



GLADNET

**International Research Project on Job
Retention and Return to Work
Strategies for Disabled Workers**

Study Report

Germany



Martin Albrecht and Hans Braun
Centre for Labour and Social Policy
University of Trier

Copyright © International Labour Organization 1998

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the ILO Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

ISBN: 92-2-111115-6

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area, or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in this report rests solely with its authors, and publication does not constitute an endorsement of those opinions by the International Labour Office or by any of the other project sponsors.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from Customer Service, ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or lists of new publications are available free of charge from the above address.

CONTENTS

PREFACE	i
ACKNOWLEDGEMENTS	iv
LIST OF ABBREVIATIONS	v
PART I. EMPLOYMENT POLICIES	1
I.1 POLICIES WHICH AIM SPECIFICALLY TO INFLUENCE ENTERPRISES TO RETAIN NEWLY DISABLED EMPLOYEES	1
I.1.1 Legal obligations and binding agreements intended to prevent and restrict the dismissal of employees who become disabled	1
I.1.2 Legal obligations and binding agreements intended to promote the retention of employees who become disabled	3
I.1.3 Voluntary policies and programmes which encourage enterprises to retain newly disabled employees	4
I.2 POLICIES TO OBLIGE AND ENCOURAGE ENTERPRISES TO RETAIN DISABLED WORKERS IN GENERAL	5
I.2.1 Obligations and binding agreements to promote the retention of disabled workers in general	5
I.2.2 Voluntary policies to persuade and encourage enterprises to retain disabled workers in general	9
I.2.3 Financial incentives which encourage enterprises to retain disabled workers in general	10
I.3 POLICIES AND PROGRAMMES TO SUPPORT DISABLED EMPLOYEES AT RISK TO RETAIN THEIR EMPLOYMENT	12
I.3.1 Mechanisms to support the rights of employees whose continued employment is at risk because of disability	12
I.3.2 Financial incentives directed at employees whose continued employment is at risk because of disability	15
I.3.3 Programmes which support a move to another employer or to self- employment	16
I.4 BENEFICIARIES	16
I.4.1 Impact of definitions of disability and eligibility criteria on access to and coverage of policies	16
I.4.2 Disabled workers who benefit and those who miss out	18

I.5	JOB RETENTION POLICIES IN CONTEXT	24
I.5.1	The salience of policies for job retention within the overall context of national policy to promote the employment of disabled people	24
I.5.2	The most prominent job retention policies	29
I.6	IMPLEMENTATION OF JOB RETENTION POLICIES	31
I.6.1	The effectiveness of institutional arrangements for monitoring and enforcement	31
I.6.2	Factors which affect the adoption of voluntary job retention measures and take-up of financial incentives by enterprises	32
I.7	INTERACTIONS BETWEEN EMPLOYMENT POLICIES AND PROGRAMMES	34
I.7.1	Ways in which the employment policies complement or contradict one another	34
I.7.2	Impact of the distribution of responsibility for employment policy	34
I.8	LINKS TO LABOUR MARKET FACTORS	34
I.8.1	Elements in labour market policies which influence the effects of job retention measures	34
I.8.2	Changes in labour market demand and the structure of the labour market	35
PART II.	BENEFIT AND COMPENSATION PROGRAMMES	38
II.1	COMPENSATION PROGRAMMES FOR WORK-RELATED INJURY OR ILLNESS	38
II.1.1	Principal compensation programmes for work-related injury or illness	38
II.1.2	Features of the compensation process which affect job retention and return to work	39
II.1.3	Influences of key actors involved in the process	40
II.1.4	The effects of compensation on job retention and return to work	41
II.1.5	Characteristics of disabled workers who do or not retain their employment or return to work following benefit claims	41
II.1.6	Effects on job retention and return to work resulting from the interaction between compensation programmes and out-of-work benefit programmes	44
II.2	OPPORTUNITIES TO COMBINE WORK AND BENEFIT	44
II.2.1	Provision for combining income from work and from disability-related social security benefits	44
II.2.2	Effects on numbers retaining and numbers returning to work	50
II.2.3	Impact of definitions of disability or capacity for work on access to and coverage of benefit programmes	51

II.2.4	Effects of claiming and assessment procedures on take-up of in-work benefits	51
II.2.5	Interactions between in-work benefits and other in-work income support programmes	53
II.2.6	Disabled workers who benefit and those who miss out	54
II.3	TRANSITION BETWEEN BENEFITS AND WORK	54
II.3.1	The effects of the disability benefit system on return to work	54
II.3.2	Provisions for financial support to disabled workers for transition between benefits and work	54
II.3.3	Effect of entitlement to benefits in kind on return to work	56
II.3.4	Co-ordination between agencies in assessment for benefits eligibility	56
PART III.	EMPLOYMENT SUPPORT AND REHABILITATION SERVICES	57
III.1	POLICY AND RESPONSIBILITY FOR POLICY AND PROVISION	59
III.1.1	The main bodies responsible for employment support and rehabilitation policy	59
III.1.2	The relative priority accorded to support for retention, return to work and first time entry to employment	59
III.1.3	The weight given to employment support and rehabilitation policies for disabled people in the national system	62
III.2	SUPPORT SERVICES FOR JOB RETENTION	63
III.2.1	The main funders and providers of services to support job retention	63
III.2.2	Relationships between the providers of services and bodies with policy responsibilities	65
III.2.3	The range and types of services provided	65
III.2.4	Characteristics of enterprises using external support services for job retention	67
III.2.5	The prevalence of externally provided support services	68
III.2.6	Arrangements for external providers to organise support in the workplace ..	69
III.2.7	The extent to which services support job retention	69
III.3	USERS OF SUPPORT SERVICES FOR JOB RETENTION	74
III.3.1	Eligibility criteria and procedures for identifying users (disabled workers and their employers)	74
III.3.2	Disabled workers who benefit and those who miss out	75
III.4	SUPPORT SERVICES FOR RETURN TO WORK	76
III.4.1	The main services for return to work	77
III.4.2	Integrating return to work services into work environments	87

III.4.3	The types of enterprise providing return to work opportunities in co-operation with employment support and vocational rehabilitation services	89
III.5	USERS OF SUPPORT SERVICES FOR RETURN TO WORK	90
III.5.1	Mechanisms for identifying and accepting users who have left their employment	90
III.5.2	Arrangements for user choice and user control of service packages	91
III.5.3	Disabled workers who benefit and those who miss out	91
III.6	DESIGN AND DELIVERY OF EMPLOYMENT SUPPORT AND REHABILITATION SERVICES	99
III.6.1	The effects of the distribution of responsibility for provision of services	99
III.6.2	The effect of relationships between services on their effectiveness	108
III.6.3	The results of vocational training and rehabilitation	109
III.6.4	Arrangements for outcome-related funding	118
III.6.5	Funding of Hauptfürsorgestellten personnel	118
III.7	LINKS WITH BENEFITS AND EMPLOYMENT POLICIES	118
PART IV.	ADAPTATION OF WORK AND WORKPLACE	120
IV.1	RESPONSIBILITY FOR POLICY AND PROVISION	120
IV.1.1	The main bodies responsible for work environment policies and their role in promoting adaptations for job retention and return to work	120
IV.1.2	Comparison of the attention given to policies which promote job retention and those which promote access to work	120
IV.1.3	The main providers of technical and advisory services	120
IV.1.4	The relationship between providers of technical and advisory services and providers of employment support and rehabilitation services	121
IV.2	TECHNICAL AND ADVISORY SERVICES FOR MODIFICATIONS TO WORK-STATION AND WORKPLACE	121
IV.2.1	Technical and advisory services available to enterprises to design, cost and plan the implementation of modifications to the work-station or workplace to accommodate disabled workers	121
IV.2.2	Services specifically directed towards job retention	122
IV.2.3	The availability of technical and advisory services and their use by enterprises	122
IV.2.4	Factors which encourage or discourage the use of technical and advisory services	123
IV.3	DESIGN AND IMPLEMENTATION	124

	IV.3.1 Factors in control, funding, management or staffing which impede or facilitate adaptation services	124
PART V.	ENTERPRISE STRATEGIES	125
V.1	CORPORATE POLICIES AND PLANS	125
	V.1.1 The development and prevalence of corporate employment policies and plans for the retention of disabled employees	125
	V.1.2 Prominent actors and influences in the development of policies and plans for the retention of disabled employees	125
V.2	CO-ORDINATED RESPONSES TO DISABILITY	127
	V.2.1 The development and prevalence of integrated disability management systems	127
	V.2.2 The characteristic features of integrated disability management systems	127
	V.2.3 Prominent actors and influences in the initiation and development of integrated disability management systems	129
V.3	PRACTICAL PROGRAMMES AND INTERVENTIONS IN THE WORKPLACE	129
	V.3.1 Enterprise programmes targeted at employees potentially absent from work because of disability	129
	V.3.2 Enterprise-initiated programmes to adjust the workplace and work-station	129
	V.3.3 Evidence of outcomes of practical programmes and interventions in the workplace	130
V.4	WORK ACCOMMODATIONS	130
	V.4.1 Schemes initiated by enterprises to adapt working hours and work demands.	130
V.5	'RETURN-TO-WORK' PROGRAMMES	136
	V.5.1 Enterprise-led 'return-to-work' programmes targeted at employees absent from work because of disability	136
	V.5.2 Enterprise measures to help disabled workers to find suitable employment elsewhere	136
V.6	DEFINITION AND ASSESSMENT OF DISABILITY	136
	V.6.1 The effect of perceptions of 'disability' on enterprise job retention programmes	136
	V.6.2 The effect of procedures for identifying disability at work on access to enterprise job retention and 'return-to-work' programmes	136
V.7	INTERNAL RELATIONSHIPS	137
	V.7.1 The relationship between actors within the enterprise impeding or facilitating strategies to promote job retention	137
	V.7.2 Effects of remuneration practices on job retention	137

V.7.3	Financial obstacles to internal job retention measures	138
V.8	LINKS WITH EMPLOYMENT POLICY OBLIGATIONS, RECOMMENDATIONS AND INCENTIVES	138
V.8.1	Enterprise compliance with disability employment obligations	138
V.8.2	Ways in which employment and labour market policies impede or facilitate enterprise-led work adaptation programmes	138
V.9	LINKS WITH EMPLOYMENT SUPPORT AND REHABILITATION SERVICES	138
V.9.1	Enterprise responses to externally funded support and advisory services ...	138
V.9.2	Opportunities and barriers to the effective co-ordination of external support services and enterprise programmes	140
REFERENCES.....		141

PREFACE

PREFACE

The *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers* is an initiative of the International Labour Organisation (ILO) and the Global Applied Research and Information Network on Employment and Training (GLADNET). It reflects ILO and GLADNET joint aims of establishing a base for cross-national research and strengthening links between research analysis and policy reform in the field of employment of disabled people.

The Project is a response to a combination of developments which highlight the need for more effective policies and practices in support of workers whose prospects of remaining in employment are jeopardised by work injury, illness or disability. Persons with disabilities are increasingly claiming rights to stay in work as well as to access employment. Pressures on state budgets, the rising costs of compensation claims and disability benefits, and changes in the structure of the labour market are strengthening policies in favour of job retention and return to work. Enterprises are developing their own strategies to minimise the costs of disability and to retain valued employees. Overall, the balance of responsibility is shifting from the state to the enterprise.

Policies and practices to prevent disabled workers from leaving work unnecessarily, and to facilitate rapid return to employment if job loss cannot be prevented, are recent developments in many countries. The cross-national exchange of information on initiatives and their effects is limited. The first aim of this Project has been to gather information about what has been attempted, by whom, for what purposes, in which contexts and to what effects. The second, more ambitious, aim, is to examine the interaction between the various policies and practices, identify dysfunctions, and work towards more coherent and cost-effective strategies for job retention and return to work which might be applied in different national systems. The ultimate objective is to identify strategies which can be put into effect in the workplace.

The Project was constructed in two phases. In Phase One, eight exploratory desk-based studies were commissioned from researchers in Canada, France, Germany, the Netherlands, New Zealand, Sweden, the United Kingdom and the USA. The eight countries invited to participate represent a spectrum of policy approaches and enterprise practices which affect the retention and return to work of workers with disabilities. Australia joined the project at a later stage.

The studies formed the basis for a *Key Issues* Paper, published simultaneously with the eight country reports. This Paper aims to inform, stimulate debate and pave the way for constructive discussion of questions for further exploration through cross-national collaboration in Phase Two.

National government departments, agencies, a private sector organisation, and the ILO co-sponsored Phase One of the Project. Overall responsibility for the Project rests with the ILO (Vocational Rehabilitation Branch, Employment and Training Department). The design, implementation and analysis of the research in Phase One were the responsibility of the Research Co-ordination Unit established at the Social Policy Research Unit, University of York (UK) in April 1997. Research specialists in the main areas of enquiry, based in study countries, contributed at all stages of the research process and, with ILO representatives, met with the research co-ordinators as a Research Advisory Group.

The country studies

The Project recruited and supported national informants from research institutes in all eight countries. During the second half of 1997 they completed a Schedule of Questions developed by the Research Co-ordination Unit to describe policies and practices, document evidence of their effects and provide grounded commentary on how policies and practices interact. The principal sources were policy documents, survey data, research evaluations and critical reviews. Informants were encouraged to contact sources in government departments and agencies, disabled people's organisations, labour unions and employers' groups. Where documented information was lacking, informants interviewed experts in the field.

The eight country reports are important resources for the development of job retention policy and practice both within and across countries. Each report brings together within a single volume: descriptions of policies, practices and programmes which impact on job retention and return to work; evaluative material; and informed commentary. They cover five themes: employment and labour market policies; benefit and compensation programmes; employment support and rehabilitation services; adaptation of work and workplace; and measures developed and implemented by the enterprise. In line with the research aim of identifying coherent and co-ordinated strategies, the informants both comment on dysfunctions in national systems which obstruct job retention efforts and identify links between themes.

It should be noted that the situation described in the reports may have changed. This is especially true of the Netherlands where further reforms were expected in the first half of 1998 and the United Kingdom where the government changed in May 1997. Important developments in the USA were announced in March 1998.

The reports produced by the eight teams of national informants conformed to the format laid down by the Schedule of Questions. The original reports have been edited for publication by the Research Co-ordination Unit in co-operation with their authors. However, they remain essentially the 'raw data' for analysis and should be read in that light. Each report follows the same sequence of headings which reflect the original open-ended questions. As the questionnaire prompted informants to respond flexibly to suggestions about possible areas to address under each question, the content varies from report to report. The reader should note that, at the end of a thematic section, commentary may be included on the links between that theme and those which precede it.

Terms used in the study

The study concerns paid competitive employment in the open labour market.

The term 'disabled workers' is broadly defined. It covers individuals who become disabled, injured or ill whose prospects of continuing or advancing in employment are jeopardised when an acquired impairment, illness or deteriorating condition - physical or mental - presents difficulties in fulfilling the requirements of the job, reduces earning capacity or affects other rewards of working. They may or may not qualify under legal definitions of disabled persons. The term also covers workers with disabilities whose working capacity is not diminishing but whose continued employment is nevertheless threatened by prejudice or discrimination, or by the loss of supports which have maintained them in the job.

'Job retention' means staying with the same employer, with the same or different duties or conditions of employment, and includes return after a period of paid or unpaid absence. 'Return to work' refers to the resumption of employment by a worker who has crossed the threshold from a continued employment

relationship into non-employed status; the main interest of the study is in policies and practices which return the disabled individual to work at an early stage.

Acknowledgements

The publication of eight country reports of a very high quality in a short space of time would not have been possible without the expert attention of Andrew Nocon of the Social Policy Research Unit who edited the reports with remarkable care and efficiency. His task was made easier by the eight teams of informants who most willingly answered queries and approved the edited versions to tight deadlines.

The Project wishes to acknowledge the contribution of Dan Kearns who assisted with research design, supported the national informants and masterminded international tele-communications.

Thanks are due to the ILO for meeting the cost of editing the reports and to the US Department of Labor for covering the printing costs.

Patricia Thornton
Research Co-ordination Unit
Social Policy Research Unit, University of York, UK

April 1998

Copies of the 'Methodology Paper' and the 'Informant Briefing and Schedule of Questions' may be obtained from the Research Co-ordination Unit, Social Policy Research Unit, University of York, YO1 5DD, UK.

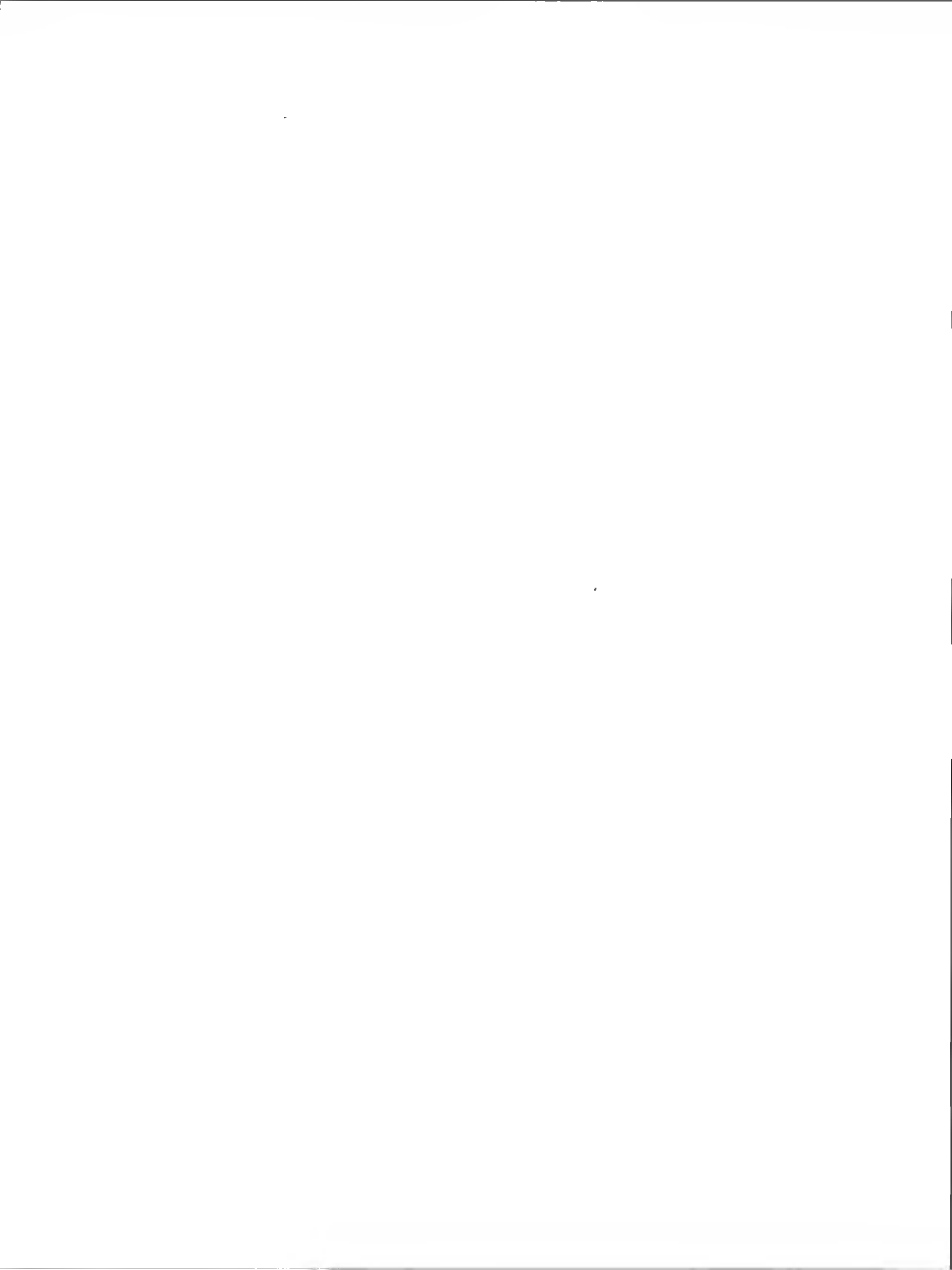
ACKNOWLEDGEMENTS

National sponsor: the Ministry of Labour and Social Affairs.

Project co-sponsors: International Labour Organization; Human Resources Development, Canada; Association Nationale de Gestion du Fonds pour l'Insertion Professionnelle des Handicapés, France; the National Institute for Social Insurances, the Netherlands; the Swedish Council for Work Life Research; the Department of Education and Employment and the Post Office, UK; the Social Security Administration, USA.

LIST OF ABBREVIATIONS

AGDHFS	Arbeitsgemeinschaft der Deutschen Hauptfürsorgestellen	Association of German Hauptfürsorgestellen
ANBA	Amtliche Nachrichten der Bundesanstalt für Arbeit	Official News from the Federal Employment Office
BfA	Bundesversicherungsanstalt für Angestellte	Federal Insurance Institute for Salaried Employees
BMA	Bundesministerium für Arbeit und Sozialordnung	Ministry for Labour and Social Affairs
FAZ	Frankfurter Allgemeine Zeitung	(newspaper)
GdB	Grad der Behinderung	degree of disability
GDR		German Democratic Republic
HVBG	Hauptverband der gewerblichen Berufsgenossenschaften	Main association of the industrial employers' liability insurance funds
iwd	Informationsdienst des Instituts der deutschen Wirtschaft	Information service of the Institute of the German Economy
JR		job retention
PSD	Psychosozialer Dienst	psychological and social service
RTW		return to work
SchwAV	Schwerbehinderten-Ausgleichsabgabeverordnung	Compensatory Levy Regulation
SchwBG	Schwerbehindertengesetz	Severely Disabled Persons Act
VATM		vocational assistance training measures
VDR	Verband Deutscher Rentenversicherungsträger	Association of the Pension Insurance Funds
ZENTRAS	Zentrum für Arbeit und Soziales	Centre For Labour and Social Policy



I. EMPLOYMENT POLICIES

The purpose of this Part of the report is to describe policies which maintain those workers in employment whose continued employment is at risk because of disability. It provides evidence of the effects of those policies and identifies factors which influence their effectiveness. The emphasis in this part is on national (or state/provincial) policies formulated by government, and by bi-partite or tri-partite policy-making and advisory bodies.

Sections 1 to 5 are concerned with legislation, incentives and other 'persuasion' policies which oblige and encourage enterprises to retain disabled employees. A distinction is made between employees who become disabled and those who are already disabled. Information is provided about employment policies which encourage disabled employees to retain or return to their jobs. Sections 6 to 8 focus on the factors which affects the success of policies. They also examine the labour market factors which contribute to the retention or loss of jobs among disabled people.

Introduction

The main legislation concerning disabled people in Germany is the Severely Disabled Persons Act of 1974 (*Schwerbehindertengesetz SchwbG* - referred to in this report as 'the Act'). The Act covers people whose degree of disability is at least 50 per cent and who either live legally in the FRG, have their usual residence there or are employed there. In the case of people who cannot find or hold a job because of disability, however, the relevant degree of disability needs to be at least 30 to 50 per cent (Thornton and Lunt, 1997, p.114). The identification of the degree of disability by a formal procedure provided by the Act is only required in order to receive the special forms of assistance and rights according to this Act and for tax and other compensation for disadvantages (BMA, 1996, p.15). Determination of disability status is the responsibility of a special independent institution (*Versorgungsamt*) and has to result from a voluntary application by the disabled person (Semlinger, 1985, pp.2, 145). The degree of disability is determined exclusively by an essentially medical procedure which is based on the 'Guidelines for Medical Expert Examinations under the Social Compensation Act and the Severely Disabled Persons Act', issued by the Federal Ministry for Labour and Social Affairs in 1983. The degree of disability is expressed in increments of ten degrees between 20 and 100 (Thornton and Lunt, 1997, p.116).

I.1 POLICIES WHICH AIM SPECIFICALLY TO INFLUENCE ENTERPRISES TO RETAIN NEWLY DISABLED EMPLOYEES

I.1.1 Legal obligations and binding agreements intended to prevent and restrict the dismissal of employees who become disabled

The Severely Disabled Persons Act provides special protection against the dismissal of severely disabled employees (§§ 15-22 SchwbG). The employer's rights of contract termination are restricted insofar as a dismissal has to be approved by a public welfare authority (*Hauptfürsorgestellen*). If an employee is severely disabled the employer has to make an application to the *Hauptfürsorgestellen* in order to dismiss the employee. From that point on, special protection against dismissal will be effective for a period of four

weeks. Within this period, the *Hauptfürsorgestellen* have to take a decision in accordance with the regulations of the dismissal procedure (see I.3.1). The same applies if an employee has not yet been officially given the status of a severely disabled person but has applied to the responsible authority (*Versorgungsamt*) for it. The special protection against dismissal is still effective pending a decision. This does not mean (as it will be pointed out in I.3.1) that the respective person cannot be dismissed at all, but that a *Hauptfürsorgestelle* has to be involved. It will treat the case as if the person were severely disabled, yet may still approve the dismissal under certain circumstances. The *Hauptfürsorgestelle* must consider the interests of all participants and, if possible, achieve an amicable agreement. Following an amendment in 1986, the special employment protection applies only after a six-month probationary period (Winkler, 1997, p.4; Semlinger, 1985, p.37 ff.).

People often become disabled while in employment. When a person is asked about health problems during the appointment process, she/he is obliged to inform the employer about any disability. However, if a disability occurs after having been hired, employees are not obliged to tell anybody. If employees who have recently become disabled and/or have just applied for severe disability status receive notice of dismissal, they are granted a period of one month to inform their employer and to claim special protection against dismissal. (Note that the Works Councils Act only grants a general three week period for protesting against the notice.) Applying for severe disability status merely as a reaction to the notice is not permitted. Moreover, special protection against dismissal (while a decision is pending about severe disability status) only applies where the application for such status has been made before notice is given of dismissal. As soon as the employer learns about severe disability status or the application for it, she/he has to draw up a new notice of dismissal in which the approval by the *Hauptfürsorgestelle* has to be applied for. In the case that the *Versorgungsamt* as the deciding authority ascertains a degree of disability which does not correspond to severe disability (i.e. is less than 50 per cent), the employer's notice will be effective even if the *Hauptfürsorgestelle* does not approve it, on the basis that the latter's responsibility only covers severely disabled employees (source: personal communication/ Aktion 16¹).

Despite the special protection against dismissal, data suggest a slight erosion of job security. First, disabled people's share of inflows into unemployment exceeds their share of total work-force (in 1994: 3.7 per cent compared to 3.2 per cent) (ANBA, 1996a, p.117). Secondly, the number of applications for dismissals to the *Hauptfürsorgestellen* has risen, and most dismissals have been approved (see I.3.1). The limited effectiveness of the Severely Disabled Persons Act is due to its being largely only a law of 'good will' in promoting the employment of disabled people. In addition, its apparently decreasing effectiveness is associated with periods of economic downturn, so that most dismissals have been due to plant closures or a general reduction of jobs. Nevertheless, the fact that this particular procedure is laid down in the Act may prevent some dismissals. The extent to which this is the case cannot be estimated (Winkler, 1997, p.7).

