

THE EVOLVING CONCEPT OF SHELTERED WORKSHOPS IN THE EU: REALITIES AND FUTURE DEVELOPMENTS



NEWSLETTER



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PREFACE Mr Franz Wolfmayr, President of EASPD

EASPD is committed to the development of high quality services in the framework of the implementation of the UN CRPD.

The employment area of action in the disability sector is crucial as it supports some key objectives as the fight against poverty, the realization of social inclusion, the development of social relations and it allows earning an income.

Sheltered employment, developed in the 1960's to support people with disabilities who couldn't find a job in the open labour market, has been further developed to support people in learning professional skills and enhance personal development. Today this model of work is currently spread all over Europe, although with different approaches and definitions and it involves close to 3 million people.

One of the biggest issues on the topic is represented by the lack of guidance in the UN CRPD as sheltered workshops are therein not mentioned.

Two years ago EASPD started a project in cooperation with the German national network of sheltered workshops and the French national umbrella organization for persons with intellectual disabilities and their families to further explore issues linked to sheltered workshops and the UN CRPD. In this newsletter the outcomes of this study are presented, though these are certainly not our last words on the topic. With this newsletter we aim to break the taboo on sheltered workshops that has too often prevented a full engagement from authorities. Our objective is to develop innovative solutions in compliance to the UN CRPD prescriptions, respecting the dynamic of services existing in Europe and realizing rights, real incomes, lifelong learning opportunities and protection from poverty for persons with disabilities.

The UNCRPD & sheltered workshops

The Convention deals with the right to work and employment stressing, in particular, the following points:

- ★ priority should be given to participation to the open labour market and all efforts should be done, through reasonable accommodation, to achieve this;
- ★ persons with disabilities should, in any case, enjoy their labour rights as others.

A number of issues not tackled by the Convention are relevant for sheltered work and employment.

With regard to Article 26 (Habilitation and rehabilitation), there is no clearness on how habilitation and/or rehabilitation should be understood. Being limited-in-time processes or lifelong ones, the two "treatments" seem eventually to overlap, not only as to what concerns the timeframe, but also with regard to objectives and outcomes. This issue is certainly worth further exploration if sheltered settings are to provide also rehabilitation services.

As to Article 27, given that it covers the entire spectrum of the labour market, it still opens a breach on how inclusive and open working environments should be meant and whether this would automatically

exclude protective forms of employments that take specifically care of vulnerable people in need of extra support, or whether this would include them, provided they meet the requirements set in article 27.

A thematic study on the right to work from the United Nations High Commissioner for Human Rights¹ reaffirms that protection from discrimination covers all forms of employment: in the open labour market as well as in sheltered or supported employment schemes.

Moreover, according to the study, sheltered and protected environments should be considered as a transitional arrangement meant to promote a shift towards the open labour market, but they should also provide ongoing support to those who, for a variety of reasons, may be unable to assume employment in the open labour market.

Sheltered workshops therefore seem to be best suited for persons with high support needs, but they could cover at the same time a very important role in supporting and training people towards the shift to the open labour market.

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1 Human Rights Council 2013. Thematic study on the work and employment of persons with disabilities

European policy & sheltered workshops

With the conclusion of the UN CRPD by the European Union on 23.12.2010 the European Institutions are called to lead their work in the field of disability towards the fulfillment of the requirements set forth by the Convention and the implementation of its prescriptions.

The EU promotes the active inclusion and full participation of disabled people in society, in line with the EU human rights approach to disability issues. It does so through different political tools.

- ★ The **European Commission**, through its European Disability Strategy 2010-2020, recognizes the possibility for sheltered workshops to promote intra-job mobility.
- ★ The **European Parliament**, by means of the Resolution of 25 October 2011 on Mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020, recognizes the value of sheltered workshops in their role of supporting people with disabilities in no matter what stage of life, and as facilitators for fostering the shift towards the open labour market.

