Disability & Employment in the European Union

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OVERVIEW

• Context-setting

• Current strategies on disability and employment

• ‘Hard law’
  – Disability and Non-discrimination legislation

• ‘Supple governance’
  – Disability and the Open method of co-ordination
History

- European Economic Community
- European Communities
- European Union
- Market - citizenship
Context Setting

The European Union

Current Member States
Context Setting

The European Union

Foundational treaties

- Treaty on the Functioning of the European Union
- Treaty on the European Union
- Charter of Fundamental Rights
Context Setting

Disabled People in the EU

Percentage of population

- Overall percentage – 15.7%
- Gender and country variations
- Non-exhaustive population coverage
Context Setting

Disabled People in the EU

Employment rates

- ‘Very severe’, 19.5%
- ‘Severe’, 44.1%
- Hidden variations
Context Setting

Disabled People in the EU

Economic implications

- Higher incidence of poverty – 70%
- Reduced GDP – 40.3 billion euros
Context Setting

Disability and EU Policy History

• Pre 1996
• 1996-2003
• 2004-2010
• 2010-2020
  • European Disability Strategy
  • Advent of the EU after the Lisbon Treaty
  • EU ratification of the CRPD
Current EU Strategies on Disability and Employment

Limits of EU Competence
Current EU Strategies on Disability and Employment

Disability Strategy – Areas for Action

- Employment
- Accessibility
- Participation
- Equality
- Education and training
- Social protection
- Health
- External action
Current EU Strategies on Disability and Employment

Employment

“Enable many more people with disabilities to earn their living on the open labour market”
Providing Member States with –

“analysis, political guidance, information exchange and other support”
Current EU Strategies on Disability and Employment

Employment

Other support –

- Awareness raising
- Financial support
- Statistics and data gathering
‘Hard Law’ – Disability and Non-Discrimination Legislation

The Legislation

Competition

- Amsterdam Treaty 1998, Article 13
- Lisbon Treaty 2009, Article 19


- Personal scope
- Material scope
- Minimum standards
‘Hard Law’ – Disability and Non-Discrimination Legislation

Legislative Impact on Member States

Member States with no pre-existing disability discrimination prohibition

Member States with pre-existing disability discrimination prohibitions
‘Hard Law’ – Disability and Non-Discrimination Legislation

Legislative Limitations

☒ Material scope
☒ Definition of disability
  • Legislative silence
  • Chacón Navas
☒ No coverage of multiple discrimination
☒ No enforcement body
☒ No positive duties to promote equality
‘Hard Law’ – Disability and Non-Discrimination Legislation

National Transposition Challenges

Defining disability

- Discrimination-specific definition
- No definition
- Social security definition
- Split definition
‘Hard Law’ – Disability and Non-Discrimination Legislation

National Transposition Challenges

Reasonable Accommodation Requirements

- No clear duty
- Practical implementation
- Duty in favour of only some disabled people
‘Hard Law’ – Disability and Non-Discrimination Legislation

National Transposition Challenges

Guardianship Laws

- Denial of right to work
- Fundamental Rights Agency project
- European Disability Strategy
Supple Governance – Disability and the Open Method of Co-Ordination

History and Context

- Origins
- Core elements
- Scope
  - Employment
  - Social inclusion
Supple Governance – Disability and the Open Method of Co-Ordination

European Employment Strategy

- Origins
- Employment Guidelines
- Overarching EU Strategy
Supple Governance – Disability and the Open Method of Co-Ordination

Employment Guidelines 2010, Extracts

“active labour market policies”
“labour mobility”
“adequate social security systems to secure labour market transitions”
“clear rights and responsibilities for the unemployed to actively seek work”
“employment services ... strengthened with personalised services and active and preventive labour market measures at an early stage”
Supple Governance – Disability and the Open Method of Co-Ordination

The Process

- Annual progress reports
- Joint reports
- Recommendations and political guidance from the Commission
- Involvement of civil society
Supple Governance – Disability and the Open Method of Co-Ordination

Disability within the OMCs

- Monitoring process – ANED
- Inconsistency
  - Between countries
  - Over time
- Individual focus instead of systemic barrier focus
- Displacement by other issues
Supple Governance – Disability and the Open Method of Co-Ordination

A Disability OMC?

- Advantages of the mainstreamed approach
- Advantages of a disability-specific approach
Concluding Thoughts

- Tracking impact?
- Raised profile
- Variety of tools
- Importance of involvement, goal-setting and knowledge-sharing
- Mainstreaming vs. disability-specific focus