In some cases, disability requires medical treatment (in the form of medical rehabilitation measures) which causes the employee to be absent from work for a lengthy period of time. This particularly applies to

¹ 'Aktion 16' is a unique institution in the Bundesland Rhineland-Palatinate which serves the integration of disabled people into the general labour market. It mainly provides counselling services to both disabled people and the companies they are employed by. It is financed by the revenue of the compensatory levy. Information was obtained by an interview with the project leader which was conducted in September 1997.

disabilities resulting from occupational accidents (see Part II, Section 1). In such cases, there is no legal obligation on employers to keep a job open for the absent employee. Protection against dismissal in an individual case of absenteeism as a result of disability-related medical rehabilitation is not separately laid down by law. In practice, this situation is similar to that of employees with longer periods of sickness. If a newly occurring disability is connected with long periods of absenteeism, if there are objective grounds to assume a negative health prognosis in the longer term, and, if retaining the respective employee clearly stands against the interests of the enterprise (for example in relation to the profitability of work) dismissal during the period of medical rehabilitation is possible. In addition, employers will usually also consider the employee's tenure when deciding on dismissal. Dismissal may be justifiable if, for example, an employee who works for a relatively small hi-tech enterprise and whose working capacity can only be restored to a lower level than required for her/his previous job cannot be offered an adequate alternative position by the enterprise. The viability of the enterprise may then indicate dismissal. In any case, it has to be economically justifiable for an employer to bear the loss of working hours caused by an employee who has to undertake rehabilitation for many months but who has not been given notice. An employee undergoing rehabilitation will probably not be able to ensure that a job is held open for two years, for example, if only a small enterprise is involved.

Dismissals may take place under the conditions mentioned above even if severe disability status has been granted or applied for. The difference in such cases is that the Hauptfürsorgestelle has to approve dismissal (which it does in most cases, see I.3.1). Even though the above-mentioned criteria are not specifically laid down in law in respect of disabled employees, they correspond to employers' views and to precedents set down by the labour courts (source: personal communication/Aktion 16).

Where the conditions pertaining to dismissal do not clearly favour the employer's position, for example if periods of absenteeism are not extensive or if health problems are less severe and fall outside the Hauptfürsorgestelle's sphere of responsibility, the input of a works council may determine whether a dismissal is actually carried out. The works council may refuse to approve the dismissal and the employer is then compelled to take the case to a labour court. In practice, large enterprises, in particular, tend to hold jobs open for employees who have to undertake a longer period of medical treatment, in order that they can return to work afterwards. Their subsequent job may be less demanding than the previous one. This arrangement is intended to be a temporary solution until the employees are able to return to their previous position, giving them enough time to regain their full capacity while still being integrated in the company and maintaining their employment relationship (see Part V). However, only large companies with a wide range of employment opportunities usually have the opportunity to pursue such a strategy; even among them it is becoming more difficult due to an increasing emphasis on outsourcing (source: personal communication/Aktion 16).

I.1.2 Legal obligations and binding agreements intended to promote the retention of employees who become disabled

Employment quota

Although not specifically intended to promote the retention of employees who *become* disabled, the employment quota does have this effect in practice. Through retaining employees who become disabled,

enterprises are able to fulfil their legally set employment quota. Many employers persuade older employees with health problems to apply for official registration as severely disabled who would otherwise not do so. More than 80 per cent of all disabled employees are internally recruited, the main reasons being the unclear productivity of external recruits, particularly disabled people and the lesser stigmatisation and prejudices in relation to people already known within an enterprise (Frick and Frick, 1994). Disaggregated industry-level data show a positive correlation between the average tenure of a firm's employees and the percentage of its disabled employees (Frick and Frick, 1994). Registration campaigns, however, are often aimed at employees who would be retained anyway and whose employment is not really endangered. The fulfilment of the quota is then a statistical device which does not serve to improve the employment position of newly disabled people (Semlinger, 1985, p.69, 75).

1.1.3 Voluntary policies and programmes which encourage enterprises to retain newly disabled employees

The federal government and the governments of the Länder are involved in a wide range of publications which are intended to document and provide information about the situation of disabled people. They subsidize research projects and issue brochures and guides containing information about integration possibilities; these are aimed at disabled people themselves, at potential employers and other institutions supporting the integration of disabled people. By describing and explaining types of disabilities and their consequences, legal provisions and their implications, and possibilities for the social and labour market integration of disabled people, governments contribute to the elimination of prejudices which result from a lack of knowledge. They may thereby encourage enterprises to voluntarily retain newly disabled employees.

In their role as employers, governments and the public administration make a great effort to fulfil the employment quota. They want their behaviour to be an example (benchmark) to the private enterprise sector. The federal government is obliged to report to parliament every year how many severely disabled persons have been employed by the federal administration.² On October 31, 1996, the federal administration reached an employment quota of 6.9 per cent (see I.2.1 for discussion of the quota system). The public administration of the Länder, though, did not fulfil the employment obligation: on average, the quota was 4.7 per cent (Old Länder: 5.1 per cent, New Länder: 3.1 per cent). Only in one Land was the employment quota fulfilled (Saarland: 7.1 per cent) (SU 5/98, pp.26-29).

(An example of voluntary enterprise-level cost calculations to retain newly disabled employees is given in Part V.)

² See the most recent one from 1997: 'Beschäftigung Schwerbehinderter bei den Bundesdienststellen', Unterrichtung durch die Bundesregierung [*Employment of severely disabled people by the federal administration; Information by the federal government*], Deutscher Bundestag Drucksache 13/8918.

I.2 POLICIES TO OBLIGE AND ENCOURAGE ENTERPRISES TO RETAIN DISABLED WORKERS IN GENERAL

I.2.1 Obligations and binding agreements to promote the retention of disabled workers in general

The rights of disabled people

According to Section 10 of Book 1 of the Social Code, persons who are physically, mentally or psychologically disabled, or who are in danger of becoming disabled, have a 'social right', independent of the cause of disability, to the assistance which is required to secure them a place within the community, in particular in working life, in accordance with their inclinations and abilities (BMA, 1996, p.7).

In 1994, the disability rights movement pushed through an amendment to Article 3 of the constitution which - in its initial version - states that nobody may be discriminated against because of gender, race, religious or political beliefs, etc. The amendment added that 'nobody should be discriminated because of her/his disability' (Frehe, 1995, p.72; cf. also Bundesreg, 1994, p.115).

Obligation to create a non-disabling work environment

Section 14 of the Severely Disabled Persons Act 1974 (amended in 1986) contains a general obligation for employers to promote the employment of disabled persons. Particularly relevant for the retention of disabled workers is Subsection 3 of this Section. This obliges employers to establish and provide adequate workplaces for disabled employees, according to their skills and capabilities, so that permanent employment can be ensured (Winkler, 1997, p.4; SchwbG, Semlinger, 1985, pp.73, 153).

Few data are available about the extent to which adequate workplaces have been provided for disabled employees in order to ensure permanent employment. A self-assessment of both disabled and non-disabled employees in 1985 showed that the working conditions and job characteristics were almost the same for both groups. The majority of the disabled was satisfied with the workplace conditions. Similar conclusions can be drawn from the 'segregation-index' which quantifies the relative concentration of disabled persons in special jobs and/or industries (Sadowski/Frick, 1992, p.86 ff., 90; Burger/Schröder, 1994, p.8 f.; Oyen, 1989, p.518).

Quota and quota-levy scheme

The general guideline (in §14 of the Act) is complemented by a concrete obligation for public and private employers with a workforce of 16 or more to employ a minimum of six per cent disabled workers (section 5, subsection 1 of the Act). This is not intended specifically to achieve job retention; rather it aims to foster the employment of disabled people in general. An employer who does not fulfil this obligation has to pay a compensatory levy of 200 DM per month per compulsory workplace (§11 of the Act, with calculation method and possible deductions in § 55, AGDHFS 1996, p.6, 3.2).³ The revenue is used for different supportive measures provided by the Hauptfürsorgestellen of the Länder (55 per cent) and for a compensation fund provided by the Federal Minister of Labour and Social Affairs (45 per cent, from which

³ At 31 March 1998, one German mark was the equivalent of 0.5454 US dollars.

50 per cent is allocated to the Federal Labour Office) to finance national measures for the integration of severely disabled persons (§§ 11, 12 of the Act). The rationale for the levy is twofold: on the one hand, it provides direct incentives for integrating or retaining disabled people in enterprises; on the other, it seeks to distribute the employment costs of disabled employees equally among enterprises. As noted above (I.1.2), the retention of disabled workers enables a company to maintain its employment quota and prevents the need to pay a higher compensatory levy. To some extent, therefore, the quota system fosters the retention of disabled employees (Winkler, 1997, p.4; SchwbG; BMA, 1995, p.354 f.).

However, the effectiveness of the quota system as a whole is limited. The figures even show a (more or less steady) decline in the compliance with the legal provisions. The quota of six per cent has never been realized; the highest level of employment of disabled people ever reached was 5.9 per cent in 1982. Since 1986, there has been a continuous decrease in the fulfilment of the quota (from 5.2 per cent in 1986 to 4.0 per cent in 1995). While the Western Bundesländer are slightly above this average (4.2 per cent in 1995), the Eastern Länder only reach a quota of 2.9 per cent (Zentras, 1997, tab.29-34). The number of unfilled workplaces show a steady increase: in 1995, more than 21 million workplaces had to be taken into account to convert the six per cent quota into a concrete number of workplaces on which disabled people have to be employed according to the law (that is more than 1.27 million compulsory workplaces). Of those, 428,494 places have not been filled with disabled people (cf. Zentras 1997, tab. 34). The unemployment rate among disabled people is significantly higher than the general unemployment rate: in 1995, the difference between the rate of general unemployment and the unemployment rate among the severely disabled was 6.5 percentage points for West Germany (for the latter the rate was 15.8 per cent). In East Germany, the difference was only 1.1 percentage points (16.0 per cent unemployment rate for the severely disabled) (Henninges, 1997, appendix tab. 13; ANBA, 1996a, p.117). In 1996 the unemployment rate among severely disabled people rose to 15.9 per cent (West, (compared to 9.1 per cent general unemployment) and to 18.9 per cent (East, compared to 15.7 per cent general unemployment); it reached a peak of 17.9 per cent in October 1997 (Bundesregierung, 1997, p.69 f.). In the Old Länder, however, the increase in the unemployment rate among severely disabled people was not as pronounced as in the general unemployment rate. In January 1998, the number of severely disabled unemployed people crossed the 200,000 mark for the first time. The total number was 202,939, a rate (for severely disabled people) of 18.5 per cent (Sozialverband Reichsbund, 1998, p.5).

The legal instruments for the enforcement of the quota are considered to be inadequate. So the stimulating and compensating function of the compensatory levy is in doubt: 200 DM per workplace not filled by a disabled person is usually less than the employers' costs for the five days of additional vacation privilege of disabled employees and the adaptation of the workplace (cf. Oyen, 1989, p.519). The main drawback though is seen in the fact that the general obligation for employers to promote the employment of disabled persons and to allow for the participation of the disabled employees' representatives represent procedural regulations, which are not really legally enforceable, rather than substantive legal norms. Breaking these regulations merely represents an infringement of rules rather than illegality. Non-compatible behaviour of employers might be fined (up to 5000 DM); however, the consequences of their behaviour are still valid and have to be borne. In fact, fining has rarely occurred so far, not only because it is very difficult to prove wilful and negligent action on the part of the employer, but also because the success of the employment service in getting/retaining disabled people employed is dependent on the cooperation of the employers so

that the employment service lacks interest in fining them (Arlitt, 1996, p.288 f., 292; Frehe, 1995, p.73; Semlinger, 1985, p.74, 150, 153).

There are two more aspects to be added with regard to the effectiveness of the employment quota for job retention of disabled employees:

The legislation acknowledges that employers can also contribute to the employment of disabled people awarding contracts to sheltered workshops. If these employers do not fulfil the quota, 50 per cent of the total amount of the invoices (less the material cost) will count towards the compensatory levy which these enterprises have to pay (§ 55 of the Act). This regulation tends to reduce the supporting effects of the quota for job retention.

On the part of the employers, the employment quota is criticized for being of the wrong standard. The corporate sector has not been fulfilling the quota since it was introduced. However, employers emphasize that the number of vacancies for severely disabled people which would have to be created by the enterprises to fulfil the quota is significantly higher than the number of registered unemployed severely disabled people: In 1994, for example, there were 397,700 vacancies in West Germany measured against the quota requirements, while only an average of 155,500 severely disabled people were registered as being unemployed in 1995 in West Germany. At the end of September 1995, 151,767 unfilled vacancies were being offered to severely disabled people in West Germany. Even more striking was the imbalance in East Germany, where there were 20,000 unemployed severely disabled people and 107,000 vacancies (also in 1995). Moreover, there was almost a balance between the number of unemployed severely disabled people and vacancies offered to them (112: 100). In October 1996, 513,187 additional vacancies for severely disabled persons would have been necessary to fulfil the six per cent employment quota, while only 181,200 severely disabled persons were registered unemployed (in all Germany) (Bundesregierung, 1997, p.70). For the Old Länder, the relation was 408,000 vacancies to 157,200 unemployed severely disabled persons (iwd 21/97, p.6).

There are three more statistical aspects which the employers refer to in criticizing the quota as a yardstick to raise the compensatory levy:

- 1) The calculation of the quota does not take into account all the severely disabled people whom companies employ beyond their quota obligations; in 1994, this was true for 87,000 people (according to IWD, only 80,000 people according to ANBA).
- 2) The same applies to severely disabled people who are employed by companies which are not obliged to do so; in 1994, this was true for 129,700 people. (It is not really clear, though, which companies this statement refers to; the Federal Employment Office, at least, does take into account the group of disabled people who are employed in companies with less than 16 workplaces in its calculation of missing vacancies).
- 3) The quota is calculated in percentages; thus, it will rise if the total number of workplaces it refers to, i.e. the denominator, decreases. This happened, for example, in 1993/94 when the German railway was privatized which led to a loss of around half a million jobs. As a consequence, the

employment quota was raised from 5.6 per cent to 6.4 per cent even though the number of severely disabled employees was reduced from 73,000 to 56,000 (iwd 2/96, p.3; ANBA, 1996a, p.116).

In its fourth report on the situation of disabled people and the development of rehabilitation, the federal government also deals with the calls for modifying the quota system which usually aim at lowering the quota and simultaneously increasing the compensatory levy (Bundesregierung, 1997, p.69). The government rejects these calls, arguing that such modifications would definitely give the wrong signal, given the background of the highest level of the rate of unemployment among severely disabled people on the one hand, and the lowest level of the actual employment quota (3.9 per cent in October 1996) on the other. In addition, the amount of DM 200 is considered sufficient to fulfil the compensation function of the compensatory levy, which is to siphon off the unjustified cost advantages of employers who do not fulfil their employment obligation. As regards the incentive function of the compensatory levy, the government implicitly admits that DM 200 might not be enough; however, it prefers to extend the range of alternative instruments and provisions for the integration of severely disabled people (for example, through specialized integration services). The point which is likely to be the most decisive for the government's rejection of any change to the quota system - but which is not mentioned - is the concern about an expected decrease in compensatory levy revenue as a result of the suggested modifications. This concern might reflect a well-known dilemma of fiscal policy: On the one hand, the overall function of the levy is actually to make itself superfluous; on the other hand, its revenue is used to fund institutions which usually need a long-term basis for calculation and planning. If - according to the levy's function - employers' recruitment behaviour is directed effectively, there would be no employer in the long run who does not fulfil the employment obligation (taking the ideal case). On the other hand, a considerable number of institutions have been established for the integration of severely disabled persons which are funded by the revenue from the compensatory levy. Politically, it seems quite difficult to confront these institutions with volatile levy revenue. As a consequence, there is some risk that institutions are funded which are actually no longer necessary or whose services could be provided less expensively in an alternative institutional setting.

The role of disabled persons' representatives

Disabled persons' representatives and works councils have to be informed and heard by an employer before the latter makes an application for the dismissal of a disabled person (§25 subsection 2 of the Act). (This is discussed further in I.3.1.)

Obligation to examine vacant positions

The general guideline for employers to promote the employment of disabled people (according to section 14 of the Act) also includes an obligation to examine every vacant position for its potential for a severely disabled person. According to a ruling by the Federal Labour Court, the employer has to consider any additional (mainly social) criteria for recruiting people when applicants have equal qualification. These criteria include disability (SchwbG; Arlitt, 1996, p.289).

Conclusions

Altogether there are some significant obstacles to the retention of disabled employees as far as the legal framework is concerned. High general unemployment is a particular problem. However, compared to the (re-)integration of unemployed disabled people into stable employment, the retention of disabled employees seems to be a lesser problem (Burger and Schröder, 1994, p.9). Moreover, Frick and Frick come to the

conclusion that the employment of - for the most part internally recruited (i.e. retained) - disabled people does not really seem to be 'the result of a legally enforced 'moral pressure', but primarily serves the 'reciprocity expectations' of all employees' (Frick and Frick, 1994, p.220).

I.2.2 Voluntary policies to persuade and encourage enterprises to retain disabled workers in general

In the public sector, almost every larger authority at the federal and the Länder level (not so much on the municipal level) issues decrees on the treatment of disabled employees. These ordinances are to provide more detailed guidance on legal requirements. Extra regulations may restrict or expand some aspects of the Severely Disabled Persons Act. As an example, section 26 of the Severely Disabled Persons Act says that disabled employees' representatives have to be released from work in order to take part in special training concerning their tasks as representatives. Such training could well enhance their knowledge about legal provisions and retention strategies, and thereby increase their ability to successfully contribute to job retention. In some authorities, however, a decree may set a maximum limit (e.g. three days a year) for such activities. On the other hand, decrees in public authorities may also improve the situation of disabled people by introducing additional regulations beyond the one already laid down by law (such as extra breaks during work).

Some private enterprises also have such decrees or ordinances, but they are usually not as long and detailed. Large companies, in particular, have formalized proceedings or policies aiming at the retention of disabled workers. One of them is to keep a kind of reserve of vacancies for redeployment in case of rationalization. Some firms draw up a list to systematically capture all of their vacancies which are or would be adequate for employees with lower productivity. This measure is usually accompanied by a (sometimes only implicit) enterprise-level agreement to fill these vacancies only with employees whose productivity is restricted and who can be internally recruited. Conflicts might occur between the works council and the disabled persons' representatives concerning the refilling of such vacancies because some of the employees with restricted productivity who are considered for these vacancies do not have official recognition as severely disabled persons.

Most companies do not have any strategies to maintain a certain proportion of vacancies adequate for disabled employees. Redeployments are carried out *ad hoc* and may concern non-disabled workers as well, so that resistance may occur. A different kind of organization of workplaces within the company would probably reveal greater potential for the employment of disabled persons. One reason for these shortcomings is seen in the merely reactive behaviour of disabled persons' representatives, who confine themselves to counselling disabled employees about questions of provision and their status. They are usually not involved in the wider planning processes of the enterprise (i.e. organization of workplaces).

Codes of practice exist in many firms, however, although they usually take the form of internal, non-codified standards. They determine the extent to which the company will support disabled employees. The length of tenure and sometimes the reason for the disability (if it occurs during the tenure) are important factors in this context. The management often distinguishes between a disability which is connected with the job

(industrial accident, for instance) and a disability of which the origin lies outside the realms of the company. (Semlinger, 1985, p. 94 ff., 132 f.).

I.2.3 Financial incentives which encourage enterprises to retain disabled workers in general

There are a number of different financial mechanisms available to employers which aim at the retention or (re-)employment of disabled people. They are granted either by the Employment Offices, the Hauptfürsorgestellen, or by rehabilitation funds. It is not always possible to clearly separate mechanisms aimed at the retention of disabled employees from those destined to promote (re-)employment. Subsidies for the creation of new jobs for severely disabled people, for example, may serve both aims at the same time, since they may also apply to people already working for the firm who are supposed to be redeployed. This may concern newly disabled people or employees whose disability has worsened, who are threatened by dismissal. In that case, job creation subsidies serve the retention of disabled workers as well. So, even if subsidies explicitly aim at the creation of new jobs for (severely) disabled workers, it cannot be said whether these new jobs are connected with the same (previous) employee or not, i.e. whether they have to be assigned to 'job retention' or to 'return to work' efforts.

The most important kinds of financial incentives which encourage the retention of disabled employees are as follows. (The regulations only apply to severely disabled persons as they are defined in the Act.)

Wage-cost subsidies

Subsidies are paid for the employment of severely disabled persons. They are paid by the employment offices from the Compensatory Levy Fund on a sliding scale (up to 80 per cent of the gross wage during first year, 70 per cent second year, 60 per cent third year according to §§ 1, 5 of the Severely Disabled Persons Compensatory Levy Regulation; § 33 Subsection 2 of the Act; ZB Info 1/97, p.II). Legislation at Länder level may offer an increase of these subsidies up to 100 per cent. Employment must continue after the subsidy ceases, at least for one more year, otherwise the subsidies have to be repaid. The underlying rationale is to cover any extra costs to the employer which originate from employing disabled people, such as the entitlement to an extra five days' leave, in order to assist disabled people who are endangered by unemployment (Thornton and Lunt, 1997, p.130; ZB Info 1/97, p.II). Besides, the Hauptfürsorgestellen provide a special kind of subsidy which is paid without a general time limit. It applies to above-average expenses or other extraordinary financial difficulties caused by the employment of severely disabled people, including particularly restricted performance because of disability (§ 27 of the Regulation; cf. Huber/Ochs 94, p.164). The level and duration of payment depend on the individual case (up to DM 600 according to Frehe, 1995, p.80; up to DM 800 according to Thornton and Lunt 1997, p.130. It is subsidiary to all other kinds of assistance (as in the following paragraphs).

Financial support for workplace adaptation and creation

With finance from the Compensatory Levy Fund, the Hauptfürsorgestellen support employers in adapting or creating workplaces according to the needs of disabled people by granting loans or subsidies (up to 100 per cent of costs) (§§ 15, 26 of the Regulation). The underlying rationale is to prevent dismissals which would be undertaken otherwise, and to make possible the permanent employment of severely disabled people (ZB Info 1/97, p.III; Huber/Ochs, 1994, p.164). Beyond the employers' obligation according to §

14 subsection 3 of the Act (cf. I.2.1), the employment offices pay subsidies up to 100 per cent for assistance in the workplace (ZB Info 1/97, p.II).

Financial support for training and vocational rehabilitation

The employment offices provide several kinds of allowances for measures of (re-)training and vocational rehabilitation of disabled employees. In exceptional cases, they pay up to 100 per cent of the payments for the trainees (ZB Info 1/97, p.II, III). Note that the provisions by the employment offices are not confined to *severely* disabled people only, so that a lower degree of disability might suffice to claim financial support. Besides, §§ 15, 26 of the Regulation also apply to the creation of training vacancies.

Effectiveness and trends

Financial subsidies to promote the employment of disabled people are only taken up relatively rarely. Lack of information, on the part of small enterprises in particular, is seen as one of the major obstacles, so that more counselling and technical assistance by the providing institutions may be required (Semlinger, 1985, p.98; Thornton and Lunt, 1997, p.131). Besides, bureaucratized procedures of awarding financial support discourage many employers who would be eligible to actually apply for these provisions and take them up (Oyen 1989, 519). On the other hand, the adaptation of workplaces may be extensive in individual cases, but most disabled employees are able to do without any major adaptation (Semlinger, 1985, pp.82, 132). Besides, many enterprises are not very inclined to contact the provider institutions since they fear that - similar to the factory inspectorates - they will not then be able to 'get rid of' those institutions any more (Semlinger, 1985, p.99). The reservedness towards the Hauptfürsorgestellen can be explained by their 'double' character. On the one hand, they are bureaucratic institutions with sovereign authority; on the other, they increasingly try to establish themselves as providers of special services and related financial support as well as being consultants. In addition, the obsolete term 'Fürsorgestelle' (or 'welfare agency') stemming from the period of the end of World War I often suggests an enterprise's good deeds and a sense of social justice, which are not compatible with business rationality, particularly since for many employers the employment of disabled people is a matter of merely peripheral importance (AGDHFS, 1995, p.5).

Wage subsidies have some considerable advantages as an instrument for influencing employers' behaviour: their efficiency (subsidies are taken up by employers to which a change in behaviour is easiest to realise), voluntary nature, and the flexibility in designing them. Yet, they are regarded as a difficult matter in general, since it is always problematic to keep the balance between insufficient take-up and abuse in the sense that employers are in receipt of subsidies although they would have employed disabled people anyway (so that the subsidy does not achieve its purpose to promote additional employment, that is, it has a 'dead weight' effect). Controlling for that by tightening the rules of allocation and the use of the subsidies respectively does restrict the features of flexibility and the intensity of the incentive but thereby creates a dilemma. Subsidies which represent more a compensation for extra costs due to the employment of disabled people face the problem of the low level of take-up mentioned above. So, wage subsidies often appear necessary, but not sufficient, to make firms employ disabled people. The extension of accompanying specialized services might be required. Finally, a high level of general unemployment reduces the incentive effect of wage subsidies since a large reserve of unemployed people usually ensures the relatively riskless recruitment of qualified workers. For Germany, too, a lack of evaluation efforts has to be diagnosed (information about appropriate control groups, for example) (Semlinger, 1995, pp. 81, 150; Delsen, 1996, p.534 f.).

It is a quite commonly held view that financial incentives rarely act as a direct stimulus to the recruitment and maintenance in employment of disabled people; rather, they merely reinforce an already existing latent willingness to do so (Oyen, 1989, p.519).

I.3 POLICIES AND PROGRAMMES TO SUPPORT DISABLED EMPLOYEES AT RISK TO RETAIN THEIR EMPLOYMENT

I.3.1 Mechanisms to support the rights of employees whose continued employment is at risk because of disability

The Severely Disabled Persons Act establishes two sets of institutions which are given the task of supporting the rights of employees whose continued employment is at risk because of disability: the *Hauptfürsorgestellen* on the one hand, and the disabled person's representatives and works councils on the other (Huber/Ochs, 1994, p.167 ff.):

The *Hauptfürsorgestellen* are the focal point in the procedure of dismissal of disabled employees since the employer is obliged to obtain the approval of this administrative authority. The *Hauptfürsorgestellen* themselves have to obtain written position statements about the individual cases from the disabled persons' representatives, the works councils and the labour offices. Further, the Act obliges them to work towards an amicable agreement (§ 17 subsection 2, 3; Semlinger, 1985, p.100). There are four different options for the settlement of the dismissal procedure:

- 1) The employer withdraws the application for dismissal (in 1993 more than 73 per cent of all cases in which the retention of the disabled employee was achieved could be traced to such withdrawals; the share was 76.7 per cent in the category of ordinary terminations).⁴ The *Hauptfürsorgestellen* absolutely favour this way of settlement of the negotiations with enterprises and try to push them towards a voluntary withdrawal by offering 'supplementary assistance in the working and professional environment' which might include both financial subsidies and advisory services (see I.5.1) (AGDHFS, 1994, p.81 f.).
- 2) The severely disabled person relinquishes the continuation of employment in connection with a rescinding contract, i.e. terminating a contract of employment by mutual agreement or in connection with early retirement. In 1995, this happened in more than 18 per cent of all cases which the *Hauptfürsorgestellen* took notice of (AGDHFS, 1996, p.29). However, the *Hauptfürsorgestellen* are often not involved in those agreements.
- 3) If no agreement emerges among the involved parties during the dismissal negotiations guided by the *Hauptfürsorgestellen*, the latter take a discretionary decision. In doing so, they have to consider the interests of both the disabled employee and the employer, the reason for dismissal, the labour law,

⁴ German legislation distinguishes ordinary from extraordinary terminations. The latter's main feature is that the employers are not obliged to observe a certain period of notice. This applies, for instance, in cases of a seriously inappropriate behaviour on the part of employees.

and particular circumstances of the individual case (for further details such as periods of notice see § 18 of the Act). They still seek as much approval as possible.

