

Question 1:

Detailed information on the measures adopted by your country to ensure that persons with disabilities have equal opportunities for productive and gainful employment in the open labour market (articles 4 (1) (a) and 27 (1)).

Answer:

In Germany, persons with disabilities have the constitutionally guaranteed possibility to earn their own living through freely chosen or accepted work as have persons without disabilities. It is also a constitutional principle that no person shall be disfavoured because of disability. The labour law, the law on health and safety at the workplace and also the fundamental right of freedom of association therefore apply regardless of whether a person is disabled or not.

Question 2:

Detailed information on the measures adopted to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities in the field of employment, as well as to eliminate discrimination on the basis of disability by private employers and enterprises (articles 4 (1) (b), (d) and (e), and 27 (1) (a)).

Answer:

In Germany, the General Equal Treatment Act protects persons with disabilities against discrimination in working life on the grounds of disability. Protection already sets in with the job advertisement and the selection of applicants. Employers are also obliged to take the necessary measures for protection against discrimination. In the event of violation of the prohibition of discrimination, employers must compensate for any damage incurred.

Question 3:

Information on the affirmative action programmes, incentives and other measures, if any, that your country has developed to promote employment opportunities for persons with disabilities in the public and private sectors (articles 5 (4) and 27 (1) (e), (g) and (h)). Has your country adopted any measure to increase employment opportunities for persons with disabilities belonging to particularly vulnerable groups (for example young persons with disabilities, women with disabilities, persons with intellectual/psycho-social disabilities, etc.)?

Answer:

Private and public employers with 20 or more employees are obliged to fill five percent of their workplaces with severely disabled persons. If they do not comply with this obligation, they must pay a compensation levy the amount of which depends on the degree of compliance. Public employers have additional obligations. In particular, they must inform the employment agencies early about jobs that will become available and new positions

and, as a matter of principle, invite all severely disabled persons applying for the job to a job interview. The above mentioned principles also apply to disabled persons who have the same status as severely disabled persons. Equal status is granted in cases where disabled persons, due to their disability, cannot find or keep a job if they are not provided equal status.

The revenue from the compensation levy is mostly spent on measures promoting participation in working life (see answer to question 4). But it is also used to finance programmes to reduce the unemployment of severely disabled persons, special groups of persons with severe disabilities and to promote training place opportunities for severely disabled persons. Under the programme "Initiative Inklusion" that has a volume of a total of 100 million €, support is provided for better vocational orientation of severely disabled pupils, the creation of additional in-company training places for young persons with severe disabilities and additional jobs for older persons with severe disabilities (50+).

Particularly noteworthy in this regard is the German government's National Action Plan to Implement the UN Convention on the Rights of Persons with Disabilities. The Action Plan has launched a process that will not only have a major influence on the lives of persons with disabilities but also on the lives of all people in Germany. The idea of inclusion, the guiding principle of the UN Convention, shall change society's everyday culture. In addition to a review of what has been achieved so far, the National Action Plan has compiled the German government's objectives and measures into an overall strategy for the next ten years. The currently more than 200 plans, projects and activities show that the inclusion of persons with disabilities is a process that includes all areas of life. This applies in particular also to the access to work and employment for persons with disabilities. Having a job is of central importance for the participation in social life. The Action Plan includes a total of 32 measures aiming at the improvement of the employment situation of persons with disabilities. The central element in terms of employment policy is the above mentioned "Initiative Inklusion".

Question 4:

Information on measures your country has introduced to enable persons with disabilities to access general technical and vocational guidance programmes, placement services and vocational and continuing training (article 27 (1) (d). Please also indicate the steps taken to promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities (articles 26 and 27 (1) (k)).

Answer:

As the provider of employment promotion in Germany, the Federal Employment Agency offers job placement and employment promotion services such as placement into training and jobs, vocational guidance and guidance for employers as well as the promotion of vocational training and further training. Employment agencies have specifically qualified staff available for persons with disabilities in the field of job placement and guidance.

The participation in working life of persons with disabilities in the framework of vocational rehabilitation is supported by legal requirements and financial benefits. This comprises all measures and services aimed at helping young people and adults with an existing or potential disability to be permanently integrated into work, if possible, or to remain integrated.

- Such measures may include services to help them keep or find work, including benefits in support of placement activities,
- pre-vocational training including basic training which is necessary because of the disability,
- vocational adjustment and further training,
- vocational training and
- other forms of assistance to support participation in working life in order to give persons with disabilities the possibility to find adequate and suitable jobs that they are able to maintain. This also includes financial assistance to adapt the workplace to the special needs of a disabled worker and, if required, in-work assistance.

