, as part of a series of personal assistance programmes. The Family Assistant Programme offers personal and social care to the person with a disability as well as supporting them to enjoy leisure and cultural activities.

Other examples of programmes identified as part of this study include:

- A programme implemented by the Ministry of Social Security and Labour in Lithuania which enables residents with disabilities to receive technical aids depending upon their needs, for example, electronic wheelchairs. There is also a programme to support adaptation to the home and living environment.
- In Malta, a scheme to repair and restructure properties acknowledges the needs of persons with disabilities through a specific allocation (10%) to persons with disabilities and also through a rent subsidy offered by the Housing Authority. Similarly, in the Slovak Republic 1% of flats (or 1 in each block) must meet the construction requirements necessary to meet the needs of those with restricted mobility.
- In the Flanders region of Belgium, persons with disabilities are eligible to apply for a personal assistance budget that they can use to employ personal assistants to support them in the home.
- As part of the Republic of Macedonia's programme of de-institutionalisation, the Ministry of Labour and Social Affairs has implemented a project that includes a day-centre specifically for persons with disabilities. This project aims to build and equip a centre within the local community to promote the independence of those with disabilities.

- Brynja, a private organisation in Iceland, buys, builds, owns, and manages flats for persons with disabilities. It has 600 flats around the capital city of Reykjavik. The programmes available to support independent living are pre-dominantly provided by state organisations or by autonomous organisations that receive state funding.
- In the UK the 'Personalisation Resource Toolkit' is an online resource that supports local councils to plan and deliver a new social care system that aims to support persons with disabilities to manage their own care budget. The toolkit aids the process by using a step-by-step approach and it also includes risk registers and offers examples of good practice. This initiative is helping to promote the delivery of self-directed support among local authorities.

## 8.6 Summary

For women with disabilities there are significant barriers to independent living that are due to a range of factors. The evidence from European countries suggests that key barriers are: disadvantages in the labour market (also experienced by women without disabilities but a barrier that is generally compounded for persons with disabilities); paternalistic attitudes and a cultural perception that women with disabilities need to be protected and would, therefore, be better suited to institutional living; a lack of accessible services providing support for women with disabilities; and poor infrastructure or inadequate housing (that does not meet the needs of residents with disabilities). While these barriers may also impact on the independent living aspirations of men with disabilities they often have higher relevance to women with disabilities.

## 9.0 Access to social and health services

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This chapter covers the broad topic of access to social and health services. It also examines the issue of childcare which is central to employment and independent living for women with disabilities.

### 9.1 Introduction

Access to social and health services has been highlighted as a problematic area for women with disabilities in Europe, as well as for the wider population of persons with disabilities overall. EU policy, such as the current DAP, sets out specific work plans for achieving accessibility of health services in Member States. The Action Plans also outlined the need to explore quality aspects of disability-related social services, including the need to promote coordinated delivery of services.

The UN Convention is one of the first international instruments recognising the rights of women with disabilities. It addresses the gender dimension in recognising the rights of persons with disabilities not only as a distinct chapter but gender-sensitive issues are highlighted across some of the other important chapters. Article 25 of the UN Convention recognises the right to the highest attainable standard of health. This article explicitly mentions the rights for gender-sensitive health services including rehabilitation and sexual and reproductive health services.

### 9.2 Situation of women with disabilities

Women with disabilities face a number of barriers in accessing health and social services. These barriers can be grouped into categories of physical accessibility, limited adaptability of health services in the field of motherhood, sexuality and reproductive health and lack of trained professionals. The table below summarise the results of the national research on the barriers women with disabilities face in respect of health services. It identifies the countries in which women with disabilities face certain barriers in accessing health services.

**Table 9.1 Barriers for women with disabilities related to health services**

Barrier related to health services	Countries
Physical accessibility to the buildings and appropriate physical environment	Bulgaria, Denmark (in some cases), Estonia, Spain
Limited adaptability of health services and support in the fields of motherhood, sexuality, reproductive health	Estonia, Finland (in some cases), France, Germany (only few barrier free gynaecological surgeries), Iceland, Italy, Netherlands
Negative attitudes in society towards the motherhood, sexuality, reproductive health of women with disabilities	Austria, Belgium, Estonia, Netherlands, France
Lack of trained professional staff	Bulgaria, Estonia, Spain

Source: country fiches prepared during the national research

Overall, women with disabilities face a number of barriers related to reproductive health, sexuality and motherhood. These barriers vary from negative attitudes in society and a lack of understanding of their needs to limited adaptability of services to meet their needs. In several countries there is lack of understanding and analysis of the emotional needs of women with disabilities which serves as a barrier. For example, information from the Belgium Disability Forum identifies that attitudes towards the emotional needs of men with disabilities are less strict than towards women with disabilities.<sup>104</sup> In Sweden, it is reported that medical research and development often only considers men and their physical and social conditions. As a result, men with disabilities gain a greater share of rehabilitation measures, more assistance allowance and better access to disability allowance than women with disabilities<sup>105</sup>. The evidence from the Netherlands identifies that persons with disabilities in some cases do not seek support due to the low quality of the services which they receive.

Attitudes towards women with disabilities and motherhood can be even more negative. Indeed, there are reported instances in which disability has been seen as a sufficient reason to separate a child from his/her mother.<sup>106</sup> Research in the Netherlands has identified that women with disabilities often face an attitude that they should not have children because of their disability.<sup>107</sup> Moreover, in some countries, e.g. Latvia, it was reported that there is very limited childcare provision for mothers with disabilities.

In some countries, health services are free of charge for persons with disabilities, however in others, such as Bulgaria, persons with disabilities may lack access to health services due to their financial situation. Persons with disabilities need to pay a proportion of the costs of any medical treatment and social services which can put people with low income levels in a difficult situation.

<sup>104</sup> Tirtiat, J., Belgium, Belgian Disability Forum (BDF)

<sup>105</sup> *ibid*

<sup>106</sup> CERMI 2008, *Recognising the Rights of Girls and Women with Disabilities: an Added Value for Tomorrow's Society*, European Conference Report, Madrid.

<sup>107</sup> Den Brok, Y. (2007) 'The Netherlands, how to analyze and improve the situation of women with disabilities' *European conference, recognizing the rights of girls and women with disabilities*, National Disability Council from the Netherlands (VGPN)

Other barriers identified across the countries covered in this report included:

- Insufficient information related to issues which women with disabilities face in receiving health services was identified in Italy.
- In Norway, it was reported that there is a need for strengthened coordination of health services provided for persons with disabilities in general.
- In Sweden one in three women with disabilities feel that they are discriminated against by the social and health service<sup>108</sup>.

Women with disabilities face a number of barriers related to health services, however, it was identified that in some countries their needs are increasingly being recognised. For example, in Germany and Hungary rehabilitation institutions are becoming more sensitive to the vulnerability of girls and women with disabilities. In the Slovak Republic, healthcare facilities are increasingly removing barriers and preventive medical examination is provided for women with disabilities in the field of reproductive health. In the UK access to reproductive health provision and services addressing domestic violence are seen as particularly relevant to women with disabilities. Nevertheless, more attention to the needs of women with disabilities, especially related to reproductive health, sexuality and motherhood is needed in order to ensure the rights foreseen in the UN Convention.

## 9.3 Legislation and policy

### 9.3.1 EU legislation and policy

The realisation of health and rehabilitation targets is seen as part of a wider process of mainstreaming disability issues under the Open Method of Coordination (OMC) on social inclusion and social protection. The OMC process is considered important to strengthening the efforts of EU Member States to providing access to integrated social and healthcare and support systems. Results are expected to be achieved through strengthening this theme in national strategies for social protection and social inclusion. Provision of health services are thus seen to be most effective when organised and implemented at a national level with EU activities supporting individual Member States in this.

EU Action Plans also highlight the importance of accessibility to health which is not reliant on institutionalisation. They are in favour of a de-institutionalisation process, supporting the provision of health and long-term care services within communities. In this way, health services are provided which support the right to independence of persons with disabilities, as well as their right to health and social services.

<sup>108</sup> Handikapprörelsens alternativrapport om FN:s internationella konvention om ekonomiska, sociala och kulturella rättigheter, (2006), The Swedish Disability Federation

### 9.3.2 National legislation and policy measures

At a national level, health services for women with disabilities are promoted mainly through legislation targeting women and disability separately. Overall, however, there is limited recognition of the needs of women with disabilities in the field of health services in a number of European countries.

In most countries, non-governmental organisations are active in the provision of health services, supporting women with disabilities and engaging in the dissemination of information. For example, in Slovenia the Women's Lobby working group is dealing with women and health issues particularly in the field of the reproductive rights. A number of third sector organisations are active in this field in the UK including Womens' Aid, Refuge, DialUK, UK Womens' Disability Forum, Disability Alliance, the Royal National Institute for the Blind and the Royal National Institute for the Deaf.<sup>109</sup>

The evidence from the national research suggests that, in some countries, legislation or policy measures do recognise the special needs of women with disabilities in the provision of health services. Some of the good practice examples identified through the national research include:

- The Austrian Women's Health Report 2005/2006 defined specific requirements for women with disabilities and included the following measures: adapting doctor's surgeries and other health services for persons with disabilities including the gender perspective, training of medical personnel and research on the health situation of women with disabilities.
- The National Action Plan for Women with Disabilities (2007) in Spain included measures relating to health services for women with disabilities. Specifically it promoted a review of specific aspects related to health for women with disabilities such as gynaecological provision adapted to their needs, improved quality of sanitary support services, improved awareness of the needs of women with disabilities by health professionals and introduction of gender mainstreaming in the public health information system.
- Slovenia's Action Plan for Persons with disabilities 2007-2013 includes the provision that health services should be accessible for persons with disabilities and explicitly highlights that the special needs of women with disabilities should be met. The Action Plan foresees that all new buildings must be barrier-free and old ones gradually reconstructed to promote accessibility.

All of the countries mentioned above have ratified the UN Convention and prepared Disability Action Plans with the specific intention to promote the provision of health services for women with disabilities. However, there is still work to be done in other countries to recognise and address the needs of women with disabilities especially in the field of sexual and reproductive health. For example, EDF has called for all Member States to develop legal measures that protect the rights of women with disabilities in respect of consent to any medical procedures.<sup>110</sup>

<sup>109</sup> Womens' Aid website: [www.womensaid.org.uk/domestic-violence-survivors-handbook.asp](http://www.womensaid.org.uk/domestic-violence-survivors-handbook.asp) accessed 05/08

<sup>110</sup> Written submission to ECOTEC made by the Women's Committee of EDF.

### 9.3.3 Legislative measures relating to childcare

One of the very important aspects in the delivery of social services for women with disabilities is provision of childcare support. National legislation in some countries recognises the needs of women with disabilities who are carers of children and/or women with children with disabilities. The legislative measures identified in the national research related to childcare support include the following:

- The Croatian Constitution recognises specifically that the state has a responsibility to protect persons with disabilities and promote their inclusion. Moreover, the rights of children with developmental difficulties are additionally protected by Article 63 of the Constitution which states their rights to special care, education and welfare.
- In Greece, Law no. 3655/2008 provides substantial measures protecting the rights of mothers with disabilities as well as mothers of children with disabilities, for example, in respect of their rights to pensions.
- France has several measures in place related to supporting mothers with disabilities or mothers of children with disabilities:
  - ▶ The French Labour Code offers the opportunity for parents to have extended parental leave after having a child with disability and adaptation of working hours to care for family members with disabilities.
  - ▶ Employees with disabilities and those caring for children with disabilities can also benefit from the possibility of early retirement. The pension reform of 2003 lowered the retirement age for persons with a recognised disability rate of 80%, giving them a right to a full pension from 55 years of age.
  - ▶ Legislation has also established a benefit for lone parents of children with disabilities (majoration pour parent isolé), which is provided without means testing for each child of a lone parent, whose parent has had to stop or reduce his/her professional activity as a result of caring responsibilities.
- In Romania, the right to get married and have a family is defined in the Family Code. It states that people with learning disabilities or people who are not in full possession of their mental faculties are not allowed to get married and start a family. On the other hand, the law foresees the same rights for persons with disabilities to have family as for people without disabilities.
- In Sweden, the Support and Service for Persons with Certain Functional Impairments (LSS) Act aims to support people with extensive disabilities to access greater opportunities for independent living and participation in society. One of the measures is relief provision for parents of children with disabilities.

As illustrated above, the national legislation of Member States seeks to provide childcare support measures through different levels and types of legislation. This ranges from ensuring the rights to childcare support in the Constitution to provision of measures in legislation regulating specific issues. Typically, legislation relating to employment includes measures to address the needs of parents who have children with disabilities or takes the childcare responsibilities of employees into account. Social protection legislation typically also provides for support for parents with disabilities or families with children with disabilities. A number of countries provide financial support for families with children with disabilities; this is explored further in the section of this report on social protection.

## 9.4 Programmes and provisions

### 9.4.1 Health service provision

At a national level there is limited information on the attention given to the needs of women with disabilities in provision of the health services. A number of countries target health and social services for persons with disabilities or women separately without taking into account the specific needs of women with disabilities.

Examples of programmes providing health services for women with disabilities include the following:

- In Austria, new contracts with the Social Insurance Organisation are only given to doctors who demonstrate fully accessible premises. Doctors are also supposed to receive training on how to support women with disabilities.
- In Austria, there are seven Women Health Centres that provide services for women with disabilities. Services they provide include discussion groups for women with disabilities, information sessions and workshops.
- In the Czech Republic, the Ministry of Health runs the programme Equalisation of the opportunities for persons with disabilities. It provides support for NGOs who are active in the field of voluntary healthcare centres, information and education activities in order to improve knowledge on the needs of persons with disabilities.
- In Croatia, the Ministry of Health and Social Care initiated a reorganisation of several gynaecological health centres to provide services to girls and women with disabilities.
- In Ireland, the Breast Cancer Screening Aid is provided for women with disabilities. This includes a new guide to inform women with learning disabilities about breast cancer screening. It includes sections for carers, family, friends and medical guardians.<sup>111</sup>
- In the UK, rehabilitation services and paths out of abusive situations are specifically tailored to women with disabilities in the form of a 24-hour helpline, handbooks and other web resources with dedicated advice. In 2006, the Department of Health published guidance on good practice to ensure that women with disabilities have the same access rights as all other women to the National Health Service (NHS) Breast Screening Programme and the NHS Cervical Screening Programme.<sup>112</sup>

The examples above illustrate some of the initiatives specifically targeting women with disabilities. In other countries, women with disabilities often benefit from health services targeting either women or persons with disabilities separately. Examples of these programmes identified in the national research include the following:

- In Estonia, gender-specific medical screenings are available for persons with disabilities and persons without disabilities.
- In Hungary, women with disabilities can benefit from the National Anti-Cancer Programme and New National Programme of Disability Affairs.
- Slovenia has two relevant programmes:
  - ▶ ZORA is a national programme for early discovery of cervical cancer which actively includes all women aged from 20-64 years and passively involved those aged from 65-74 years. The aim of

<sup>111</sup> BreastCheck - The National Breast Screening Programme, available at: <http://www.breastcheck.ie/about/index.html>

<sup>112</sup> Equal Access to Breast and Cervical Screening for Disabled Women, Cancer Screening Series No 2, March 2006

the programme is to send invitations every three years for preventive gynaecological control, to prevent cervical cancer.<sup>113</sup>

- ▶ DORA is a national programme of breast screening, which enables all women from 50-64 years old, with a pre-invitation, to an examination with screening every two years.<sup>114</sup>

The national research identified a small number of health-related services which are beneficial for women with disabilities specifically. However, much of the provision consists of isolated initiatives without a systematic approach to address the needs specific to women with disabilities.