- 4) The Act lays down some special cases in which the discretionary scope of the Hauptfürsorgestelle is restricted, i.e. the decision is largely pre-determined. The authority *has to* approve the employer's application for dismissal if the enterprise closes down. In all other of these special cases, it *should* approve the application, for example if the employer still fulfils the employment quota after the dismissals, or if there are alternative employment opportunities available for the disabled employee (§ 19 of the Act). If dismissals are legitimized by the economic situation of the company, the Hauptfürsorgestellen are supposed to approve them; however, sometimes they cannot really check the validity of employers' statements about the business situation (Semlinger, 1985, p.101). In 1995, more than two-thirds (67.5 per cent) of applications for ordinary termination to the Hauptfürsorgestellen, and 61.6 per cent of all applications for ordinary and extraordinary termination were legitimized by the economic situation of the company (as opposed to being related to personal characteristics of an employee) (AGDHFS, 1996, p.27; ZENTRAS, 1997, tab. 72).

While the Hauptfürsorgestellen investigate the facts of the case during the dismissal procedure, they are supposed to demonstrate possible ways of retaining disabled employees, particularly by using technical aids, by reorganising the workplace, or by taking up financial subsidies. In doing so, the Hauptfürsorgestellen can enlist experts' help (technical service, medics, psychosocial service).

The disabled persons' representatives⁵ and the works council have to be informed and heard by the employer before the latter makes the application for the dismissal to the Hauptfürsorgestelle (§ 25 Subsection 2 of the Act). Thereby it is implicitly taken into account that these institutions usually have a better knowledge about the enterprise and the specific possibilities to retain disabled employees. That is why the representatives and the council can considerably influence the decision of the Hauptfürsorgestelle by their position statement (the latter does not have the personnel to gather sufficient information - for example by regular visits - about the specific circumstances in individual enterprises). However, the obligation to inform these institutions early on, actually aims at preventing the dismissal of a disabled employee without setting in motion the official dismissal procedure laid down in the Act, i.e. just by involving persons belonging to the enterprise. Besides, the representatives and the council are supposed to look after and counsel disabled employees during the dismissal procedure. To fulfill this task adequately, representatives and personnel committees are offered training. The Hauptfürsorgestellen are responsible for its provision, which is financed by means of the compensatory levy. The employers have to bear the cost for travel and accommodation as well as the loss of working hours. In addition, the unions offer (and fully pay for) a more detailed training, but exclusively for their members. Only a minority of the disabled employees' representatives are union members; however, many members of the works councils belong to a union and participate in such training events, too. They often have to take over the disabled employees' representatives' duties (see I.6.1) (source: personal communication/Aktion 16).

⁵ If more than five members of permanent staff are severely disabled, a representative for those employees is to be elected to act in an honorary capacity as their spokesperson. Their main task is to monitor adherence to all provisions relating to disabled employees and to support them by providing advice and assistance.

Effects

There are two main reasons why it is hard to estimate the effects of the mechanisms and institutions which aim at supporting the rights of employees whose continued employment is at risk because of disability. As mentioned above, many settlements between disabled employees and their employers concerning the termination of tenure are not captured since the Hauptfürsorgestellen are not involved (cf. Semlinger, 1985, p.99 f.). Secondly, it cannot be estimated how many dismissals have been prevented merely by having applied the special dismissal procedure in the Severely Disabled Persons Act (Semlinger, 1985, pp.41, 43, 103 f.). However, it is suggested that the positive effect on the chances for the retention of disabled employees in danger of dismissal mainly results from the behaviour of the group representatives during the statutory dismissal procedure. The position statements of the employees' or personnel committees, and - although to a lesser extent - the disabled people's representatives, do have a decisive influence on the final result of the dismissal procedure (Sadowski/Frick, 1992, p.15).

For the documentation of their activities concerning the special protection against dismissal the Association of the German Hauptfürsorgestellen distinguishes between disputable and indisputable procedures (AGDHFS 1994, p.78). The first group comprises two outcomes which lead to the retention of severely disabled employees (withdrawal of the application for dismissal by the employer, and disapproval of the application for dismissal by the Hauptfürsorgestelle), and one outcome which leads to job loss (approval of the application for dismissal by the Hauptfürsorgestelle without the agreement of the severely disabled employee). Indisputable procedures can have three different kinds of outcomes, which all lead to job loss: approval of the application for dismissal by the Hauptfürsorgestelle with the agreement of the severely disabled employee, agreement upon a rescinding contract (cancellation or termination of contract by mutual agreement or by exercise of one party of one of her/his remedies, with or without the involvement of the Hauptfürsorgestellen), and other reasons of an indisputable job loss (special pension payments, severance pay, or alteration of contract). In 1995 (and within the category of ordinary termination), the factual outcomes of the dismissal negotiations and procedures respectively showed a distribution among the different groups of outcomes as follows:

Disputable Procedures

Job Retention

Withdrawal of application by employer and Rejection of application by Hauptfürsorgestelle	15.5 %
---	--------

Job Loss

Approval of application by Hauptfürsorgestelle without agreement of the disabled person	19.5 %
--	--------

Indisputable Procedures

Job Loss

Approval of application by Hauptfürsorgestelle with agreement of the disabled person	46.9 %
Rescinding contract and other reasons (pensions etc.)	18.1 %

From all the applications the Hauptfürsorgestellen dealt with in 1995, only 19.8 per cent (in all categories of termination), and 15.5 per cent (ordinary termination), ended with the retention of the disabled employee. That means that the clear majority of applications resulted in job loss, but in only 19.5 per cent of the ordinary terminations did the disabled employees not agree with the result (AGDHFS, 1995, p.29 f.). The special protection against dismissal thus does not mean that disabled employees are not dismissable (as opposed to a widespread view among employers which leads to a reduced willingness to recruit disabled people from the external labour market). The special protection merely lays down a procedure which makes dismissals more difficult and which encourages the involved parties to look more intensively for opportunities to prevent dismissals (Huber/Ochs, 1994, p.169). Nevertheless, the special protection against dismissal is considered to be the most important feature of the Severely Disabled Persons Act. Surveys show that disabled employees believe that it makes their position more secure (Oyen, 1989, p.519). That the employers' effort to find further employment for disabled employees is higher than for able-bodied employees does confirm this view (ibid). Semlinger states that employers usually are very receptive to the public provision of support measures: they are really willing to drop their intention to dismiss disabled employees as soon as a serious solution to the underlying problem is offered during the dismissal procedure (Semlinger, 1985, p.133). Finally, it has to be noted that the number of applications for dismissals of disabled employees is also considerably influenced by the general economic situation, i.e. the business cycle and the general labour market situation (Semlinger, 1985, p.41). The special job security legislation for disabled employees tends to lose its protective effect as the general economic situation worsens and enterprises feel forced to reduce staff.

Trends

In 1995, the number of new applications for dismissal increased slightly. The preceding year had experienced a decrease, though, dropping from a very high initial level in the three years before. In West Germany, the number of new applications is still double that of 1990, which was the year with least number. In addition, the numbers show very distinct fluctuations among the different regions (Länder) in Germany. The Association of German Hauptfürsorgestellen attributes the slightly worsening situation to the shortage of personnel which makes a sustainable work in the field of preventive accompanying support almost impossible, especially at times when continued employment is at higher risk to the entire work force (AGDHFS, 1996, p.25).

I.3.2 Financial incentives directed at employees whose continued employment is at risk because of disability

Wage-cost subsidies, which are provided to employers, have been described in the context of financial incentives to enterprises in section I.2.3. In terms of job retention, they are the most prevalent subsidy.

In addition, employment offices generally promote and financially support vocational rehabilitation measures and efforts to obtain or retain a job. The respective provisions cover, among other things, the reimbursement of costs resulting from job applications, travelling expenses, getting self-employed, running and maintaining of a motor vehicle, or purchasing necessary technical working aids (ZB Info, 1997, p.IV). These provisions are available to every employee in need including those who are severely disabled and

persons of equal status. They are not exclusively directed at disabled employees or at job retention; however, it is quite possible that they concern both.

Another group of financial incentives that is directed at employees whose continued employment is at risk because of disability is the share of supplementary assistance in the working and professional environment which is particularly directed at employees. This kind of assistance is implemented by the Hauptfürsorgestellen or on their behalf by local funds (local Fürsorgestellen) in close cooperation with the Federal Employment Office (BMA, 1996, p.143). Similar problems of categorizing arise, however, only with respect to the goal of job retention since the target group is clearly confined to disabled employees. The financial incentives provided by both the employment offices and the Hauptfürsorgestellen, their characterization in terms of job retention and return to work as well as the take-up of these provisions will be discussed in more detail in section I.5.1, which includes information about the overall extent of payments made. Vocational rehabilitation is also discussed in Part III.

I.3.3 Programmes which support a move to another employer or to self-employment

The Hauptfürsorgestellen provide financial support for disabled people who plan to establish their own business (in 1995: 3.7 million DM; see I.5.1). On certain conditions (§ 21 Subsection 1 of the Regulation) they can receive small business loans or subsidies for the payment of interest on bank loans. In addition, disabled persons who have become unemployed can use general provisions from labour offices to promote setting-up as self-employed (§ 55a of the Labour Promotion Act).

The Labour Promotion Act also provides a multitude of financial aids to promote the taking up of work. The labour offices grant financial support to compensate for application costs, travelling expenses, removal costs, and expenses for journeys home to the family, for example (cf. §§ 6-15). The Hauptfürsorgestellen and rehabilitation funds pay subsidies for the purchase of motor vehicles (§ 20 of the Regulation), the necessary modifications of their fittings, and for getting a driving licence. These subsidies are intended to increase disabled people's mobility and thus job opportunities (and the move to another employer respectively).

I.4 BENEFICIARIES

I.4.1 Impact of definitions of disability and eligibility criteria on access to and coverage of policies

Definition of disability

There is no universally applicable definition of disability. Particularly as regards the access to the assistance by the different institutions the 'required standards' vary significantly among them. However, a three-tiered definition, based on the proposals of the World Health Organisation (WHO), is becoming increasingly established. It says, that 'disabled persons are all persons who suffer from the consequences of the effects of a physical, mental or psychological condition which is not typical for the respective age, and where the consequences are not merely of a temporary nature. The 'not typical condition' is defined as the loss or impairment of normally existing physical, psychological or mental structures'. The definition thus includes

all the three (English) terms 'handicap', 'disability', and 'impairment'. 'This definition is to be found in Section 3 of the Severely Disabled Persons Act, and also in those cases where a more differentiated definition of the terms is additionally required for the application of specific regulations' (BMA, 1996, p.11).

As was mentioned in the introduction to this Part, the Severely Disabled Persons Act define its target group as people with a disability of at least 50 per cent, or 30 to 50 per cent in the case of people who are unable to find or hold down a job because of disability. However, problems arise because of the complexity of the whole phenomenon of disability and a lack of clarity about people entitled to assistance and legal benefits. The German expression '*Behinderung*' does not distinguish between the three related aspects 'impairment', 'disability', and 'handicap'. The formal acknowledgement of disability and registration results from medical diagnosis. This can, at the most, state an impairment of physical, psychological or mental structures and the resulting disabilities, the latter meaning limitations of functions. These limitations, in turn, reduce personal performance in certain areas of life. Such consequences of disability might differ significantly even among people with exactly the same limitations of functions, i.e. the same disability can lead to very varying degrees of handicap among those suffering from it. For example, 'the loss of the left middle finger would hardly prevent civil servants from exercising their occupations, however, it is of very serious consequence in the case of a violinist' (BMA, 1996, pp.11, 13). The degree of disability thus does not say much about the handicaps involved, and about the reduction in a person's fitness for work respectively (ZB Info 3/96, p.13).

That is why the term 'reduced earning capacity' was replaced by 'degree of disability' in the amendment of the Severely Disabled Persons Act in 1986. Thereby, a false connection between specific impairments and disabilities on the one hand, and a general limitation in working life should be avoided (Thornton and Lunt, 1997, p.117). However, the Severely Disabled Persons Act provides for promoting and protecting measures which are directly related to working life (see above). Consequently, these measures might not be necessary since, in many cases, integration in working life is largely possible without any special provisions of the law. Considering the negative effects of special protection on the recruitment decisions of employers (special protection against dismissal, extra five days' leave, obligation to adapt workplaces) and the stigmatizing effects of the disability status which work against integration, the partial mismatch of the provisions of the Severely Disabled Persons Act and its eligibility requirement (degree of disability) is a shortcoming in the design of the law. The mere change in terminology by the amendment of 1986 has not removed the fundamental problem.

On the other hand, this problem might be defused by the fact that registration is voluntary. That grants at least some scope for flexibility. Employees whose disability does not limit their working productivity, for example, might be better off without a formal acknowledgement of their disability (cf. Isenberg, 1996, p.45). On the other hand, they would then forego other benefits, such as the free conveyance of severely disabled persons by local public transport or concessions given with regard to postal and telecommunications services. That there is significant scope to subordinate the decision about registration to one's own preferences (resulting from the mismatch between the degree of disability as the eligibility criterion and the provisions of the Act relating to employment), is shown by the occurrence of so-called registration campaigns (cf. I.1.2).

Outside the realm of the Severely Disabled Persons Act and its provisions, different understandings of disability are applied. The Labour Promotion Act and the labour offices as the implementing institutions offer many kinds of assistance and aids irrespective of a person's official disability status. With regard to eligibility, it is sufficient that some kind of disability permanently reduces the opportunities of being integrated in working life (Semlinger, 1985, p.27 f.). Access to measures of vocational rehabilitation financed by the labour offices does not require the registration as a severely disabled person either (BMA, 1997a, p.11). However, if disabled people with a degree of disability of 30 to 50 per cent are unable to find or retain suitable employment because of their disability, the employment offices can accord them equal status with severely disabled people upon application (Thornton and Lunt, 1997, p.117). Against the background of the worse financial situation, a new Labour Promotion Reform Act which came into force in January 1997 substituted discretionary decisions taken by the employment offices for the legal entitlement to paid measures of vocational rehabilitation. As a consequence of the strong protest against this, the legal entitlement was for the most part restored (from 1 April 1997). However, this entitlement remains tied to the budget of the responsible employment office (BMA, 1997a, p.10 ff.; personal communication/Aktion 16).

Other funders of medical and vocational rehabilitation, such as the Statutory Accident Insurance, have different eligibility criteria relating to disability. As regards the extent of the inclusion and coverage of their programmes, they usually act on their own discretion. In doing so, they refer both to medical aspects and often additionally to the labour market situation (availability of vacancies) (Semlinger, 1985, p.3).

Benefits 'are also available in many cases to persons who are in danger of becoming disabled in accordance with individual requirements. Therefore, in the case of medical and employment promotion benefits for rehabilitation, persons who are in danger of becoming disabled receive the same treatment as those whose disability has already manifested itself' (BMA, 1996, p.13).

I.4.2 Disabled workers who benefit and those who miss out

The preceding section has shown that the group of disabled workers which benefits from job retention policies in general is quite heterogeneous and certainly not confined to those people who meet the eligibility criteria of the Severely Disabled Persons Act. However, this Act contains the most explicit forms of retention policies aiming at disabled people. Besides, the concerned group of disabled people is statistically documented relatively well since all the provisions of the Act can be assigned to a clearly defined group of disabled people (according to the legal definition in the Act).

At the end of 1995, almost 6.5 million people in Germany were severely disabled according to the definition of the Act (i.e. eight per cent of the total population) (ZENTRAS, 1997, 1), of which the degree of disability) was as follows (ZENTRAS, 1997, 6):

Table I.1: Degree of disability

<i>Degree of disability</i>	<i>Per cent</i>
50 - 60	28.4
60 - 70	16.2
70 - 80	12.1
80 - 90	13.8
90 - 100	5.6
100	23.9

The majority of severely disabled people are more than 60 years old (63.6 per cent); 34 per cent are between 18 and 60 years old (ZENTRAS, 1997, 6).

Job retention policies, though, only apply to the sub-group of severely disabled employees. In 1995, this sub-group included 927,410 persons (ZENTRAS 1997, 27). Only taking into account severely disabled persons whose employer has at least 16 employees altogether (that is 737,134 persons), the distribution among economic sectors in 1995 was as follows:

Table I.2: Distribution among economic sectors, 1995

	<i>Per cent</i>
manufacturing	31.1
regional administrative bodies, national insurance services	22.5
trade	18.1
transportation and communication	7.7
building and construction	7.1
banking, insurance	3.8
non-profit organizations (incl. private households)	3.7
energy, water-supply, mining	2.8
agriculture, forestry, fisheries	2.6
	0.5

A large number of disabled people benefit from job retention policies independently of registration as a severely disabled person. The national employment offices, in particular, promote the job retention of people with disabilities in general, as long as they are considerably handicapped by these at work. They do not require a certain degree of disability to be determined in a formal procedure.

The position of women

In 1995, 3,042,627 of the total of 6,496,533 severely disabled persons (in terms of the legal provisions of the Severely Disabled Persons Act) were female, a share of more than 46.8 per cent (ZENTRAS, 1997, 4).

However, there is a larger share of women in the New Länder who have received official acknowledgement of the status of being severely disabled (about 50 per cent of all severely disabled persons). These gender proportions have not changed much over the past years (Henninges, 1997, p.4).

According to the *Mikrozensus* statistical survey in 1995, there were about 930,600 severely disabled people in employment, of whom 331,200 (or nearly 35.6 per cent) were women (source: personal communication from IAB). Of this group of women:

- 34.4 per cent were wage earners (see II.1.5 for discussion of classification) - compared with 48.3 per cent of severely disabled employed men;
- 52.2 per cent were salaried employees (men: 33.9 per cent);
- 5.5 per cent were self-employed (men: 9.2 per cent);
- 46.0 per cent were in relatively low positions in the job hierarchy: that is non-skilled workers, office workers and typists (men: 32.5 per cent) (although about half of all employed severely disabled persons are trained in some way);
- only 64.4 per cent work full-time (men: 91.0 per cent);
- 33.3 per cent were employed in public administration (men: 23.9 per cent).

As compared with men, women are only employed within a relatively narrow range of jobs like office work/typing (28.3 per cent), counselling (17.8 per cent), catering/ accommodation/cleaning/packaging (17.2 per cent) (Henninges, 1997, p.10, table 11).

In 1995, there were 3,611,921 people who were registered unemployed in Germany. 176,118 of them were severely disabled (4.9 per cent), of whom 60,134 (34 per cent) were women. Since 1992, the number of disabled persons who are registered unemployed has increased. Women have been relatively more affected by that than men (Henninges, 1997, p.11).

Whilst severely disabled men who are unemployed are at least trained as well as unemployed non-disabled men (54 per cent have completed some kind of formally acknowledged training compared to only 44 per cent of non-disabled unemployed men), unemployed severely disabled women are - on average - less trained both than unemployed men and non-disabled women. Forty-eight per cent of them have not completed any kind of training (Henninges, 1997, p.15).

The average duration of unemployment was (in 1996) 12.5 months for severely disabled women compared to 13.2 months for severely disabled men. For both groups this was not only much longer but also reversed with regard to gender compared to non-disabled people (women: 7.1 months, men: 5.8 months) (Henninges, 1997, p.17).

The group of severely disabled women is characterised by lower rates of return to work compared to the respective group of men. Both groups have been affected by the worsening labour market situation. In 1990, for 33.2 per cent of the unemployed severely disabled women the period of redundancy was concluded by return to work (men: 42.3 per cent); this share was only 17.4 per cent in 1996 (men: 21.0 per cent) (Henninges, 1997, p.18, tab. 21, 22). A share of unemployed severely disabled people undergo medical assessment to find out the extent to which their labour productivity is restricted because of

disability. The analysis of the results shows that severely disabled women are - and this is true for all age categories - more restricted than the respective group of men ('considerably restricted': women 29.3 per cent, men 26.2 per cent in 1995). This result corresponds to a different distribution of disabilities among women and men. For both groups, considerable restrictions correlate with age (Henninges, 1997, pp.37, 39).

The statistics on occupational rehabilitation benefits granted by the Federal Employment Office allows a gender-related distinction among the group of beneficiaries. According to these, the integration assistance paid out in 1996 (totalling almost DM 55.5 million) went to 1,261 women (or 29.2 per cent of all beneficiaries, compared to 3,062 men). In the same year, 2,946 cases of granting benefits for the recruitment and employment of severely disabled persons (according to paragraph 33 section 2 of the Severely Disabled Persons Act) were women (a share of 32.4 per cent of all cases, compared to 6,155 men). Referring to the 73,164 cases where benefits of this programme were received between July 1986 and February 1997, the gender proportion was 32 per cent (women) compared to 68 per cent (men) (Statistisches Bundesamt, 1997a, ST 37 and ST 36).

As regards completed vocational training measures, the share of women was as follows:

Table I.3: Vocational training measures

Year	<i>Federal Employment Office</i>		<i>Statutory Pension Insurance</i>	
	Total	Women (in %)	Total	Women (in %)
1994	37,233	34.0	23,661	28.2
1995	37,420	34.1	31,619	26.7
1996	39,338	33.9	46,186	26.9

Among the training measures provided in special retraining centres, the share of women was on average 20.2 per cent (25.3 per cent in the New Länder). However, the share varies considerably with regard to the different employment sectors (for example: 47.6 per cent in health services, 35.7 per cent in administration, 7.5 per cent in electronic data processing, 2.7 per cent in electrical engineering, 2.1 per cent in metal processing) (Bundesregierung, 1997, p.62 f.).

The effects of enterprise size

As noted in I.2.1, the obligation to employ a minimum of six per cent disabled workers only applies to employers with a workforce of 16 or more.

The most recent calculation of workplace numbers within the economy as a whole was conducted in 1987 and only applied to West-Germany. The categories that were used only distinguish between enterprise sizes of 1-9, 10-19, 20-499 and 500 and more employees. The table below shows the proportions of the total number of employees in different economic sectors in the first two categories:

Table I.4: Proportions of enterprises with less than 20 workplaces, in different sectors

<i>Sector</i>	<i>Total people employed</i>	<i>1-9 employees (in %)</i>	<i>10-19 employees (in %)</i>
Manufacturing	8,581,947	10.2	6.8
Services	4,474,212	48.7	11.9
Trade	3,878,928	37.6	11.3
Building and construction	1,864,592	28.2	19.4
Transportation and communication	1,513,583	12.7	5.9
Banking, insurance	979,435	14.1	2.1
All sectors	21,915,838	24.8	9.4

Source: Statistisches Bundesamt 1997b, p.132.

The data show that the largest proportions of employees in enterprises with less than 20 workplaces were found in the service sector (excluding banking and insurance); in this sector, 60 per cent of employees were in smaller firms and most of those employees would not be affected by the legal provisions of the Severely Disabled Persons Act. The employment situation is quite similar in the trade and building/construction sectors, where enterprises with less than 20 workplaces employed 48.9 per cent and 47.6 per cent respectively of all employees in these sectors. Across the economy as a whole, 34.2 per cent of all employees were employed in enterprises with less than 20 workplaces.

The number of people who meet the definition of disability under the Severely Disabled Persons Act who work in small firms with less than 16 workplaces is ascertained only about every five years, most recently in 1994. At that point, this number was 107,500, which was 12.7 per cent of all employed severely disabled people compared to 112,600 in 1990 (12.7 per cent, too) and 69,500 in 1985 (7.7 per cent) (ANBA, 1996a, p.117). In the New Länder, there was an additional number of 22,700 severely disabled persons employed in firms with less than 16 workplaces (1994), so that for all Germany the respective number is 130,200 (Henniges, 1997, Appendix tab. 15A/15B).

On the other hand, the total number of severely disabled people who are employed by enterprises which are *not obliged to do so* according to the Severely Disabled Persons Act, and as it is used in the political discussion, is much higher than that (even though the underlying calculation is not completely correct). The reason is that the number includes all severely disabled persons who are employed by enterprises beyond their actual obligation. The *Institut der deutschen Wirtschaft* estimated this number to be 87,000 (iwd, 1996, p.3). However, the head of the Association of German Hauptfürsorgestellen estimates the number of severely disabled persons who are employed by employers without an obligation to do so at 215,000 (which includes the number of severely disabled persons employed in enterprises with less than 16 workplaces - cf. preceding paragraph) (ZB Info 4/97, pp.12-13).

In their analysis of the effects of the Severely Disabled Persons Act, Sadowski *et al.* (1992) compare the actual employment quota of enterprises where the employment obligation applies to those where this is not

the case. According to 1989 data issued by the Association of German Hauptfürsorgestellen and to some surveys, there was no big difference between enterprises with less than 16 workplaces and those with 16 to 29 workplaces. This result is interpreted as an indication that the legal provisions (employment quota and compensatory levy) are not very effective in fostering the labour market integration of severely disabled people. Instead, anticipated costs and revenues of the employment of disabled workers are considered to be much more relevant for the decision to actually employ severely disabled persons.

In the same study (Sadowski *et al.*) the relation between enterprise size and recruitment of disabled workers is analysed. According to that, enterprise size is positively correlated with the quota of internal recruitment. This might be traced to the fact that big companies have - on average - more opportunities to retain and internally redeploy employees who become disabled. However, the fact that the quota of internal recruitment increases with company size is mainly due to worker participation, which is usually stronger in bigger enterprises, and also depends on the respective branch (higher in manufacturing compared to services) (Sadowski *et al.* 1992, p.64 ff.). As regards external recruitment (from the general labour market), the situation is complementary. Enterprises with less than 100 workplaces are characterised by a relatively higher quota of external recruitment than larger firms. The latter tend much more to establish internal company labour markets, so that the potential of workplaces that are suitable for workers whose work capacity is restricted because of disability is mainly designated for internally recruited people. Besides, larger firms often pay their workers efficiency wages. The difference from the average wages paid can hardly be compensated by the wage subsidies offered by employment offices to promote the employment of severely disabled persons (Sadowski *et al.* 1992, p.74 ff.).

Regarding the combined effects of both internal and external recruitment, the overall correlation between enterprise size and the employment of severely disabled persons is positive. That means that the share of severely disabled persons among all employees is higher the more workers a firm employs (this is proven by the data for the average actual employment quota for the period of 1984 to 1993, except the enterprise size of 10,000 to 50,000 workers, for which the actual employment quota shows a slight decline). This result is supported by focusing on the group of non-complying employers: of the 54,215 employers who were obliged to fulfil the employment quota but did not employ any severely disabled person in 1992, 61.4 per cent belonged to the enterprise size of 16 to 30 workers, 36 per cent to 30 to 100 workers, and only 2.6 per cent to the size of more than 100 workers. That an increasing employment quota coincides with rising enterprise size can be traced to a lower average burden that larger firms have to bear in employing severely disabled people. Larger companies usually have a wider range of employment opportunities and types of workplaces, so that employees with health limitations can be retained relatively easily without a considerable decline in total work productivity. Since the fulfilment of the six per cent employment quota means that larger enterprises have to employ more severely disabled persons in absolute terms than smaller firms, the former can benefit much more from economies of scale in connection with the adaptation of workplaces and the work environment to meet disabled persons' specific needs. Finally, larger firms are usually less affected by business cycles and - as mentioned above - much more inclined to establish internal company labour markets. Both aspects are generally associated with greater opportunities to retain workers (Schröder, 1997, p.145 ff.).

In his study of the compliance costs which arise from legal provisions concerning the employment of disabled persons, Schröder (1997) argues, on the grounds of statistically significant differences in the

average actual employment quota among different classes of enterprise size, that legislation would have to distinguish between at least four different enterprise sizes (instead of only two) in terms of employed people: 0 to 30, 31 to 100, 101 to 500, and 500 and more. High values of standard deviation, though, indicate that the derived extent of necessary differentiation is only a rough approximation to the actual need for differentiation. Besides, Schröder emphasizes that the extent of differentiation derived in his study only refers to (locally separated) production sites, because a large company consisting of several, locally separated production sites has relatively less opportunities to benefit from economies of scale in the adaptation of workplaces and the work environment. Moreover, they cannot offer such a wide range of different types of workplaces, nor such well established internal company labour markets compared to companies with the same number of workers, yet united at one production site (Schröder, 1997, p.149 ff.). Schröder sees a general need for additional differentiation in legislation in relation to the different possibilities of enterprises to employ disabled people (with regard to size, branch, type of workplaces, firm age) and the different work productivities of severely disabled persons (Schröder, 1997, p.139 ff., 237 ff.).