- ★ The **Council of the European Union** with its Conclusions "Support of the implementation of the European Disability Strategy 2010-2020" of 17 June 2011 considers sheltered workshops as a means to increase employment opportunities of persons with disabilities.
- ★ The **Council of Europe**, in its Action Line nr 5 of the Disability Action Plan 2006-2015, calls for ensuring "*that support measures, such as sheltered or supported employment, are in place for those people whose needs cannot be met without personal support in the open labour market*" and for supporting "*people with disabilities to progress from sheltered and supported employment to open employment.*"



© Mr Andreas Reeg



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What are sheltered workshops?

The main characteristic of sheltered workshops is that they provide a protective and safe environment created ad hoc to meet the needs of vulnerable people who have different skills and are not or not yet able to cope with the demands of the open competitive labour market.

A special feature of sheltered workshops is that, because of their unique environment combining rehabilitation and a work programme, they mostly enjoy an ad hoc legal framework; labour law does not apply to them.

Users of sheltered workshops are mainly persons with intellectual disabilities, but in recent years, sheltered workshops have started to open their doors to other groups of the population, like persons with psychosocial disorders, persons with psychiatric illnesses, people belonging to socially disadvantaged groups and people suffering from post-traumatic brain disorders.

Strengths of sheltered workshops in the EU

- ★ The protective setting of the sheltered workshops enhances the social and professional skills in order to pursue personal development in society and prepares those most skilled to move to the open labour market.
- ★ One current trend for sheltered workshops is to develop community-based activities.
- ★ The special environment where the focus is put on the performance of the activity rather than on the result obtained is recognized to be a qualitatively rich environment that encourages people to exploit their own skills and facilitates and enhances social skills.

Weaknesses of sheltered workshops in the EU

- ★ The percentage of the workshops population who make the transition towards the open labour market is very low (close to 2/3%).
- ★ Too weak possibilities to have stronger contacts (i.e. via internships, secondments, etc.) within the open labour market.
- ★ The unclear relationship between the rehabilitation character and the professional goals is considered by many as unfair and it draws much criticism as many users, not having the "employee status"², are not given a salary, but only a payment, usually below the minimum wage and often in combination with allowances.
- ★ Sheltered workshops may convey a character of "segregation" as the environment is restricted to persons with disabilities, and therefore is preventing greater inclusion in the community.

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2 Exceptions: in Belgium and The Netherlands workers of sheltered workshops have an employee status

Many open issues regarding sheltered workshops demand a reflection on what the real needs for people with disabilities are, how we should respond to them and whether the open labour market is the best solution for all.

Sustainability is one of the answers when it comes to providing services and working opportunities to persons with disabilities as it enables self-development and a career perspective and leads to a higher degree of independence for the individual. Nonetheless, quality and availability of services, professionalism of trainers and individualized support and assistance are as important to guarantee equal opportunities to persons with disabilities.

Interviews to users



© Mr François Richir

Cédric Mametz,
President
of **Nous Aussi**

(French association
of persons
with intellectual
disabilities)

What is the Right to Work in your opinion?

"The Right to Work consists in having a job like everybody else, no matter what job. It's the possibility to show that we can do and produce something, that we are able to express our abilities.

Not all disabled people have the possibility to be in the open labour market. The intellectual disability scares employers. They see our difficulties before our abilities.

Everybody should have the right to his own opportunity. ESATs and EAs give opportunities to everybody".

Why is it important?

It's important because it allows us to have an income. It's important to earn my life with my personal efforts.

When we work we contribute to the chain of life. We are a ring of the chain like everybody else; we participate to the evolution of society.

Moreover we are proud of what we do. It's rewarding. We feel useful. We do things well. We have a professional awareness.

In addition there is the social side. Work keeps us away from isolation. You don't know solitude when you are working. You work with other persons, but you are also supported by professionals who are there to help you to do your work, to perform in your working activities.

What do you need exactly to access work?

First of all, we need to be supported. Support allows us to be more self-confident, not to feel alone. Support enables us as well to progress, to enrich ourselves from the professional point of view, and to learn. It is important.

The current laws allow us to get engaged in all aspects of our life with the support programmes in group homes and in ESATs. We want to have our life.

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We also need to have an adapted work setting: tolerant persons that trust us. The working stations are adapted with pictograms showing what needs to be done. The working rhythm should correspond to our skills.

We do experience difficulties but we are not useless.

What are your requests for the future?