## 9.4.2 Provision of childcare support

The evidence from the national research indicated that women with disabilities struggle to access appropriate childcare support services across a number of Member States. This was a particular issue in Estonia, Finland, France, Greece and Lithuania. In addition, it was identified that there is a lack of information on the effect caring for children with disabilities has on employment and participation in social life. Moreover, the national research in Greece indicated that, due to caring responsibilities for children with disabilities, employees face additional challenges in entering the labour market. To address these issues, a number of programmes and provisions have been implemented across Member States:

- In France, there are several measures providing childcare support:
  - ▶ For children up to 6 years old who have sensory, motor, mental, severe or complex impairments, services focused on early detection, prevention, treatment and rehabilitation will be undertaken by multidisciplinary teams based at early medico-social action centres (Centre d'action medico-sociale précoce – CAMSP). These centres, of which there are over 200, offer support (one-to-one interviews with a psychologist or group therapy) to families. They are financially supported by health insurance (80%) and by regional councils (20%) and are perceived as a good practice example of the provision of childcare support.
  - ▶ The admission of children with disabilities is part of the remit of day-nurseries (for children aged between 2 months and 3 years) and day-care centres (for children aged between 2 months and 6 years). Children with disabilities can only be denied access to these institutions if the child has health problems which require specialised care.
- In Latvia, day-care centres provide social care and social rehabilitation services for children with disabilities. They also support the development of social skills and provide education and respite and foster care for families in circumstances unfavourable to the development of the child.
- In Lithuania, support provided to families raising children with disabilities includes:
  - ▶ Financial support for medicines and medical treatment;
  - ▶ Border entry without queuing is granted to cars carrying children with disabilities, upon presentation of the disability certificate;
  - ▶ Reduced prices for travelling by public transport;
  - ▶ Support for repayment of housing loans and social housing provision;
  - ▶ Employees who have children with disabilities may not be appointed to work overtime or sent on business trips against their own will. Employees raising a child with a disability have one additional paid rest day during the month (or shortened working time by 2 hours per week).
  - ▶ Reduced rates for utilities;

<sup>113</sup> National program for early discover of cervical cancer, at: <http://www.onko-i.si/zora/delovanje.html>

<sup>114</sup> National program screening for breast cancer, At: <http://www.onko-i.si/zora/>

- ▶ Application of lower income tax for persons who have a business licence and who are raising children with disabilities;
- ▶ Legal assistance.
- In Romania, programmes to support the parents of children with disabilities are initiated by non-governmental organisations, sometimes in partnership with local authorities. They include training courses to help parents raise and contribute to the development of their children, day-care centres, respite centres or counselling centres. Moreover, children with disabilities benefit from a double maintenance allowance and are entitled to a personal assistant, who is paid according to the severity of the child's disability.
- In Turkey, Social Services and the Social Protection Agency provides services for several target groups including families, children and persons with disabilities. The duties of the Agency include identification of persons with disabilities, provision of services necessary for their protection, care and rehabilitation services; the establishment and management of social service institutions for the provision of these services; the establishment and management of day care or residential institutions so as to ensure the care and protection of working mothers and fathers.

These examples indicate that support for families with children with disabilities varies substantially from one country to another. However, in many countries covered by the report there was no evidence of specific programmes and provisions for women with disabilities or those who have a child with disabilities.

## 10.0 Standard of living and social protection

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This chapter explores issues around supporting a standard of living and achieving social protection for women with disabilities.

### 10.1 Introduction

While employment constitutes the main approach for the integration of men and women with disabilities (as having a job is a key element to foster social integration in a knowledge-based society)<sup>115</sup>, many women with disabilities are unable to hold regular jobs. Therefore, social protection systems play a crucial role in guaranteeing an adequate standard of living and are an essential component for social integration.

Article 28 of the UN Convention is devoted to achieving an adequate standard of living and social protection for persons with disabilities. Specifically, Article 28 recognises "the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions". It also recognises the "right of persons with disability to social protection and to the enjoyment of that right without discrimination on the basis of disability" and commits State Parties to take all "appropriate steps to safeguard and promote the realisation of this right". The same Article also makes special mention of women and girls with disabilities, guaranteeing their social protection and standard of living away from poverty and ensures "access by persons with disabilities, in particular women and girls with disabilities, to social protection programmes and poverty reduction programmes".

It is also worth noting the linkage between the assurance of an adequate standard of living and the right to independent living and to community services, as established in Article 19 of the UN Convention. Article 19 guarantees access to in-home, residential and other community support services (including personal assistance) which are also meant to ensure a proper standard of living and social protection to women with disabilities.

<sup>115</sup> MISSOC - Mutual Information System in Social Protection (MISSOC), MISSOC-Info 01/2003 on Social protection of people with disabilities (page 4).

## 10.2 Situation of women with disabilities

Social protection in the form of financial payments, either pensions or disability-related benefits was a common feature across the countries covered by this study. The following sections explore these forms of social protection.

### 10.2.1 Disability pensions

The number of female pensioners with disabilities varies enormously across countries covered by the study due to the different eligibility criteria in place. Most countries differentiate between contributory disability pensions granted by social security and social assistance (of a non-contributory nature). This distinction affects those who are not active in the labour market, most notably women with disabilities.

The data on the distribution of pensioners with disabilities by gender reveals a lower number of women both in absolute and relative terms. For instance, there is a very strong gender difference among recipients of disability pensions due to work accidents and occupational diseases. This may be due to the fact that the granting of a financial benefit requires a certain number of conditions which may vary by gender, for example:

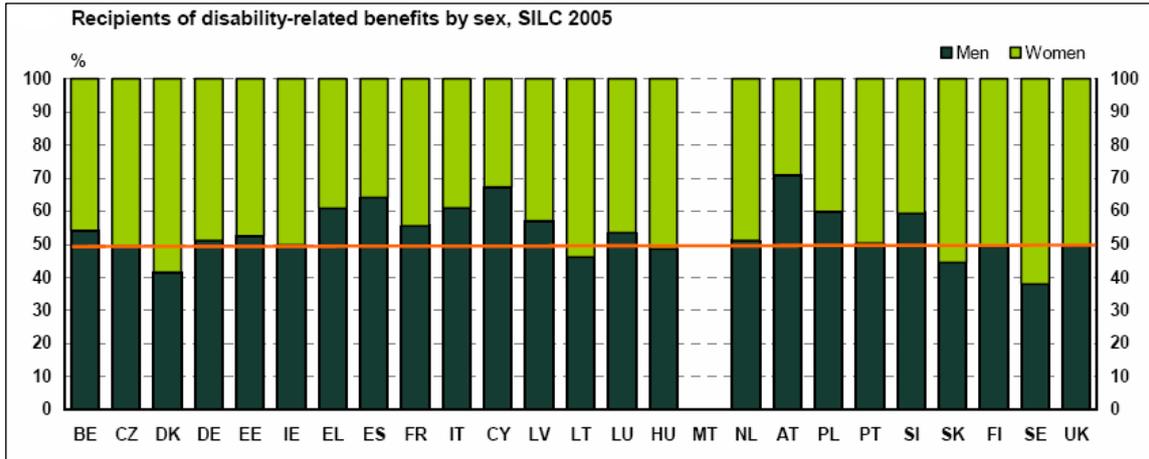
- Invalidity pensions with a contributive nature require a minimum amount of working days to be eligible. As the labour participation of women with disabilities is lower compared to that of men with disabilities, women tend to be underrepresented in contributory schemes.
- Disability or support allowances granted through social assistance schemes are often provided to those inactive or with low resources. Women may be overrepresented if these two criteria are taken into account.
- In most countries, incapacity pensions are replaced at retirement age by old-age pensions. In countries where they continue to be granted after retirement age, the proportion of women might be higher due to higher life expectancy.
- Men and women with disabilities have disparities in their respective sectoral and occupational distribution. Men are more numerous in sectors and occupations with high accident rates (such as construction). Therefore, men with disabilities may receive a higher amount of disability benefits related to accidents and occupational diseases.
- War pensions generally concern mainly men, although national statistics include other beneficiaries such as widows or orphans.
- The majority of all beneficiaries (female and male) of disability benefits are aged 45 years or over. Data also clearly indicates that the proportion of beneficiaries increases with age<sup>116</sup>. Apart from having a longer life expectancy, women experience proportionally more chronic ill health and disability than men at all ages, which increases the disadvantaged position of women with disabilities.

<sup>116</sup> Study of compilation of disability statistical data from the administrative registers of the Member States (Contract No VC/2006/0229)

## 10.2.2 Disability-related benefits

Women with disabilities are less likely than men with disabilities to receive disability benefits. From the list of 40 types of disability benefits identified in the study, 27 of the listed benefits are characterised by a higher number of male recipients. On the other hand, 13 types of disability benefits do have women with disabilities as the major recipient group.

The following table also shows that the number of female recipients of disability-related benefits in the European Union is generally lower both in absolute and in relative numbers.



Sources: SILC & Study of compilation of disability statistical data from the administrative registers of the Member States (Contract No VC/2006/0229)

This is especially pronounced in Austria (where female recipients amount to less than 30%), Cyprus (32%), Spain (36%), Greece (40%), Italy (39%), Poland (40%) and Slovenia (40%). The number of female beneficiaries is only higher than men in Lithuania (53%), Slovakia (55%), Denmark (58%) and Sweden (62%). However, in the majority of countries (including Sweden, where females are the major recipient group), social security rules for allowances or benefits in relation to illnesses and disabilities have different effects on men and women and the work injury compensation scheme better covers injuries suffered by men<sup>117</sup>.

The financial situation of women with disabilities is considered 'worse' than that of men with disabilities in the majority of EU countries covered by the study. Therefore, objectives set out in Article 28.2 of the UN Convention are not fulfilled: women with disabilities do experience unequal treatment *vis-à-vis* men with disabilities concerning their adequate income and standard of living, strongly interlinked with the lower reception of benefits by women with disabilities.

<sup>117</sup> National correspondents

A similar situation occurs in the non-EU countries covered by the study. In Iceland, for instance, this is due to women having inferior insurance or pension funds; in other words, the social security system based on income is more beneficial to men with disabilities than women with disabilities. In Macedonia, only 20% of the recipients of social cash benefits (a large proportion of which are claimants with a disability) were women<sup>118</sup>.

### 10.2.3 Effects of benefits on the income levels of women with disabilities

The benefits received by women with disabilities raise their relative level of income significantly, although this still may not be enough to lift incomes above the poverty line, particularly where benefits do not fully reflect the additional financial costs that persons with disabilities may have to bear. This contradicts the objectives established by the UN Convention because an adequate standard of living and adequate income cannot be fully guaranteed. Some data shows that, before social protection provision, the average income of women with a disability is only 63% of that of women without disabilities. The desired effect of disability benefits is to reduce the gap in income by around 60%<sup>119</sup>.

However, there is a marked variation among Member States in the effect benefits have on raising relative incomes: in France and Sweden, it is well over twice as much as in Estonia, around twice as much as in Ireland and Portugal<sup>120</sup>.

## 10.3 Legislation and policy

### 10.3.1 European legislation and policy

Social protection systems are well developed in the countries within by study. Social protection schemes are meant to protect people against risks caused by insufficient income associated with unemployment, illness, invalidity or disability or old age. They are also meant to ensure access to services for an adequate standard of living.

The organisation and financing of social protection systems is the responsibility of each Member State. Legislation in Member States varies immensely and each EU country adopts a social protection scheme that is appropriate to the specificities of the country and its people. The European Union has a vital role in ensuring, through EU legislation, the coordination of national social security systems and the protection of those who move across borders and come within the remit of different social protection systems.

<sup>118</sup> 2006 data, which concerning heads of household.

<sup>119</sup> Men and women with disabilities in the EU: Statistical analysis of the LFS ad hoc Module and the EU-SILC (Contract No. VC/2005/0320).

<sup>120</sup> Commission staff working document (SEC/2007/1548: Accompanying document to the Commission Communication (COM/2007/738 final): Situation of disabled people in the European Union: The European Action Plan 2008-2009.

Closer cooperation among Member States has been promoted by the European Commission through the Open Method of Coordination (OMC)<sup>121</sup>. As Member States face similar challenges such as ageing, the fight against poverty and the inclusion of the most disadvantaged groups, the OMC is a mechanism providing support to national policy makers in various fields, as follows.

- *Pensions*: the OMC has led to common objectives, such as achieving higher employment rates (for instance, with the inclusion of women with disabilities in the labour market) or extending working lives. Common indicators are also defined, so that each country is able to assess its own situation and performance against them.
- *Health and long-term care*: The OMC supports policy makers in achieving universal access for all (including women with disabilities) and the provision of high quality services ensuring their financial sustainability.
- The Commission and the Council analyse the joint reports on Social Protection and Social Inclusion submitted by the Member States.
- The *MISSOC* (Mutual Information System on Social Protection), jointly with a network of correspondents from national authorities, compiles information on the organisation of the main social protection schemes in the Member States.

In 2004, the Communication from the Commission 'Modernising social protection for the development of high-quality, accessible and sustainable healthcare and long-term care: support for the national strategies using the Open Method of Coordination'<sup>122</sup> ensured access to care for men and women with disabilities on the basis of universality, fairness and solidarity. One of the main objectives of the Communication was to provide a safety net against poverty or social exclusion associated with ill health, accident or disability, for both the beneficiaries of care and their families. Another relevant objective was to ensure the financial and physical accessibility of care systems for men with disabilities and women with disabilities.

In 2008, the European Commission published the Communication 'A renewed commitment to social Europe: Reinforcing the Open Method of Coordination for Social Protection and Social Inclusion'<sup>123</sup>. This document aimed at strengthening the positive interaction with other EU policies as well as the horizontal coordination among Member States, including long-term care and social inclusion of men and women with disabilities.

### 10.3.2 National legislation

Generally speaking, gender differences are not distinguished in social protection systems, or in the law of the countries included in this study. Women with disabilities are not recognised as a legal term

<sup>121</sup> Set up at the Lisbon European Council of March 2000, the Open Method of Coordination provides a framework for political coordination without legal constraints. Member States agree to identify and promote their most effective policies in the fields of Social Protection and Social Inclusion with the aim of learning from each others' experiences.

<sup>122</sup> Commission Communication (COM/2004/0304 final): 'Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the Open Method of Coordination'.

<sup>123</sup> Commission Communication (2008/0418/final): 'A renewed commitment to social Europe: Reinforcing the Open Method of Coordination for Social Protection and Social Inclusion'.

in social protection legislation, as laws generally make reference to the whole population of persons with disabilities without containing special clauses for women with disabilities. However, this does not mean that women with disabilities are not entitled to benefits; they are considered part of the wider population of persons with disabilities.