Groups not covered

The following groups do not benefit from the job retention policies stipulated by the Severely Disabled Persons Act:

- unemployed severely disabled persons. In 1996 these totalled 181,250, with 67 per cent in West Germany being male (ZENTRAS, 1997, 40, 43, 51). In September 1995, around 63 per cent of unemployed severely disabled persons who were officially registered at employment offices in West Germany were aged over 50 (ZENTRAS, 1997, 50);
- severely disabled persons who do not belong to the labour force. In 1995, around 5.39 million severely disabled people were neither employed nor registered as unemployed. At the end of 1995, they accounted for 83 per cent of all severely disabled people;
- severely disabled people who have been assigned a disability degree of less than 50 per cent, and all disabled persons who have not applied for registration. Their number has not been statistically ascertained (cf. Bundesregierung: Behindertenbericht, 1994, p.2 f.).

I.5 JOB RETENTION POLICIES IN CONTEXT

I.5.1 The salience of policies for job retention within the overall context of national policy to promote the employment of disabled people

Since 'job retention' and 'access to work' are not used as main criteria to distinguish the different measures of policies to promote employment of disabled persons, the weighting of the available statistical data with regard to these two policy aims is not always easy. The aids and benefits which are documented in pecuniary terms, and therefore clearly quantifiable, can often be assigned to both policy fields (see I.2.3). Put differently, the available data do not always reach a level of being sufficiently disaggregated to make a clear distinction between the two purposes of job retention and access to work. Secondly, many efforts

resulting from policy for disabled people are not clearly quantifiable in pecuniary terms which would make a direct comparison possible (like the special dismissal procedure). Their relative importance in the overall context of national policy thus has to be estimated by referring to different elements of documentation.

It is difficult to talk about an overall design of national policy to promote the employment of disabled people in general, especially with regard to job retention. Since the responsibility for the promotion of disabled persons is assigned to various funds⁶ and institutions, the orientation of policies and provisions differs according on the respective constitutional principles. In addition to the funds, the different Acts which affect disabled people (Severely Disabled Persons Act, Rehabilitation Harmonization Act, Labour Promotion Act) all have their own characteristic bias in dealing with this target group. For the area of rehabilitation services, the differences in the relative priority accorded to job retention (as compared with return to work or first time entry to employment) are discussed in detail in III.1.2.

In this section, the welfare agencies of the Länder (Hauptfürsorgestellen) will be used as an example to illustrate the difficulty of assessing the importance of job retention compared to other goals (such as access to work) within the overall range of provision. The Hauptfürsorgestellen are the most important institution in promoting the employment of disabled people. Other major funds, such as the Federal Employment Office or statutory pension insurance, assist disabled people to retain their jobs or return to employment; however, disabled people represent only a fraction of all their clients.

In 1995, the Hauptfürsorgestellen spent more than 716 million DM in all. The highest share (more than 50 per cent) is apportioned to the so-called supplementary assistance in the working and professional environment. The intentions are to ensure that the social status of severely disabled persons does not decline, that they are employed in jobs in which they are able to fully use and develop their skills and knowledge, and that they are able to assert themselves at work and in competition with non-disabled persons (BMA, 1996, p.143). More than two-thirds of this share are payments to employers. Job retention can be said to occupy the central position among these subsidies (see table).

Table I.5: Payments by the Hauptfürsorgestellen in 1995 (million DM/percentage of total expenditure)

Altogether	716.24 (100%)
Including: supplementary assistance	359.72 (50.2%)
Including: to employer	247.80 (34.6%)
Including benefits for:	
creation of jobs and training places	95.00 (13.3%)
adaptation of work and training places	74.26 (10.4%)
minimising extraordinary difficulties arising from the employment of particularly severely disabled persons	78.63 (11.0%)

⁶ In this report, the German term *Träger* has been translated as 'fund'. However, the term refers to institutions whose responsibilities extend beyond financing. Pension insurance funds, for instance, run their own clinics.

Whilst the item relating to creation of workplaces and training places is supposed to aim at the creation of 'new', i.e. additional, vacancies, the next one ('adaptation of workplaces and training places') is pointed at the modification of existing work and training places (AGDHFS, 1994, p.58). Thus, only the second can clearly be assigned to job retention (payments belonging to this category are also ascribed a preventive function; AGDHFS, 1994, p.59). Nevertheless, the creation of a new workplace adequate for the needs of a disabled person might be related to the redeployment of a newly disabled employee whose employment relationship would be at risk otherwise. Payments for this purpose may therefore serve both access to work and job retention. (See also I.2.3 in relation to financial mechanisms and V.4.1 concerning the quality of jobs for people who are redeployed within the same workplace.)

The third item ('compensation of extraordinary burden') basically stands for wage subsidies. They are paid in the longer term since they are determined to compensate for reduced productivity and a particular necessity of looking after employees because of disability which cannot be compensated by technical working aids or other kinds of support and which would lead to job loss otherwise (AGDHFS, 1994, pp.58, 60). The payments of supplementary assistance to employers are combined with advisory services by the Hauptfürsorgestellen about the available support measures and about technical issues concerning, for example, the modification of workplaces. Employers often show some reservations in taking up such advice services (see also I.2.3).

More or less the same emphasis is put on payments to disabled employees and to non-profit organizations in relation to category of supplementary assistance (in 1995).

Table I.6: Supplementary assistance

Including:	
to non-profit organisation	54.10 (7.6%)
to severely disabled people	51.00 (7.1%)
Including assistance for:	
technical working aids	11.36 (1.6%)
reaching the place of work	6.20 (0.9%)
promoting economic independence	3.67 (0.5%)
equipping the home to meet the needs of the disabled person	23.96 (3.4%)
maintaining employment	0.12 (0.02%)
vocational training	3.53 (0.5%)
special requirements resulting from disability	2.16 (0.3%)
Other measures	6.82 (1.0%)

The non-profit organizations (independent funds) provide additional psychological and social care as part of a supplementary assistance programme in the working environment. They represent external services under the instructions of the Hauptfürsorgestellen. Their work can be clearly assigned to job retention.

Almost 42 per cent of the payments of accompanying support to severely disabled people (21.21m DM, or about three per cent of total expenditure) is directly aimed at job retention (technical working aids, transportation, maintaining work productivity, vocational training). This does not mean that the remaining payments are directed towards access to work. The highest amount is spent on subsidies for housing that is equipped to accommodate disabled persons. The Hauptfürsorgestellen take charge of this only because there is no other institution to ensure sufficient support in this field of rehabilitation (AGDHFS, 1994, p.54). The amount spent on technical working aids seems to be quite insignificant at first glance, but it has to be considered that money for working aids is only granted to disabled employees in exceptional cases. The incentive to retain disabled workers is considered to be generally higher if these subsidies are granted to the employers (AGDHFS, 1994, p.53 and 1996, p.17).

The remaining categories of financial support given by the Hauptfürsorgestellen, and the payments made for them in 1995, are shown in the following table:

Table I.7:

Special programmes to promote the recruitment of disabled people	78.60 (11.0%)
Promotion of institutions for the integration of disabled people	258.90 (36.2%)
Training and public relations	7.70 (1.1%)
Support of research and experimental projects	11.32 (1.6%)

The special programmes are related to particular regions. According to § 33 subsection 3 of the Severely Disabled Persons Act, the Hauptfürsorgestellen finance these programmes and the Federal Labour Office carries them out. The subsidies are intended to reduce the rate of unemployment among disabled people through the creation of additional employment opportunities and promoting access to work. The Labour Offices use the money to increase employers' incentive to hire disabled persons. These programmes have increasingly gained importance since 1993, which means that the Hauptfürsorgestellen have allocated more money to financing the activities of the labour offices. The Hauptfürsorgestellen thus try to prevent the labour offices from reducing their efforts for the integration of disabled people into the labour market at times of high general unemployment and reductions in measures of general labour promotion (under the Labour Promotion Act) (AGDHFS, 1994, p.58 and 1996, p.20).

More than a third of the total expenditure of the Hauptfürsorgestellen is assigned to the promotion of institutions for the integration of disabled people, above all for sheltered workshops (1995: 140.27 million DM, i.e. 54.2 per cent of all the payments within this category) and for special residential areas for disabled people (1995: 87.62 million DM, i.e. 33.8 per cent of all payments within this category). Besides, the

Hauptfürsorgestellen subsidize institutions within and outside enterprises which are related to vocational training (1995: 23.03 million DM) (AGDHFS, 1996, p.24). However, this kind of support is not directly related to job retention. As far as sheltered workshops are concerned, it is not even compatible with the goal of retention, since these institutions do not belong to the regular labour market and they hardly facilitate the transition to a regular employment relationship.

§ 14 of the Compensatory Levy Regulation determines how the different kinds of support should be weighted. According to this, promoting the creation of training vacancies and supplementary assistance in the working and professional environment must be given priority. Against this background, the relatively high share of payments to external institutions, as described above, seems to be in conflict with the legal stipulation since they appear to shift responsibility and duties onto others. The Association of the German Hauptfürsorgestellen is aware of this problem. In its annual report of 1993, it refers to the time it takes between approval and balancing/reckoning up. A higher number of staff would enable the Hauptfürsorgestellen in the future to primarily grant subsidies to employers and disabled persons themselves, which simultaneously means reducing payments to other institutions and thus to better comply with their priority task (AGDHFS, 1994, p.66). However, the volume of payments to other institutions has risen from 187.61 million DM in 1993 to 258.90 million DM in 1995. The annual report of 1996 states that the conflict of aims, relating to § 14 of the Regulation (i.e. the 'wrong' setting of priorities) was easier to solve in times when the revenue exceeded expenditure (AGDHFS, 1996, p.23).

The actual problem still seems to be a shortage of personnel, which forces the Hauptfürsorgestellen to restrict their own activities and to finance those of other institutions. As a consequence, job retention and the creation of additional vacancies in regular enterprises for disabled people cannot be pursued as intensely since they are not primary goals of the subsidized institutions (like the sheltered workshops). The shortage of personnel, on the other hand, results from the way the Hauptfürsorgestellen finance their activities: the money for all the payments and subsidies they make stems from the revenue from the compensatory levy, while the entire administration and the personnel respectively is financed by the Bundesland they belong to. At times of high public debt and an increasing pressure to take austerity measures, the Bundesländer strive to particularly economize on personnel because this is considered to be a main cost centre. That is also why the staffing and thus the working conditions are different for the Hauptfürsorgestellen among the individual Bundesländer (AGDHFS, 1995, p.5).

The expenditure for training measures can be assigned to the scope of job retention efforts. The training events seek to inform the disabled employees' representatives (both elected ones and those appointed by employers) and the works councils about the legal provisions, in particular about the Severely Disabled Persons Act. In addition, these events are supposed to foster the exchange of experiences and to give participants the opportunity to acquire communicational and social skills which they might need to fulfill their tasks in the enterprises. There are also special events about specific topics like the adaptation of workplaces, social security etc., or for specific groups (for example events only for employers or for deaf employees) (AGDHFS, 1994, p.96). In 1995, the Hauptfürsorgestellen were involved in 1,372 training measures from which they carried out 654 entirely on their own. That this number has increased considerably compared to the preceding two years has to be traced to the election of the new disabled employees' representatives at the end of 1994, so that there was a need of acquiring basic knowledge for their new task (AGDHFS, 1996, p.31).

Conclusion

From all the payments the Hauptfürsorgestellen made in 1995, only around a fifth can be directly assigned to the goal of job retention: that is, payments for the adaptation of workplaces, training vacancies, psycho-social assistance by non-profit organizations, payments to severely disabled employees for technical working aids, transportation, maintaining work productivity and vocational training, and payments for the training of works' councils. However, around another 25 per cent of the entire expenditure might potentially serve the goal of job retention as well, that is payments for the creation of workplaces and training vacancies and for the compensation of extraordinary burden (wage subsidies). Moreover, there are two reasons which suggest that job retention is given the relatively highest priority in the work of the Hauptfürsorgestellen:

- Even though the share of expenditures directly assigned to job retention seems to be relatively small, one cannot draw the conclusion that all other payments are devoted to the promotion of access to work. This is only the case for 11 per cent of the entire expenditure (payments for special programmes to promote the recruitment of disabled people). Around another 25 per cent are at least partially intended to promote access to work (the same categories as above: creation of workplaces and training vacancies and compensation of extraordinary burden, i.e. wage subsidies);
- The activities of the Hauptfürsorgestellen are - by far - not confined to payments. Instead, being the crucial authority in the dismissal procedure concerning disabled employees clearly stands out as the main function. (The performance of the Hauptfürsorgestellen in this respect is documented under I.3.1.) The related activities belong to the scope of job retention, but they cannot be quantified in pecuniar terms and a direct comparison with the volume of payments to work out their relative importance is not possible. In addition, the sources of financing are different: while the money for the payments granted by the Hauptfürsorgestellen stems from the revenue of the compensatory levy, the personnel who are involved in dismissal procedures are paid by the Bundesländer. The latter payments can much less be related to a certain output. The same applies to all the enterprise visits (in 1993 there were more than 35,000/AGDHFS, 1994, p.56; more up-to-date data are not available) and the counselling of severely disabled persons by the Hauptfürsorgestellen. It is a commonly held opinion that the scope of services and the establishing of close contacts with enterprises will be of increasing importance in the future. This requires a more active role by the Hauptfürsorgestellen, compared with the relatively 'passive' confinement to just approving payments (see, for example, AGDHFS, 1996, p.9).

I.5.2 The most prominent job retention policies

Of the job retention policies listed under I.2, legal obligations (see I.2.1) play the most important role. The higher importance of legal provisions, as compared with financial incentives and voluntary policies, corresponds with general traits of regulative systems in Germany. The culture of the national system - if something like this exists at all - is commonly said to be characterised by putting more emphasis on compulsion and regulation than on encouragement and persuasion. Another feature in this context is that regulations often refer to a very disaggregated level (even relatively minor details are subject to legislation and administrative activities), so that the whole body of regulation in a given area becomes very complex. One might speculate whether the complex body of regulations concerning the integration of disabled people

is necessary because the social situation of this group would otherwise deteriorate considerably, or whether the multitude of regulations and legal obligations chokes initiative of one's own, and of private enterprises in particular. An international comparison of different regulative systems might help to clarify this question. Studying enterprise strategies (in Part V) might also give information about how far the legal framework leaves space for activities in favour of disabled employees at the level of individual enterprises. A lack of well-documented, formalized enterprise strategies does not mean that efforts for the integration of disabled employees are insufficient. Nor is it a 'bad' sign if no standards in the treatment of disabled employees evolve at enterprise level so that only individual strategies can be reported in case studies.

The groups of disabled people covered by policies concerned with integration into work, at both a legislative and an enterprise level, are highly heterogeneous. In principle, decentralized activities have a much better chance of corresponding to a heterogeneity of phenomena - which is a point in favour of individual and varied enterprise policies concerning disabled employees. However, it can be questioned whether there is enough incentive for employers to chance employing disabled people. A legal framework, though, which does not confine itself to the stipulation of certain procedures but which also lays down specific outcomes, and which also claims to do justice to the entire group of disabled people, necessarily has to be very complex.

There are at least two more reasons why retention policies in Germany are more biased towards legal obligations and state regulations than towards exclusively setting incentives for enterprises:

- The present shape of integration policies and their related institutions is deeply rooted in German history. It is founded on a relatively long tradition which - of course - was first confined to people disabled by war or industrial accident. Yet, when the protected group of people was extended to include all severely disabled persons irrespective of the nature or cause of their disability in 1974 (under the principle of finality; BMA 1996, p.179), legislation included the already existing - and highly differentiated - institutions for the integration of disabled persons. The high complexity is thus also a reflection of long tradition;
- As described under I.2.3, financial incentives like wage subsidies involve some general problems so that it is commonly held that they can just be an additional instrument to foster the employment of disabled people. Moreover, they must be combined with concrete legal obligations since it is doubted that there is a sufficient genuine incentive to take them up.

The legislation does not really distinguish between newly or already disabled people. The relevant criterion is just the status of being a severely disabled person according to § 1 of the Act. The Social Code (Book I, § 10) also includes people who are at risk of becoming disabled (see I.4.1).

As regards the policy attention given to the retention of newly disabled workers on the one hand and already disabled workers on the other, it seems that this is not the decisive criterion in policy. Rather, it obviously does make a difference to employers' behaviour whether the disability occurred during an existing employment relationship or not. Enterprise policies set different measures in treating disabled persons depending on tenure (internal vs. external recruitment) and cause of disability (whether it relates to work) (cf. I.1.2).

I.6 IMPLEMENTATION OF JOB RETENTION POLICIES

I.6.1 The effectiveness of institutional arrangements for monitoring and enforcement

As mentioned in I.2.1, the effectiveness of the provisions of the Severely Disabled Persons Act is partially limited since in many respects it turns out to be primarily a law of good will. This feature also sheds some light on the effectiveness of institutional arrangements for the monitoring and enforcement of the job retention obligations resulting from the legal framework.

Some legal obligations are of such a general character that their fulfilment cannot be easily monitored. This applies, for example, to: the general obligation for employers to promote the employment of disabled persons which is laid down in § 14 of the Act and the related provision of adequate workplaces for disabled employees; the 'social right' to assistance (Section 10 of Book 1 of the Social Code); the examination of every vacant position for its potential for being filled with a severely disabled person; and the amendment to Article 3 of the constitution (cf. I.2.1).

On the other hand, the employment quota is much more concrete, and above all quantifiable. Its fulfilment is monitored by the Federal Employment Office, which ascertains the numbers of compulsory places, severely disabled persons and persons of equal status in employment (BMA, 1996, p.137). Employers are supposed to pay the compensatory levy to the Hauptfürsorgestellen of their own accord in the case of under-fulfilment. The levy has to be paid on an annual and backdated basis. Employers calculate the amount they have to pay because of under-fulfilment themselves, taking into account possible contracts to sheltered workshops for disabled people which they had awarded during the preceding 12 months and which they can count towards the compensatory levy. The Hauptfürsorgestellen are officially responsible for the raising of the compensatory levy (they are assigned most of the revenue, too; cf. I.2.1). For that reason, they receive data about the actual employment quota from the respective employment offices, by which they can check up on whether the payments by the companies of their district for not fulfilling the quota are reasonable. However, it seems realistic to assume that the Hauptfürsorgestellen must confine their monitoring to spot checks (source: personal communication/Aktion 16). It can be said that the actually realised employment quota both in the corporate and state sector is widely ascertainable. However, one has to consider the way the number of obligatory workplaces for severely disabled people is determined and the possibilities for counting existing employment relationships towards the quota (see §§ 7-10 of the Act) on the one hand, and the potential for many employers to internally recruit disabled employees on the other hand. The two combined may result in an increase of the fulfilment of the quota although the employment situation of disabled people has actually not changed much. Thus, even if monitoring and enforcement are relatively easy in practice, it may not be sufficient to actually reach the legal goals if these goals (relating to the improvement of disabled people's employment situation) are not adequately operationalized.

A much better realisation of legal obligations is possible in relation to procedural provisions such as the election of disabled employees' representatives and special protection against dismissal. Monitoring adherence to procedures is significantly easier than with outcomes which have to be operationalized. However, as outlined in I.2.1, the procedural provisions within the scope of retaining jobs for disabled employees are difficult to enforce because of insufficient possibilities of sanctions. Besides, employment offices, from which action against enterprises not observing the procedural provisions can be demanded,

find themselves confronted with a conflict of interests, i.e. a dilemma between fining enterprises and cooperating with them to achieve more access to work for disabled people.

It is one of the major tasks of the Hauptfürsorgestellen to monitor and enforce the special protection against dismissal. As has been shown in I.3.1, job loss still occurs in the majority of cases. Nevertheless, dismissals are made more difficult by the involvement of the Hauptfürsorgestellen by which the involved parties should be encouraged to more intensely look for opportunities to prevent dismissals. Measured against this more modest goal, the institutional arrangement to give special authorities (Hauptfürsorgestellen) the task of monitoring appears to be one of the more successful in contributing to the effectiveness of the enforcement of job retention obligations. It has to be added, though, that most of the approvals of applications for dismissal which the Hauptfürsorgestellen have to make are legitimized by the economic situation of the enterprise, and this is not always completely ascertained by outsiders.

The elected disabled employees' representatives (in enterprises with at least five permanent disabled employees) and works councils have to monitor that all legal provisions relating to severely disabled employees are observed. Compared with the employment quota and the special protection against dismissal, there is no additional legal authority for monitoring the election of disabled employees' representatives. The legal obligation to have such representatives is merely a right which can be claimed by the disabled employees. That disabled employees' representatives are actually not elected can often be traced to a - sometimes only alleged - lack of candidates who are willing to take on this honorary post. The duties which are connected with this post are then shifted onto the works council (if it exists). The latter is, indeed, responsible for effectively looking after the interests of severely disabled employees (section 80, subsection 1, clause 4 of the Works Councils Act), also taking into account that works councils usually have better opportunities to check whether all regulations relating to disabled employees are actually observed by the company. Yet, the particular status of a disabled employees' representative was introduced in 1986 because it was held necessary to complement the activities of the works council with respect to disabled employees and the related body of regulations. There are two more shortcomings in this context. First, as has been mentioned, not all severely disabled people try to get registered. As a consequence, the legal obligation to have a representative elected does not apply even though there may be some need for it. Secondly, in the case of many representatives, it is too much to expect that they should monitor the observation of all legal provisions. Both a lack of knowledge and time constraints often limit the scope of the representatives' activities.

I.6.2 Factors which affect the adoption of voluntary job retention measures and take-up of financial incentives by enterprises

The preceding description has made clear the perceived dominance of state-initiated job retention policies for disabled people in Germany, which manifests itself in the fact that the bulk of literature related to this topic confines itself to the effects of legislation and regulation on enterprises rather than dealing with corporate strategies to retain disabled workers. However, there are some interesting approaches to this in individual companies which will be examined in Part V. At this point, the enterprise perspective and the question of private initiative as regards job retention policies for disabled people focus more on the

reactions of the corporate sector to state policies, in particular to those which grant enterprises some scope for decision making (in, for example, the take-up of financial incentives).

For this purpose, some aspects of the preceding points should be stressed once again. Although the elements of the quota, compensatory levy and dismissal procedure have an obligatory character, they leave some scope for employers concerning the fundamental orientation of their retention policy. Basically, they have two options. If they decide to play only a passive role in the efforts for job retention, they will only take the most necessary measures, i.e. they will support job retention measures as long as these contribute to the extent to which the fulfilment of the employment quota is considered to be adequate from the employer's perspective. Since there are often plenty of opportunities to internally recruit disabled employees - especially in bigger companies and among older workers - the retention of somebody whose disability would require essential adaptations of the workplace for example might not appear to be worthwhile from a perspective which merely considers cost in strictly pecuniary terms.

Employers who want to contribute to job retention more actively tend to see the employment quota just as a kind of additional measure of their own efforts. They align themselves much more with the genuine intention of the goal of job retention. They do not see it just as a means of reaching a certain quota level, and of avoiding compensatory levy payment. Rather, they consider job retention policies to be an important variable which influences the social climate in the enterprise. This may, in turn, influence variables such as work productivity. So job retention policies and their effects on the social climate in the company may also be perceived as being highly relevant in pecuniary terms and for the firm's revenue. Against this background, employers may tend to adopt a broader job retention policy which goes beyond an orientation towards a narrow quota-levy payment calculation. The incentives for doing so then derive from a different approach to the calculation of corporate costs and revenues, which themselves underpin personnel policies (see Frick).

Such considerations help to explain the relatively low level of take-up of the financial incentives offered by state institutions (the employment offices and the Hauptfürsorgestellen in particular). The 'actively retaining' employers do not need them since their retention measures result from their own economic behaviour. Taking up this financial assistance would just lead to 'dead weight' effects. The necessary gathering of information and application process, as well as the involvement of external state institutions in corporate affairs, all of which are necessary to benefit from these mechanisms, are usually reason enough not to apply for financial assistance. For the 'passively retaining' employers the same reasons apply, although this financial assistance would make more sense in the light of their calculation of the 'profitability' of job retention. Their narrow understanding of cost, however, particularly diminishes their willingness to look more closely at the apparently confusing complexity of all the measures promoting job retention. As has been explained in I.2.3, there is a general reserve with regard to contacting supporting institutions. These institutions, in turn, neither have the personnel nor a credible reputation to present themselves as providers of services aiming at informing and counselling interested companies about available support and thus to overcome the reservations of the latter.

Finally, bridging the gap between supporting institutions and private enterprises through the work of disabled employees' representatives often fails because it tends to demand too much from a single person to do justice to all the tasks related to this position.

I.7 INTERACTIONS BETWEEN EMPLOYMENT POLICIES AND PROGRAMMES

I.7.1 Ways in which the employment policies complement or contradict one another

As discussed in I.4.1, the partial mismatch between the provisions of the Severely Disabled Persons Act and its eligibility requirement (degree of disability) has been presented as a shortcoming in the design of the law. The mere change in terminology by the amendment of 1986 has highlighted the underlying problem but has not removed it. Consequently, some disabled people benefit from protective and supportive measures related to working life even though they could do without. On the one hand, this causes scope for dead weight effects and dilutes the promotion of job retention. Resources may thus be misallocated. On the other hand, the social climate in the enterprise may be disturbed since obtaining the official status of being severely disabled is in many cases seen as something which can - to some extent - be influenced by the employees themselves. If this is true (and the registered employee could have continued a job easily without this registration), non-disabled employees will perceive the special protection against dismissal as well as the extra five days leave as unjustified protection which makes them relatively worse off themselves. This is, in fact, another aspect contributing to the negative stigmatization which is associated with disability status, and which discredits job retention policies in general.

I.7.2 Impact of the distribution of responsibility for employment policy

The institutional arrangement of complementing the obligatory legal provisions such as the quota and the dismissal procedure by offering support services to facilitate the observation of these stipulations appears quite reasonable. However, as has been shown, problems arise from delegating both the monitoring of the legal provisions and the support services to the same body of institutions which, in addition, do not have sufficient personnel to overcome this problem by establishing well-founded cooperative relations.

As regards financial support for the job retention of disabled employees by either adapting workplaces adequately or by more or less permanently compensating for diminished productivity resulting from disability, there is a considerable overlap between the employment offices and the Hauptfürsorgestellen. As the eligibility criteria for sources of financial support are not always clearly determined and thus not separable from one another (cf. I.2.3), this situation causes a further reduction of transparency in the entire support system. This, in turn, increases the need for information and consultancy services from the provider institutions which encounter a general reserve on the part of enterprises for the reasons described above.

I.8 LINKS TO LABOUR MARKET FACTORS

I.8.1 Elements in labour market policies which influence the effects of job retention measures

The high level of general unemployment in Germany causes a continuous shift of focus in labour market policies away from the promotion of specific groups like disabled people. More and more, they become part of a target group which includes various groups of people who face particular problems in the labour

market (such as young, unqualified or older people, and women). This development is to be seen less in the context of concepts of normalization (in order to prevent the dysfunctional and stigmatizing effects of a specific promotion), and more in the context of a restructuring of institutional arrangements as a reaction to austerities in the public sector. On the other hand, it can definitely not be said to what extent this reorganisation means a relative cut in financially supporting job retention policies. The revenue from the compensatory levy still is a relatively stable funding base. The described shift in focus might therefore refer more to special programmes for generally disadvantaged workers (i.e. existing alongside the levy-funded activities) which disabled people may also benefit from.