Our income is not adequate to meet the increase of the cost of daily life (e.g. the rent, the bills, food). In the ESAT we don't earn a real wage and when the earning increases, the disability allowances decrease.

We should also be considered as workers and not as users because we are working like everybody else. It's important to have the statute of employee, but this should not penalize the less skilled persons.

And we want to be able to express ourselves when we do not agree with the management. We are more and more consulted and this is important. It's important to stop being considered as children. We should be addressed as adults. Our parents only are allowed to consider us as children. It's important too to be able to choose our job according to our abilities. ESATs should be given the possibility to have types of jobs which meet the demands of all.



© Mr. Uwe Niklas

Roland Weber,
Participant of
the workshop for
adapted work
ARBEWE gGmbH
in Nuremberg,
Germany

What type of work do you carry out in workshops for adapted work?

At the moment I am released from work because of my activities in the workshop councils. Workshop councils represent the persons with disabilities working in the workshops. I am engaged on state and federal level in this work. I hold the position of chairman of the federal association of workshop councils in Germany and I am the chairman of the regional association of workshop councils of Bavaria.

Before I started to represent the interests of workshop participants, I worked in the assembly department of the workshop.

Are you satisfied with your work in workshops for adapted work?

Working in the assembly department was good. When I started to work for the workshop councils on state level, in Bavaria, I was still working in the assembly department and was getting hours off to do the additional work. As the amount of work was increasing the workshop manager released me from my original work and fully supported me in my work for the workshop council. For example, I could make demands on the social service to get support for my work.

I like to work for the workshop councils a lot, even though it is very time consuming. Often I am limited in my work capability due to anxiety attacks, but I am getting better at handling them. Above all things, my actual work is helping me to handle these limitations better and better.

[The social service, located in each workshop in Germany, covers the field of social work and social pedagogy. The most important duty of the social service is the planning of a strategy for support and development for each workshop participant.]

What type of work would you like to do in the future?

In the future, I would like to use my knowledge and experience to hold seminars for members of the workshop councils. I am 64 years old and this would be a meaningful and important work for me.

Do you think anything should be improved in workshops for adapted work in the future?

Yes, there are things that need to be improved. Workshops should support more persons with disabilities, according to the skills of the person, to get an official certificate of apprenticeship acknowledged by the chamber of commerce and industry. I am not talking of all persons participating in workshops in Germany (at the moment around 280 000), but maybe of 5% of them. This could improve the chances of persons with disabilities to realize the transition to the general labour market.

☀ Interviews to representatives of sheltered workshops organizations (BAG:WfbM and Unapei)



Mr Thierry Nouvel,
General Director
of Unapei
(France)

How are sheltered workshops organized in your country?

Sheltered workshops were created after the Second World War by parents of persons with intellectual disabilities. They became regulated by law in 1957. One of the most crucial changes in the legislation occurred in 2002, when sheltered workshops became ESATs (Etablissements et Services d'Aide par le Travail - facilities and services for support through work).

ESATs are defined by law as designed for persons with disabilities who do not have a work ability that would enable them, temporarily or permanently, to work full time or part time in an ordinary company or in an adapted company, or to exercise an independent professional activity. They must offer them opportunities for various activities of a professional nature, and a rehabilitation and educational support, to promote their personal and social development.

Workers in ESATs do not have the status of employee but the status of users. This offers them a protective status, including a strict regulation of dismissal. It also encompasses a number of rights similar to employees' rights (e.g. right to holiday). Each service user is entitled to a guaranteed remuneration paid by the ESAT and the State, and to an allowance for adults with a disability (AAH "Allocation aux Adultes Handicapés").

ESATs are managed by non-profit organisations (NGOs or public bodies). They are funded by the State budget, and they also have their own resources derived from their commercial activities.

Who are the beneficiaries of sheltered workshops in your country?

According to the French legislation, a disabled worker is any person whose ability to obtain or retain employment is substantially reduced due to the alteration of one or more physical, sensory, intellectual or psychological function. In order to be directed toward an ESAT, a disabled worker must have a reduction of his ability to obtain or retain employment of at least two third. Workers in ESATs are therefore workers with severe disabilities.