Generally, countries organise their social protection provision for men and women with disabilities through a combination of general framework legislation for persons with disabilities or social protection legislation. Some countries have adopted laws regulating specific social protection provisions in favour of persons with disabilities; coordinating benefits, clarifying the distributions of competences among diverse administrative levels and regulating cooperation. Germany, Estonia, Finland, France, Liechtenstein and Luxembourg follow this approach. Austria, Spain and Sweden, as ratifying countries of the UN Convention, also simplify social protection legislation for persons with disabilities in the same way.

The criteria for claiming disability-related benefits vary greatly between Member States (see Table A5 in Annex Three).

The most frequently used criteria in Member States legislation relate to the duration of the impairment, the degree of disability / invalidity or incapacity to work or earn. In addition, in most countries the families of children with disabilities or parents with disabilities are provided with additional financial allowances.

Some countries explicitly refer to the consequences of a disability in their laws concerning benefits. Bulgaria, Denmark and Portugal, for example, particularly emphasise this aspect. The Danish system, for example, refers to a 'social model' and takes into account the overall situation of the person with a disability and not the different categories of disability. In Portugal, the entitlement to benefits is not justified on the grounds of the different forms of disability, but on the grounds of impairment. On the other hand, in Bulgaria, all kinds of benefits are conditional upon the assessment results of the individual, which reflect the medical condition or disability. All disability provisions in Bulgarian legislation refer to persons with disabilities as 'persons with impairment certified by a Medical Labour Panel with more than 50% lost ability to work'. This statement determines access to all sorts of disability allowances, cash benefits and services.

In other countries, eligibility for benefits may be based on different factors including the cause / type of the disability (causality) or age or level of education (conditions). Gender is not usually included in the criteria for receiving or claiming disability benefits. Therefore, the receipt of benefits should not be influenced by the gender of the beneficiary: it should be a level playing field for men and women with disabilities regarding entitlements.

## 10.4 Programmes and provisions

The 2006 Commission Communication on Social Services of General Interest in the European Union<sup>124</sup> identified two broad types of social services:

- Statutory and complementary social security schemes, organised in various ways (mutual or occupational organisations), covering the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability;
- Social assistance services, employment and training services, social housing or long-term care.

This approach is also acknowledged by the 2007 Commission Communication on Services of General Interest.<sup>125</sup>

Social security schemes and social assistance services form a social protection framework aimed at ensuring sufficient subsistence income for people whose earning ability is impaired due to illness, injury or defect.

A wide variety of support and benefits are offered to men and women with disabilities, with terminology varying widely across the countries covered by this study. Table 10.1 summarises the main benefits available.

<sup>124</sup> Commission Communication (COM/2006/177 final): 'Implementing the Community Lisbon Programme: Social Services of General Interest in the European Union'.

<sup>125</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; Services of general interest, including social services of general interest: a new European commitment; COM(2007) 725 final.

**Table 10.1 Main social protection benefits for women with disabilities in the EU**

Type of benefit	Features	Country examples
Invalidity pension	They are part of the social security framework. They do normally cover those who satisfy minimum insurance affiliation periods who are victims of an accident or a disease not related to work. However, some Member States do not make a distinction according to the origin.	Austria, Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Netherlands, Spain, Norway, UK etc.
Incapacity benefit		
Disability pension		
Disability allowances	They are granted in the framework of social assistance. Allowances are of a non-contributory nature and often impose a means-test. They often cover women with congenital impairments and/or women in institutions.	Belgium, Denmark, Estonia, Finland, France, Iceland, Spain, Sweden, Turkey, UK etc.
Support allowances	In certain countries there are no specific non-contributory allowances (e.g. Luxembourg, Sweden). However, the general scheme for income support covers women with disabilities excluded from the contributory scheme.	
Earnings compensation	Financial compensation that may be granted due to an accident or disease at work (pensions/income support for occupational accidents). Guaranteed minimum income subsidy for women with disabilities who do not have a sufficient personal income.	Belgium, Czech Republic, Denmark, Italy, Hungary, Macedonia, Spain, Sweden etc.
Income support		
Child care provision	Child care normally responds to financial support for either children with disabilities or their parents, or parents with disabilities.	Czech Republic, France, Hungary, Lithuania, Slovakia, Sweden etc.
Other benefits	This group includes benefits related to assistive technologies and special equipment, transport discounts, parking tickets, etc. which normally take the form of financial support for women with disabilities.	Austria, Belgium, Cyprus, Finland, France, Ireland, Italy, Malta, Norway, Spain, UK etc.

Source: ECOTEC national correspondents

Our analysis revealed the following trends:

- In some countries, there are a high number of fragmented financial benefits. Comparability across countries therefore requires aggregations. For example, social protection provision in the Netherlands (with a single benefit covering almost all types of disability pensions) cannot easily be compared to single measures in other countries. Furthermore, aggregation may be difficult as the same beneficiary may receive more than one benefit.
- National social insurance arrangements often define a path going from sickness to temporary incapacity, and finally to permanent incapacity for work. While most countries focus on permanent incapacity for work, the definition of 'permanent' as a specified period of time (e.g. six months, one year, two years) varies across countries.
- Differentiation between invalidity and employment injuries or occupational diseases is key, as these two risks are generally covered by different insurance schemes. Some countries grant an invalidity pension without consideration of the cause (e.g. health, occupational diseases, domestic accident or workplace accident).
- Comparability of data is also different in respect of the protection of women with disabilities who are excluded from invalidity benefits of a contributory nature. Some countries grant two kinds of benefits (special non-contributory allowances and general scheme provisions guaranteeing a minimum income) while others provide only one.
- There are considerable differences between countries concerning the minimum level of incapacity required for the grant of a disability pension as well as minimum affiliation periods or means tests.<sup>126</sup>

<sup>126</sup> Study of compilation of disability statistical data from the administrative registers of the Member States (Contract No VC/2006/0229)

## 11.0 Access to goods and services

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This chapter covers accessibility, one of the general principles of the UN Convention under Article 3, and in particular access to goods and services by women with disabilities. According to the main conclusions of the *European Conference on "People with Disabilities: Active players in the Internal Market"* held by the European Commission in 2007<sup>127</sup>: "Accessibility is seen as a European-wide integrated challenge. Ensuring non-discrimination in access to goods, services and infrastructures through an adequate legal framework is regarded as a priority, not only in social terms, but also in economic terms." Access to goods and services is a very broad area, but it is covered by legislation.

Article 9 of the UN Convention calls upon the State signatories of the Convention to: "take appropriate measures to ensure to persons with disabilities access, on equal basis with others, to the physical environment, to transportation, to information and communications, including information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and rural areas".

Access to goods and services for women with disabilities covers a wide variety of areas, ranging from information and communication technologies to consumer goods and services (including tourism, travel, industry, and banking). Therefore, accessibility to goods and services is a cross-cutting theme directly interlinked with the four freedoms of the EU Internal Market (free movement of people, goods, services and capital), and also linked to a broad range of UN Convention articles including: Article 9 (Accessibility); Article 18 (Liberty of movement); Article 19 (Independent living and access to community services); Article 20 (Personal mobility); Article 21 (Freedom of expression and opinion, access to information); and other articles dealing with access to goods and services in the fields of Education (Article 24), Health (Article 25), Culture and Leisure (Article 30).

### 11.1 Situation of women with disabilities

The accessibility of goods, services and infrastructures is central to the empowerment of women with disabilities. Where such accessibility is limited, there is a direct impact on the everyday life of women with disabilities as citizens, preventing them from exercising their rights to participate in and contribute to the internal market. The analysis also brings into light the fact that those limited legislative actions and provision measures facilitating access to goods and services for persons with disabilities are not gender-sensitive. Additionally, in view of the unequal purchase power of women with disabilities, they face more difficulties than men with disabilities or other women, in accessing goods and services<sup>128</sup>. Moreover, they feel vastly discriminated against: 40% of women with disabilities in Sweden have felt discriminated when buying goods and services, while 25% experience discrimination when using public transport. Research in the Netherlands also shows that women with disabilities do not always get the tailored services they need.<sup>129</sup>

<sup>127</sup> *European Conference on "People with Disabilities: Active players in the Internal Market"* (Brussels, 2007); policy conclusions found at: [http://ec.europa.eu/employment\\_social/emplweb/events/event\\_en.cfm?id=1005](http://ec.europa.eu/employment_social/emplweb/events/event_en.cfm?id=1005)

<sup>128</sup> In this respect, the Director of CERMI confirmed this view at the conference on "Gender and Disabilities" held in Madrid in the "Women Worlds" Congress, 7<sup>th</sup> July 2008.

<sup>129</sup> ECOTEC's own research.

### 11.1.1 Access to goods and to a barrier-free built environment

The principle of 'Design-for-all' in relation to the accessibility of goods and infrastructure for women and men with disabilities is key. Multiple EU policy and legislative documents include references to this concept, referring to the design of accessible environments, products, systems, and services to enhance the ability of individuals with disabilities.

Nonetheless, women with disabilities still do not enjoy a barrier-free environment.

Access and signposting is almost non-existent in the built environment of some countries (for example, Luxembourg, Malta and Turkey) with a lack of acoustic and visual signs or pictograms. Often there is also an absence of provisions for existing buildings. While the legislation across Europe does tend to promote a 'Design-for-all' approach in the construction of new buildings, women with disabilities do not have their access guaranteed to existing buildings. For instance, some of Greece's public services, even key disability services, may be housed in old buildings which are inaccessible. A key reason offered for not making public services (buildings and services of public authorities) accessible for women people is the lack of financial resources.

With regards to access to goods and commodities, women with disabilities have difficulties in finding appropriate products to meet their specific needs (for example special adjustments made to cars to enable persons with disabilities to drive). Although some countries including Austria, Bulgaria, Hungary, Lithuania and the Netherlands offer some form of financial assistance to men and women with disabilities, subsidies by public authorities are not sufficient to make all the necessary adjustments that might be required.

### 11.1.2 Access to transport

The national research also demonstrated that women with disabilities do not enjoy a barrier-free public transport service across Europe. In some countries, such as Luxembourg and the Netherlands, public transport is not yet fully available as an accessible service to women with disabilities. Moreover, discrimination still persists due to inaccessible buses and bus stations, inaudible announcements, poor signage and assistance dogs not being allowed on trains.

As women with disabilities rely on accessible transport to participate in all kinds of activities as citizens with equal rights, Member States do place an emphasis on enhancing accessibility to transport as the main set of measures to improve access to goods and services for women with disabilities. However, measures currently in place are limited and not sufficient to comply with the standards established by the UN Convention.

### 11.1.3 Access to information, communication and assistive technologies

Access to suitable and accurate information and communication (in particular ICT and use of the internet) is crucial for women with disabilities to enable them to access goods and services in the internal market. However, many difficulties arise for women with disabilities. First, accessible information is often not made available by private providers of goods and services, mainly because the large majority of vendors are unaware of accessibility issues for women with disabilities, creating an invisible barrier in the market itself. Therefore, the final product offered may be inaccessible to this group. It is also the case that most public and private websites do not comply with accessibility standards (as is the case in Slovakia) creating a further barrier for women with disabilities.

Second, cash benefits available to support women with disabilities appear to be insufficient and do not facilitate the availability of modern technologies to women with disabilities (as in Bulgaria). Women with disabilities are often asked to pay high prices for devices featuring sets that are not useful for them (such as cell phones, personal digital assistants, and televisions).

Third, the way that the provision of assistive technologies in the Member States is regulated also reflects the differences in the way social protection of the individual is achieved. Nonetheless, the problems faced by end-users of assistive technologies are often the same. Women with disabilities and their families mainly face the financial burden of acquiring assistive devices, and both the type of disability and the personal situation of women with disabilities is likely to influence the final cost. They are also reluctant to invest in technologies that have an unproven accessibility record. Although the EU market for assistive devices is of significant size, both sectoral and geographical fragmentation exists, and the availability of sufficient and detailed information on assistive devices is also recognised as a serious problem.

### 11.1.4 Access to privately-provided services

Problems with access to private services by women with disabilities often start at the design stage and these may be numerous including: aisles in shops being too narrow for wheelchair users, bills with very small text, and cash machines with touch-screens not adapted for those with visual disabilities. Apart from the accessibility of buildings (in restaurants, museums, or shops), discrimination also affects customer-care policies that do not take into account the needs of women with disabilities.<sup>130</sup>

Other services such as banking, tourism or the insurance market are poorly adapted to the needs of women with disabilities. For instance, banking services are not accessible for blind women in Lithuania, and in most countries insurance companies may increase the insurance risk level to women with disabilities compared to women with none. Women with disabilities' accessibility requirements are not always served adequately by the travel and tourism industry, and this can be due to a combination of poor product supply along with inadequate or missing information on travel and accommodation options, and prices. Moreover, all these trends are reinforced in some countries, where obligations for private bodies and companies do not normally meet the provisions of the UN Convention.

<sup>130</sup> EDF paper (2007): *Promoting equality and combating disability discrimination: The need for a disability specific non-discrimination Directive going beyond employment.*

## 11.2 Legislation and policy

### 11.2.1 European legislation

There are several EU and national policies, statements and legal developments, protecting the rights of persons with disabilities as consumers. These seek to achieve a more inclusive single market and more accessible goods and services.

In May 2000, the Commission Communication Towards a barrier free Europe for people with disabilities<sup>131</sup> played a key role in the development of policies and laws on disability, accessibility and mobility issues. The document focused on how policies could give persons with disabilities the right to mobility in areas such as the information society, the opening of the internal market for technical aids and the protection of the rights of consumers with disabilities. The aim was to ensure the removal of technical and legal barriers to the effective participation of persons with disabilities in a knowledge-based economy and society.<sup>132</sup>

The European Action Plan on Equal Opportunities for People with Disabilities launched in 2003 was a key milestone towards the achievement of an 'Accessibility for all' approach stating that "accessibility to goods, services and the built environment is a central issue for the people with disabilities and is also of concern to all EU citizens"<sup>133</sup>. More recently, the EU Disability Action Plan (2008-2009)<sup>134</sup> has fostered access to goods and services, social services and infrastructures while empowering men and women with disabilities to act as consumers. Under the action line entitled Boosting accessibility of goods, services and infrastructures, the DAP (2008-2009) includes a set of priority actions to improve transport systems and services and ICT, to protect users with disabilities, to foster accessibility to the built environment and to promote access to communication and information for persons with disabilities on the same basis as other citizens. These also constitute the key action lines supported by the Council of Europe Disability Action Plan 2006-2015)<sup>135</sup>.

With regards to the gender dimension, article 23 of the EU Treaty, European legislation forbids discrimination in relation to access to goods and services on the grounds of gender in Council Directive 2004/113/EC<sup>136</sup>. This Directive implements the principle of equal treatment between women and men in access to and supply of goods and services.

<sup>131</sup> Commission Communication (2000) 284 final of 12.05.2000: *Towards a barrier free Europe for people with disabilities*

<sup>132</sup> This goes in line with Article 26 of the EU Charter of Fundamental Rights, recognising the "*right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community*".

<sup>133</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan; COM(2003) 650 final (page 13).

<sup>134</sup> Commission Communication (2007) 738 final of 26.11.2007: *Situation of disabled people in the European Union: the European Action Plan 2008-2009*.