However, disabled people have been directly affected by austerities which have had consequences for the Federal Employment Office. Changes in the Labour Promotion Act which had been initiated by a new law to foster economic growth (*Wachstums- und Beschäftigungsförderungsgesetz WFG*) caused cuts in the support of vocational rehabilitation measures in 1997 by turning the legal claim of disabled people for these measures into discretionary decisions taken by the employment offices. The expenditure of the Federal Employment Office were supposed to be cut by 500 million DM per year. Since retraining which might be necessary to retain a newly disabled employee is part of vocational rehabilitation, job retention policies may be negatively affected by the new regulation. However, there are exceptions to it, above all for severely disabled people (BMA, 1997a, p.10 ff.; Sozialverband Reichsbund, 1997, p.13 f.).

Referring to the possible negative effects of the special protection against dismissal which may lead to discriminatory recruitment behaviour on the part of employers, an amendment to the Severely Disabled Persons Act in 1986 stipulated that this special protection only applies after an employment duration of six months (previously it was three months). By the same amendment, the additional holidays for severely disabled persons were reduced from six to five days. In 1996, the general protection against dismissal was significantly restricted. Especially in cases of a severe deterioration of a firm's economic situation (as they are described in § 19 of the Act), employers are no longer obliged to particularly consider (even severely) disabled people in their selection of the employees they are going to dismiss (Sozialverband Reichsbund, 1997, p.16 f.). These modifications also have to be seen against the background of general deregulation efforts in this period.

I.8.2 Changes in labour market demand and the structure of the labour market

The special protection against dismissal, in particular, shows how the effectiveness of job retention policies is dependent on the general situation of the economy and the business cycle. At times when employers extensively use dismissals to restructure their company and to face increasing competitive pressures, the group of disabled employees is not exempted. In Germany, where labour costs are relatively high, demands on employees tend to rise permanently. Labour demand shrinks relatively in quantitative terms, but simultaneously rises in qualitative terms. For disabled workers, that means that their qualification has to make up for disability-related diminished productivity and all the extra costs related to their protected position in working life. Put differently, their qualification has to be above average to get equal opportunities.

However, the increasingly intense efforts to establish flexible working time regulations to make it possible for companies to react to varying product demand may create more opportunities for disabled employees to meet job requirements - even in manufacturing - although their disability makes it difficult for them to work steadily. More part-time jobs will emerge from more flexible working time regulations, too.

It is commonly held that, in the long run, a decrease of unemployment in Germany can only be achieved by the extension of the service sector, either because the related production processes are more labour-intensive or because related new jobs are created in sectors with a high growth potential (such as information services). For disabled people in particular, different working conditions in many service professions such as working with computers (homeworking and teleworking) open up new job opportunities. Yet, as the figures under I.4.2 show, there is still a sizeable group of disabled employees who are not employed in the service sector. It has to be assumed that these jobs will increasingly disappear in the future, as more efficiency measures are taken. As is the case with unemployed people in general, inflexible wage structures and levels prevent a rapid absorption of redundant workers from the manufacturing sector into the service sector in Germany.

Early retirement policies have been quite popular in Germany since the 1980s as a means of reducing unemployment. The law allows severely disabled people to retire early at the age of 60 (*Gesetz zur Herabsetzung der flexiblen Altersgrenze in der GRV für Schwb*). Frick/Frick (1994) have studied the early retirement behaviour with regard to disabled employees emphasizing the demand side of the labour market. They found that, contrary to most available studies, the decision to retire early is not primarily the result of disincentive effects caused by transfer payments and moral hazard, but 'a joint result of personal preferences, institutional options and enterprise policies'. In periods of rising unemployment or slack demand, firms use the early retirement regulations to 'restructure their respective workforces in a way that minimizes the damage to labour relations and plant-level industrial peace that would otherwise occur' whilst concentrating workforce reductions on older employees (cit. Frick/Frick, 1994, p.235).

Legislation grants firms 'an opportunity to demonstrate benevolence towards their staff and at the same time to end employment relationships with long-term employees in a way that is both legitimate and socially acceptable to the workforce' (Frick/Frick, 1994, p.218). The employment of - for the most part internally recruited - disabled people does not really seem to be 'the result of a legally enforced 'moral pressure', but primarily serves the 'reciprocity expectations' of all employees': The employees are confident that 'the utilization of labour in the firm does not endanger the lifetime protection of the capacity for work' because they expect the firm to 'reward them with special benefits if their performance capacity should diminish some day'. In return, employees feel more inclined 'to furnish the firm with an investment, based on their continuous performance, their willingness to accept responsibility, their reliability, etc. - i.e. especially the non-contractual elements of their work'. The user cost of labour can thus be decreased significantly (cit. Frick/Frick, 1994, p.220 f.).

On the other hand, disabled employees, and internally recruited ones in particular, are on average relatively old and usually have very long tenure. As a consequence, their average income is higher since workers' earnings tend to rise with job seniority. Taking further into account the additional holidays as well as longer average sickness spells, the labour costs of disabled employees are pushed up compared with those of non-disabled workers (Frick/Frick, 1994, p.222 f.). Because of the increasing effects on labour costs,

enterprises are usually interested in either reducing disabled workers' wages or making them leave the firm. However, collective agreements and reciprocity expectations obstruct the reduction of wages and salaries. In this situation, social security law gives a disabled worker the opportunity to retire early, thereby partially relieving the firm of increasing labour costs. Among the employees early exit is popular, too, as long as it is both financially and socially acceptable. Thus, premature retirement is in the interest of both parties. However, as the authors point out, the common interest is not without cost: early retirement behaviour will result in higher social security contributions and probably lower wages. 'From a microeconomic point of view, it is therefore rational to use the options provided by the state. From a macroeconomic point of view, however, these regulations will be increasingly difficult to finance' (Frick/Frick, 1994, p.226 f., cit. p.227).

A new draft for a Pension Reform Act which is due to come into force in 1999 includes changes affecting disabled employees who plan to retire early. This will be discussed in the context of pensions, on account of reduced earnings capacity (see II.2.1).

II. BENEFIT AND COMPENSATION PROGRAMMES

The purpose of this Part of the report is to examine how social benefit and compensation programmes affect possibilities for disabled workers to retain or rapidly resume their employment. The main focus is on the application of benefit programmes in employment; that is, opportunities to combine earnings with income from disability benefits, workers' compensation or other employment-related reparations. The obstacles presented by systems for out-of-work benefits are also examined. The theme covers cash benefits and payouts and, where significant, allowances against taxable income. Programmes may be funded from tax revenues, or from earmarked or general insurance funds to which employers and/or employees contribute.

The first section presents information about workers' and other compensation programmes. This is followed by a discussion of arrangements for combining benefits and earnings from work. Provision is then considered for income support out of work, and its effects on work resumption. The final section examines interactions between disability benefit programmes and employment policies.

II.1 COMPENSATION PROGRAMMES FOR WORK-RELATED INJURY OR ILLNESS

II.1.1 Principal compensation programmes for work-related injury or illness

In Germany, accidents at work, occupational illness and job-related health hazards are covered by the statutory occupational accident insurance. People who are employed, undergoing training or travelling to or from work are automatically covered regardless of fault and of how much they earn. The insurance coverage includes more than 50 million people, mainly salaried employees⁷ but also agricultural workers, children attending pre-school or school, students, people helping at the scene of an accident, civil defence and emergency rescue workers as well as blood and organ donors. Businesspeople and self-employed people can obtain insurance coverage on a voluntary basis. The objectives of the statutory accident insurance are to:

1. guard against accidents at work and work-related illnesses (prevention) through 'all appropriate means';
2. make up for, or at least minimise, the medical, professional and social consequences of industrial accidents and work-related illnesses by means of comprehensive rehabilitation;
3. provide financial compensation, usually in the form of a pension, for lasting consequences which restrict an individual's capacity to earn in the long term, or financially support surviving dependants. (BMA, 1997 Internet ch.11, p.1 f.; HVBG, 1997a, p.5)

⁷ See footnote to Table II.2.

Benefit and Compensation Programmes - Germany

In the case of a work-related accident or illness the insured can claim medical treatment (for an unlimited period), injury benefit (80 per cent of the gross wages having been lost as a result of the accident for a maximum of 78 weeks), occupational assistance (see below), social rehabilitation and supplementary benefits (see below), and - if necessary - injury pension (if an accident at work or an occupational illness has reduced earning capacity by at least 20 per cent or for a minimum of 26 weeks). The benefits of the statutory occupational accident insurance are financed exclusively by the employer's contribution. Employees, children in school, students, etc. do not pay contributions even though they are covered by the insurance (BMA, 1995, p.392 ff.; BMA, 1997 Internet ch.11, pp.2, 4).

Compensation for work-related injury or illness is based on a broader understanding of this term than just a focus on pecuniary aspects such as cash benefits, payouts and allowances. The programmes and provisions of the statutory accident insurance are very comprehensive and inter-related. The available data allow, though, for a separation of the area of pensions from rehabilitation. In fact, the main association of the industrial employers' liability insurance funds publishes a well-documented report on the rehabilitation measures provided by statutory accident insurance (HVBG, 1995, 1997a). On the other hand, rehabilitation measures usually include pecuniary benefits, too. So, for example, the biggest item in the area of vocational rehabilitation is pecuniary benefits paid towards living expenses for the insured and their families, while rehabilitation (like training) takes place (HVBG, 1997, p.29). It is not always possible here to split up the material on rehabilitation measures into pecuniary income-related provisions and pure services (dealt with in more detail in Part III).

It should be noted that the statutory occupational accident insurance scheme includes an accident prevention requirement in line with industrial health and safety standards. The payment of compensation benefits depends on whether those standards have been complied with.

II.1.2 Features of the compensation process which affect job retention and return to work

One of the professed goals within the area of responsibility of the statutory occupational accident insurance is, besides accident prevention and the limitation of negative consequences of work-related accidents and illnesses, to re-integrate injured people into their former profession and company, as far as this is possible (BMA, 1995, p.391; cf. Social Code, Book I, § 22).

That is the reason why the statutory occupational accident insurance does not provide only for medical but also for vocational rehabilitation measures and for payments while taking these measures. The administration of each insurance fund employs full-time assistants (*Berufshelfer*) who start looking after the injured people with regard to vocational rehabilitation during initial medical treatment. The insurance gives primacy to rehabilitation services according to the principle of 'rehabilitation before payment of pension' (BMA, 1995, p.399). Assistance provided by the insurance relate both to job retention and to access or return to work. Depending on how far the insured's productivity can be restored, re-integration into work is to be aligned with the person's capacities, inclinations and former professional activities. Permanent re-integration should be achieved (BMA, 1995, p.401).

The support provided within the scope of vocational rehabilitation is diverse. It may contain financial assistance to job search, encouragement to take up a job, payments to employers as integration assistance, financial support for retraining and further vocational training, and work trials, as well as supporting the procurement of technical working aids. Occupational assistance also includes transitional allowances while undergoing training (provided that no wages are received). Beyond that, the insurance provides benefits for related measures (belonging to the category of 'social rehabilitation and supplementary benefits'). These include financial assistance to modifying motor vehicles or homes according to the particular needs of the disabled person, domestic help, psychosocial counselling, and rehabilitative sport (BMA, 1995, p.402 f.; BMA, 1997 Internet ch.11, p.2; HVBG, 1997a, p.28 ff.).

However, the most important kind of compensation benefit (in terms of volume) which is granted by the statutory occupational accident insurance is still the pension payment. However, in comparison with pension payments in general, there is an interesting feature about the benefits provided by statutory occupational accident insurance with regard to job retention and return to work. Besides the function to compensate for an impairment of the capacity for employment, these payments are also supposed to take the place of damages and to partially compensate for the non-material burden injured people have to bear. That might be the reason why income from work is not counted towards the income from pension payments provided by the statutory occupational accident insurance (BMA, 1995, p.403). This regulation promotes efforts of job retention and return to work. However, the available statistics about pension recipients does not allow a distinction between those who could retain their job or return to work and those who cannot, since such a distinction does not seem to be relevant to the accident insurance funds (source: personal communication with HVBG).

As the statutory occupational accident insurance also has an obligation to prevent the (re-) emergence or aggravation of work-related illnesses, it may prevent job retention. However, this will only be the case if the threat of work-related illness cannot be removed in another way. The insurance will then provide so-called transitional benefits which are provided for at most five years and are not affected by pension payments (BMA, 1995, p.406 f.).

The main eligibility criterion for the provision of all the measures and benefits described above is the occurrence of accidents and illnesses which result from insured events. The latter are activities which serve the goals of the company. Accidents which happen on the way to work or as a result of negligent behaviour or actions taken against orders (but not intentionally) are insured, too. Work-related illnesses are defined as such by legal orders so that there is hardly any discretionary scope in the acknowledgement process. Benefits by the statutory occupational accident insurance are officially ascertained, an application by the insured persons is thus not necessary. Employers are obliged to report any significant accident in their companies (BMA, 1995, p.397 f.; HVBG, 1997, p.26).

II.1.3 Influences of key actors involved in the process

Statutory occupational accident insurance is provided by industrial, agricultural and public sector employers' liability insurance funds. Among these main categories, there is a great variety of different individual insurance funds, the most important of which are the professional and trade associations,

agricultural associations, accident insurance associations of the railway, municipalities, the Federal Government, and the Länder. These associations are all public corporations with the right to self-government (BMA, 1995, p.410 f.; BMA, 1997 Internet ch.11, p.1, 4).

Since the insurance funds relate to different branches in the economy with varying hazard levels (i.e. probabilities, frequencies, and seriousness of accidents), there are quite distinct differences in contribution rates. That is why a redistribution of income between the different associations is made possible by law.

An interesting tool which the insurance funds are supposed to use is extra charges or reductions on the contribution rates. Thereby, they can set incentives to take effective measures against occupational accidents and work-related illnesses. Additionally, they can grant graduated premiums according to the effectiveness of accident prevention measures (BMA, 1995, p.414 f.; HVBG, 1997, p.46).

II.1.4 The effects of compensation on job retention and return to work

The report on rehabilitation measures provided through statutory accident insurance also gives detailed documentation about their outcomes, i.e. the extent to which rehabilitation measures have been successful (this will be dealt with in III.6.3). Since the documented outcomes refer to rehabilitation efforts as a whole, statements about the particular role of the pecuniary compensation elements as part of the rehabilitation process cannot be made. Furthermore, 'success' is measured as 'integration into working life', which does not allow a distinction to be drawn between job retention and return to work (the description of the provisions within the scope of vocational rehabilitation contains both job retention and return to work as general objectives; beyond that, however, these two aspects are not dealt with separately any more in the report, except with respect to vocational training, see II.1.5).

II.1.5 Characteristics of disabled workers who do or not retain their employment or return to work following benefit claims

The rehabilitation report published by the main association of the industrial employers' liability insurance funds gives information on some characteristics of people who could be successfully integrated into working life after going through vocational rehabilitation provided by statutory accident insurance. As has been pointed out before, however, it has to be noted that the statistical data neither distinguish sufficiently between job retention and return to work, nor do they refer exclusively to pecuniary and income-related elements of compensation.

The statistical data list numbers of cases using the following categories: successful integration into working life; successful integration into working life only after additional measures of vocational rehabilitation; integration impossible because of death, severe damage to health, a lack of adequate vacancies or personal reasons for not accepting a vacancy (such as motherhood or maternity, or illness unrelated to occupational accident), and age at the time the occupational accident happened. The latest available data for these categories refer to 1993 (source: HVBG 1995, p.198):

Table II.1: Vocational rehabilitation (numbers of cases, 1993)

<i>Age</i>	<i>Total</i>	<i>Successful integration</i>	<i>Additional measures</i>	<i>No integration</i>
Below 20	1,371	1,069	91	211
20 - 24	2,991	2,242	215	534
25 - 29	2,421	1,883	169	369
30 - 34	1,734	1,374	115	245
35 - 39	1,472	1,161	97	214
40 and older	6,356	4 431	446	1,479
Total	16,395	12,200	1,136	3,059

Vocational training measures represent a subgroup of the vocational rehabilitation measures. Vocational training comprises those vocational rehabilitation measures by which the integration into working life should be achieved not only by financial assistance paid to the employer or by technical working aids and the adaptation of workplaces, but also by training or retraining of the insured person. The rehabilitation report lists particular statistics for this group, using the same outcome categories as above. Besides age, it also distinguishes outcomes with regard to gender and the insured person's previous position in working life (source: HVBG, 1995, p.198 f.)

Table II.2: Vocational training within vocational rehabilitation
(number of cases, 1993)

<i>Age</i>	<i>Total</i>	<i>Successful integration</i>	<i>Additional measures</i>	<i>No integration</i>
Below 20	572	425	35	112
20 - 24	1,452	1,030	91	331
25 - 29	759	525	57	177
30 - 34	281	187	20	74
35 - 39	136	79	11	46
40 and older	123	72	10	41
Total	3,336	2,327	224	785
Previous position and gender				
<i>Children/students</i>				
<i>male</i>	19	14	-	5
<i>female</i>	6	5	-	1
<i>Other non-working</i>				
<i>male</i>	5	2	1	2
<i>female</i>	8	6	-	2

Benefit and Compensation Programmes - Germany

<i>Age</i>	<i>Total</i>	<i>Successful integration</i>	<i>Additional measures</i>	<i>No integration</i>
In ordinary vocational training				
<i>male</i>	97	56	11	30
<i>female</i>	201	156	3	42
Wage earners ⁸				
<i>male</i>	1,690	1,122	178	390
<i>female</i>	694	541	19	134
Salaried employees				
<i>male</i>	70	46	6	18
<i>female</i>	448	308	3	137
Self-employed				
<i>male</i>	17	10	1	6
<i>female</i>	7	5	-	2
Farmers				
<i>male</i>	16	15	-	1
<i>female</i>	1	1	-	-
Other working people ⁹				
<i>male</i>	30	19	1	10
<i>female</i>	27	21	1	5
Total				
<i>male</i>	1,944	1,284	198	462
<i>female</i>	1,392	1,043	26	323

The figures show that the integration quota after vocational training is almost the same among men (66.4 per cent among wage earners, 65.7 per cent among salaried employees). It is striking that a larger proportion of women than men was able to return to work within six months of completing vocational training (74.9 per cent versus 66 per cent). This applies to female wage earners in particular (almost 78 per cent) (HVBG, 1995, p.180 f.).

⁸ In Germany, the distinction between 'workers' (wage earners) and 'employees' (salaried employees) is determined by labour law. However, since the Federal Constitutional Court has declared the different legal periods of notice for workers on the one hand and employees on the other hand unconstitutional (in 1990), a main criterion of distinction has gone. It is assumed that this distinction will, in future, only be applied with regard to different status and organisational issues in, for example, the works constitution, as long as this does not lead to any material discrimination. Generally speaking, the distinguishing feature is the character of work, that is whether it is mainly physical or intellectual. A second feature might be the hierarchy aspect, that is whether work includes supervisory functions or whether it merely involves the execution of tasks. In practice, the distinction is not always easy. Office work is usually considered to be employee work even though it is often confined to manual and mechanical activities. On the other hand, skilled workers are often challenged by intellectual tasks as a result of technical progress. Actual classification as a wage earner or salaried employee is initially made on the basis of the evaluation of a person's employment by the professional associations involved in each specific case, for example in the relevant collective agreements. Skill is not a valid distinguishing criterion since the group of wage earners includes skilled workers as well (BMA, 1997c, p.38 f.).

⁹ This mainly refers to family members who work in a family business.

The statistical information on the outcomes of vocational training measures within the area of vocational rehabilitation allows a more exact classification in terms of job retention and return to work. The accident insurers consider job retention (in the sense of returning to both the same employer and the same job) as a failure, since they only provide measures of vocational (re)training if the possibility of returning to the previous job has been effectively excluded. They also assume that re-employment in the former job after having gone through vocational (re)training would result in damage to the insured person's health or being paid less (HVBG, 1995, p.179 f. 181).

Statistics show that, of 3,233 people in vocational training in 1993 (not including the agricultural sector), 2,072 could successfully be integrated in a new occupation corresponding to the qualification which was obtained by the training measures; this is a 64 per cent share (HVBG, 1995, p.208 f., table 5.12). The remaining cases could not be considered successes since they represented people who returned to their previous occupation (25), who returned to work not corresponding to their new qualification (142), who have not been integrated yet (430), or about whom a statement was not possible since the evaluation of vocational training requires a waiting period of six months after the training has ended (564).

II.1.6 Effects on job retention and return to work resulting from the interaction between compensation programmes and out-of-work benefit programmes

The legislation regulates how to proceed if a disabled person claims benefits from both accident insurance and pension insurance (see BMA, 1995, p.257, f.). However, since this provision only relates to compensation in the form of wage replacement benefits, it has no relevance for job retention or return to work.

However, by providing transitional allowances during the process of vocational rehabilitation and related training (cf. I.1.2), the statutory occupational accident insurance does grant temporary out-of-work benefits. In the end, their function is to make job retention or return to work possible; without these benefits, many people could not participate in measures to regain capacity for employment following the onset of work-related disability.

II.2 OPPORTUNITIES TO COMBINE WORK AND BENEFIT

II.2.1 Provision for combining income from work and from disability-related social security benefits

Against a background of increasing financial pressure on the social security system in Germany, efforts have been intensified to curtail the payment of benefits. Consequently, new regulations often aim at the restriction of both claims and benefits. The idea of combining different kinds of benefits with income from work to maintain incentives to take up a job (such as a negative income tax), which would also result in uniting some of the responsible institutions, has been discussed in Germany. However, such concepts have not been generally accepted or even found their way into legislation yet.

Benefit and Compensation Programmes - Germany

Pensions based on reduced earnings capacity are currently the most important provision in Germany for combining income from work and disability-related social security benefits. They are paid through statutory pension insurance unless the disability is due to an occupational accident or work-related disease, in which case the statutory occupational accident insurance scheme is responsible. There are two types of pensions based on reduced earnings capacity: an invalidity pension and an occupational disability pension.

Invalidity pensions apply to disabled people whose 'earnings capacity is reduced as a result of poor health to the point that' they 'can no longer work regularly or at best can only earn a marginal income (1/7th of the monthly reference income, which in 1997 is DM 610 in western Germany and DM 520 in eastern Germany)'. Accordingly, the remaining income earnings capacity is considered to be very low. The pension is thus supposed to provide a full substitute for income from work. That is why it is calculated on the basis of retirement pensions, i.e. 'equal in amount to an old-age pension'. The granting of the pension for general invalidity requires having 'paid compulsory contributions for at least three of the preceding five years (including child-raising and other credited periods)', and having 'completed a five-year qualifying period before the loss in earnings capacity'. Thereby, the function of being a substitute for income from work which is subject to the national insurance is stressed. 'The pension is paid until your 65th birthday. Afterwards, the standard old-age pension can be claimed in at least the same amount'. Persons who were invalided before completing the five-year qualifying period and have been invalided since - for example persons who have been disabled since birth - still can claim invalidity pensions although the 'event of damage' happened before commencing the insurance. However, they are required to have completed a qualifying period of 20 years. It is also possible to make up this pension entitlement with voluntary contributions (BMA, 1997 Internet ch.12, p.4; BMA, 1995, p.239).

In spite of invalidity pension being seen as a full substitute for income from work, supplementary income is still allowed. However, the legal limits are quite strict. According to the eligibility criterion for invalidity pensions, they amount to DM 610 per month (west) and DM 520 per month (east) in 1997 (BMA, 1997, Internet ch.12, p.6). 'Supplementary income limits were introduced for invalidity pensions on 1 January 1996. Under a transitional arrangement, they do not apply until January 2001 for people who were already able to claim an invalidity pension on 31 December 1995' (BMA, 1997, Internet ch.12, p.4).

Occupational disability pension is paid if earnings capacity is reduced to the point that a person can only earn less than half as much as a comparable non-disabled person in their usual occupation or in one that they may reasonably be expected to pursue. The occupational disability pension is at most only two-thirds of the old-age pension or invalidity pension respectively because the remaining general earnings capacity of occupationally disabled persons is considered to be significantly higher than in the case of invalidity. Consequently, the supplementary earnings limits are set higher. Additionally, these limits depend on whether the occupational disability pension is paid at the maximum possible amount or not.

Table II.3:

<i>Kind of pension</i>	<i>Supplementary earnings limits (1997)</i>
Invalidity pension	DM 610 per month (west) DM 520 per month (east)
Occupational disability pension	
maximum amount ($\frac{2}{3}$ of old age benefit)	DM 1225.09 per month (west) DM 1007.48 per month (east)
$\frac{2}{3}$ pension ($\frac{4}{9}$ of old age pension)	DM 1633.45 per month (west) DM 1343.30 per month (east)
$\frac{1}{3}$ pension ($\frac{4}{27}$ of old age pension)	DM 2041.81 per month (west) DM 1679.13 per month (east)

Besides these general limits, there are also personal limits that depend on income in the last year for which contributions were paid, so they may easily exceed the general ones (BMA, 1997 Internet ch.12, p.6). Any compulsory contributions on supplementary earnings increase the later invalidity pension or old-age pension (BMA, 1997 Internet ch.12, p.4). The supplementary earnings limits for occupational disability pensions were only introduced in 1996 by an amendment to the Social Code (Book VI, § 96 a) (Sozialverband Reichsbund, 1997, p.7).

The occupational disability pension has caused some problems for legislators. In the first place, it is seen as an unjustified privilege for highly qualified people in the labour market. The key question is as follows. If somebody's disability prevents her/him from retaining their current occupation or employment relationship, but if they still dispose of some general earnings capacity, what kind of alternative job can they reasonably be expected to do instead, to which they should thus be referred? The basis of the occupational disability pension is the distinction whether alternative occupations as substitutes for a previous job which can no longer be done because of disability, should be approached only from an earnings-capacity-related point of view, or also from a social point of view. The latter means that the respective jobs correspond to the previous occupation or to one that may reasonably be expected to be pursued. In the case that newly disabled people can, because of their disability, only be referred to alternative jobs which they cannot be socially expected to take, they are entitled to receive occupational disability pension - plus they have the opportunity to take such a job of 'lower' standards and thereby to get supplementary income within the limits listed above. Thus, the occupational disability pension seems to be a quite generous arrangement, given that supplementary payments are provided even though the recipients still have some general capacity for employment. As a consequence of the deteriorating financial position of statutory pension insurance, this provision should be raised for discussion.

Current legislation also involves a lot of problems for legal and administrative staff, in particularly in deciding which alternative occupations newly disabled persons can be referred to in individual cases. The Federal Social Court has developed a classification scheme consisting of four different groups of

occupations. According to this, occupationally disabled people are to be referred only to alternative employments of the same class or at most one level below. However, this scheme only applies to wage earners; decisions concerning salaried employees have to take into account the specific circumstances of individual cases (BMA, 1995, p.237).

The privilege for highly qualified people is now seen in the fact that unqualified workers can - according to this regulation - be referred to any job (since there are no occupations of a 'lower' standard from their point of view which they could socially not be reasonably expected to take), so that occupational disability pensions are virtually unavailable to them. Thus, only better qualified people are in a position to combine income from work with disability-related social security benefits (beyond the level which is still compatible with invalidity pension, i.e. DM 610 per month). It can be assumed that there is considerable discretionary scope in deciding which income from which alternative employment for salaried employees is still compatible with receiving occupational disability pension.

A second major shortcoming in the design of current legislation is in the extent to which the labour market situation is taken into account. If disabled persons can still work in another job, but not full-time, the decision on ascertaining invalidity or occupational disability also has to consider whether the labour market offers sufficient part-time jobs. Only if disabled persons can still work full-time is the current labour market situation not taken into account. Instead, only the person's state of health is used to ascertain remaining earnings capacity. A sufficient number of vacancies is taken for granted; the risk that an adequate vacancy is not available in the individual case must then be borne by the statutory unemployment insurance (BMA, 1995, p.237 f.).