Beneficiaries of ESATs are primarily persons with intellectual disabilities (about 65% of users). Persons with mental disabilities are also quite well represented (about 20% of users). Other beneficiaries are persons with cerebral palsy, brain injury, physical disability, and visual or hearing impairment, but in very small proportions.

What are the strengths and the added values of sheltered workshops in your country?

ESATs offer job opportunities to persons with severe disabilities who are not able to find a job in the open labour market. They provide work settings adapted to the individual needs, as well as possibilities for vocational training, and recognition of learning experience. Professional activities are not only taking place within workshops, but also in the community (e.g. gardening, restaurants, etc.), in units in the open labour market environment or through outplacements in companies.

ESATs also provide a person-centred and ongoing support to its workers, promoting personal autonomy and social and personal development.

ESATs are therefore means for social and professional inclusion. This expertise is well recognized and enshrined into policies for work and employment of persons with disabilities.

What could be improved in sheltered workshops in your country?

It is estimated that less than 3% of ESATs users are moving towards the open labour market. Programmes offered by ESATs supporting the transition to the open labour market, such as vocational training, recognition of learning experience, detachment of ESATs workers to ordinary companies (as an anteroom to employment in the open labour market), and job-search support should be more widespread

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and should be strengthened. It implies that sustainable funding should be available for programmes to prepare and support mobility, on an on-going and long-lasting basis (i.e. throughout the professional life). This is currently not the case in France.

ESATs should also further develop innovative commercial activities that are both community-based and enhance for the workers (e.g. farming and sale of organic products).

How will sheltered workshops in your country move forward in the future?

While keeping their current assignments, sheltered workshops could move forward as knowledge and resources centres for the development of proper and adequate opportunities on the open labour market.



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**Mr Stephan Hirsch,
General Secretary
of BAG:WfbM
(Germany)**

How are sheltered workshops organized in your country?

First of all: We prefer the term “Workshops for adapted work” instead of “sheltered workshops” in Germany. The main objective of our enterprises is to adapt work to the person’s skills, competence and needs. Usually, a person adjusts to the workplace until he fits in it. This approach is called best practice in the so called open labour market since Henry Ford and Frederick Winslow Taylor who invented the scientific management. We are convinced that the demand of people with disabilities needs the opposite approach. That is why we adapt work to persons.

In the years 1961 and 1980, the main legal framework for our enterprises was established.

Book IX of the German Social Code currently defines the duties, responsibilities and requirements for workshops for adapted work. The creation of the workshops themselves goes back to the initiative of parents of persons with disabilities.

Our enterprises are not conventional places of employment but are institutions for vocational training, personality development and a means of providing work tailored to individual needs instead. They must secure the inclusion of disabled persons in working life either in a modified and therapeutic workshop or as lead-in to gainful employment and placement on the general labour market. Persons with disabilities must be accepted irrespective of their degree of ability in the same workshop. The main benchmark of inclusion is the fact that a person has no access to the labour market or to gain employment on account of his disability. Every disabled person, no matter how severe disabled, is entitled to a workshop place if after vocational training in a workshop, he is able to do at least a minimum of economically useful work.

Our enterprises are non-profit organisations. They are mainly funded by the authorities, respectively the particular assurance in charge of the person. Additionally, they have some own resources resulting from their economic activities.

Who are the beneficiaries of the workshops in your country?

Persons who, on account of their disability, cannot or cannot yet find work or are not yet able to find work again on the general labour market, are entitled to work in a workshop. The workshop users are considered to not be able to perform for more than three hours per day under the working conditions of the general labour market. Under German law, the only persons with disabilities who can be refused admission to the workshop are people who are at permanent risk to the safety of themselves or others and those who are permanently unable to do any degree of economically useful work.

Most of the users have an intellectual disability. The amount of people with mental illnesses working in workshops is constantly rising. Persons with multiple and severe disabilities do also have the right to participate at working life in workshops.

What are the strengths and the added values of your enterprises?

Our enterprises are providing working opportunities for persons who would otherwise not be able to find a job on the general labour market. The knowledge of breaking down work processes into several parts, makes it possible to adapt work to the needs of different persons. We prevent people from being unemployed by enabling them to participate in working life. The provision of vocational training by our enterprises is contributing a lot to the participation. It also allows the qualification of persons with disabilities for the work on the open labour market. Of course, our enterprises are involved in the promotion of the transition to the open labour market. In cases where a full transition as regular employee is not possible the workshops are creating secondments, internships and mentoring job schemes if possible.