<sup>135</sup> Council of Europe (2006)5, Recommendation of the Committee of Ministers to the Member States on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: Improving the Quality of Life of People with Disabilities in Europe 2006-2015.

<sup>136</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

## 11.2.2 National legislation

Policies dealing with access to goods and services for men and women with disabilities are found in different forms among the countries covered by this study, with a diverse range of legislative and policy provisions that vary between countries. As such, countries can be classified according to their main (although not exclusive) legislative feature:

- Framework legislation and/or National Strategy for persons with disabilities, containing general accessibility clauses on access to goods, services and to a barrier-free environment (in transport, buildings, etc.); or
- Specific Accessibility Policy Programmes and/or particular minimum accessibility standards / guidelines for men and women with disabilities regarding their access to goods and services.

## 11.3 Programmes and provisions

Legislation and national Programmes on accessibility provide the necessary framework for developing a set of accessibility measures aimed at guaranteeing access to goods and services for persons with disabilities. Measures related to better accessibility have an impact on both women and men with disabilities and may imply different types of provision, from initiatives in the fields of transport, buildings or public spaces, to financial support for assistive technologies, car adaptation or housing adjustments.

Table 11.1 below provides some examples of measures and initiatives that have been implemented in the areas of: buildings and public places, transport, and financial assistance.

**Table 11.1 Examples of accessibility measures and initiatives**

Field	Set of accessibility measures	Examples of countries where measures are in place
<b>Buildings and public places</b>	Measures to improve buildings or make public premises, activities and/or information barrier-free and accessible for men/women with disabilities.	Austria, Denmark, France, Hungary, Italy, Lithuania, Macedonia, Malta, Portugal, Slovakia, Spain, Sweden, Turkey, UK.
<b>Transport</b>	Measures for better accessibility to transport including: discounts, parking free spaces, and special transport provision.	Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Latvia, Macedonia, Netherlands, Poland, Portugal, Slovakia, Spain, UK.
<b>Financial assistance</b>	Financial support for car adaptation and/or housing adjustments	Austria, Bulgaria, Hungary, Lithuania, Netherlands.
	Financial support for assistive technologies and technical aids	Austria, Bulgaria, Denmark, Germany, Hungary, Ireland, Lithuania, Norway, Poland, Spain.
	Subsidies for private service providers to meet disability accessibility criteria	Austria

Source: ECOTEC national correspondents

## 11.4 Summary

As noted previously, access to goods and services is a central and cross-cutting issue in relation to the ability of women with disabilities to be able to live free and independent lives. Legislation and approaches vary widely, with transport standing out as an area where progress is being made.

## 12.0 Access to justice and protection from exploitation, violence and abuse

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This chapter deals with two interrelated areas covered by the UN Convention, which, at the same time are important in their own right: access to justice and protection from exploitation, violence and abuse.

Access to justice for women with disabilities is covered by Article 13 of the UN Convention, which states that "*State Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others*" also promoting "*appropriate training for those working in the field of administration of justice, including police and prison staff*". This right includes not only the provision of procedural and age-appropriate accommodations facilitating their effective role as direct and indirect participants, but also their participation as witnesses in all legal procedures. Further, it also calls on the State Parties to undertake appropriate training measures for public administration personnel to ensure that there is effective access to justice for women with disabilities.

Article 16 of the UN Convention deals with protection from exploitation, violence and abuse: "*State Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects*". States Parties are also required to take any appropriate gender-sensitive assistance and support measures for women with disabilities, their families and care-givers, accompanied by any legislation or policy that identifies, investigates and prosecutes any form of violence or abuse towards women with disabilities.

### 12.1 Situation of women with disabilities

This section provides an overview of the situation of women with disabilities in Member States and countries covered by the study in relation to Articles 13 and 16 of the UN Convention. It will also provide insights into the causes, extent and form of abuse and mistreatment experienced by women with disabilities.

#### 12.1.1 Compliance with Article 13 of the UN Convention

Women with disabilities are still facing many barriers in relation to their right to access justice. Regarding compliance with Article 13 of the UN Convention, European countries tend not to provide tailored services to meet the needs of women with disabilities. Access to justice is often hindered by barriers or left to the involvement of NGOs, with the consequent funding limitations. Courts and other public buildings often have poor accessibility and the personnel within judicial institutions are often poorly trained in the provision of services appropriate to the needs of women with disabilities. The analysis has indicated that the ratifying countries of the UN Convention (Austria, Croatia, Hungary, Slovenia, Spain and Sweden), jointly with France, are the best placed in terms of improving conditions for more effective access to justice for women with disabilities.

## 12.1.2 Compliance with Article 16 of the UN Convention

Women with disabilities are also confronting many difficulties in relation to legislative and public protection exploitation, violence and abuse. Although support or advocacy services, help centres and accommodation for women facing violence are found in several countries, they do not appear to be fully accessible for women with disabilities, despite this group facing violence more often than other women. Again, the ratifying countries together with Denmark, the Netherlands and the United Kingdom, have a policy and legislative framework more in line with the provisions laid down in Article 16 but still insufficient to meet all needs.

As previously mentioned the lack of accessible services and provisions for women with disabilities (required to comply with Article 16) is accompanied by a limited number of specialists or funds available, creating an additional barrier to effective intervention against domestic violence, abuse or exploitation. Moreover, this situation is aggravated when women with disabilities do not report the violence and abuse they suffer. The data highlights some of the reasons for this under-reporting by women with disabilities who are victims of domestic violence and abuse<sup>137</sup> as follows:

- Dependency on the perpetrator of violence, abuse and exploitation: women with disabilities may live with and depend on the perpetrator of the violence (perhaps their husband, relative, personal assistant or institution and hospital staff), as violence is mainly committed at home or in the caring institution/hospital.
- Lack of a refuge to escape to and for some living in fear of retribution from their assailant.
- Victims living in socially isolated situations or in social circles that stigmatise and exclude those suffering from violence and abuse. Such a situation of isolation may also be compounded by on-going violence, abuse and exploitation.
- A lack of credibility when communicating or reporting violence, women with severe mental or intellectual disabilities may not be trusted.
- A lack of trust in the authorities responsible for dealing with their complaints.
- A poor physiological state: women with disabilities may feel vulnerable and guilty regarding their situation, considering violence as a normal part of their lives.
- Social acceptance and tolerance of violence against women with disabilities.
- A lack of information: in particular relating to accessing counsellors, or a lack of awareness of the unacceptable nature of abuse, violence and exploitation.

<sup>137</sup> Comments to the *UN Secretary-General's Study on Violence against Women* by the EDF (European Disability Forum); and Council of Europe (2003), Report on *Discrimination against Women with Disabilities*, page 47.

### 12.1.3 Causes, extent and form of the abuse

Although no reliable statistical data covering the EU level has been identified revealing the specific situation of European women with disabilities as victims of violence, abuse or exploitation, the European Parliament (2007) *Report on the Situation of Women with Disabilities in the EU* notes that “women with disabilities are three times as likely to be victims of violence as women without disabilities”<sup>138</sup>. Data analysed also suggest that the rate of abuse and violence committed against women with disabilities is much higher, particularly women with severe or mental disabilities, than those for women without disabilities or even men with disabilities<sup>139</sup>. For instance, the *UN Secretary-General's Study on Violence against Women*<sup>140</sup> suggests that over half of women with disabilities have experienced physical abuse compared to one third of women without disabilities.

There are a variety of causes, forms and levels of abuse experienced by women with disabilities. EDF reports that forced sterilisation continues to be carried out on many persons with disabilities, particularly girls and women with intellectual or psychosocial disabilities.<sup>141</sup> Research has shown that there is a dominant gender asymmetry in relation to domestic violence, human trafficking and prostitution, as the majority of the victims in these situations are women. Moreover, this gender asymmetry is strengthened by the intersectionality between gender and disability, which creates multiple disadvantage and discrimination. This intersectional discrimination may be reinforced by the problems of social exclusion such as lone parenthood, lack of available income, and lack of access to quality services. The poor labour market integration experienced by women with disabilities makes them even more vulnerable.

The causes and conditions of mistreatment and abuse towards women with disabilities are in many ways similar from country to country. Some forms of aggression such as domestic violence or sexual abuse occur regardless of the country's economic situation. Other forms of exploitation such as trafficking and prostitution are fuelled by poor social and economic conditions in society and a spiral of decline, including: poverty; unemployment; inadequate legal, policy and social services; and a lack of education, family ties and support<sup>142</sup>.

The extent of the abuse women with disabilities are facing is mainly focused on:

- domestic violence (perpetrated by partner, carers, or relatives);
- sexual abuse;
- isolation (either living alone or within stigmatising social circles);
- institutional discrimination (public services and staff not ready or able to respond to the needs of women with disabilities and to treat them accordingly); and
- trafficking and prostitution.

<sup>138</sup> European Parliament (2007), Committee on Women's rights and gender equality, *Report on the Situation of Women with Disabilities in the European Union* (2006/2277(INI)).

<sup>139</sup> ECOTEC's own research; and Council of Europe (2006)5, Recommendation of the Committee of Ministers to the Member States on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: Improving the Quality of Life of People with Disabilities in Europe 2006-2015.

<sup>140</sup> United Nations (2006), *UN Secretary-General's Study on Violence against Women*, Item 60(a) on advancement of women, 61<sup>st</sup> session of the General Assembly

<sup>141</sup> Commemorating the International Day for the Elimination of Violence Against Women Against the Forced Sterilisation of Girls And Women With Disabilities; 25 November 2009; European Disability Forum

<sup>142</sup> European Commission (2006), *Gender Inequalities in the risks of poverty and social exclusion for disadvantage groups in thirty European Countries*.

Due to their increased vulnerability in the social environment, women with mental, psychological or learning disabilities are more prone to becoming the victims of domestic violence, sexual abuse and mistreatment, because they do not have the practical means to live independently and experience their sexuality. This is corroborated by data from national correspondents in some of the countries covered by the study. For instance, in Sweden, 63% of women with a psychological disability were abused after the age of 16 years. In the Netherlands, research shows that women with disabilities have a greater risk of being sexually abused than women in general, especially those with a mental disability. Women with mental and/or learning disabilities are more liable to become the victims of sexual abuse in Austria where in the mid-1990s, 64% of persons with disabilities, mostly women with a mental illness or disability, reported sexual violence. Currently, approximately 40% of women with disabilities in Austria have experienced violence or abuse, mostly in their childhood.

Data also shows that abuses are more often suffered by women with disabilities in rural areas, who exercise their rights less than those living in urban areas (for instance, with lower reporting rates on cases of abuse), as reported in Greece and Lithuania.

## 12.2 Legislation, policy and measures

The Employment Framework Directive<sup>143</sup>, adopted in 2000, outlaws discrimination on the grounds of religion, belief, disability, age or sexual orientation. It also includes provisions regarding access to justice and protection from mistreatment for those disadvantaged, mainly in the employment sphere.

### 12.2.1 Access to justice

Regarding access to justice, the Employment Framework Directive makes clear that an adequate level of legal protection for those disadvantaged people affected by discrimination should be guaranteed. Recital (29) makes explicit mention of legal protection for those subject to discrimination on the grounds of disability: "*Persons who have been subject to discrimination based on religion, belief, disability, age or sexual orientation should have adequate means of legal protection*". However, research for this study suggests that there are few, if any, legislative acts, policies or initiatives supporting the rights of women with disabilities specifically with regards to their access to legal provision, beyond the national non-discrimination policies and legislation in EU Member States that protect the rights of persons with disabilities in general.

Nevertheless, significant differences among countries in terms of legislation, policies and measures concerning access to justice for men and women with disabilities have been observed as shown in Table 12.1 below.

<sup>143</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

**Table 12.1 Examples of legislation, policies and measures on access to justice for men and women with disabilities in Europe**

	Country	Current state of legislation, policy and measures
<b>'Best practice' countries</b>	<b>Austria</b>	<ul style="list-style-type: none"> <li>• Almost all court buildings and police offices are barrier-free.</li> <li>• A blind person has the right to be informed on written acts at Court. The costs of sign-language interpretation or activities to help persons with disabilities to have equal access to justice are borne by the Federation.</li> </ul>
	<b>Croatia</b>	<p>A National Strategy for Persons with Disabilities guaranteeing civil rights for men and women with disabilities, contains the following measures:</p> <ol style="list-style-type: none"> <li>1. Organised training for police and judicial employees</li> <li>2. Launching of the Institute of the Ombudsman for Persons with Disabilities</li> <li>3. Provision of tailored legal assistance to persons with disabilities</li> <li>4. Public seminars on women with disabilities and violence</li> <li>5. Provision of access to relevant and related information</li> </ol>
	<b>France</b>	<ul style="list-style-type: none"> <li>• Courts and other public buildings must, by law, be accessible and persons with disabilities are entitled to sign language interpretation or to reading in Braille before the civil and penal courts.</li> <li>• Maisons départementales des personnes handicapées (MDPH) are intended to centralise all administrative procedures for enforcing the rights of persons with disabilities. They transmit the claim of a person with a disability to the competent authority or jurisdiction.</li> </ul>
<b>Other countries</b>	<b>Latvia Lithuania Macedonia</b>	These countries are characterised by a lack of trained staff in institutions able to treat persons with disabilities and women with disabilities according to their needs.
	<b>Czech Republic Greece Estonia Romania</b>	These countries are characterised by the absence of legislation in respect of access to justice for persons with disabilities. Support and justice centres and buildings - such as police stations, sheltered homes, help centres - are reported to be not fully accessible (in terms of physical access and information) for persons with disabilities.

Source: ECOTEC national correspondents

## 12.2.2 Protection from exploitation, violence and abuse

Legislation in European countries tends to include an emphasis on gender-based violence, although legal provisions do not include a specific focus on disability issues. Legislation to protect women with disabilities from exploitation, violence and abuse is incorporated in those policies aimed at protecting women in general or in anti-discrimination policy.

Legislative and policy frameworks vary across Europe. Countries that have ratified the UN Convention such as Austria, Croatia, Hungary, Spain and Sweden, although not having specific legislation addressing the protection of women with disabilities, tend to have more tailored measures for the protection of men and women with disabilities from exploitation, violence and abuse. As such, these countries may include measures such as training for police and judicial staff serving women with disabilities and specific help-lines (Croatia); national programmes to protect women with disabilities from violence (Croatia, Hungary); accessible sheltered homes (Spain) or have a very strong presence of non-governmental organisations serving women with disabilities and their protection from violence and abuse (Sweden and Austria).

Some of the new Member States have a more developed legislative and policy framework than the EU15 for specific issues such as human trafficking or exploitation, as many of those countries are or have been countries of origin, transit or destination for trafficked women (including women with disabilities) to other European countries or third countries<sup>144</sup>. However, the study on *"Gender Inequalities in the risks of poverty and social exclusion for disadvantaged groups in thirty European countries"*<sup>145</sup> illustrates the legislative and policy limitations and developments on domestic violence in countries such as Greece, Malta and Romania. Therefore, the position of women with disabilities in these countries risks being weak and fragile, mainly due to:

- No specific legislation to protect women against domestic violence (only general provisions on violence applicable);
- A limited number of reception centres for abused women being set up;
- Limited financial resources available; and
- Insufficient framework of policy services to provide support to victims.