Experience has shown that insured people who are only able to work less than half shifts (or who are older than 60 years) are immediately given the status of being invalidated. If they still have a capacity for part-time employment of more than half shifts the acknowledgement of either invalidity or occupational disability is granted (backdated) after a one-year waiting period in which neither the employment office nor the statutory pension insurance is able to offer an adequate job to the disabled person who has applied for a pension. However, as there are not enough part-time jobs for disabled people, the majority of those who cannot work full-time end up with invalidity status as long as they do not actually have part-time employment (BMA, 1995, p.238).

A new *Pension Reform Act* which is being discussed also includes a reorganization of pensions on account of reduced earnings capacity. It is supposed to overcome the shortcomings described above. According to the draft version, the juxtaposition of the invalidity and the occupational disability pensions is to be abolished. The legislation will thus recognize that administrative expenses no longer bear any relation to the reduced amount of occupational disability pensions (cp. 2.4). Apart from that, better qualified people should no longer be privileged, i.e. the insured should have equal opportunities to claim benefits from the pension insurance according to their contributions (SU 24/97, p.7 f.). There should not be a situation in which the general labour market is decisive in ascertaining eligibility for the large majority of insured people, whilst for a certain group of insured people it is only a specific section of the general labour market which corresponds to particular job outlines and minimum incomes (BMA, 1997b, p.9). However, the argument of equal treatment also has to be seen in the context of financial pressures on pension insurance.

Benefit and Compensation Programmes - Germany

The new Act which is supposed to come into force in 1999 provides for only one kind of invalidity pension. Based on the principle of equality, eligibility and the ascertainment of remaining earnings capacity will be linked to the general labour market prospects of disabled workers, irrespective of their professional and occupational background. That means that all insured people who become disabled will be subject to the same graduated scheme, as follows (SU 30/97, p.21):

- insured people who are not able to work more than three hours a day in a job in the general labour market receive full invalidity pension;
- insured people who are only able to work between three and six hours a day in a job in the general labour market receive ½ invalidity pension;
- insured people who are able to work more than six hours in a job in the general labour market do not receive any invalidity pension.

This regulation would contain a different assignment of risks between the statutory pension and unemployment insurance, that is in the second category, where only ½ invalidity pension will be paid even if the insured is not able to find an adequate part-time job to complement the pension by supplementary income from work. Statutory unemployment insurance then has to fill the gap by unemployment benefits or assistance. It should be stressed, though, that statutory pension insurance is merely responsible for making up for the loss of income due to the disability-related reduction in earnings capacity, but not to factors which prevent disabled people from earning income in the general labour market (BMA, 1997b, p.7 f.). The new Act will also include regulations limiting benefits from the two insurances in order to maintain incentives to obtain income from work (SU 24/97, p.8). The third category explicitly reflects the abolition of the occupational disability pension. If an insured person, after becoming disabled, is still able to do a job for more than six hours a day, she/he will not get any invalidity pension irrespective of the kind of employment which is available to her/him in the general labour market. Thereby, the considerable scope for combining disability-related social security benefits with income from work, as currently exists in connection with the occupational disability pension, would disappear.

To prevent an increasing switch to relatively more attractive old-age pensions for severely disabled people as a reaction to this planned provision, the age limit for this kind of pension is to be raised gradually from 60 years up to 63 years (until the year 2000); receiving pension payments prior to that will still be possible, but only if deductions are accepted. In addition, the required disability degree will also be raised from 50 to 60 per cent. In all other cases, the new form of invalidity pension will apply (SU 24/1997, p.9 f.).

Job retention may be considerably affected if these new regulations come into force. The combination of less generosity in granting pensions on account of reduced earnings capacity with more difficult access to early retirement because of disability will probably put more pressure on employers to think about ways of how to retain their employees with health or disability problems. This particularly applies to higher qualified employees for whom it is no longer possible to claim benefits because of occupational disability as long as they still have a certain degree of remaining general working capacity.

Benefit and Compensation Programmes - Germany

Social assistance also provides disability-related social security benefits. Social assistance generally applies to all people who find themselves in situations where they cannot manage without help so that disabled persons represent just one of a number of target groups. There are various forms of social assistance: personal assistance, cash benefits or benefits in kind. It refers to either 'assistance towards living expenses' or 'assistance in special circumstances' such as disability. The benefits of the latter cover, among other things, integration assistance for people with significant physical, mental or psychological disabilities, plus medical treatment and care, and measures to integrate people into society and the working world (BMA, 1997, p.80 f.; BMA, 1994, p.81 f.; Krüger *et al.*, 1995, p.13 f.). The underlying concept of rehabilitation is relatively comprehensive and also includes less disabled people (as opposed to the provisions of the Severely Disabled Persons Act) (BMA, 1995, p.635). The wealth of different assistance for disabled people reflects the fact that social assistance provides the most varied support among all the rehabilitation funders (Krüger *et al.*, 1995, p.14). In 1992, about 22 per cent of total benefits (DM 42.6 billion) served the integration of disabled people (BMA, 1995, p.625 f.).

Social assistance is subsidiary to claims for benefits from other welfare funds. Thus, it takes on the character of being a form of 'last resort' within the social security system. Put differently, social assistance is intended to fill the gaps left by other social security institutions. That is why the welfare office which decides on granting social assistance will also carry out asset and income tests as well as check whether and to which extent social assistance can be recovered from first-degree relatives and spouses. The second main principle of social assistance is the individualization of support, i.e. the kind and the extent of assistance are aligned to the specifics of individual cases. Social assistance is not a charitable donation, but recipients are legally entitled to it. Finally, it is meant not only to help people to lead a decent life, but also to help restore the recipient's independence. Assistance for disabled people, for example, will only be provided as long as there is a realistic chance that its purpose can be fulfilled, i.e. the disabled person can be made largely independent of care and eventually be integrated into working life. If this is not possible, the person may receive 'assistance to persons in need of long-term care' instead (BMA, 1995, p.623 f.; BMA, 1994, p.81; Krüger *et al.*, 1995, p.14).

It is quite commonly held that the current regulations with regard to combining social assistance benefits with income from work cause disincentives for working even though social assistance is supposed to be a tool for helping recipients regain their independence. Recipients of assistance towards living expenses are generally obliged to use their entire income to cover these expenses. The Federal Minister of Health plans to modify the provisions so that less income from work will be counted towards social assistance (FAZ 25.8.97, p.13). In the case of assistance in special circumstances, however, any income up to a certain level is usually disregarded. Disabled recipients are thus required to make use of only a reasonable amount of their income (BMA, 1997, p.81). The legislation is intended to support people in special circumstances - listed in the law (*Bundessozialhilfegesetz BSHG*, see Krüger *et al.*, 1995, p.10 ff.) - even if they are able to cover their actual cost of living themselves. Property and assets, however, have to be taken into account in granting assistance in the same way as in 'assistance towards living expenses' (Krüger *et al.*, 1995, p.9 f.). There are general and specific supplementary income limits up to which income does not have to be offset against social assistance payments for special circumstances. To give an example: in 1994, for a couple with two children, paying a rent of DM 750 per month, the general supplementary income limit would have been DM 2,991 per month in the western Länder. If income from work is below these limits,

assistance will still usually be fully provided in special circumstances. The limits are adjusted to changes in average old-age pensions paid out of statutory pension insurance (BMA, 1995, p.640).

There are no special *allowances against taxable income* with regard to disabled people. Deductions from taxes, however, are possible, and can thus be claimed by disabled employees, too, under the general Income Tax Act (Section 33). This applies where circumstances (such as disability) put a particular financial burden on persons in their everyday lives or where gaining income from work is connected with inevitable expenses beyond a certain amount which is considered to be reasonable. The limits of reasonableness are determined individually and aligned with family circumstances and the level of income. They are calculated as a percentage of income. Possible deductions can be claimed from the tax office by means of the tax declaration.

II.2.2 Effects on numbers retaining and numbers returning to work

No specific information is available about the effects of disability-related benefits on the numbers of disabled people retaining jobs or returning to employment. However, some comments can be made on the basis of the way disability-related social security benefits are designed. Both types of pension dealing with reduced earnings capacity require qualifying periods during which contributions have to have been made. This requirement presupposes that the claiming persons had a job providing an income of an amount which made contributions to the statutory pension insurance possible. Since the supplementary income limits for recipients of invalidity pension are set so low that contributions are not compulsory, the scope for both job retention and return to work is considerably restricted.

The discussion of occupational disability in relation to statutory pension insurance regulations already indicates that job retention is not compatible with receiving occupational disability pension. Claiming this benefit just requires that the previous occupation or a comparable one cannot be practised any more (BMA, 1995, p.237). On the other hand, the relatively generous supplementary income regulations in the case of occupational disability tend to increase both opportunities and efforts to return to work.

No detailed information could be found about the characteristics of disabled people receiving social assistance, and thus the extent to which benefits contribute to efforts of job retention and return to work. The answer to this question is also made difficult by the very comprehensive understanding of rehabilitation which underlies the granting of benefits. Social and vocational integration are, in fact, the eventual goals of social assistance for disabled people, but the varied purposes which payments of social assistance serve are not always directly related to these generic goals. This means that some people retaining their jobs or returning to work could be assigned to social assistance benefits. Some of these benefits are supposed to improve just the general living situation of disabled people instead of particularly aiming at their job situation.

II.2.3 Impact of definitions of disability or capacity for work on access to and coverage of benefit programmes

The eligibility criteria for invalidity or occupational disability pensions are discussed in II.2.1. The latter pension, in particular, was presented as granting considerable scope for combining income from work and disability-related social security benefits. However, both types of pension refer to a situation in which the previous job has to be given up because of disability. So, they are not compatible with job retention.

The underlying definition of disability in the case of social assistance is much more comprehensive. According to that, all persons who are permanently disabled in physical, mental or psychological respects (including also less than severely disabled persons) can claim assistance. The same applies to persons who are at risk of becoming disabled (BMA, 1995, p.635). As was shown in II.2.1, social assistance is hardly compatible with job retention, because of restrictive rules for offsetting income from work against social assistance. However, the supplementary income limits which apply to 'assistance in special circumstances' (and thereby to disabled people) might promote job retention.

II.2.4 Effects of claiming and assessment procedures on take-up of in-work benefits

The benefits described above - pensions on account of reduced earnings capacity and social assistance - cannot really be called in-work benefits since this would not adequately reflect the intended design of these provisions. The emphasis is more on the reverse perspective, so that income from work is seen as a supplement to the disability-related social security benefits (which is revealed by the term '*supplementary earnings limits*'). However, it has been shown that the eligibility criteria of the respective benefits make various combinations with income from work possible. That is why they should be dealt with as in-work benefits in this context. Yet, this - in turn - does not apply to invalidity pension since its supplementary earnings limits are set so low that they are far from being compatible with the concept of in-work benefits.

The effects of claiming and assessment procedures on the take-up of occupational disability pensions have already been discussed in II.2.1. Different factors have to be taken into account. As a quite generous arrangement for highly qualified workers and employees in particular, the take-up could be expected to be at a relatively high level and to increase over time. However, the assessment of occupational disability and its consequences has turned out to be a very problematic matter for legal and administrative staff, especially concerning the question about the alternative occupations that newly disabled people can be referred to, both in relation to ability and in a socially justifiable manner. These problems, combined with the additional influence of the way in which the labour market situation is taken into account when deciding on pensions, have meant that the share of pensions represented by occupational disability pensions among all pensions related to reduced earnings capacity, has declined from more than 40 per cent in 1958, to less than 14 per cent in 1995 (BMA, 1995, p.238).

To understand this phenomenon, it is necessary to consider two groups of occupationally disabled people who cannot claim occupational disability pension:

- 1) People who can still work full-time and for whom there are occupations which they can reasonably

be expected to take as substitutes for their previous job. For them, a sufficient number of vacancies is taken for granted. If there are in fact no jobs available within the respective occupations, benefits must be claimed from the statutory unemployment insurance. Lower-qualified workers, in particular, belong to this group; office work, for example, can often still be carried out in spite of health limitations.

- 2) People who are no longer able to work full-time and thus have to rely on part-time jobs. The shortage of adequate part-time jobs in the general labour market has to be considered in assessing the reduction in earnings capacity. Since the number of actually required part-time jobs is permanently not available, this group of people is immediately given the status of invalidity - which means that they cannot claim occupational disability pensions. The transition to consideration of part-time opportunities during the 1970s was the most important factor which caused the share of occupational disability pensions to decrease so significantly among the pensions related to reduced earnings capacity (source: personal communication with Federal Department of Labour and Social Affairs).

The group of skilled workers was thus virtually the only one to really profit from the privileges associated with the occupational disability pension. The protection of previous professional standing also applies to highly qualified employees such as those with a university education; however, those people are often self-employed and are, as such, not members of the statutory pension insurance funds. Besides, whenever persons with a university education cannot practise their previous professions any more (which is generally a form of office work), it may reasonably be assumed that the causal disability leads straight to invalidity pensions (source: personal communication with Federal Department of Labour and Social Affairs).

The take-up of social assistance, and of integration assistance to persons with disabilities in particular, is sufficiently documented in the available statistics. However, there is no specific information on the extent to which the related payments serve as a form of in-work benefit. As was pointed out in II.2.1 and II.2.3, the legal guidelines for assessing disability with regard to eligibility for social assistance are relatively generous compared to others (for example in the Severely Disabled Persons Act). The regulations also allow disabled recipients to have higher supplementary incomes from work than people receiving social assistance to cover living expenses. No data have been published by any federal authority about the extent to which disabled recipients of social assistance actually supplement their benefits by means of income from work (confirmed by personal communication with the Federal Department of Health which is responsible for social assistance).¹⁰

¹⁰ The only exception might be the share of integration assistance which is directed at disabled employees of sheltered workshops. Their wages only amount to an average of DM 220 per month and thus supplemented by social assistance. In 1995, almost DM 4.2 million were assigned to this purpose (Neuhäuser, 1997, p.333). This statistical item clearly represents disability-related social security benefits which are combined with income from work. However, workshops for disabled people hardly count as part of the regular labour market (even though they have increasingly been exposed to competition from ordinary companies on goods markets) since employment relationships are governed by a special legal arrangement under social legislation which is characterised above all by social and educational care. The low wages paid thus do not really represent regular income from work. (BMA, 1996, p.157)

Benefit and Compensation Programmes - Germany

Another important issue is the question of how claiming procedures affect the take-up of social assistance. It is commonly held that stigmatizing effects cause take-up to be lower than the number of people who are entitled to receive social assistance. This is particularly documented for recipients of 'assistance towards living expenses'. Yet, such effects probably do not apply so much in the case of people who receive benefits as assistance in special circumstances, and in particular in the case of disabled people. The available data show a continuous (absolute and relative) increase in take-up since 1976 as regards both the number of recipients and expenditure (note: the decline in the number of recipients between 1993 and 1994 is caused by a change in statistical recording and also by missing data from some smaller Bundesländer) (Statistisches Bundesamt, 1996, p.470; Datenreport, 1997, p.218, 221; Neuhäuser, 1997, p.332 f.; Krüger *et al.*, 1995, p.26; personal communication with Federal Statistics Office).

Table II.4: Social assistance in Germany

	1992	1993	1994	1995
Expenditure (billion DM)				
Social assistance (total gross)	42.6	48.9	49.7	52.2
including:		30.9	32.8	33.4
assistance in special circumstances	26.9			
including:	9.3	11.2	12.4	13.2
integration assistance to disabled persons				
Recipients (million persons)				
Social assistance	4.72	5.02	-	-
including:	1.87	1.92	1.31	1.48
assistance in special circumstances				
including:	0.35	0.38	0.36	0.41
integration assistance to disabled persons				

The figures show that the recipients of assistance in special circumstances take up a more than proportionate share of the entire benefits: they represent about a third of all recipients and take up almost two thirds of the entire benefits. This is even more clearly the case with disabled recipients of integration assistance: they represent only about seven per cent of all recipients and take up more than 25 per cent of all benefits.

II.2.5 Interactions between in-work benefits and other in-work income support programmes

Opportunities to combine income from work with disability-related social security benefits are determined by the supplementary earnings limits as described in II.2.1. Whenever supplementary earnings actually occur, these benefits virtually become in-work benefits. The question now relates to the way in which the different kinds of in-work benefits relate to each other, i.e. whether there are any special provisions with regard to the accumulation of benefits.

Granting pensions on account of reduced earnings capacity is based on the contributions paid to the statutory pension insurance funds. From this point of view, it is not relevant whether recipients also get social assistance benefits as long as they can fulfil the qualifying requirements which apply to the statutory insurance. On the other hand, claims to social assistance benefits have to be weighed up against actually granted invalidity or occupational disability pensions since social assistance is subsidiary to all claims to benefits from other welfare funds (cf. II.2.1). However, within the scope of assistance in special circumstances and the integration of assistance to disabled persons in particular, it is in fact conceivable that the respective benefits are compatible with receiving disability-related pensions at the same time because the legislation is intended to support people in special circumstances even beyond the actual cost of living. Since only personal property and assets have to be taken into account in granting assistance, income from disability-related pensions will not be affected.

II.2.6 Disabled workers who benefit and those who miss out

Sections II.2.1, 2.3 and 2.4 consider the role of occupational qualification for receiving pensions on account of reduced earnings capacity, and also the definition and the degree of disability underlying the ascertainment of eligibility. The Federal Statistics Office publishes more detailed information on integration assistance to disabled persons, but this only concerns the different types of measures which are financed by it. It does not contain any additional information about characteristics of recipients (source: personal communication with Federal Department of Health).

II.3 TRANSITION BETWEEN BENEFITS AND WORK

II.3.1 The effects of the disability benefit system on return to work

The preceding discussion has made it clear that there is, in brief, no 'national disability benefit system', but that disability-related benefits are provided by traditional institutions of the social security system, in particular the statutory occupational health insurance, the statutory pension insurance, and the social services offices (*Sozialämter, Versorgungsämter*¹¹) which all have very specific regulations concerning objectives, eligibility, and the calculation of benefits.

II.3.2 Provisions for financial support to disabled workers for transition between benefits and work

There is an interesting arrangement of gradual re-integration or return to work that is based on payments relating to medical rehabilitation but which might also apply to disabled employees. The statutory health insurance funds provide sickness benefits (up to half a year) which can be used as a full wage-substitute

¹¹ Special branches of the German social security system (for example the welfare offices for war victims) are not covered in this discussion. Members of the civil service (*Beamte*), for example, receive pensions paid out of general revenue (*Alimentationsprinzip*).

during the period in which a sick or disabled employee has not been restored to a 'sufficient' working capacity. According to this, the employee might be re-integrated into her/his company by just working a few hours per day. The employer then does not have to pay any wage during this phase of diminished performance because the disabled employee is able to cover her/his cost of living merely through sick pay. The disabled employee gradually increases working hours along with the improvement of her/his health status. The point at which the employer has to start paying wages again, and to what extent (combinations of wages and sick pay are possible), is decided by an agreement between the employer and the works council (source: personal communication/aktion 16).

Income-related financial support, directed at disabled persons to promote the transition from benefits to income from work, is also provided by all the other rehabilitation funders, in addition to the statutory health insurance funds. They grant transitional allowances to financially safeguard disabled persons while they are participating in measures of medical and vocational rehabilitation, i.e. to make their participation and the carrying out of the measures possible. These provisions represent a separate fourth group of rehabilitation provision, called supplementary benefits, which complements the respective provisions of medical, vocational, and social rehabilitation (cf. Burger, 1996, p.20, 22).

'During the course of vocational assistance measures for rehabilitation, the fund responsible usually provides cash benefits (training allowance for initial training, temporary allowance to assure subsistence, in particular in the case of retraining), provided that conditions for eligibility of that particular fund are satisfied, and also pays social security contributions (Section 12 Nos. 1 and 2 of the Rehabilitation Harmonization Act and relevant provisions in the individual benefits legislation). The temporary allowance amounts - in most funds - to 70 per cent of previous net earnings, rising to 80 per cent if there is a child entitled to maintenance in the household or if the disabled persons or their spouses are in need of care and the spouses are therefore unable to obtain gainful employment; only the Federal Employment Office gives only 75 respectively 68 per cent¹² of last net earnings. Added to this are a number of extra supplementary benefits such as payment of:

- course expenses;
- examination fees;
- expenses for study aids, working clothes and working equipment;
- travelling expenses; and, for trainees accommodated away from home, expenses for journeys home;
- assistance in the home where it is impossible to maintain a household which includes a child because of participation in rehabilitation.

(Sections 12, 19 and 20 of the Rehabilitation Harmonization Act)' (cit.: BMA, 1996, p.113, 115).

To facilitate the taking up of employment, the relevant provisions in Section 11 of the Rehabilitation Harmonization Act provide for benefits to the disabled person or to the employer. Forms of assistance available to the disabled person include costs linked with applications and removal, assistance with daily travelling expenses between home and place of work (for a maximum of two years), retraining allowances, and technical aids at the workplace and accommodation expenses. The Federal Employment Office is

¹² 75 per cent is the corresponding amount to the 80 per cent in the case of other funds, as mentioned above; 68 per cent corresponds to the 70 per cent amount.

bound by the details in Sections 37 ff. of the directive of its governing board concerning employment of and vocational assistance for disabled persons (Rehabilitation Directive). A '1993 Agreement' governs the regulations applicable to pension and accident insurance funds. Details regarding assistance for equipment suitable for use by disabled persons and, where the disabled person's own income is insufficient, for the acquisition of a motor vehicle which is necessary for employment and has been appropriately adapted for the disabled person, as well as for acquisition of a driving licence, are specified in the Motor Vehicle Assistance Regulations (BMA, 1996, pp.117, 119).

The supplementary benefits listed above which are not directly income-related can also be assigned to the financial incentives described under I.3.2.

II.3.3 Effect of entitlement to benefits in kind on return to work

No information on benefits in kind is available. However, there are many payments provided to both the employer and the employee by different rehabilitation funds (such as statutory occupational accident insurance) and by the Hauptfürsorgestellen, of which the use is tied to technical aids to facilitate return to work. Since these aids are not directly provided by the assisting institutions but have to be acquired by the employer or employee who then, in turn, can claim reimbursement of cost, one cannot really speak of 'benefits in kind'.

II.3.4 Co-ordination between agencies in assessment for benefits eligibility

As far as can be ascertained, there is no co-ordination between agencies specifically with regard to benefits. However, the 1974 Rehabilitation Harmonization Act (*Rehabilitationsangleichungsgesetz*) aims at co-ordinating rehabilitation efforts provided by the different funds. This Act was designed to prevent disabled people from being disadvantaged by responsibility for rehabilitation being split - as a result of tradition - among numerous institutions of the social security system. The underlying rationale is the insight that rehabilitation measures have to be taken as early as possible to be successful. Section 5 subsection 6 of this Act states that rehabilitation measures should be provided in the same way by the different rehabilitation funds. This also applies to benefits, as will be discussed in more detail in sections III.1.1 and III.6.1 (in relation to links between agencies responsible for employment support, rehabilitation and benefit policies).

III. EMPLOYMENT SUPPORT AND REHABILITATION SERVICES

This Part examines the integration of personal support and rehabilitation services within the workplace. It deals with the external support services available to individual workers and their employers where continued employment is at risk because of disability. (Internal services, initiated and managed by enterprises, will be covered in Part V.) The discussion also includes services for early return to work once employment has been lost.

The main focus is on service interventions which support job retention by employees who become injured, ill or disabled and also their return to employment during the process of recovery. It concerns active rehabilitation services that help disabled people to recover capacities and skills, as well as services that support their re-adjustment to work. (Services involving adaptations to the work environment and to working arrangements will be discussed in Part IV.)

More specifically, sections III.1 to III.5 will cover policy about employment-related personal support and rehabilitation services, provide details of services and their providers, and describe the service beneficiaries. The remaining sections will examine the factors influencing the effectiveness of support services for job retention and early return to work. They include a discussion of relationships between the various employment support and rehabilitation services, their relationship to the employment sector, and their interaction with employment policies and compensation and benefit programmes.

Terminology

A note about terminology is necessary in relation to the situation in Germany. 'Employment support' is not a standard term in German legislation and translating this into action depends on the interpretation of individual providers. The term 'rehabilitation', on the other hand, is well-established in law. Moreover, 'rehabilitation' denotes a very wide and general conception including all kinds of 'assistance to the integration of disabled persons or persons who are in danger of becoming disabled in working life and in society as a whole' or, put differently, 'all procedures, benefits and means for structuring living circumstances which correspond to the objectives outlined in Section 10 of the Book 1 of the Social Code' (BMA, 1996, p.19). These objectives are 'to avert, eliminate, alleviate the disability, prevent its worsening or reduce its effects, and in order to secure [disabled people] a place within the community, in particular in working life, in accordance with their inclinations and abilities' (BMA, 1996, p.7). Given this comprehensive understanding, it is not surprising that 'employment support' is often considered as merely a part of the broader concept of rehabilitation.

'Rehabilitation' itself is subdivided into medical, occupational and social rehabilitation, and supplementary assistance (Burger, 1996, p.19 ff.). The clear majority of rehabilitation measures provided by funds are medical (in 1994: 73.3 per cent of all completed measures). As opposed to medical treatment which refers to acute illness, measures for medical rehabilitation aim at the prevention or at least the best possible compensation for any remaining limitations and the disabilities resulting from illness or accident. Measures for social rehabilitation (above all educational measures and early assistance, but also assistance for participation in life in the community including sport for disabled people and support of leisure activities and holidays) do not directly concern working life (HVBG, 1995, p.211 ff.) and only take up the smallest share of all the measures (in 1994: 4.8 per cent of all completed measures). Supplementary assistance

mainly consists of financial benefits to assure subsistence while disabled people undergo rehabilitation. This component of rehabilitation provision has been dealt with in preceding sections (I.3.2 and II.3.2).

The area of rehabilitation of most direct concern to this Part of the report concerns occupational rehabilitation. 'According to Section 11 of the Rehabilitation Harmonization Act, vocational assistance benefits for rehabilitation should include all forms of assistance necessary to sustain, enhance, generate or restore the earning power of disabled persons in accordance with their capability, thereby assuring their professional integration for as long as possible' (BMA, 1996, p.97). In other words, occupational rehabilitation contains all kinds of vocational promotion measures which directly contribute to retaining and obtaining a job or a training vacancy (ANBA, 1996, p.5). Eligibility requires that a sick person's prospects of securing and retaining a job would be permanently and considerably limited without the provision of particular occupational rehabilitation measures (Burger, 1996, p.22). In 1994, 21.9 per cent of all completed rehabilitation measures were occupational ones (Statistisches Bundesamt, 1996a, p.3). The German concept of rehabilitation also distinguishes between rehabilitation for employees who are to be re-integrated into employment from that for people who are to be integrated into working life for the first time (ANBA, 1996, p.6).

However, the concept of occupational rehabilitation for re-integration into working life is a broad one. As a consequence, it is not always possible to merely examine those services which are directly directed at disabled people since data and statistics on occupational rehabilitation measures usually refer to these measures as a whole, including funding or negotiations between funding and providing institutions. Funds providing occupational rehabilitation measures usually offer employment support services as well (see II.1.2 on full-time assistants (*Berufshelfer*) employed through statutory occupational accident insurance). Such services are often included in the general statistics on occupational rehabilitation, rather than being separately listed. Moreover, employment support services are - as a rule - confined to the transitional period of return to work, rather than being provided at any point of need.