Question 5:

Detailed information on the measures your country has adopted to promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business (article 27 (1) (f)).

Answer:

Employees ending unemployment by taking up full-time self-employment can receive a start-up grant to secure subsistence and social security in the period after start-up. This applies equally to persons with disabilities as well as persons without disabilities. In addition, there are financial aids for business start-ups provided by the federal government (e.g. the provision of low-interest loans) which are equally available for persons with and without disabilities.

For starting up a business and for maintaining self-employment, severely disabled persons can obtain loans and interest subsidies from the integration offices of the federal

states. The integration offices may also provide benefits for the adaptation of the workplace to the special needs of the disabled person.

Furthermore, business starters may also receive assistive technologies or, if required, in-work assistance.

Question 6:

Information on the measures adopted by your country to ensure that reasonable accommodation is provided to persons with disabilities in order to facilitate access to or continuance of employment (articles 5 (3) and 27 (1) (i)).

Answer:

For the compensation of disadvantages due to disability, there are different legal instruments. With regard to the access to employment, these include in particular wage subsidies employers may receive from the employment agencies for the integration of disabled persons (integration subsidies) depending on the type or severity of a disability to compensate employers for lower performance as well as subsidies for probationary employment and internships.

In addition, the integration offices of the federal states may provide ongoing assistance in working life. To secure employment relationships, wage subsidies can be granted if it is obvious that due to the existing disability the employee's performance can only be considerably lower on a more than temporary basis (compensation for lower productivity in the case of extraordinary burdens). Furthermore, employers may receive subsidies and/or loans for the adaptation of workplaces to the needs of disabled employees if this is necessary for taking up or maintaining employment.

Question 7:

Information on measures your country has to protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances (article 27(1) (b)).

Answer:

The labour law and the law on health and safety at the workplace apply to all employees regardless of whether they are disabled or not. No person shall be disfavoured in working life because of disability. This includes direct and indirect discrimination as well as harassment. Persons with disabilities thus have the same right to just and favourable working conditions and equal remuneration for work of equal value, safe and healthy

working conditions, including protection from harassment, as have persons without disabilities. In addition to the general provisions of labour law, there are further regulations for persons with severe disabilities. These include special protection against dismissal and an additional leave entitlement of 5 days per year.

Question 8:

Detailed information on the poverty reduction measures, social security and income-maintenance schemes that your country has developed to provide adequate income support to persons with disabilities who, owing to disability or disability-related factors, have lost or received a reduction in their income from employment (including self-employment) or have been denied employment opportunities (article 28(2) (b) and (e)).

Answer:

In Germany, all persons who cannot make a living by their own efforts or through assistance from other sources that take priority and are therefore in need of support, can claim social benefits which are needs-based and funded from taxes.

- Persons in need of assistance who are incapable of gainful employment are provided with social assistance benefits to secure a decent subsistence minimum.
- Under certain conditions, social assistance steps in as secondary system if, due to a specific situation in life, assistance is needed because of e.g. sickness, disability or need of nursing care. In such cases, there may be an eligibility for persons with disabilities to claim benefits of integration assistance, long-term care assistance and health care services.
- Persons in need of assistance who are at least 18 but not older than 64 years and have permanent, full reduced earning capacity on account of illness or disability, are entitled to benefits under the scheme for basic protection in old age and in the case of reduced earning capacity.
- Employable persons in need of assistance, i.e. persons who are able to perform at least three hours of paid work a day in conditions that are normal for the general labour market, may receive benefits to secure their livelihoods.
- To ensure adequate and family-friendly accommodation, a housing allowance in the form of a rent subsidy or mortgage and home upkeep support can be granted for owner-occupied housing. To take account of the specific accommodation needs of people with a disability, severely disabled persons can, under certain conditions, benefit from tax advantages.

The most important pillar of the old-age security system in Germany is the statutory pension insurance. If the necessary requirements are met, all persons are eligible for benefits under this system regardless of whether they are disabled or not. For severely

disabled persons, there are some less stringent provisions for the access to pension benefits.

Question 9:

Information on efforts that your country has undertaken to ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others (article 27(1) (c)).

Answer:

In Germany, persons with disabilities enjoy the constitutionally guaranteed fundamental right to freedom of association as do persons without disabilities. The right to join a trade union therefore applies regardless of whether a person is disabled or not.

In addition, it is stipulated by law that in companies and organisations employing at least five severely disabled persons on a more than temporary basis, a representative of the severely disabled and at least one deputy representative must be elected. The representatives of the severely disabled have the task to promote the integration of severely disabled persons, to represent the specific interests of severely disabled persons and persons of equal status in asserting their rights at work and to provide them with advice and assistance. In particular, they must see to it that the provisions in favour of severely disabled persons are implemented and employers comply with their obligations. Through such institutionalisation of representations of severely disabled persons that does not exist in most other member states of the European Union, special consideration is given to the interests of severely disabled employees in Germany.