Bearing in mind the lack of reliable data on women with disabilities as victims of exploitation, violence and abuse, the data indicates that both service provision and monitoring practices also vary significantly between Member States. However, some 'best practice' measures can be identified across Europe. Some examples are listed below:

- Sheltered homes for women (including women with disabilities);
- Training for police and judicial employees;
- Plans to mitigate violence against women with disabilities;
- Tailored social services and assistance;
- Better accessibility and a barrier-free environment to support centres and judicial buildings;
- Awareness-raising campaigns and seminars on women with disabilities and violence.

<sup>144</sup> Information obtained from an interview with a representative of the European Observatory on Violence against Women

<sup>145</sup> European Commission (2006), *Gender Inequalities in the risks of poverty and social exclusion for disadvantage groups in thirty European Countries*.

The following table provides examples of government-run and-funded measures, measures provided by NGOs and other measures.

**Table 12.2 Examples of policies, initiatives and measures regarding protection from exploitation, violence and abuse for women with disabilities in Europe**

	Country	Current state of policy and measures
<b>Government-run and -funded measures</b>	<b>Croatia</b>	National Strategy for Persons with Disabilities, including training for police and judicial employees, legal assistance to women with disabilities and seminars on women with disabilities and violence.
	<b>Denmark</b>	Government action plan to mitigate violence against women, focusing on women with reduced physical and mental ability. The Action Plan aims at improving support to victims, activities targeting abusers and activities targeting relevant professionals.
	<b>Hungary</b>	New National Programme of Disability Affairs takes a stand against violence towards women and supports awareness-raising campaigns.
	<b>Netherlands</b>	The Ministry of Health is investigating the option to develop local preventive measures against abuse suffered by women with disabilities.
	<b>Spain</b>	Sheltered homes and Women's Attention Services for women in almost every Autonomous Community. Services to be tailored for the needs of women with disabilities.
	<b>UK</b>	Social Services assistance providing accommodation, and financial support, especially for people with a mental or physical disability or those suffering illness.
<b>NGO measures</b>	<b>Austria</b>	A wide-range of NGOs supporting persons with disabilities and anti-discrimination exist.
	<b>Croatia</b>	Existence of a SOS Telephone service for women with disabilities as well as a Network of Women with Disabilities (which organises awareness-raising campaigns, including 'violence' as a theme).
	<b>Finland</b>	The Finnish Disability Forum conducts educational campaigns to give support to women with disabilities, especially those suffering violence.
	<b>Hungary</b>	Initiatives are undertaken by civil organisations, which play a key role in promoting further development in the fight against violence towards women with disabilities.
	<b>Sweden</b>	Most municipalities rely on voluntary organisations to support women with disabilities.

	Country	Current state of policy and measures
Other measures	Denmark	There are specific initiatives for making crisis centres accessible for women with disabilities. Other measures focus on educating staff of crisis centres.
	Hungary	These countries have carried out projects financed by the EU programme DAPHNE, with a special focus on women with disabilities. No special attention, however, is given to women with disabilities in the Decision establishing the Programme for the 2007-2013 period <sup>146</sup> .
	Italy Luxembourg	

Source: national correspondents

### 12.3 Summary

Although provisions vary among countries, there is a common key issue limiting policy development at national level: the availability of funding. Resources and support to develop and implement a coherent policy and legislative framework to fully implement Articles 13 and 16 of the UN Convention tend to be limited. In most countries, service provision for women with disabilities, including those victims of exploitation, abuse and violence, are provided by NGOs, although NGOs are in a fragile position to address all the needs of this vulnerable group of women, mainly due to the limited funding, resources and commitments from public authorities. Moreover, Member States may not always fully comply with their obligations towards the implementation of the Equality legislation framework and the necessary service provision to women, particularly women with disabilities<sup>147</sup>.

<sup>146</sup> Decision No 779/2007/EC of the European Parliament and of the Council of 20 June 2007, establishing for the period 2007-2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme 'Fundamental Rights and Justice'.

<sup>147</sup> Information obtained from an interview with a representative of the European Observatory on Violence against Women

## 13.0 Participation in political, public and cultural life

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This chapter covers two areas covered by the UN Convention: participation in political and public life; and cultural life, recreation, leisure and sport.

Article 29 of the UN Convention addresses participation in political and public life. It guarantees: "*persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others*". This article ensures that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected. This includes ensuring accessibility to voting procedures and guarantees the freedom of expression of the person with a disability. This Article also aims to promote an environment where persons with disabilities can participate in political life on an equal basis; for example in forming and acting in representative public bodies or organisations.

Article 30 of the UN Convention deals with participation in cultural, recreation and leisure/sport. This Article enshrines the right to participate in cultural life (such as accessing cultural materials, films, theatre, museums and tourism sites etc.) and to enable persons with disabilities to develop and utilise their own creative, artistic and intellectual talents. It also supports participation on an equal basis in mainstream sports, disability specific sports, as well as access to sporting venues and tourist locations. Article 30 ensures that the cultures of persons with disabilities are respected and recognised including blind and deaf cultures. It also ensures that intellectual property rights do not constitute an unreasonable barrier to participation in arts and culture.

### 13.1 Situation of women with disabilities

#### 13.1.1 Political life

The UN Convention aims to support participation and access to decision-making as vital for gender equality in general, but also in terms of ensuring the participation of women with disabilities in public life.<sup>148</sup> The Council of Europe report on Discrimination against Women with Disabilities states that at the broadest level, women with disabilities are "*...considerably more disadvantaged in this respect than women generally. In their case the problem starts at the most basic level: very often they have no means of making their voice heard and it is other people who speak on their behalf*". The reasons women with disabilities are unable to take part in or gain access to decision-making include psychological barriers such as low self-esteem, fear or shame, as well as physical obstacles such as the fact that many live in isolation, either in their own homes or in institutions. In addition, resources such as cars or childcare are sometimes available only to persons with disabilities in employment and this may prevent women with disabilities from participating fully in political or public life. The Council of Europe report suggests that "*because many women with disabilities need the assistance of another person even with essential everyday actions and mobility, any form of participation, however modest, is contingent on assistance from another person*".<sup>149</sup>

<sup>148</sup> [www.coe.int/t/e/social\\_cohesion/soc-sp/Discrimination%20Women.\\_E%20in%20color.pdf](http://www.coe.int/t/e/social_cohesion/soc-sp/Discrimination%20Women._E%20in%20color.pdf)

<sup>149</sup> Ibid

The available literature shows a general shift towards support for increased participation in political and public life. This is evident from the emphasis on activating and involving persons with disabilities in policy-making and service provision. Further, policy papers and reports in various areas promote the necessity and benefit of ongoing stakeholder consultation. This theme is particularly evident in the accessibility literature. However, only a small number of European-level reports and studies were identified in relation to this topic specifically, and very little quantitative data was available (as described elsewhere in this report).

The Council of Europe report on Discrimination against Women with Disabilities<sup>150</sup> suggests that there is an absence of women with disabilities in public life – they do not hold high profile posts in key areas such as politics, business and the public services, and are not visible on television or in the media. Even among disability organisations there is a low level of representation of women with disabilities.

In terms of participation of women in political life, the European Union performs better than (the worldwide) average. The proportion of female members of parliament (single/lower house) rose from 16% in 1997 to 24% in 2007. However, this is still well below the so-called critical mass of 30%, which is considered to be the minimum necessary for women to exert meaningful influence on politics and there is no data to indicate what proportion, if any, of those women have a disability.<sup>151</sup> There are 20 countries worldwide that have achieved this 'critical mass', eight of which are from within the EU (Austria, Belgium, Denmark, Finland, Germany, the Netherlands, Spain and Sweden). The European Parliament has also achieved this critical mass with 31% of its members being women.

### 13.1.2 Culture and recreation

In terms of access to cultural facilities, data from across the EU is very limited. For example in Spain, the National Action Plan (2007) specifically notes a lack of research and evidence about participation in leisure activities by women with disabilities or persons with disabilities more generally. Available data indicates that overall, persons with disabilities are less likely to access cultural and recreational facilities (e.g. museums, cinemas and parks) than are other people. Getting physical access to cultural venues (for example parks, museums etc.) and the lack of specialist equipment was often an issue, as was getting accessible transport to cultural locations. A lack of skills among staff to support people (or women) with disabilities was also often an issue. There were also differentials between levels of access according to the severity of the disability. Data from the Netherlands<sup>152</sup> indicates that people with a severe disability are less involved in creative activities than those without (for example art, drama etc.). Those with a moderate disability are more involved in creative activities than those without (perhaps because they have more free time). Those with a severe disability are less likely to undertake volunteering activities than persons without disabilities.

<sup>150</sup> [www.coe.int/t/e/social\\_cohesion/soc-sp/Discrimination%20Women.\\_E%20in%20color.pdf](http://www.coe.int/t/e/social_cohesion/soc-sp/Discrimination%20Women._E%20in%20color.pdf)

<sup>151</sup> Alphametrics Ltd and Applica Sprl (2008), Women and men in decision-making 2007, Analysis of the situation and trends, Brussels: European Commission Directorate-General for Employment and Social Affairs

<sup>152</sup> See Country Fiche for the Netherlands

### 13.1.3 Tourism

Estimates of the number of persons with disabilities in Europe seeking 'accessible tourism destinations' range from 40m<sup>153</sup> to 45m<sup>154</sup> and generally speaking, no 'gender disability' dimension was identified with respect to tourism. The problem of accessibility therefore is likely to apply equally to men and women. Many tourist destinations that can be enjoyed by persons without disabilities remain inaccessible to persons with disabilities.<sup>155</sup> Physical amendments to ensure accessibility can often be insufficient. In terms of accessible tourism supply for the (then) 25 EU Member States<sup>156</sup>, level of accessibility varied from 1.4% and 1.5% of accommodation establishments in Austria and the UK respectively deemed accessible, compared to 28.9% in Italy. Overall, the data suggested that accessible tourism supply represents the 5.6% of the total known stock with regards to accommodation units; 11.3% with respect to tourism attractions; and 1.5% of restaurants & catering facilities. The figures available were not wholly accurate due to the problem of a lack of data but do suggest that only a small proportion of the current tourism supply in Europe is accessible for persons with disabilities.

There is commonly also a lack of publicity by those providers who have made reasonable adjustments and thus a failure to inform people with accessibility requirements of the opportunities available to them. Further, the concept of accessibility seems to have been interpreted to a very limited extent within the sector: the European Network for Accessible Tourism<sup>157</sup> (ENAT) stresses that accessible tourism is not just about single interventions such as introducing ramps but '*...accessibility also means accessible public transportation means, accessible archaeological sites and museums, and accessible beaches*'.<sup>158</sup> Moreover, in addition to adjustments to the physical environment, accessibility also relies greatly on staff training, to ensure appropriate attitudes and sensitivity towards clients with disabilities. Indeed, negative, demeaning, or condescending staff attitudes have been highlighted as common complaints among persons with disabilities.<sup>159</sup>

### 13.1.4 Sports

At European level, data on participation in sports is more readily available than data on other areas related to Article 30 of the UN Convention. The available data indicates that access to sport (both as participants and spectators) remains a problematic issue for persons with disabilities and women with disabilities in particular. Boys and girls with disabilities do not enjoy the same opportunities to practice sport as their peers without disabilities, particularly in school physical education classes; with the result that persons with disabilities do not develop the 'habit' of taking part in sport at an early age.<sup>160</sup>

<sup>153</sup> European Network for Accessible Tourism (2006). Report of the International Workshop Held on 23 October 2006

<sup>154</sup> *One-stop-shop for accessible tourism in Europe* website, April 2008

<sup>155</sup> Europe for All website, accessed April 2008

<sup>156</sup> Buhalis, D., V. Eichhorn, E. Michopoulou & G. Miller (2005). Accessibility Market and Stakeholder Analysis

<sup>157</sup> See <http://www.accessibletourism.org>, accessed March 2009

<sup>158</sup> European Network for Accessible Tourism (2006). Report of the International Workshop Held on 23 October 2006

<sup>159</sup> Buhalis, D., V. Eichhorn, E. Michopoulou & G. Miller (2005). Accessibility Market and Stakeholder Analysis

<sup>160</sup> EC (2007), Commission Staff Working Document, The EU and Sport: Background and Context, SEC (2007) 935

In adult life, persons with disabilities, and women with disabilities in particular, also have low levels of participation in sport. Limited data was identified for Europe as a whole, but where statistical data was available (for example for individual countries), it generally showed a lower level of participation in sports by women with disabilities than men with disabilities. For example:

- In the UK, 47% of women aged 16 to 59 years with a limiting longstanding illness or disability took part in sport - including walking - on at least one occasion in the previous 4 weeks, compared with 56% of men)
- In Italy, 55.9% of men with a disability participate in sport compared to 47.4% of women with a disability.

This reflects the broader trend for men to be more regularly involved in sports than women as a whole. Further, the under-representation of women in sport across Europe has also been noted in terms of participation in the management and delivery of sport, for example in the organisation and management of sport activities, leadership positions in sport and media coverage of competitions involving sportswomen (and sportswomen with disabilities).<sup>161</sup>

Evidence from the International Paralympic Committee, Women in Sport Committee (IPC-WISC) indicated that there has in recent years been an increase in the number of women with disabilities involved in all capacities (e.g. athletes, administrators, coaches, classifiers, etc.); that various 'women-specific' projects (summits, sport events, research, committees, recruiting and support) had taken place and that there were some examples of accountabilities for funding based on women with disabilities' participation (for example if a club requires funding, it must demonstrate its programmes are offered for women).<sup>162</sup> However the committee also recognised that there still needs to be improvement in the numbers of female coaches and in female teams as well as better sharing of experience.

## 13.2 Legislation, policy and measures

### 13.2.1 Political and public life (Article 29)

There have been significant legislative developments and measures to promote gender equality in decision-making and leadership but the literature did not reveal evidence of significant or specific actions to support the participation of persons with disabilities or women with disabilities in particular.

Internationally, in 1995 the UN convened the Fourth World Conference on Women, which adopted the Beijing Declaration and the Beijing Platform for Action which took 'Women in power and decision-making' as one of its themes. The European Council monitors the implementation of the Beijing Platform annually and the Council of Ministers has adopted two sets of indicators within this monitoring process.

<sup>161</sup> ibid

<sup>162</sup> International Paralympic Committee (2007), Women in Paralympic Sport Leadership Summit Report and Action Plan, Europe, Germany, June 2007

At European level, the Council's recommendation (96/694 on the Balanced Participation of Women in the decision-making process, 1996), supports greater participation of women in decision-making. In 1999, the Council adopted a set of nine indicators in the area of women and men in decision-making and in 2003 the Council adopted a further set of nine indicators concerning women and men in economic decision-making. The Commission's 2000 report on the implementation of the 1996 recommendation concluded that although an overall positive outcome had resulted from the policies, the level of improvement did not match expectations and further action was required. Data on the gender balance of decision-makers is tracked at EU level,<sup>163</sup> but data are not detailed enough to provide a break down of the proportion or representation of women with disabilities. The EU's current Youth in Action programme seeks to promote the participation of young people in democratic life and makes specific reference to promoting the participation of young people with disabilities.<sup>164</sup>

At the national level, there is more evidence of activity to support participation in political life around actions such as making polling stations accessible for persons with disabilities, rather than at a more strategic level around supporting women with disabilities in entering political life. Again these types of initiatives generally focus on persons with disabilities rather than women in particular. For example in Poland, a 2001 Act ensures access to polling stations for persons with disabilities. There has been some considerable progress in increasing the participation of women in decision-making processes, although the situation varies significantly between countries.