Additionally, our enterprises are giving persons with disabilities access to a “community” that supports them not only regarding work related issues but also in a person centred perspective in his entire life.

What could be improved in your enterprises?

There is a structural discrimination of persons with disabilities who are supported in our enterprises. The discrimination is a result of being a “workshop-user”. That means our users get only two years of vocational training instead of three years like persons without disabilities. After those two years they are not allowed to receive a certification as a proof of their qualification. Also, there is no obligation for workshop-users to attend a vocational school. The cooperation of our enterprises with other service providers of vocational rehabilitation is not legal settled. Our enterprises are not allowed to offer its service to other persons, for instance persons with disadvantages.

We are forced to support the transition to the open labour market but are not allowed to invite enterprises of the open labour market to our premises. In practice, this circumstance results in discrimination and exclusion.

How will sheltered workshops in your country move forward in the future?

The future development of the workshops does not only depend on the willingness of the workshop managers but is also restricted by the limitations of the current legal framework.

Workshops for adapted work in Germany are willing to implement and at the same time have to cope with the implementation of the UN-CRPD because by German law they are obliged to enable participation at work life for persons with disabilities in specific surrounding conditions. Problematic seems to be the lack of clear statements and definitions in the convention and thus different interpretations of political decision makers exists and could complicate the work of our enterprises in the future.

Future cuts in funding could also lead to the fact that the quality of the work of the workshops could degrade.

The biggest challenge for workshops in Germany is, no matter how the circumstances will change, to keep up the quality of their services for the persons with disabilities.

KEY OBSERVATIONS

- ★ The sheltered workshops population is huge: it's about 2 to 3 million people in Europe
- ★ Sheltered workshops are challenged by the UN CRPD as they are not mentioned in it. It is nonetheless fundamental to explore how they should comply with the UN CRPD requirements
- ★ Today the lack of standard definitions is preventing the full understanding of the issues linked to sheltered workshops
- ★ There are different state of developments in different countries
- ★ Labour law rights are not always fully guaranteed in sheltered workshops
- ★ The inclusiveness of sheltered workshops is challenged

WHAT IS NEEDED

- ★ The European Union should invest more on research regarding the spectrum of work and employment services for persons with disabilities
- ★ The open labour market should become more accessible to persons with disabilities
- ★ The sheltered workshops expertise should be valued and used by the open labour market in the development of employment opportunities for persons with disabilities

EASPD Conference on employment in 2013

On 26 and 27 of September EASPD is holding its annual conference in Istanbul. The conference, **Employment of persons with disabilities, Raising awareness & employment opportunities**, is co-organized by the Ministry of Family and Social Policy of Turkey; ISKUR, the RACE consortium and the Dolunay Association and it will be supported by the Council of Europe, the European Commission and the International Labour Organization.

The conference will tackle the main challenges preventing people with disabilities from enjoying fully their right to work: legislative frameworks, discriminative attitudes and lack of adequate support schemes.

We will look at the current situation and discuss future steps needed to facilitate access to the labour market for persons with disabilities.

We will focus on the perspective of employees, looking at different approaches promoting employability, and on that of employers, by examining how they can be supported to successfully employ disabled people.

The topics will be discussed by multi-stakeholders panels composed of persons with disabilities, policy makers, representatives of employees and employers, authorities and support providers.

During the conference the best employment agencies and employers will receive an **official award**.

For more information on the conference please contact Ms Sabrina Ferraina at sabrina.ferraina@easpd.eu.



This newsletter is part of a research study conducted by Sabrina Ferraina in the past two years with the kind support of BAG:WfbM and Unapei. The study includes an analysis of Article 27 of the UN CRPD, a SWOT – Strengths Weaknesses Opportunities and Threats – analysis on sheltered workshops in the EU and factsheets on “Sheltered workshops in the EU”, “The spectrum of work and employment” and “Workers of sheltered workshops”. All related reports are available on the EASPD website: www.easpd.eu.