Question 10:

Information on the measures adopted by your country to closely consult with and actively involve persons with disabilities and their representative organisations in the development, implementation and monitoring of legislation and policies to promote and protect access to employment opportunities for persons with disabilities (articles 4 (3) and 33 (3)).

Answer:

In Germany, binding rules ensure that any piece of draft legislation is submitted to the relevant specialist circles and organisations giving them an opportunity to make comments if their interests are concerned. Moreover, the disability organisations are also generally actively involved in other measures of overarching importance concerning the vocational participation of persons with disabilities without any standardized obligation being necessary in this regard. An example that can be quoted here is the involvement of the organisations in the drafting of the National Action Plan of the German government to

Implement the UN Convention on the Rights of Persons with Disabilities (cf. answer to question 3).

Question 11:

Recent statistical data on the number of persons with disabilities employed in the public sector, disaggregated on the basis of age, sex and type of disability (article 31).

Answer:

In Germany, employers who, on annual average, have at least 20 employees, are obliged to fill at least 5 percent of all workplaces with severely disabled persons or persons of equal status (see answer to question 3). The relevant employment data is currently available for the year 2010 (see annex). With regard to this data, the following should be noted:

- The data does only refer to employers who are subject to the employment obligation. As far as employers are concerned who are not subject to the employment obligation because they have less than 20 employees on annual average, a sample survey is conducted every five years. Separate data on employment in the public sector cannot be provided and a differentiation by age is not possible here.
- Data on the number of disabled employees who are not severely disabled or of equal status and on the type of disability are not collected in general.

Question 12:

Is your country involved in international cooperation programmes related to the promotion of work and employment opportunities for persons with disabilities? Please describe the ways programmes are inclusive of and accessible to persons with disabilities (article 32).

Answer:

A contribution to the promotion of work and employment opportunities for persons with disabilities is made by the transnational programme "IdA - Integration through Exchange" of the European Social Fund (ESF). The programme focuses on enhancing employment opportunities for people with disabilities on the general labour market (www.ida.de). By promoting transnational exchange and transnational mobility, the programme offers people with disabilities the opportunity to enhance their practical occupational experience and competencies in other EU countries in order to facilitate the entry into the labour market. The programme is targeted at young people in the process of transition from school to training or training to work as well as unemployed adults and especially at pupils from final classes and pupils leaving school in order to increase their chances to find a training place (initial training), further their education at school or acquire higher school

leaving qualifications. In the focus of the projects is a stay abroad of one to six months (internships, training, job camps). In the host country, participants are provided intensive support and assistance (socio-pedagogic staff, assistant staff, individual in-work assistance).

Support is provided for 45 project associations with a financial volume of 45.7 million euros from the ESF and 5.3 million euros from federal funds. The projects have been planned for roughly 4,000 participants. They are implemented through local or regional project associations operated by associations, rehabilitation providers, self-help organisations of persons with disabilities and/or specialised integration services as well as vocational retraining centres, employers and/or municipalities with the involvement of the regional jobcentres or employment agencies. The projects providers cooperate with schools or jobcentres/employment agencies to contact potential participants. The project associations work together with some 20 EU Member States.

The programme is aimed at improving the labour market access of persons with specific integration problems and their social integration. As an employment policy measure under the National Action Plan to Implement the UN Convention, the programme shall, in this context, contribute to the inclusion of persons with disabilities (see answer to question 3).

Furthermore, German development cooperation follows a twin-track approach regarding the promotion of work and employment opportunities for persons with disabilities. Specific programs are catering to the needs of people from different impairment groups. For example, a project in Usbekistan supports persons with visual impairments through IT-training and a job placement service. In Afghanistan, German development cooperation supports vocational training for blind and deaf students. Additionally, training and employment for persons with disabilities is fostered by improving access to mainstream programs, for example in Haiti, Sierra Leone or Ethiopia. Inclusive approaches range from preferred selection of disabled program beneficiaries to making adjustments at the training institution or work place.

Persons with severe disabilities or persons of equal status who are employed with public-sector employers subject to the employment obligation (annual average 2010):

Age group:	Total	Men	Women
Total	297,614	134,302	163,312
under 25 years	3,764	1,765	1,999
25 to 34 years	14,037	5,815	8,222
35 to 44 years	42,179	17,457	24,723
45 to 54 years	106,926	45,056	61,869
55 to 64 years	129,147	63,226	65,922
over 65 years	1,562	984	578