Belgium has shown the greatest improvement in the parliamentary gender balance over the decade 1997-2007. The increase in the proportion of female members of parliament from 12% to 35% was attributed to positive government intervention through legislation enforcing parity amongst candidates and equal visibility on ballot papers.<sup>165</sup> In Portugal, a specific law (number 38/2004) assures persons with disabilities or their representatives of their right to help elaborate legislation and monitoring policies regarding disability, thus assuring their involvement in every aspect of public life and society. In Croatia, the national strategy for 2007 has an action line focussed on promoting the participation of women with disabilities in public and political activities at all levels.

### 13.2.2 Cultural life, tourism and sports (Article 30)

Legislation and interventions in relation to Article 30 of the convention are strongest and best supported in recognition of the need to support sports for persons with disabilities and women, rather than in areas such as cultural life, though some actions did support tourism. However, most legislation and support generally targeted persons with disabilities rather than being specifically focussed on women with disabilities. For example in Turkey, the Municipalities Act (Article 77) ensures municipalities enable all individuals to participate in sports, culture and parks etc.

<sup>163</sup> [http://ec.europa.eu/employment\\_social/women\\_men\\_stats/index\\_en.htm](http://ec.europa.eu/employment_social/women_men_stats/index_en.htm)

<sup>164</sup> [http://ec.europa.eu/youth/youth-in-action-programme/doc74\\_en.htm](http://ec.europa.eu/youth/youth-in-action-programme/doc74_en.htm)

<sup>165</sup> *ibid*

There have been developments at European level in terms of legislative support for accessible sports. The 2000 Nice Declaration recognised that for persons with disabilities, *"the practice of physical and sporting activities provides a particularly favourable opening for the development of individual talent, rehabilitation, social integration and solidarity"* and stressed that sports should be accessible to all. The EC White Paper on Sport<sup>166</sup> (2007), also stressed that *"all residents should have access to sport. The specific needs and situation of under-represented groups therefore need to be addressed, and the special role that sport can play for young people, people with disabilities and people from less privileged backgrounds must be taken into account"*. The Paper explains that support for persons with disabilities who wish to access sport forms the third pillar of the concept of equal opportunities in sports and notes that *"the educational and social values of sport also matter to people with disabilities. In this light, sport (both competitive and recreational) is a cross-cutting tool for integration, job creation and equality for people with disabilities."* However, the European Commission has no 'competence' regarding sport and responsibility for sporting matters lies primarily with the Member States and sporting organisations. Thus, in the White Paper the Commission 'encourages' Member States and sport organisations to adapt sport infrastructure to take into account the needs of persons with disabilities. It suggests that Member States and local municipalities should ensure that sport venues and accommodations are accessible and that specific criteria should be adopted for ensuring equal access to sport for all pupils, and specifically for children with disabilities. It further notes that training of monitors, volunteers and host staff of clubs and organisations for the purpose of welcoming persons with disabilities should be promoted.

In the accompanying Action Plan<sup>167</sup> clear recognition is given to gender mainstreaming and promoting participation in sport by persons with disabilities. Point 16 notes that the Commission Action Plan on the European Union Disability Strategy will take into account the importance of sport for persons with disabilities and will support Member State actions in this field. For example, the Commission supports Member States in respect of modernising and improving their physical education policies, investing in quality sport facilities in education establishments and making sport premises and sport curricula at schools accessible to all students. Point 17 notes that the Roadmap for Equality between Women and Men (2006-10) will encourage the mainstreaming of gender issues into all its sports-related activities, with a specific focus on access to sport for immigrant women and women from ethnic minorities, women's access to decision-making positions in sport, and media coverage of women in sport.

A number of Commission-led activities for persons with disabilities have also targeted sport. The European Year of People with Disabilities (2003) financed sports events, and as part of the European Year of Education through Sport (2004), several projects on the integration of persons with disabilities through sports were funded. In 2005, the Commission organised an experts' meeting on equal opportunities in sport to identify key needs, trends, and fields of action. Further, the YOUTH programme supported sport activities for young persons with disabilities.<sup>168</sup> Again, little of this activity has focussed specifically on women and girls with disabilities.

<sup>166</sup> EC (2007), White Paper on Sport, SEC (2007) 391 final

<sup>167</sup> EC (2007), Commission Staff Working Document, Action Plan "Pierre de Coubertin", SEC (2007) 934

<sup>168</sup> EC (2007), Commission Staff Working Document, The EU and Sport: Background and Context, SEC (2007) 935

At the national level, government-led interventions or measures to make sport more accessible have generally included offering reduced rates or subsidies for persons with disabilities to enter and use sports facilities (for example in Austria and Belgium); making sports facilities more accessible and schemes to certify accessible venues (for example, Greece, Poland, Sweden and Turkey). Some countries have specific policies in this field, for example in Portugal, Law no 125/95, regulates support for competition to persons with disabilities to support excellence in sports and in Poland, a 1996 Act on physical culture ensures equal access to sports activities.

Across Europe, legislation and practical support towards making tourism more accessible varies greatly, as a result of differences in each country's legislation, level of technical development and knowledge, as well as cultural, climatic and geographical variations.<sup>169</sup> At European level, there is little evidence of legislative support. However the European Network for Accessible Tourism (ENAT) brings together travel and tourism businesses and other organisations around making tourism accessible. ENAT endeavours to improve accessibility in the tourism sector by consolidating and sharing existing knowledge, though it has no legal basis to enforce its work.<sup>170</sup> Across the EU, the OSSATE 'Europe for All' website, developed with support from the European Commission, provides the most centralised attempt at accurate and reliable information about the accessibility of tourism venues and services in Europe.<sup>171</sup>

Some countries provide good examples of legislative or practical support for accessible tourism. For example, the UK's Disability Discrimination Act aims to make it compulsory for tourism suppliers to create an environment that is accessible to persons with disabilities. Greece is also strong in this area, with numerous practical case studies identified in the literature, including the Athens Piraeus Electric Railways<sup>172</sup> which are accessible for all, as well as a variety of activities and schemes for persons with disabilities. Again however, most activity focuses on persons with disabilities rather than specifically on women with disabilities.

National interventions or measures to make tourism more accessible also vary greatly, and have included making beaches more accessible (for example, in Greece this area of work is led by individual municipalities) or for certifying accessible tourist locations (for example, Portugal has a scheme to certify accessible tourist locations).

<sup>169</sup> One-stop-shop for accessible tourism in Europe website, accessed spring 2008

<sup>170</sup> European Network for Accessible Tourism (2006). Report of the International Workshop Held on 23 October 2006

<sup>171</sup> See [www.europeforall.com](http://www.europeforall.com)

<sup>172</sup> [www.isap.gr](http://www.isap.gr)

Activities aimed at participation in cultural life have included government funding for culture and the arts for persons with disabilities, for example the provision of audio books and actions to make museums more accessible. However, there are few examples specifically targeted to the needs of women with disabilities. Some examples of generalised provision are ad hoc, whilst others are centrally co-ordinated within an action plan, for example:

- Finland operates an access to public arts and culture programme.
- In Portugal, a specific law (38/2004) assures access to leisure and cultural activities for persons with disabilities and creates adequate structures and social support.
- In the Czech Republic, the Ministry of Culture supports programmes and grants for cultural activities for persons with disabilities as well as the accessibility of cultural facilities.
- In Iceland, a 1992 act ensures municipalities give persons with disabilities the opportunity to overcome social isolation via cultural and social events.

## 14.0 Conclusions

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As described in the ToR for this study, the UN Convention is a comprehensive and integral international convention which promotes and protects the rights of persons with disabilities, including women with disabilities, and makes a significant contribution to promoting their participation in the civil, political, economic, social and cultural spheres with equal opportunities, both in developing and in developed countries. Article 6 recognises the obligation on States Parties to take measures ensuring full and equal enjoyment by women and girls of all human rights and fundamental freedoms. It, and other relevant provisions of the UN Convention, thus creates the “twin-track approach” – providing a solid legal basis for mainstreaming disability and gender in other specific articles of the Convention and in the legislation and policies of signatory States Parties.

The UN Convention has, then, given a special focus on the rights and situation of persons with disabilities in general and, through Article 6, a special focus on women with disabilities. It has not been the purpose of this study to monitor the progress of the signatory States Parties in ratifying the UN Convention and in responding to the demands of all the Articles. Instead, the study has looked at the current “state-of-play” of the main policy fields across the EU, as far as they relate to women with disabilities. In doing so, we have relied heavily on data from the 33 countries covered by the study. This is not without its problems, given the inconsistency and incomparability across national data. However, considering the state-of-play across policy fields is not a simple case of examining whether countries are complying with the UN Convention or not; it is more a case of seeing what steps are being taken along the very long road towards ever greater compliance and recognition of the Articles of the UN Convention in EU and national policy and practice – and at the same time attempting to identify whether the situation of women with disabilities is improving across Europe.

This report has considered the situation of women with disabilities across the broad range of topics specified in the ToR and, in each case, explored the extent and nature of the intersection of disadvantage and/or discrimination based on gender and disability. We present below a summary of those issues where the data suggests the intersection between gender and disability is strongest. We consider, first, the “real-life” issues facing women with disabilities and some of the responses that have proved most effective. We then go on to draw conclusions about the challenges and effectiveness of policy at EU and national level. In the next section, we offer recommendations for policymakers at different levels, in light of these conclusions.

### 14.1 Situation of women with disabilities

In undertaking this assignment, it has been important to keep at the forefront of our minds the fact that women with disabilities do not form a single homogenous group. Their life experiences and situations are very different, for example, according to the nature and severity of their disability, country, family background, level of education – or simply the fact that they are all unique individuals. Moreover, the nature, definition and perception of disabilities vary widely, from country to country and from individual to individual. Many people who, under some definitions, would be classified as having a disability do not consider themselves as such; others, not technically classified as having a disability under certain criteria, would.

As noted in the report, there is a significant population of women with disabilities across the EU, with 16% of women reporting a LSHPD in the 2002 LFS ad hoc module. The LFS data constitutes one of the most reliable sources for making pan-European comparisons, being based on a consistent data set and methodology, i.e. self-reporting of disability. However, even within the LFS module, the proportion of women within each country reporting a disability varies widely, from 6.3% in Italy to 33.6% in Finland. This suggests that individuals are highly influenced by the prevailing definitions of disability used in their countries, whether based on cultural notions or the benefits available. National data sources, being collected for different reasons, demonstrate equally significant variations.

The differing nature of disabilities – and of society's response to such disabilities – means that any individual's experience of "having a disability" varies widely. It is therefore difficult to talk of needs of women with disabilities that apply equally and universally to all women with disabilities whatever their disability or situation – though we do not discount the possibility. It is only with great caution that any statements can be made about the universal, or even the typical, experience of women with disabilities and the barriers and opportunities they face. Instead, it will more often be appropriate to explain how different needs or barriers manifest themselves in different contexts for women with different types of disability.

#### 14.1.1 Issues facing women with disabilities

The view expressed by the expert advisers to this study is that women with disabilities consider themselves, first and foremost, as women; in general, they have the same aspirations, desires and needs as other women – to live fulfilled lives as women, despite their disability. As far as they have an "identity" based on their disability, this is secondary to their identity as human beings and as women. With this key principle in mind, two priorities emerge from the consideration of the evidence gathered that cut across all the thematic areas.

First, the importance of the *rights* of women with disabilities: the UN Convention provides the fundamental basis or reference point for the rights of women with disabilities; the requirements of the UN Convention need firstly to be transposed into national legislation – so that women with disabilities enjoy those rights *de jure* – this primarily requires the right legislation; secondly, women with disabilities need to be able to exercise those rights, i.e. to enjoy those rights *de facto*; this requires mainstreaming of gender and disability across all policy areas by public authorities, as well as targeted actions. Evidence from the research reports significant gaps in the extent to which such mainstreaming has taken place.

Second, the importance of *attitudes* relating to women with disabilities: in parallel to, or as a consequence of, the introduction of legislation, the mainstreaming of gender and disability, and targeted actions, there is the need to change attitudes of public authorities, private enterprises, civil society and of society more generally.

To the extent that these two priorities are addressed, women with disabilities will enjoy *fundamental freedoms, choice and empowerment* in the functioning of their day-to-day lives. With this in mind, we draw some conclusions about the most pressing issues facing women with disabilities specifically:

- *Women with disabilities remain under-represented in democratic processes and decision-making more generally*; there is a need for policymakers at all levels to engage more constructively with the women with disabilities lobby, as opposed to the disability lobby more generally; there is a desire, for example as expressed by EDF, for greater consultation and active participation of women with disabilities in decision-making, in order for their particular concerns to be taken into account; this applies equally within civil society; moreover, women with disabilities are far less likely than others to participate in political life, through, for example, standing for public office, often because they are reliant on assistance from another person; as a consequence, the concerns of women with disabilities do not feature highly enough on the policy agenda.
- *Intersectionality is particularly strong in the area of respect for home and the family*. Article 23 of the UN Convention protects the rights of persons with disabilities to marry and form a family, decide freely on the number and spacing of their children, have access to family planning information and retain their fertility on an equal basis with others. Whilst this study has not uncovered any instances of national policies in direct breach of Article 23, there is a body of research evidence demonstrating that women with disabilities, in particular, do not yet fully enjoy these rights. For example, the UK's Royal College of Midwives reports "serious shortcomings in assisting (women with disabilities) towards confident, healthy and safe childbearing and child caring" and highlights research showing that women with disabilities "identified insensitive, inadequate and insufficient understanding of the nature of their disability in relation to pregnancy as their chief complaint about maternity care" (Maternity Alliance, 1994).
- *Similarly, access to health services is a particular priority with a strong gender and disability dimension*; national legislation in most countries does not cover health and social services for gender and disability in the same legislation; in most cases, women with disabilities receive health services that are targeted at women in general or at persons with disabilities in general, but rarely targeted specifically at them.
- *Intersectionality is also strong in respect of access to justice and protection from abuse*; again, the evidence suggests that women with mental or psychological disability are at greater risk of being abused than are men with disabilities or women without disabilities; however, national legislation to protect women with disability from exploitation, violence and abuse typically addresses gender-based violence but without a strong focus on disability. For example, such legislation is incorporated in the policy of protecting women in general or in anti-discrimination policy. Policy measures in terms of access to justice typically do not incorporate a gender dimension.
- *Intersectionality also occurs in respect of employment, although the relative strength of gender and disability "disadvantages" differs from country to country*; based on the 2002 LFS module, four groups of countries can be identified: those with high employment generally, those with a strong gender disadvantage, those with a strong disability disadvantage, and those with low employment generally; whilst employment rates for women with disabilities are consistently lower than those of men with disabilities and of women without disabilities, across nearly all countries, the different strength of these "disadvantages" calls for different policy approaches at national level.