In the sections which follow, therefore, we will refer to occupational rehabilitation services as 'support services for return to work' (cf. III.4) even though they may include 'support services for job retention' (cf. III.2) as well. Occupational rehabilitation measures for people who are to be re-integrated into employment mainly consist of vocational retraining which is made necessary by (newly) occurring disabilities. Vocational training measures thus form the core of occupational rehabilitation services (BMA, 1996, p.101). The resulting, newly acquired qualification and occupational capabilities may not be compatible with job retention, i.e. staying with the same employer. However, as was pointed out earlier, changing an occupation as a result of disability-related retraining may still be compatible with maintaining an employment relationship with the previous employer, where the latter is able to redeploy the disabled person in an alternative and adequate workplace within the same enterprise.

The term 'support services for job retention' will refer to services that do not require the disabled person to be absent from work for a long period. This would thus exclude any special occupational rehabilitation, such as vocational retraining, which prevents disabled people from carrying out their previous work. However, it does include measures which provide support *on the job*, as provided in the context of supplementary assistance in the working environment: most occupational rehabilitation in fact occurs within the workplace (and absence from the enterprise would not represent a suitable category for classification).

Workplace-based rehabilitation is generally carried out by or on behalf of the Hauptfürsorgestellen: policy responsibilities for support services of this category will be discussed in III.2.2.

III.1 POLICY AND RESPONSIBILITY FOR POLICY AND PROVISION

III.1.1 The main bodies responsible for employment support and rehabilitation policy

In line with the historically based variations in the German social benefit system, it is the responsibility of individual funds to shape their own employment support and rehabilitation policy. The division of rehabilitation into different areas of responsibility and their assignment to different funds correspond to the funds' particular objectives. The underlying rationale is that responsibility for a person's rehabilitation should always be assigned to the fund which will bear the financial risk for the possible failure of rehabilitation measures provided for the individual. Who bears the financial risk, in turn, depends on how the person is insured and on the type and cause of disability. The various funds do, therefore, refer to the particular characteristics of their 'clients' in shaping their rehabilitation policy (as described in III.4.1.)

Rehabilitation policy has also been considerably influenced by federal legislation, specifically the 1974 Rehabilitation Harmonization Act. Through this Act, assistance in kind for medical and vocational rehabilitation, and the wage-compensation benefits payable whilst rehabilitation measures are taking place, have been largely standardised and further developed in relation to all the social insurance funds, war victims welfare funds and the Federal Employment Office. In addition, a set of underlying principles was established for all social assistance sectors and funds with the objective of achieving the lasting and effective integration of disabled people and those who are in danger of becoming disabled, as far as possible. Finally, sickness insurance has been incorporated into the category of rehabilitation funds. The law stipulates that rehabilitation funds must work closely with each other in the interests of rapid and lasting integration. Where appropriate, they have to draw up a 'general plan' for rehabilitation: this applies where several measures are required or several funds or offices are involved (Section 5 of the Act) (BMA, 1996, p.27, 179, 181). The Rehabilitation Harmonization Act does not really codify all the legal provisions concerning the rehabilitation of disabled people, but it generates a comprehensive framework for the historically differentiated German system of rehabilitation funds. Its main objective, though, is to harmonize the variety of rehabilitation benefits provided by the different funds (Burger, 1996, p.19).

III.1.2 The relative priority accorded to support for retention, return to work and first time entry to employment

In 1994, the majority of completed rehabilitation measures were provided through *statutory pension insurance* (51.2 per cent). However, most of these measures related to medical rehabilitation (92.3 per cent of all measures provided through pension insurance, and 64.5 per cent of completed medical rehabilitation measures provided through all funds). All the other rehabilitation measures provided through pension insurance were occupational ones (18.1 per cent of completed occupational rehabilitation measures provided by the totality of funds). In spite of the predominance of medical rehabilitation, pension insurance has the clear goal of restoring disabled people to working capacity as much as possible. This objective is

based on the principle of 'rehabilitation before payment of pension' (section 7 of the Rehabilitation Harmonization Act). The underlying rationale is a financial one: from the point of view of the pension insurance it is cheaper for disabled people to receive income from work instead of from invalidity pensions. On the other hand, this does also imply that pension insurance is indifferent to the question whether disabled persons - after having undergone rehabilitation - retain their previous jobs or whether their return to work is connected with changing employer. Thus, it is feasible to assume that there is no particular emphasis within rehabilitation policy in this respect. However, it can be said that first time entry to employment plays hardly any role in the rehabilitation policy of pension insurance. This results from the fact that receiving benefits from statutory pension insurance requires compulsory contributions and the completion of qualifying periods (II.2.1). As a consequence, people who are currently gainfully employed represent the largest proportion of people undergoing rehabilitation measures provided by statutory pension insurance (in 1993: 81.6 per cent). For most of the others it can be assumed that they had had gainful employment at some previous point (exceptions are only possible by making up for compulsory contributions during credited periods such as child-rearing) (Hein, 1995, p.907 ff; Statistisches Bundesamt, 1996a).

Statutory health insurance provides exclusively medical rehabilitation. Nevertheless, only inpatient treatment in special rehabilitation centres is statistically captured since treatment in general hospitals can often not clearly be classified as rehabilitation measures. As the various funds are not supposed to compete with each other for 'clients' but to complement one another, statutory health insurance almost exclusively covers people who are not gainfully employed (in 1993: 93.2 per cent of all people undergoing rehabilitation measures provided by statutory health insurance). However, rehabilitation in this context explicitly refers to general health: restoring working capacity is not a professed objective. For this reason, rehabilitation measures provided by statutory health insurance will not be considered any further at this point.

The policy focus of *statutory occupational accident insurance* is similar to that of statutory pension insurance since the principle 'rehabilitation before payment of pension' applies here, too. The assignment of responsibility between the two insurances depends on the cause of disability: accident insurance will only provide rehabilitation measures if disability is caused by an occupational accident or work-related illnesses (cf. II.1.1). In 1994, 5.6 per cent of all rehabilitation measures and 4.8 per cent of all occupational rehabilitation measures were paid for by accident insurance. As regards the relative priority accorded to job retention and return to work, the same problems of adequately assigning available statistical data apply as in relation to pension insurance. Again, however, it can be said that first time entry to employment is only of minor importance - resulting from the defined scope of responsibility. Thus, in 1993 almost 86 per cent of all people undergoing rehabilitation measures provided through statutory accident insurance were gainfully employed at the time (the remainder consisted of children attending school or students - these are also covered by the insurance even though no contribution is paid for them; cf. II.1.1).

The *Federal Employment Office* establishes its priorities differently since it is its task to provide occupational rehabilitation measures for all those who are not subject to the responsibility of another fund, in particular the statutory insurances. As a result, the federal employment office is responsible for the occupational rehabilitation of almost all school-leavers, people whose disability is not caused by occupational accident or work-related illness, and people who have been gainfully employed only for a relatively short period of time (and thus have not completed the required qualifying periods). The complementary nature of the exclusively occupational rehabilitation measures provided by the Federal

Employment Office is reflected in the fact that more than a quarter of people undergoing occupational rehabilitation measures provided by the Federal Employment Office were under the age of 25 (in 1993). It is reasonable to assume that people can increasingly claim rehabilitation measures from pension insurance with increasing age (Hein, 1995, p.912). As a consequence of the structural characteristics of its clients, the Federal Employment Office has to put more emphasis on first time entry to employment (which represents, in contrast to the other funds, a separate category in its published data). Altogether, the Federal Employment Office is the main provider of occupational rehabilitation measures; in 1994, it accounted for 76.8 per cent.

A policy change has resulted from an amendment to the Labour Promotion Act. According to this, statutory pension insurance has also been responsible for the occupational rehabilitation of younger insured people from January 1993; this applies under certain circumstances, for instance if invalidity pensions would otherwise have to be provided, instead of rehabilitation measures. The result is a slightly increasing share of occupational rehabilitation measures, compared to medical ones, provided by the statutory pension insurance. Thereby, the financial burden of the Federal Employment Office could be eased correspondingly. Furthermore, the amendment lays down a preference for the general promotion of employment over more specific measures to integrate disabled people into working life. The resulting shift implies not only a reduction in stigmatizing effects but, more importantly, an orientation of support that takes account of the current situation and developments in the labour market as well as the disabled person's own aptitude, inclinations and earlier occupation. The Federal Employment Office does not disguise the fact that these policy changes represent a reduction in its promotion of support for disabled people (cf. Hein, 1995, p.908 f.; ANBA, 1996, p.5).

The *war victims' welfare funds* will not be considered here because they focus mainly on measures for social rehabilitation. Moreover, they mainly cover elderly people and people who are not gainfully employed.

The *supplementary assistance in the working environment* which is provided by the Hauptfürsorgestellen is counted as part of occupational rehabilitation measures. About 3.4 per cent of all occupational rehabilitation measures were provided by the Hauptfürsorgestellen in 1994. The latter become responsible when additional measures, over and above those provided by other funds, are considered to be necessary to adequately and permanently integrate disabled people into working life. The supplementary assistance is exclusively provided to people who are currently gainfully employed (Hein, 1995, p.913), so that first time entry to employment does not represent an objective of rehabilitation policy of the Hauptfürsorgestellen. Their measures aim at both job retention and return to work; the problems concerning assigning measures to these two objectives have already been addressed in I.4.1.

In principle, *social assistance* can include the provision of rehabilitation measures of all three kinds (cf. II.2.1). However, its focus is essentially on social rehabilitation and on very young people (such as educational measures for children). Often it refers to persons who have been disabled since birth. Thus, in 1993 the group of non-gainfully employed took a share of 89.3 per cent of all people being provided rehabilitation measures through social assistance (Hein, 1995, p.913). It will, therefore, not be further discussed in this section.

The remainder of this Part of the report will consider just the employment support and rehabilitation measures provided through: statutory pension insurance, statutory occupational accident insurance, the Federal Employment Office, and the Hauptfürsorgestellen.

III.1.3 The weight given to employment support and rehabilitation policies for disabled people in the national system

Within the German 'national system', more emphasis is put on (re-)integrating disabled people into working life, and on the associated employment support and rehabilitation policies, than on passive, compensatory measures. The principles of 'rehabilitation before payment of pension' and 'rehabilitation before care', which underpin the German social security system, reflect this emphasis.

There are several reasons why active rehabilitation policies are given priority:

- First of all, it is widely acknowledged that the best possible way of integrating disabled people in society is through enabling them to become employed, most preferably in regular employment in the general labour market. Passive compensation measures would not suffice for this purpose. Finding permanent employment on the open labour market is often perceived as evidence of people 'coming to grips' with their disabilities (Montada, 1997, p.4).
- From the point of view of the funds it is in their own interests to foster occupational rehabilitation efforts: restoring or increasing disabled people's earnings capacity, at least to some extent, will usually end up less costly than paying compensatory benefits (such as invalidity pension) to cover living expenses. This financial calculation underlies the guiding principle of 'rehabilitation before payment of pension'.
- Vocational training is an integral part of occupational rehabilitation and is commonly seen as the key to the problem of unemployment with regard to any disadvantaged group. This emphasis on (re-)training also applies to disabled people. 'Vocational training cannot guarantee permanent integration into the working environment; it is nevertheless indispensable, since disabled persons can only survive competition in a working environment with non-disabled persons if they have the best possible vocational qualifications. A primary task in combining educational and social policy for the integration of disabled persons is, therefore, despite problems on the labour market, to provide comprehensive training opportunities for disabled persons in order to give them the greatest possible degree of equality of opportunity when competing with non-disabled persons for permanent employment' (BMA, 1996, p.97).
- Very few disabled people have been disabled from birth. Most become disabled with increasing age, very often during their working life (in 1995, only 8.1 per cent of all severely disabled people in Germany were under 35 years of age and 84.2 per cent of all severe disabilities were caused by general diseases; ZENTRAS, 1997, tab. 6, 14). In the case of newly disabled employees, it is likely

to be generally beneficial for them to resume their previous employment. It would be tantamount to a waste of human resources to ignore the capabilities and qualifications of people who become disabled and who have acquired considerable expertise over a period of many years.

III.2 SUPPORT SERVICES FOR JOB RETENTION

As outlined in the introduction, this section will consider support services which are provided within the workplace to disabled people in permanent employment. Services which aim at job retention but which involve rehabilitation outside the workplace (and which prevent disabled people from carrying out their previous employment for set periods of time) will be dealt with in III.4.

III.2.1 The main funders and providers of services to support job retention

The *Hauptfürsorgestellen* can clearly be identified as main funders of support services for job retention provided on the job. Section 31 of the Severely Disabled Persons Act represents the legal basis which requires the *Hauptfürsorgestellen* to provide supplementary assistance in the working environment (cf. I.4.1). During the past decade, the *Hauptfürsorgestellen* have increasingly been shifting their focus from monitoring special protection against dismissal to providing supplementary assistance in the working environment, thereby also reflecting the view that an economically profitable workplace appears to be the best protection against dismissal. This shift also alters the character of the *Hauptfürsorgestellen*: instead of being perceived as monitoring authorities, they increasingly try to act as service providers (Heuser, 1993, p.114 f.). The intention is that the goal of securing existing employment relationships with disabled people should be achieved through a service strategy rather than by monitoring activities. What remains the same is the way in which this goal is to manifest itself: a reduction of employers' applications for approval of the dismissal of disabled employees by the *Hauptfürsorgestellen*. However, the *Hauptfürsorgestellen* have recognized that preventive measures are eventually more important than special protection against the dismissal of severely disabled persons (Heuser, 1987, p.105), since the latter applies only when conflict has already occurred and thus might involve irreversible damage to the relationship between the employer and the employee.

As it has been emphasized already, the supplementary assistance provided by the *Hauptfürsorgestellen* is not confined to job retention: it also comprises assistance towards return to work and first time entry to employment (Dobbe, 1995, p.85). Job retention, however, represents the main focus. A comprehensive and differentiated social benefit system like the German one is inevitably characterised by overlapping responsibilities. A guideline for the activities of the *Hauptfürsorgestellen* is, though, to provide additional services and benefits which appear necessary beyond the ones already provided by other funds. Support services for return to work are generally provided also by the statutory social insurances in their role as funders of occupational rehabilitation measures (as will be shown in III.4). Placing disabled people on the general labour market, i.e. first time entry to employment, mainly belongs to the realm of the employment offices. Delegation of responsibility for services supporting job retention to the *Hauptfürsorgestellen* thus has to be understood in terms of complementing these efforts (Ernst, 1995, p.101; III.6.1). In 1993, about

70 per cent of the disabled people benefiting from psychological and social care as part of the supplementary assistance programme in the working environment were in permanent employment (Dobbe, 1995, p.86).

In general, all services directed at job retention which are incorporated in supplementary assistance for the working environment, or related to the procedure of dismissal of disabled employees, are funded and provided by the Hauptfürsorgestellen (for the funding of the latter see I.2.1). Before 1986, these services only played a minor role since supplementary assistance mainly consisted of financial support for employers (such as benefits for the adaptation of work and training places) and for severely disabled employees (e.g. assistance for technical working aids or reaching the place of work) (cf. I.4.1). Services such as counselling were often related to these benefits but were usually perceived more as complementing them.

In 1986, the Severely Disabled Persons Act was revised. Psychological and social care was legally acknowledged as part of the supplementary assistance in the work environment. This was laid down in Section 31 subsection 2 clause 3 of the Severely Disabled Persons Act. Thereby, services came explicitly to the fore among the provisions by the Hauptfürsorgestelle for the first time. Moreover, Section 28 of the Compensatory Levy Regulation states that the Hauptfürsorgestellen can involve independent non-profit-making funds in psychological and social care. This recognized that the Hauptfürsorgestellen often lack sufficient expertise to provide this kind of care themselves. However, the law states that contracted services have to be provided by independent and non-profit-making funds. In this case, the Hauptfürsorgestellen nonetheless retain overall responsibility for the services provided (under section 28 of the Compensatory Levy Regulation) (Heuser, 1991, p.3 f.).

Since the new law has been in force, there have been numerous experimental projects with special services to provide psychological and social care for disabled people, and particularly for disabled employees (70 per cent of whom have been beneficiaries - see paragraph 2 of this section). So far, no standardized supply of these services has emerged. Instead, various specialised services exist. The most important is the 'psychological and social service' (*Psychosozialer Dienst*, or *PSD*). In addition, there are separate specialized services for deaf people, people with hearing impairments, visually impaired people, and people with learning difficulties. These services are either directly affiliated to the Hauptfürsorgestellen or are provided by independent non-profit-making funds. In 1993, the independent funds provided about 315 specialized services (1991: 150, 1992: 250) and spent DM 38.2 million on psychological and social services. More than 80 per cent of their employees were social workers, social education workers or psychologists (Dobbe, 1995, p.85). During the year 1995/96, the Association of the German Hauptfürsorgestellen estimated the number of external specialized services at about 340 (AGDHFS, 1996, p.21); coverage has been achieved for almost the whole of Germany (AGDHFS, 1994, p.61). Which services in particular are actually provided and by which organisation differs regionally. In Bavaria, for example, support services for job retention are provided by so-called work assistants rather than PSDs; Ernst, 1995, p.102); they are affiliated to other services and to institutions of occupational rehabilitation. (For a survey see Dobbe, 1995, p.86.)

Support services for job retention are also provided by the services just listed above and by other specialized services (such as special integration services or 'work assistance' in Hamburg) in connection with securing the placement of disabled people in open employment (Ernst, 1995, p.102). The services are then intended

as a kind of 'after-care'. As they relate to the category of 'first time entry to employment' (ZB Info 3/96a, p.6), they will not be discussed further at this point.

III.2.2 Relationships between the providers of services and bodies with policy responsibilities

Section III.1 has already discussed policy responsibilities for rehabilitation services and indicated that employment support services form just one part of rehabilitation measures as a whole. Policy responsibility for support services for job retention as part of the 'supplementary assistance in the working environment' is largely left to the Hauptfürsorgestellen, which also bear the main responsibility for its provision. This is derived from the fact that the Severely Disabled Persons Act lays down that the Hauptfürsorgestellen have to provide supplementary assistance but does not say anything about *how* this assistance should be provided. The legislation thereby recognizes the complexity and diversity of the possible relations between working life and the individual disabled person (Heuser, 1991, p.2). Consequently, it is within the discretionary scope of the Hauptfürsorgestellen to shape their policy of employment support services (Heuser, 1987, p.104). Thus, the individualization of support becomes possible.

Although the Hauptfürsorgestellen retain overall responsibility for the provision of support services for job retention, it is the specialised services within independent non-profit-making funds which possess the detailed expertise relating, for instance, to mental health problems or physical disabilities requiring very specific support services. Those specialized services are also used to working without being monitored or controlled by any authority. The asymmetric distribution of expertise thus creates a considerable potential of conflict between the Hauptfürsorgestellen and the independent funds as contracted service providers. From the point of view of the Hauptfürsorgestellen it is crucial to acquire at least a minimum of knowledge about the specialized services in order to be able to evaluate and coordinate their work. Above all, this is very important in terms of funding. According to section 28 subsection 3 of the Compensatory Levy Regulation, the Hauptfürsorgestellen are supposed to fully reimburse the respective providers of the contracted specialized services (i.e. agreeing to pay for 100 per cent of their expenses). All kinds of details have to be settled in individual mutual agreements (clause 2). The Hauptfürsorgestellen must therefore be able to check whether the provision of specialized services is (still) appropriate within the framework of supplementary assistance in the working environment. Besides, sufficient knowledge on both sides facilitates putting up a united front in dealing with employers (Heuser, 1991, p.4 f.; Hartmann, 1991, p.12).

There is no formal or official accreditation of the independent funds which provide specialized services on behalf of the Hauptfürsorgestellen. The latter are free to choose among potential providers. In Germany, many of those providers are very well established and look back on a long tradition involving a reputation which, to some extent, replaces a formal accreditation procedure.

III.2.3 The range and types of services provided

Within the framework of the 'supplementary assistance in the work environment', the Hauptfürsorgestellen make payments to employers, disabled employees and non-profit-making funds (cf. I.4.1). However, supplementary assistance also comprises support services which may contribute to job retention. In

practice, the following types of services have gained central importance (Heuser, 1991, p.2; Hartmann, 1991, p.11):

- information: the Hauptfürsorgestellen provide detailed information for employers as well as for disabled employees and their representatives on possible support and aids, on the Severely Disabled Persons Act and related regulations;
- counselling and mediating: it is part of the everyday activities of the Hauptfürsorgestellen to have contacts with employers, disabled employees and their representatives, and to act as a go-between to settle conflicts that are connected with the employment of disabled people (crisis management);
- instruction: according to section 31 subsection 2 clause 4, the Hauptfürsorgestellen have to instruct disabled employees' representatives, the employers' representatives for the disabled employees' concerns, and the works councils in dealing with problems arising from the employment of disabled people and the associated legal provisions.

Providing information and counselling are often integral parts of the dismissal procedure as soon as the Hauptfürsorgestellen have to be involved, especially with regard to the primary goal of reaching an amicable agreement among the parties concerned (see I.3.1). Establishing good relationships with employers and companies is widely considered to be crucial for the success of support services for job retention: regular company visits are of particular significance in this respect.

The types of services that have been listed also occupy central positions among the services for psychological and social care as a subgroup of the supplementary assistance in the working environment. Characterising these services further is difficult because the establishment of any universally applicable exact features would conflict with the principle of individualization of assistance. Moreover, the borderline between psychological and social care on the one hand, and psychological therapy or treatment on the other, is often not clear-cut. To nonetheless obtain a rough idea of what these services might be like, some very general features can be described as follows (Heuser, 1991, p.4):

- promoting the willingness of other employees to actively take part in the psychological and social care of disabled employees;
- providing assistance with practising certain skills which are required at the workplace, such as planning and organizing work with regard to time allocation and coordination, concentration and attention-span;
- assistance with realistic self-assessment, setting realistic goals, and changing disabled people's attitudes towards themselves and towards other employees;
- involving the disabled employee's family if this is necessary to solve work-related problems;
- psychological and social care should always aim at restoring and/or increasing the disabled employee's capacity for self-help.

Employment Support and Rehabilitation Services - Germany

As was mentioned before, the range of services differs regionally, along with the different concepts about provision. In the case of the Bavarian work assistants, for example, additional emphasis is put on the search for alternative workplaces and possibilities for redeployment. They are also supposed to encourage enterprises to provide more vacancies for disabled people, and to counsel, prepare and assist disabled employees to participate in measures for occupational rehabilitation (Hartmann, 1991, p.8, 11).

Another interesting concept of services for psychological and social care was introduced and experimented with in Bavaria. The Hauptfürsorgestellen and work assistants encouraged enterprises to employ internal work assistants: they provided full or partial funding of the assistants' salaries and training and instructions if necessary. The internal assistants' task is to support disabled employees in coping with the demands of working life, showing discipline, handling conflicts, and performing adequately. At the same time, they try to increase co-workers' and superiors' understanding of the disabled employee's particular situation, above all by giving them some information about the disability and its implications without revealing too many personal details (given the requirement of confidentiality). In addition, the internal assistants should gain an insight into the various sections within an enterprise in order to acquire some knowledge about the potential of particular workplaces for disabled people and the possible redeployment of disabled employees.

Promoting internal company services for the psychological and social care of disabled employees is not confined to Bavaria. The Hauptfürsorgestellen can generally subsidize such services under section 27 of the Compensatory Levy Regulation. Where the running of internal company services for disabled employees represents an 'extraordinary difficulty arising from the employment of particularly severely disabled persons', the Hauptfürsorgestellen are permitted to use parts of the revenue from the compensatory levy for subsidizing these services. The provision of internal company services is generally found among relatively big companies which can afford to establish them. It is within the discretionary scope of the Hauptfürsorgestellen to decide whether the provision of internal company services is to be regarded as an 'extraordinary difficulty' or whether - maybe because of the size of a particular enterprise - maintaining such services should be standard practice (Heuser, 1991, p.6).

(NB: These examples illustrate various themes in this report: the strategies are initiated by external service providers (the Hauptfürsorgestellen and external work assistants), involve financial incentives to encourage the establishment of internal assistants' positions or internal company services (cf. I.2.3), and reflect internal enterprise strategies (cf. Part V).)

III.2.4 Characteristics of enterprises using external support services for job retention

The Hauptfürsorgestellen, which have the main responsibility for the provision of external support services for job retention, report the total number of clients but do not publish any data on the characteristics of enterprises using these services. The number of employees receiving psychological and social care is as follows (AGDHFS, 1996, p.21):

Table III.1 Current and completed cases

1991:	6,736
1992:	8,186
1993:	12,816
1994:	13,120
1995:	14,643

However, these figures present a distorted picture of the actual use of external support services for job retention by enterprises. It is well known that, along with the economic recession in 1992/93, the willingness to use these external services decreased considerably because employers often regarded them as an obstacle to their ambitious plans of personnel cuts which they felt increasingly forced to undertake during that period (Dobbe, 1995, p.87). That the numbers of clients still increase constantly is certainly connected with the simultaneous extension in supply and availability of external support services since the amendment of the Severely Disabled Persons Act in 1986 (and the building up of such services in the former GDR since 1990). If there are such profound changes in the conditions of supply, clear statements about the demand side will appear problematic. In II.2.1 it was shown that the supply side is still evolving and is characterised by many different approaches which are still at the experimental stage.

As regards the internal work assistants in Bavaria, some more detailed statements about the enterprises using this means of supporting job retention are nonetheless possible. During the first phase when internal assistants had just been introduced as an experimental project, it turned out that medium-sized enterprises were most inclined to hire a new employee for this job from outside. They preferred social education workers for this. Medium-sized firms are small enough to keep a general overview which allows them to establish the necessary personal contacts. Smaller companies usually employ too few workers to keep an internal assistant fully occupied. Big companies, on the other hand, have often established their own specialized services for social care so that they tend to recruit assistants internally. One major advantage of this is the knowledge about the particular circumstances in the company which is already held by the assistant. Another important factor which is apparent in this context is that, in the case of an enterprise which is at least medium-sized, the display of social responsibility provides an opportunity for promoting the enterprise. The potential effects of publicising a social commitment within personnel policy thus represents an important incentive to make provision for disabled employees, and to provide internal support services for job retention in particular. Finally, technical and organizational constraints relating to the range of possible workplaces and possibilities to redeploy disabled employees also determine the enterprises' willingness to use services for job retention (Hartmann, 1991, p.9 f.).

III.2.5 The prevalence of externally provided support services

The shift in the role of Hauptfürsorgestellen from monitoring special protection against dismissal towards the provision support services has been discussed in III.2.1. Section III.2.1. also considered the structure and development of specialized services (supply side). The use of external services by enterprises (demand side) was discussed in III.2.4.

III.2.6 Arrangements for external providers to organise support in the workplace

As compared with the special protection against dismissal, the external support services for job retention provided by the Hauptfürsorgestellen or by affiliated specialized services are not subject to any legal arrangement concerning use or access. Legislation is confined just to *potential* supply and there is no quantified goal concerning the services actually provided. The providers of support services for job retention thus have to establish cooperative relations with enterprises to effectively reach their clients. The support services' access to disabled employees in companies, and the opportunities to involve their superiors and the enterprise management in the process of assistance, very much depends on the services' ability to create an atmosphere of cooperation and mutual trust in relation to the firms. Regular company visits are the main tool to establish relations of this quality. Besides, the behaviour of the Hauptfürsorgestellen during the dismissal procedure can be taken as evidence of their seriousness in trying to establish cooperative relations. Critics point at the high number of approved dismissals (cf. I.3.1). They argue that the efforts of the Hauptfürsorgestellen to show a sufficient understanding of enterprises' needs in order to effectively promote their own services and thus to increase employers' engagement for disabled people would eventually undermine the effectiveness of the special protection against dismissal.