- *Labour market participation (and thus rates of employment) of women with disabilities are closely related to the definitions, criteria and incentives of welfare regimes; these have the most significant impact on employment rates of women with disabilities, i.e. where definitions of disability are drawn very narrowly, then rates of employment of women with disabilities tend to be low, since only those with the most severe disabilities (who are less likely to be employed) are classified as having a disability. Consideration of the labour market participation of women with disabilities therefore needs to take the context of each regime into account.*
- *Social protection systems do not recognise gender differences and "women with disabilities" is not generally recognised as a legal term in that context; national systems of social protection are often based on the medical model of disability and, in such cases, tend not to take account of the extent to which women with disabilities are disabled by their working environment.*
- *The overall effect of gender disadvantage is generally less in education and training than in employment, though it applies very strongly in certain cases; indeed, whilst there is a significant disability disadvantage – the rates of participation and achievement in education for persons with disabilities being significantly lower than for persons without disabilities – the data suggests that there is a more modest gender disadvantage across Europe; indeed, in many countries, the participation of women in education exceeds that of men and a concern of policymakers in some countries has been the low performance of boys in school education and the low participation of men in lifelong learning; however, vocational training has been highlighted as one of the areas in which women, including women with disabilities face a particular disadvantage and thus have lower rates of participation.*
- *Women with disabilities are particularly under-represented in recreational activities, culture and sport – in terms of participation, leadership, management and delivery and media coverage; children with disabilities face significant barriers to participation and remain poorly-served by provision. In the case of girls, this is exacerbated by the under-representation of women as coaches and fewer possibilities for female teams and events specific to women.*

#### 14.1.2 Effective responses to issues facing women with disabilities

Women with disabilities do not necessarily live in proximity to each other and do not necessarily join together to undertake activity – though, many of course do choose to do so, whether for the purposes of mutual support, promoting the rights of persons with disabilities, undertaking paralympic sport or any other reason. As such, women with disabilities do not form an instantly identifiable group to whose needs and interests policymakers can easily respond, as they would do for, say, car manufacturers or the inhabitants of a particular locality. Obviously, the more narrowly-defined a group is, the easier it is to design effective policy responses. For example, requiring certain documents to be made available in Braille serves a particular need of a defined group, i.e. those to whom the document is targeted. But where disability and the needs of persons with disabilities remain diverse, policy responses are necessarily more flexible. They may consist of new legal requirements to do/not to do certain things, or they may be more proactive measures specifically focussed on the broad needs of persons with disabilities, or they may require the disability dimension to be taken into account across all policy areas. We therefore primarily focus here on broad policy responses rather than attempting a detailed catalogue of specific measures that could be undertaken for all "types" of women with disabilities – though some specific measures will be included as examples. In many cases,

conclusions will not apply uniformly and policy responses will need to recognise and allow for diversity of situation.

- *Responses to the under-representation of women with disabilities in political and public life*; whilst the need to increase the representation of women and of persons with disabilities is widely recognised, the specific issue of the representation of women with disabilities is less commonly recognised. Responses to date have tended to focus on the physical accessibility of polling stations and other public buildings, and legislative approaches, for example, relating to the parity of candidates and equal visibility on ballot papers.
- *Responses to intersectionality in the area of respect for home and the family*; whilst there remain significant attitudinal barriers to overcome in this area, significant progress in this area has been made in many countries, through effective legislative responses. Such approaches have included protection in law of the right to start a family, recognition of the needs of mothers with disabilities, certain pension entitlements for women with disabilities and mothers of children with disabilities, extended parental leave after having a child with a disability, the right to early retirement for parents of children with disabilities.
- *Responses to the need for access to health services*; responses have been most effective in countries where there has been a co-ordinated and strategic response to health provision for women with disabilities, for example, including national health reports or action plans focussed specifically on this issue. Such strategic responses are usually most effective where they encompass measures relating to physical accessibility to services (including access to reproductive and sexual health services), training of medical staff, awareness-raising, and reproductive health services customised to the needs of women with disabilities. More specific responses have included women's health centres that incorporate special provision for women with disabilities, breast and cervical cancer screening programmes customised for women with disabilities, and specialist gynaecological services for women with disabilities. The effectiveness of all types of response has been increased in many countries by greater involvement of the NGO sector.
- *Responses to the need for access to justice and protection from abuse*; as noted earlier, legislative and policy responses tend not to focus specifically on the needs of women with disabilities in this area, for example, legal provisions relating to gender-based violence. The most effective responses to date have thus mostly been more ad hoc initiatives. Examples focussed specifically on women with disabilities include training for police and judicial staff in supporting women with disabilities, dedicated telephone help-lines, sheltered homes, customised social services and assistance, accessible support centres, and awareness-raising campaigns.
- *Responses related to employment*; in terms of legislative approaches to the employment of women with disabilities, the evidence suggests that quota systems tend not to be effective. They often result in employers recruiting individuals into low-skilled or even token jobs. More effective approaches tend to combine requirements for employers to make reasonable adjustments to workplaces/working conditions, with the possibility for individual cases of discrimination to be heard at employment tribunals. As a complement to legislation, active labour market policy measures for women with disabilities *can* be most effective where they offer effective routes into flexible employment, since these potentially reflect the preferences of women with disabilities, e.g. in respect of access to regular medical treatments or childcare responsibilities. Flexible working includes several types of employment arrangement, including part-time working, temporary

working, distance and tele-working which can allow women with disabilities to work on their own terms and with favourable conditions of work. However, such routes into flexible employment generally need to operate on the basis of *choice* offered to individual women with disabilities, in respect of whether they are supported into flexible, full-time employment or other destination, such as education and training. Information and guidance in accessible formats are an essential element of such provision.

- *Responses to the barriers and disincentives posed by welfare regimes and social protection systems*; women with disabilities are generally not recognised by social protection as a distinct group, though there is usually recognition of and provision for persons with certain types of disability. Indeed, gender equality is typically a core principle in the design of entitlement to statutory social security. Social services specifically aimed at the needs of women with disabilities tend, therefore, to consist of social assistance services, employment and training services, social housing and long-term care. Effective examples include customised services provided by the public employment service, special measures to ensure access to social policy programmes and poverty reduction programmes, and targeted training.
- *Responses to barriers in education and training*; since disability remains the most prominent barrier to participation in education and training and tends not to intersect particularly strongly with gender, it follows that the main focus of policy should remain on approaches that focus on people with disability in general, albeit with a gender dimension where appropriate. For example, approaches to inclusive education and digital literacy have proved successful in meeting the educational needs of persons with certain types of disability and have the potential to be applied and adapted in other countries where they do not yet exist. In those areas where gender and disability do intersect strongly, e.g. vocational education and training, there is the potential for more research to be undertaken to identify and disseminate good practice in approaches to serving women with disabilities, with a view to wider uptake and development of targeted provision.
- *Measures to include the representation of women with disabilities in recreational activities, culture and sport*; responses across these very broad fields tend to be targeted either at women in general or at persons with disabilities in general. The most effective responses to date have therefore tended to be those that mainstream gender into responses targeted at persons with disabilities in general, for example, national policies to promote access to sport for persons with disabilities, as well as national strategies to promote participation of persons with disabilities in public and political life. Special mention must also be given to the International Paralympic Committee, which has a specific "Women in Sport Committee" to track progress and outline areas for action as well as running various activities.

## 14.2 Policy relating to women with disabilities

The UN Convention, by recognising the specific needs and situation of women with disabilities thus provides the basis for new legal rights and the "political" case for recognition of the issues that they face. In signing the UN Convention, the EU and the Member States have thus made a political commitment to recognise those rights and needs; that commitment needs to be converted into legislative commitments domestically (i.e. via ratification), as well as practical action. Whilst the purpose of this report is not to track the ratification process or to monitor each country's compliance with the UN Convention, we present here a number of conclusions about EU and national policy as far they relate to women with disabilities.

## 14.2.1 European policy issues

The EU has made significant progress over the last decade in recognising and acting on the needs of persons with disabilities in general and thus also the needs of women with disabilities. A key step was the Employment Framework Directive (2000/78/EC) which established the general framework for equal treatment in employment and occupation to prevent people in the EU from being discriminated against because of disability (amongst other factors). Since then, the Disability Action Plan 2003-10 (DAP) has acted as the core policy document to mainstream disability issues within all relevant EU policies, effected in two-year phases.

In spite of these very significant developments, we note here a number of challenges facing EU policy in respect of women with disabilities.

- *There is a need for (greater) recognition of the rights and situation of women with disabilities in EU and national policy*; the principle of mainstreaming gender into EU policies and actions is now long-established; most, if not all, EU policy documents make reference to the gender dimension as a matter of course. The principle of mainstreaming disability is more recent, but has developed since the introduction of the EU's Disability Action Plan in 2003. However, the concept of intersectionality – in this case, of gender and disability – is newer and not yet fully adopted by EU and Member State policymakers. There needs, therefore, to be greater recognition of this concept, so that women with disabilities do not continue to "fall through the gap" in policies.
- *There is a need for policymakers at all levels to engage more constructively with the women with disabilities "lobby", in addition to the disability lobby more generally* in line with Article 4 of the Convention; there is a desire, e.g. as expressed by EDF, for greater consultation and active participation of women with disabilities in decision-making, in order for their particular concerns to be taken into account; this applies equally within civil society. Moreover, greater efforts may be necessary to increase the participation of women with disabilities in political life, through, for example, standing for public office. As representation and participation of women with disabilities increases, this will ensure that the concerns of women with disabilities are mainstreamed more extensively across relevant policy fields.
- *Whilst the DAP has contributed progress and incorporated a gender dimension, it has not yet fully recognised the intersectionality of gender and disability disadvantage.* Whilst Annex 2 of the current DAP recognises the need for a more integrated approach in this respect, those issues that are included in the current DAP – inclusive participation through accessibility and full enjoyment of fundamental rights – include only a limited gender dimension. Similarly, the issues in the previous DAP - encouraging economic activity, quality support and care services, accessibility of goods and services, and the EU's analytical capacity – also demonstrated only a limited gender dimension.
- *A number of important fields have not yet received sufficient consideration in the DAP.* These have been highlighted by this report – and by the UN Convention - as important issues for women with disabilities and include political representation and participation in the political process, access to justice, protection from abuse, and respect for home and the family (including accessible and appropriate childcare).
- *The safeguarding of the rights and fundamental freedoms of women with disabilities across this wider range of issues is not fully covered by European legislation.* Some Member States have already adopted national legislation that outlaws discrimination against persons with disabilities

across a broader range of fields beyond the employment sphere. However, there is not, as yet, full coverage across all Member States.

- *There is a significant amount of EU-funded activity serving women with disabilities that is not reflected in the DAP.* These include, primarily, actions funded under Daphne, the European Social Fund (ESF) and the Lifelong Learning Programme (LLP). Each of these programmes has a gender dimension and specifically targets persons with disabilities. In the case of Daphne, the intersectionality of gender and disability is explicitly recognised. Indeed, Daphne explicitly recognises a number of sub-groups of women with disabilities, such as women with autism, girls with learning disabilities and women with visual disabilities. The omission of these very significant activities weakens the effectiveness of the DAP and reduces opportunities for synergy and learning across policy themes.
- *The division of responsibilities for issues facing women with disabilities – and with the EU's responses, such as Daphne or ESF - across different parts of the Commission, indeed across different EU bodies, risk reducing the understanding of and provision for intersectionality in European policymaking, unless effective co-ordination mechanisms are in operation;* there is a need to strengthen the inter-service working groups on disability within the Commission and thus strengthen the links between these different activities and thus increase the effectiveness of the DAP in respect of women with disabilities. In particular, the inter-service groups on disability and on health offer opportunities for considering collaboration, cross-fertilisation, sharing best practice, for example between Daphne, ESF and LLP.
- *There is a need to explore the potential for providing greater support to a body/bodies that can articulate and promote the interests of women with disabilities;* there is a constituency of people and organisations that does represent women with disabilities, but it needs to be made more distinct from/within the broader disability lobby. Indeed, anecdotal evidence identified in this study, suggests that there is a need to strengthen the voice of women with disabilities within the disability lobby.

### 14.2.2 National policy issues

As noted earlier, the Member States have made their own commitment to upholding the rights of women with disabilities by signing the UN Convention. Some have already ratified the UN Convention and all are subject to the monitoring undertaken at international level (Articles 34 to 40) and committed to the introduction of national implementation and monitoring mechanisms (Article 33). We present here a number of conclusions about the operation of national policy in very broad terms.

- *There is a need to strengthen the recognition and understanding of the intersectionality of gender and disability disadvantage in Member State policy;* although Member States generally go beyond the requirements of EU legislation related to gender and disability, there are few instances of national legislation that specifically address the intersectionality of gender and disability. Both issues tend to get treated separately.
- *In particular, there is a need for the principle of intersectionality (or multiple discrimination) to be adopted into anti-discrimination legislation.* At the point at which women with disabilities choose to enforce their rights through the legal process, it does not appear possible to do so on the grounds

of multiple discrimination. In cases of alleged discrimination, claimants in many Member States are required to choose between discrimination on the grounds of gender or disability.

- *The limited consideration of intersectionality thus risks entrenching parallel policy and legislative processes – and different, albeit overlapping, "constituencies", i.e. those relating to persons with disabilities and those of women. The danger is thus that issues facing women with disabilities in any country are not given explicit attention. Some Member States have attempted to overcome that problem by the creation of a single equalities body, such as the UK's Equality and Human Rights Commission. However, in the case of the UK, the creation of such a body has not been without its critics who have complained of a loss of expertise and a weaker focus given to disability.*

## 15.0 Recommendations

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In developing recommendations for this study, we face a number of challenges.

First, the very wide scope of the study means that we cannot hope to offer recommendations that have applicability across the full diversity of women with disabilities across 33 European countries, without those recommendations becoming so general as to be meaningless. Similarly, the wide scope of the study has meant that we have not been able to explore particular themes or countries in much depth. In those instances where we have gathered data relating to very specific groups of women with disabilities, to present recommendations relating to those groups would skew the overall focus of the report away from the kinds of actions that the EU and Member States can and should take.

Second, the size, nature and diversity of issues facing women with disabilities are such that policymakers cannot hope to resolve them overnight. The UN Convention provides the basis for establishing/safeguarding the fundamental rights and freedoms of women with disabilities, but there is a very substantial task for all States Parties to make the enjoyment of those rights a reality – both *de jure* and *de facto*. Established practices and attitudes – by whatever party – will take time to change, even where appropriate legislation is enacted. Moreover, the nature of the challenges will change over time. Some new developments in technology will offer new ways to overcome disabilities but others may create new barriers. Similarly, trends in policy, media reporting or public opinion may serve to increase or reduce discrimination and disadvantage – or merely to change its nature. Equally, demographic developments may change the prevalence of certain disabilities, for example, increasing those associated with an ageing population. The implication for policymakers is that there will be no policy framework that will establish/safeguard the fundamental rights and freedoms of women with disabilities "once-and-for-all". Instead, the task will be to establish an appropriate framework that addresses the current situation and anticipates future needs, but which will need continual updating and adaptation as its limitations become apparent and as new challenges emerge.

With these thoughts in mind, we present a set of recommendations that is intended to be meaningful to the subject of this study - reflecting the findings presented in the report – and also workable for the European Commission and for Member States. In the case of the European Commission, our recommendations reflect the current policy context for the study. In particular, we have attempted to frame recommendations that can inform the next phase of the EU's disability strategy – or whatever policy approach succeeds it. By taking this approach, it has been possible for us to be very specific and present proposals that are perhaps modest (given the extent of the issues facing women with disabilities) but workable.

Both the EU and the Member States are signatories to the UN Convention in their own right. As noted earlier, it is not the role of the EU to monitor the progress of Member States in ratifying and implementing the UN Convention. Instead, the EU's role is twofold – to ensure its own compliance with the UN Convention and, through the Open Method of Co-ordination (OMC), to support the Member States in their own efforts to safeguard the rights and fundamental freedoms of women with disabilities. With that in mind, we present below two sets of recommendations for the EU: i) recommendations for the EU itself to take in respect of its own activities; ii) recommendations for the EU to take in supporting Member States.

In the case of Member States, their situations and current policy frameworks are so diverse that it is not possible to present a simple set of recommendations that have universal applicability. Instead, we recommend a number of areas where Member States may wish to review their policy frameworks in light of the UN Convention.

## 15.1 EU recommendations

As the current DAP comes to a close at the end of 2009, there is a need – and the opportunity to refocus the EU's key strategic document in respect of disability. We present here, therefore, a number of recommendations that can inform the approach taken post-2009.

- 1 *In its disability strategy post-2009, the Commission should incorporate a specific and explicit focus on the intersectionality of gender and disability.* Due research and consultation will need to be undertaken, involving appropriate experts in this field, in order to incorporate any significant developments in the academic and policy literature. This research and consultation should allow a better understanding of intersectionality to be outlined in the DAP and to influence the measures included therein.
- 2 *In monitoring and reporting on the implementation of disability strategy, the issue of intersectionality should be routinely considered.* Whilst Annex 2 of the current DAP is helpful in terms of summarising the situation of women with disabilities in respect of *some* issues, there needs to be greater emphasis on how intersectionality has been addressed in practice, for example in any review of the achievements of the DAP.
- 3 *In its disability strategy post-2009, the Commission should ensure that the full range of issues relevant to women with disabilities – and set out in the UN Convention – are addressed.* Indeed, the Commission should consider structuring the strategy such that it reflects the various Articles of the UN Convention. In particular, the strategy should explicitly cover political representation and participation in the political process, access to justice, protection from abuse, and respect for home and the family (including childcare), as well as the issues considered to date, including inclusive participation through accessibility, full enjoyment of fundamental rights, encouraging economic activity, quality support and care services, accessibility of goods and services, and the EU's analytical capacity.
- 4 *The Commission should consider more research into those themes that have not yet received sufficient consideration in the DAP, for example, into the participation of women with disabilities in the political process.* Whilst this report has given an overview of many of the themes, its broad scale and scope has not allowed detailed consideration of the intricacies of each. In addressing themes that are outside the traditional remit of DG EMPL, an inter-service approach is recommended, for example, in the case of access to justice or protection from violence and abuse. Indeed, there is already a body of evidence and expertise residing in other DGs that can be drawn on. In undertaking any new research, the Commission should ensure full consultation with and involvement of women with disabilities. It should also explore the potential contribution of the High Level Group on Disability to such research.
- 5 *The disability strategy post-2009 should draw more heavily on the full range of activities and experiences supported by the EU.* In particular, the strategy should draw on and present the experiences and achievements of the ESF, LLP and Daphne programmes.

- 6 *Linked to this, greater co-ordination should be undertaken between those three programmes and any others relevant to women with disabilities in order to capture synergies, enabling cross-fertilisation of ideas and maximise impact.* Such co-ordination should be encouraged and include inter-service consultation, sharing of information, joint promotion and thematic research.
- 7 *Research should be undertaken into the individual and collective impact of those funding programmes on women with disabilities;* such research could be undertaken either through discrete studies or as part of wider studies. For example, the standard ex-ante, interim and ex-post evaluations of Daphne might offer the opportunity to explore its impact on women with disabilities. In the case of ESF, discrete studies may be necessary, such as a thematic evaluation of the contribution of ESF to improving the situation of women with disabilities. The collective impact of those programmes should also be explored, either through comparing and combining the results of research into the individual programmes or through commissioning entirely new research, covering all the programmes.
- 8 *The Commission should explore the potential for the Disability High level Group to address the issue of intersectionality of gender and disability, as well as any other issues not yet covered by the DAP;* the High Level Group has already produced a Discussion Paper on disability mainstreaming in the social protection and inclusion OMC processes.<sup>173</sup> It is therefore worth exploring whether the Group might also produce Discussion Papers on intersectionality as well as issues such as political representation and participation in the political process, access to justice, protection from abuse, and respect for home and the family (including childcare).
- 9 *The Commission should also ensure that the Disability High level Group has an appropriate gender balance in its membership,* in line with Article 4 of the Convention.
- 10 *Given the wider range of fields in which women with disabilities face discrimination, there is merit in exploring the possibility of a European Directive for the equal treatment of persons with disabilities beyond the field of employment – incorporating, of course, the gender dimension.* In some cases, Member States have already adopted national legislation that serves such a purpose. It may therefore be the case that the design of any European Directive would draw on the best practice and the lessons learned from those Member States that have already introduced such legislation. There is also merit in studying the experiences of Member States in transposing the Employment Framework Directive, which was not without its problems, in order to identify lessons that can inform the introduction of any future Directive
- 11 *The Commission should recognise that women with disabilities form a "constituency" that is distinct from, although overlapping with, those of persons with disabilities and women in general.* Through PROGRESS, or other mechanisms, the Commission should identify and support appropriate bodies or networks to articulate the interests and needs of women with disabilities at EU level. In the first instance, discussions could be held with EDF and EWL to explore possibilities and consider whether an NGO already supported by the EU can fulfil that remit, or whether a new or different NGO requires support.
- 12 *There is a need to reinforce the analytical capacity of the Commission* in respect of the study of issues relating to women with disabilities; the current DAP highlights the importance of generating more reliable and comparable data on disability and the participation of persons with disabilities. The

<sup>173</sup> Disability mainstreaming in the new streamlined European social protection and inclusion processes, Disability High Level Group Discussion Paper, 11-12 October 2006.

research undertaken by this project highlights the importance of such data and, in particular, the need for EU data to be disaggregated by disability and gender whenever possible.

## 15.2 Recommendations for actions to support Member States through the OMC

As noted earlier, the Member States, as signatories to the UN Convention, are already subject to monitoring at national and international levels. There seems little merit, therefore, in introducing a monitoring system at European level. However, the Member States will share with each other - and with the EU itself – the challenges in ratifying and complying with the requirements of the UN Convention. The EU has the potential here, therefore, to play a supportive role.

- 1 *The Commission should explore ways of increasing the women with disabilities dimension within the Social Open Method of Co-ordination.* Having signed the UN Convention, each Member State must already designate a focal point, establish a co-ordination mechanism and develop a framework in which to promote, protect and monitor the implementation of the UN Convention. In doing so, each Member State must therefore introduce the kind of mechanisms that are also used through the OMC, i.e. pursuing a set of agreed common objectives through a flexible and decentralised method, whereby Member State identify and promote the most effective policies and mechanisms to achieve those objectives.<sup>174</sup> Although the text of the 2008 Communication<sup>175</sup> does not explicitly refer to the UN Convention or to the importance of intersectionality of gender and disability, the current Social OMC does include an explicit commitment to gender equality and the inclusion of persons with disabilities. There is merit, therefore, in exploring how the EU – operating through the Social OMC - can enhance the efforts of Member States in seeking to comply with the requirements of the UN Convention. For example, in applying the Social OMC process to the issues facing women with disabilities, it may be possible to adopt objectives or indicators specifically relating to women with disabilities. Overall, the emphasis should be on supporting and consolidating existing practices (i.e. Member States' actions to comply with the UN Convention), rather than creating parallel structures. Indeed, given the extensive monitoring to be introduced at international and national level in respect of the UN Convention, there is little merit in introducing a further monitoring process at EU level.
- 2 *In line with the Social OMC, the Commission should support the enhancement of statistical capacity and data collection related to the situation of women with disabilities;* the PROGRESS programme is already supporting such activity where comparable data are lacking or insufficient. To the extent that this activity is undertaken, it should include a focus on women with disabilities.
- 3 *In line with the Social OMC, the Commission should support the efforts of Member States to comply with the UN Convention in respect of women with disabilities, through peer reviews, mutual learning and involvement of all relevant actors.* By proactively promoting and financing such activities (e.g. through PROGRESS), the Commission can maximise the sharing of experience and the dissemination of best practice. For example, the Commission should consider producing publications and guidance for Member States on best practice in complying with the UN Convention in respect of women with disabilities. Such support should focus on the UN Convention in general as well as on specific issues, such as political representation and participation in the political process, access to justice, protection from abuse, and respect for home and the family (including childcare).

<sup>174</sup> Of course, the UN Convention, once ratified, is legally binding, unlike the OMC which is not legally-binding.

<sup>175</sup> COM(2008) 418 final: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A renewed commitment to social Europe: Reinforcing the Open Method of Coordination for Social Protection and Social Inclusion

- 4 *The Commission should facilitate a dialogue at EU level that brings together Member State bodies with policy responsibility for issues related to women with disabilities as well as appropriate civil society bodies at European level. The Commission's role here should be one of facilitation. The purpose of such dialogue will be to encourage the identification of issues of common concern, both to Member States and to women with disabilities themselves and the identification of possible responses. Such responses could then be adopted by the Member States or incorporated into EU policies, as appropriate.*
- 5 *The Commission should encourage the mainstreaming of good practice in approaches to women with disabilities by Member States, through the dissemination of the results emerging from programmes that focus on women with disabilities, in particular ESF, LLP and Daphne. Whilst each programme already has the remit and resources for dissemination and valorisation activity, there is a need to focus some of that activity directly on issues relevant to women with disabilities.*

### 15.3 Recommendations for Member States

In light of the situation of women with disabilities – as presented in this report – and our earlier conclusions about the most effective approaches to addressing those needs featuring the intersection of disability and gender, we highlight here a number of areas where Member States may wish to review their policy frameworks and offer broad guidance on the kinds of approaches that could prove effective.

- 1 *Member States are recommended to identify ways to increase the representation and participation of women with disabilities in decision-making in line with Article 4 of the UN Convention. Representation and participation of women with disabilities in decision-making is the most effective way of ensuring that the intersectionality of gender and disability is mainstreamed into all relevant areas of policy – and thus of maximising the positive impact of policy on the situation of women with disabilities. The UN Convention does, in fact, highlight the need for “States Parties to closely consult with and actively involve persons with disabilities” in the “development and implementation of legislation and policies and in other decision-making processes concerning issues relating to persons with disabilities”. The priority is therefore to ensure the specific consultation and involvement of women with disabilities in respect of those issues relating to women with disabilities. Increasing such representation and participation will require a co-ordinated range of measures, including consultation, training, awareness-raising, etc.*
- 2 *Looking more specifically at the implementation of the UN Convention, Member States are recommended to create specific mechanisms by which women with disabilities can participate in the process of ratifying the UN Convention, transposing it into national law and monitoring its implementation. In consultation with the relevant national disability bodies, Member States should ensure representation of women with disabilities in any co-ordination mechanism set up within the government to facilitate action related action in different sectors (as recommended by Article 33 of the Convention). In addition, Member States should give consideration to a co-ordination mechanism specifically created for the purpose of facilitating action related to the needs of women with disabilities. Similarly, Member States should give consideration to an independent mechanism to promote, protect and monitor implementation of the UN Convention *in respect of its relevance to women with disabilities*. As far as possible, that mechanism should include women with disabilities in its membership and consult appropriately with women with disabilities.*

- 3 *Member States are recommended to ensure that statistics and data collected in respect of Article 31 of the UN Convention have appropriate disaggregation by gender and that such data is made publicly available.*
- 4 *Similarly, Member States are recommended to ensure that reports to the UN Convention give consideration to the situation of women with disabilities throughout all the fields covered by the UN Convention.*
- 5 *In light of their commitments under Article 6 of the UN Convention, Member States are recommended to develop and implement a National Strategy for Women with Disabilities, drawing on the example of Spain. Such strategies should be prepared, implemented and monitored with appropriate involvement of women with disabilities and cover the full range of fields set out in the UN Convention.*
- 6 *In light of the issues of intersectionality of gender and disability, Member States are recommended to review their policy frameworks relating to respect for home and the family; to the extent that the issue of intersectionality is not understood or recognised, they should undertake approach research and public consultation. In light of such investigations and drawing on best practice from across Europe (and elsewhere), Member States should ensure an appropriate legislative framework that recognises and protects the rights of women with disabilities in respect of motherhood, adoption, assistive reproduction, child custody and other pertinent issues.*
- 7 *Member States are recommended to review their provision of health services for women with disabilities; such reviews should establish the needs of women with disabilities and consider the suitability of current provision in light of those needs. Member States are recommended to consider strategic responses to the needs of women with disabilities, for example, encompassing measures relating to physical accessibility to services (including access to reproductive and sexual health services), training of medical staff, awareness-raising, information (especially regarding birth, pregnancy and childcare) provided in accessible formats, customised counselling services (e.g. including sign language interpretation) and reproductive health services customised to the needs of women with disabilities. Member States should also consider the contribution of NGOs in such strategies.*
- 8 *Member States are recommended to review the position of women with disabilities in respect of access to justice and protection from abuse; where appropriate, they should seek to incorporate the disability dimension into legal provisions relating to gender-based violence. Member States are also recommended to consider developing national strategies relating to access to justice and protection from abuse for women with disabilities – with such strategies incorporating and thus enhancing the impact of any existing activities.*
- 9 *Member States are recommended to review their legislative and policy frameworks in respect of the labour market participation of women with disabilities; they are encouraged to draw on best practice around Europe in combining requirements for employers to make reasonable adjustments to workplaces/working conditions, with the possibility for individual cases of discrimination to be heard at employment tribunals. They are also encouraged to adopt active labour market policy measures for women with disabilities that offer information and advice in accessible formats and choice for the individual, including effective routes into flexible and full-time employment.*
- 10 *Member States are recommended to investigate the extent to which their welfare regimes and social protection systems create barriers and disincentives to the participation of women with disabilities in*

the labour market or are detrimental to their welfare in other ways. Where appropriate, social assistance services should be provided to offset the negative impact of regimes and social protection systems.

- 11 *Where not already in place, Member States are recommended to develop specific strategies to promote the participation of women with disabilities in education and training;* such strategies should be based on a solid evidence base (for example, regarding those sectors and occupations with most potential to integrate women with disabilities) and seek to address those issues most pertinent to women with disabilities, such as adaptation of training premises, the need of mothers to balance training and childcare commitments, the need to widen the range of training provision available where it is overly focused on areas of traditional interest to men, and the need for promotional and outreach activities targeted at women with disabilities.
- 12 *Where not already in place, Member States are recommended to develop specific strategies to promote the participation of women with disabilities in recreational activities, culture and sport;* where strategies already exist for the promotion of women in general in these fields or persons with disabilities, these strategies should incorporate the disability and gender dimensions respectively.