However, the major obstacle to the success of establishing cooperative relations and convincingly adopting the character of a service provider still consists in the fact that the Hauptfürsorgestellen simultaneously have the task of monitoring the dismissal behaviour of firms as far as disabled employees are concerned and - in doing so - to act as a bureaucratic authority. As it is the case with the take-up of financial incentives (cf. I.2.3), companies often show a certain reserve in contacting the Hauptfürsorgestellen, which is definitely caused by being afraid of 'waking up' an additional monitoring force interfering in enterprise policies. In a highly regulated country like Germany, it is not surprising that such latent fears eventually outweigh the obvious efforts by the Hauptfürsorgestellen to push their service provision to the fore. The latter thus have to fight against a lack of credibility. However, this does not apply equally to all kinds of enterprises but mainly to smaller ones which also lack information about the available provision, as compared with larger companies. The latter, in fact, are often much less reserved in maintaining contact with the Hauptfürsorgestellen or the affiliated service providers. Because of their wider range of workplaces that would possibly be adequate for disabled employees, and since bigger companies can profit relatively more from the signals towards non-disabled personnel and the public which result from an active commitment to disabled employees, they are more inclined to contact the Hauptfürsorgestellen and stay in touch with them (Hartmann, 1991, p.10). As they usually employ more disabled people, it is also more worthwhile for them to take detailed account of the Hauptfürsorgestellen's services. Finally, they have recognized that the legally established special protection against dismissal is not tantamount to a ban on dismissal (cf. I.3.1) since they have more often experienced dismissal procedures involving the Hauptfürsorgestellen as a result of their higher number of disabled employees.

III.2.7 The extent to which services support job retention

The Association of German Hauptfürsorgestellen has reported on the results of the provision of services for psychological and social care. The separate categories that are used help to identify the extent to which

services contributed to job retention and return to work. The following data were published in the latest annual report (AGDHFS, 1996, p.23):

Table III.2: Results of the provision of services for psychological and social care 1992-1995 (as percentages of all completed cases)

	1992	1993	1994	1995
	(N=2,182)	(N=3,763)	(N=4,546)	(N=4,748)
Previous job retained	23.46	17.59	18.76	22.36
Employment relationship retained	9.07	7.79	6.58	9.12
Return to work with new employer	11.55	10.90	9.02	8.53
Termination of employment relationship	22.91	23.28	22.02	24.40
Arranging another kind of care	16.41	15.87	12.96	13.35
Breaking off by client	16.09	14.67	13.90	12.55
Inpatient long-term treatment	4.49	5.93	3.85	3.62
Death	1.01	0.85	0.84	0.86
Other results	20.26	14.22	16.48	15.39

(NB: The figures for 1994 and 1995 exclude specialized integration services. Multiple responses were allowed.)

According to these data, the continued employment of employees using external services for psychological and social care was achieved in more than 40 per cent of all completed cases (rows one to three) in 1995. Compared to the preceding year, this number increased by about six percentage points, which is exclusively due to better performance with regard to job retention (rows one and two); efforts to promote a return to work, but with a different employer, were not as successful as the previous year. The seemingly better performance in 1992 has to be seen against the background of the considerably lower total number of cases. The relatively high number of cases in which the employment relationship has been terminated should not obscure the fact that the reasons and circumstances of the termination are varied. In 1995, about five per cent of the cases of psychological and social care in which the employment relationship was terminated were due to the disabled employees themselves handing in their notice; 25 per cent can be traced to mutual agreements; and almost 45 per cent were connected with pension payments from the statutory pension insurance funds (occupational disability or invalidity pension).

To assess the effectiveness of the available support services for job retention, these data definitely do not suffice since they merely represent the 'benefits' of the services without considering the cost-side. Meaningful cost-benefit analyses for the totality of services are - to our knowledge - not available, although

some may have been carried out within case studies. Aside from quantifiable measures, there are some fundamental considerations with regard to the assessment of support services for job retention, in particular referring to the structure of the supply side. There is some controversy about the extent to which it is advantageous to delegate the provision of specialized services for psychological and social care to independent funds instead of leaving it to the Hauptfürsorgestellen as the responsible authorities. It can be said for independent service providers that they have more possibilities to specialize and to correspondingly employ qualified people like social education workers and psychologists. Usually they can also organize their working hours much more flexibly and thus give more attention to the specific needs of people with mental distress in particular. Finally, many disabled people are reluctant to contact and reveal their situation to the authorities. The independence of funds may facilitate claiming assistance. The Hauptfürsorgestellen, on the other hand, have their strong points with regard to administration, labour and social law, training and instruction, as well as the adaptation of workplaces to the needs of disabled employees (Heuser, 1987, p.105 and 1991, p.3).

Some commentators emphasize the fact that the final responsibility for the provision of services for psychological and social care remains with the Hauptfürsorgestellen, even if independent funds are involved (Beule, 1990, p.146; AGDHFS, 1994, p.17). This responsibility is a reason for not completely delegating the services to independent providers. Rather, psychological and social care should primarily be included in the total range of provisions by the Hauptfürsorgestellen, particularly because in many cases different types of assistance and subsidies have to be combined (for example counselling and financial incentives). So there is a good case for the provision of a complete range of assistance and services by one institution (Beule 1990, p.152). The following additional reasons have been put forward for leaving the bulk of service activities to the Hauptfürsorgestellen (or directly affiliated services) (Beule, 1990, p.146, 152 f.; AGDHFS, 1994, p.15 ff.):

- The Hauptfürsorgestellen do not appear as biased as independent services towards their disabled clients since they are always obliged to take the employers' interests into their consideration as well. So cooperation with and access to enterprises may be easier. On the other hand, the specialized knowledge of independent providers with regard to psychological and social care will probably be associated with a corresponding lack fundamental knowledge about enterprises' needs (Dobbe, 1995, p.87). Since independent providers often have specialized staff (such as social education workers or psychologists), there may be a tendency to align the services too much to the professional background of the personnel (*'psychiatrisation of working life'*). That means, for example, that problems may be approached too much from a purely psychological point of view while other important aspects may not be sufficiently considered. Since problems which are related to working life are often of a very complex nature, and concern numerous aspects like the disabled employee's personality as well as the social and physical environment, and technical issues and interactions between these, a narrow focus may be dysfunctional. Employers are thus usually more inclined to cooperate with the Hauptfürsorgestellen, also because there is often some long-term experience in dealing with each other which both parties can build on.

- Employers are also obliged to share relevant information on internal company affairs with the Hauptfürsorgestellen and to cooperate with them (Section 13 subsections 3 and 4 of the Severely Disabled Persons Act). This not the case in relation to independent providers.

- The disabled employees' representatives are released from their pledge of confidentiality only in relation to the Hauptfürsorgestellen, but not with independent providers.
- Severely disabled employees are obliged to reveal their personal and economic situation to the Hauptfürsorgestellen if the latter consider this to be necessary for providing assistance. There is no such obligation with regard to independent providers.

With reference to these aspects, it seems understandable that representatives of the Hauptfürsorgestellen call for a different assignment of responsibilities. According to this, independent providers would only be involved whenever additional services for psychological and social care are required *outside the company*, and insofar as *unemployed* people with mental distress are concerned; care and counselling services *within the company* should then be left to the Hauptfürsorgestellen (Beule, 1990, p.152).

Finally, the following issues have to be considered in assessing the extent to which the services described are effective in supporting job retention:

- Since independent providers were allowed to work on behalf of the Hauptfürsorgestellen from 1986, and thus to be funded by the revenue of the compensatory levy, the 'supply side' of services for psychological and social care has become increasingly differentiated. Different forms of provision are being tested, and no real standard has emerged yet (III.2.1). For the users of these services it is increasingly difficult to become accustomed to an increasingly sophisticated system of assistance; this is particularly important given the key role played by personal relations between service providers and users in determining the effectiveness of assistance. Being referred to numerous responsible contacts tends to hinder disabled persons and their employers from establishing close personal relationships with their assistants. At this point it becomes clear, once again, that the fragmentary character of the 'national system' in Germany, and its lack of transparency, are both central themes and fundamental drawbacks, as they considerably increase the cost of information gathering (Beule, 1990, p.151; Ernst, 1995, p.102).
- Although the Hauptfürsorgestellen generally have more knowledge about the peculiarities and needs of enterprises, they are never as familiar with the conditions in a company as the internal representatives for severely disabled people (including the works councils). So the success of externally provided services also crucially depends on their efforts to fully exploit the potential for cooperation with internal company representatives (Heuser, 1993, p.115).
- Employers tend to associate the term 'psychological and social services' with an agency whose objective is to criticise poor conditions within enterprises and employers' failure to demonstrate social responsibility. This association may be attributed to the terms 'psychological' and 'social' being seen as unrelated to the primary concerns of business management. As a result, enterprises may not see such services as real partners in solving problems (Dobbe, 1995, p.88). 'Psychological and social services' may thus be an unfortunate choice of phrase. Many Hauptfürsorgestellen have accordingly changed the term to '*Berufsbegleitende Dienste*' (services provided within an employment context) (AGDHFS, 1996, p.21).

Employment Support and Rehabilitation Services - Germany

- Co-operative relations between service providers and enterprises have already been stressed as an important factor for the provision of support services in the workplace (III.2.6). It has also been mentioned that the Hauptfürsorgestellen are sometimes criticized for showing too much understanding for companies' concerns in order to achieve a co-operative attitude. Another argument suggests that the Hauptfürsorgestellen do not really have a choice, because there is an imbalance with regard to the potential of sanctions. It might be argued that the threat of refusal to recruit disabled people outweighs the threat of approval not being granted to dismiss disabled employees. As a consequence, the relationship between employers and the Hauptfürsorgestelle may turn out to be relatively one-sided in favour of the employers, which manifests itself in the high proportion of job losses eventually resulting from negotiations about dismissals (see I.3.1).

- Last but not least, some results of the internal work assistants' activities in Bavaria have been presented. Even though this approach of placing support services in the workplace is not very widespread in Germany, and even though the results mainly stem from the late 1980s, the internal work assistants represent a unique concept which may provide a model for other regions, too.

Although the participating companies were initially very sceptical towards the employment of internal work assistants, the project turned out to be successful, as shown in three ways (Hartmann, 1991, p.10 ff.):

- the working hours lost through absenteeism of those employees who have benefited from services by the internal assistants have decreased in the long run;

- all employees felt that the working atmosphere improved after internal assistants had been introduced;

- whenever people with mental distress were newly recruited by companies taking part in the project, they were accepted by both superiors and co-workers.

Lower-level managers, in particular, felt considerably relieved by the employment of internal work assistants. These take some of the load off the superiors, especially with regard to settling conflicts among staff and dealing with irregularities in working performance. In so doing, the assistants help to prevent minor problems from becoming major ones by not being dealt with at an early stage. This spares all employees a lot of stress and additionally saves the superiors time they would otherwise have to devote to their staff. On the whole, the early involvement of internal work assistants makes the total number of internal company conflicts decrease in those sections where disabled people are employed.

III.3 USERS OF SUPPORT SERVICES FOR JOB RETENTION

III.3.1 Eligibility criteria and procedures for identifying users (disabled workers and their employers)

Severely disabled people and persons of equal status with a particular need for care in work (according to Sections 1 and 2 of the Severely Disabled Persons Act) form the target group of the specialized support services provided by the Hauptfürsorgestellen and their affiliated providers. Above all, this group includes people with mental health problems and learning difficulties, but also some physically disabled persons who suffer from emotional problems which affect their working performance (Ernst, 1995, p.102). Since the Hauptfürsorgestellen are responsible for the implementation of the Severely Disabled Persons Act, their services must be directed at persons who are classified as severely disabled by the *Versorgungsamt* on the basis of the 'Points of reference for medical reports within social compensation legislation and according to the Severely Disabled Persons Act' published by the Federal Ministry for Employment and Social Affairs (BMA, 1996, p.133; cf. I.5.1). In addition, the Hauptfürsorgestellen are also obliged to provide their support services to persons whose status of being severely disabled has not yet been ascertained, but who have applied for it to the *Versorgungsamt* (Heuser, 1991, p.4).

Delimiting eligibility for support services on the job thus does not seem to be a problem from the legislative point of view. However, identifying users is made difficult by the vagueness of the term 'psychological and social care' which is not really defined in law. Only the working environment represents a definite point of reference from which a target for the provision of services can be derived. As regards content, though, there is no clarification. On the other hand, this 'missing part' reflects the fact that the legislation has taken account of the potential complex interactions between all the different areas of life which might be relevant for the effective provision of support services. So the principle of the individualization of assistance means it is not possible to specify the contents of support services in more detail (cf. Beule, 1990, p.145).

Resulting from these points, the legal framework permits varied forms of support services at work. At the same time, it causes a considerable lack of standardization on the providers' side which, in turn, results in fragmentation and insufficient transparency from the users' point of view (see III.2.7). On the other hand, the provision of support services at work has only recently been recognized as a useful and necessary additional form of assistance (1986 amendment of the Severely Disabled Persons Act). A transitional period is therefore needed in order to experiment with different forms of services, particularly in the light of the multiplicity of types of disability-related problems at work.

There are various possible 'channels' through which the provision of support services can be initiated and users can be identified, including disabled persons themselves, the Hauptfürsorgestellen, and employers. The majority of service provision is initiated by disabled employees themselves or their relatives. In 1993, this was true for 26.8 per cent of all the 6,532 current cases. The fact that this share has increased (from 21.6 per cent in 1991) might be traced to improved public relations work by providers, but also to the worse work situation of disabled employees. 22.6 per cent of current cases in 1993 were initiated by physicians or hospitals, 14.7 per cent by the Hauptfürsorgestellen, 13.7 per cent by other institutions for psychological and social care, and 3.2 per cent by employment offices. 14.4 per cent were initiated by the enterprises employing disabled persons, and by disabled employees' representatives in particular, reflecting

a significant decrease from 19.0 per cent in 1991. However, this development must be seen against the background of a period of economic recession in 1992/93 (cf. III.2.4) (Dobbe, 1995, p.87).

As regards the internal work assistants in Bavarian companies, some particular conditions have to be observed to ensure employees sufficient access to internal support services. The internal assistants should, for instance, have separate rooms and phones as well as consulting times so that employees can see them unnoticed by their colleagues. Everybody in the company should become familiar with the internal assistants, and the assistants should try to become well known among the employees through their regular presence. In addition, it appears important not to incorporate the assistants into the company's personnel department because they might then be regarded as just the extension of the head of this department. Instead, the assistants could be assigned to the company's internal welfare service (if something like this exists). To increase acceptance in the company, the assistants should avoid declaring themselves as only being responsible for particular groups of disabled employees. Rather, they should emphasize that all employees in need of support services can consult them. Thereby, they can prevent the users of their services from being seen in an unwelcome and possibly stigmatizing special light (Hartmann, 1991, p.10).

III.3.2 Disabled workers who benefit and those who miss out

The initial concept of support services on the job does not contain any specialization related to particular groups of disabled persons. This is consistent with the law (section 31 of the Severely Disabled Persons Act and section 28 of the Compensatory Levy Regulation) which grants all severely disabled people access, in principle, to services for psychological and social care within the context of supplementary assistance in the working and professional environment (Beule, 1990, p.147). Specialized support services for people with hearing impairments are an exception, since the provision of assistance for this group of people requires very specific knowledge and skills (sign language, for example) (Dobbe, 1995, p.85).

In spite of this legal framework, services for psychological and social care have mainly been directed towards people with mental health problems since the amendment of 1986 came into force. This bias in favour of a particular group of disabled people can be explained by the fact that the system for assisting disabled people in general is not yet sufficiently developed in dealing with the sorts of employment problems that are particularly evident in the case of people with mental health problems. The Hauptfürsorgestellen have changed their outlook correspondingly; for them, the specific problems of people with mental health problems have not been an issue for some time (Heuser, 1991, p.1).

However, the focus has recently shifted towards the inclusion of people with disabilities other than mental health problems since it has also been recognized that all kinds of disability might easily involve the need for psychological and social care (Heuser, 1991, p.7). On the one hand, this shift will eventually lead to an orientation of support services which is more consistent with the letter of the law and its actual intention. On the other hand, ascertaining a severe mental health disability in accordance with the officially used guidelines for medical expert examination under the Severely Disabled Persons Act often turns out to be problematic. Many mental health problems do not really become evident; in other cases, receiving the official status of being severely disabled may just make matters worse for people with mental health problems (AGDHFS, 1996, p.21).

The majority of clients benefiting from services for psychological and social care still belong to the group of people with mental health problems. In 1993, they had a share of 57.2 per cent among all clients (though this was tending to decrease: in the two preceding years, this share was more than 61 per cent). In the same year, 12.6 per cent of the clients had sensory disabilities, 11.3 per cent physical, 7.2 per cent neurological, and 7.1 per cent learning difficulties. By the end of 1993, 30.3 per cent of current cases and 33.4 per cent of completed ones did not have the official status of being severely disabled; 4.7 per cent had recently applied for being classified as severely disabled (Dobbe, 1995, p.85). The share of clients with mental health problems without the official status of severe disability shrank from 29.8 per cent to 23.8 per cent in 1995 (AGDHFS, 1996, p.21). The figures show that the Hauptfürsorgestellen have some discretionary scope to also provide support services at work for severely disabled people who do not have the official status as such; this reflects the problems connected with ascertaining particular types of disability. In so doing, they refer to substitute criteria which are provided by their umbrella organization, the Association of German Hauptfürsorgestellen (cf. Beule, 1990, p.150).

The internal work assistants in Bavarian companies are even less restrictive in the selection of clients. In fact, they are not bound by the official status of severe disability at all. This way of proceeding again reflects the insight that officially ascertaining a status of disability might easily have a negative effect on people with mental health problems in particular. Most of them do not suffer from any limitation of their individual intellect, and they are afraid of the prejudices and possible stigmatizing effects which are associated with such official status. On the other hand, they will thus not benefit from the provisions of the Severely Disabled Persons Act and the special protection against dismissal in particular. This makes it particularly important to grant this group of employees unfettered access to support services irrespective of any official status. Since the Hauptfürsorgestellen are more bound to the latter, the concept of internal work assistants may be a useful arrangement to respond to these problems. To prevent the possible stigmatizing effects associated with delimiting a group of possible clients, employees can consult the internal assistants, for example, as soon as they have particular problems in relation to other people. The internal assistants have to deal with a lot of problems which are not directly related to employment, too (Hartmann, 1991, p.9 f.).

III.4 SUPPORT SERVICES FOR RETURN TO WORK

The primary focus of this section is on occupational rehabilitation in general, and vocational re-training or further training measures in particular. Changing either a job or employer is more likely to occur on completing rehabilitation, as compared with support services on the job such as the 'supplementary assistance in the working environment' provided by the Hauptfürsorgestellen, which are much more explicitly aimed at job retention, i.e. staying with the same employer. However, further vocational training, or even vocational retraining, could be combined with job retention as well, especially within big companies where disabled employees can be more easily redeployed. For this reason, job retention will still be dealt with in this section as a possible result of rehabilitation services.

Before dealing with the main services in detail, it has to be stressed once again that services of further vocational training or vocational retraining belong to the broader category of occupational rehabilitation, and are thus embedded in supporting measures which do not simply consist of services. In fact, they may

be complemented by benefits for technical equipment for the workplace, aids to make equipment suitable for use by disabled persons, or acquisition of a motor vehicle, (re-)training subsidies, cash benefits to disabled persons (temporary allowance to assure subsistence in the case of retraining), employment and integration allowances to employers, and other supplementary benefits as listed in II.3.2 (see, too, ANBA, 1996, p.5). In addition to services of vocational retraining or further training, the initial training of disabled persons forms an integral part of vocational assistance benefits. These services will not be considered in this context since the objectives of 'job retention' and 'return to work' presuppose that the disabled persons concerned have been employed at some point before. 'First time entry to employment' is not an object of this study. So, examining the available data on occupational rehabilitation in relation to just services which aim at job retention or return to work is problematic.

Finally, in dealing with data on occupational rehabilitation, one has to keep in mind that 'a disabled person' is not synonymous with 'a person undergoing rehabilitation'. Measures for rehabilitation are, on principle, not initiated by an existing or newly occurring disability, but by sickness which may result in disability if appropriate measures are not taken. The preventive nature of rehabilitation legislation distinguishes it from the legislation in respect of severely disabled persons. The latter mainly contains provisions which represent a reaction to existing disabilities, while most of the persons undergoing rehabilitation have not yet become disabled or severely disabled (Burger, 1996, p.28). References to 'disabled people undergoing rehabilitation' thus reflects a broader understanding of disability compared to the one underlying the Severely Disabled Persons Act.

III.4.1 The main services for return to work

The Federal Employment Office

In section III.1.2, the Federal Employment Office (FEO) was identified as the main provider of occupational rehabilitation measures. This has to be traced to the fact that, of all the funds responsible for occupational rehabilitation, it is almost exclusively responsible for the initial integration of disabled people into the work environment and it bears the greatest responsibility for reintegration in the event of subsequent disabilities. '... although benefits paid by accident and pension insurance, and in accordance with the law of social compensation, take precedence over benefits under the Employment Promotion Act (section 57 of the Employment Promotion Act). The reason for this is that the accident insurance and social compensation funds have obligations to assist a clearly defined group of persons' (see III.1.2) (BMA, 1996, p.121). The FEO is thus responsible for the re-integration of younger disabled people who do not satisfy the necessary prerequisites for claiming occupational rehabilitation measures from the statutory insurances. Moreover, disabled persons are entitled to the same benefits provided on the grounds of the Employment Promotion Act as are non-disabled persons. So, for example, a disabled person's retraining for a different occupation can generally be claimed according to the Employment Promotion Act, so the same criteria of eligibility apply. It is only if retraining is needed for vocational rehabilitation *as a result of disability* that special, more favourable, eligibility regulations apply and the range of benefits differs (Thornton and Lunt, 1997, p.119).

Most of the time, the FEO is the fund which arranges measures for occupational rehabilitation or, at least, is involved in arranging them. One major reason for this is that section 6, subsection 2 of the Rehabilitation

Harmonization Act obliges the FEO to provide provisional benefits, especially in cases where the question of responsibility has not been clarified. In 1995, 80 per cent of all cases of occupational rehabilitation with the objective of re-integration into employment were arranged by the FEO. However, this share has shrunk after the Labour Promotion Act was amended in 1993 (cf. III.1.2; in 1992, 88 per cent had still been arranged by the FEO) (ANBA, 1996, p.12). Furthermore, the FEO also has the special task of having to be consulted by the other funds involved in rehabilitation prior to the arrangement of vocational assistance measures (section 5, subsection 4 of the Rehabilitation Harmonization Act). This applies across the whole area of occupational rehabilitation, over and above its function as one of the funds responsible for rehabilitation. As part of an integration proposal in accordance with section 57 of the Employment Promotion Act, where another fund is responsible, the FEO must submit a proposal to that fund regarding the necessary vocational assistance measures. In addition, employees will usually contact the employment offices first in matters of occupational rehabilitation, even if other funds are responsible (ANBA, 1996, p. 5; BMA, 1996, p.129).

One of the most important services provided by the employment offices is, in fact, counselling about careers (sections 25 ff. of the Labour Promotion Act, and section 33, subsection 1 of the Severely Disabled Persons Act). They usually have two different divisions (or specialist careers counselling centres for disabled persons), one counselling on first time entry, and one on re-integration into employment (ANBA, 1996, p.6). The counselling services provide advice and information on questions of career choice or change of occupation, individual advice on help for vocational training, the procurement of vocational training places, and information about financial benefits for vocational integration available to disabled persons. 'Trained careers counsellors for disabled persons may consult the specialist medical and psychological services of the employment offices in order to assess the aptitude and inclinations of the young person concerned and to obtain an indication of possible future vocational assistance requirements' (Thornton and Lunt 1997, p.120). 'Over the last few years, the number of disabled persons seeking advice from the careers counselling centres at employment offices has increased steadily. In 1993-94 in the old Länder, 155,500 disabled persons visited careers counselling centres seeking advice; accounting for 11.3 per cent of the total number of people seeking advice. In the new Länder in 1993-94, the careers counselling centres registered 51,400 visits of disabled persons: 11,300 more than in the preceding year and 11.1 per cent of the total number of people seeking advice there' (BMA, 1996, p.91, 93). In the year 1995-96, the numbers increased still further: 173,300 disabled persons sought advice in the old Länder, 70,800 in the new Länder. More than 60 per cent of the total number had just left special schools for persons with learning difficulties (BMA Internet 1997a). So, the numbers include a greater proportion of disabled people seeking first-time entry to employment.

In quantitative terms, re-integration into employment plays a more important role with regard to occupational rehabilitation in general. Among the 265,021 persons who were *newly admitted* to rehabilitation measures provided by the FEO in 1995, 76.5 per cent were involved in re-integration into employment (and 95.0 per cent of them had been employed before), with only 23.5 per cent involved in first-time entry to employment. In 1996, the number of persons undergoing occupational rehabilitation with the aim of re-integration to employment rose by 4.4 per cent up to 211,600. This increase was mainly due to developments in the new Länder. 43.4 per cent of the total (91,900) had notified the employment office of being unemployed before. For 81.5 per cent (172,400), the FEO arranged the rehabilitation measures (BMA Internet 1997b). The proportions of people *currently undergoing* occupational rehabilitation at the

end of the year 1995 was 38.8 per cent aiming at first-time entry, and 61.2 per cent at re-integration, out of a total of 511,164 persons (1994: 485,594). The reintegration of disabled adults is, in fact, becoming increasingly important (ANBA, 1996, p.8, 10).

As regards vocational assistance training measures (as a subgroup of vocational promotion), first-time entry is more crucial. At the end of 1995, 129,953 persons were receiving such measures (1994: 122,815); for them, occupational integration could be achieved by general promotional measures under the Labour Promotion Act to which non-disabled persons are also entitled (ANBA, 1996, p.6, 67; 1995, p.65). The FEO assigned more than 65 per cent of all persons receiving vocational assistance training measures at the end of 1995 (85,006) to first-time entry to employment, and only 35 per cent (44,947) to re-integration (ANBA, 1996, p.8, 10). The latter number dropped marginally to 44,200 in 1996 (BMA Internet, 1997b). A slightly different picture results from looking at the numbers of people *newly admitted* to vocational assistance training measures. In 1995, 53.9 per cent of the total of 115,928 were listed under first-time entry, and 46.1 per cent (53,397) under re-integration (among whom 93.0 per cent had been employed before). However, in West Germany re-integration played a more important role compared to first-time entry (46,976 vs. 42,085 persons in 1995) (ANBA, 1996, p.36 f.). In 1996, the number of persons for whom vocational assistance training measures were arranged for re-integration rose by 8.9 per cent up to 58,100 (BMA Internet, 1997b).

Some training measures may serve both objectives. This applies to arrangements which give disabled people undergoing occupational rehabilitation the opportunity to experience working life by temporary visits to companies, and thereby to find out about their own inclinations and to come to realistic self-assessments. Such measures are called 'finding an occupation' and 'work experience'; they also help in setting goals for individual rehabilitation processes (BMA, 1996a, p.10; ANBA, 1996, p.19). This type of measure was used more by persons aiming at re-integration (in 1996: 11,800), compared to persons aiming at first-time entry (in 1996: 3,500). In addition, basic training for blind people is provided both with respect to first-time entry and re-integration into working life (ANBA, 1996, p.38). Particularly aimed at re-integration into employment are measures of further vocational training and retraining. The latter still take the largest share among the various measures for occupational rehabilitation aimed at re-integration (in 1995, 18,156 persons were newly admitted to vocational retraining funded by the FEO; in 1996, this number dropped slightly to 17,800). However, further vocational training is taking an increasing share (10,750 persons newly admitted in 1995, and 13,000 in 1996). Among the persons taking part in retraining measures, more than two thirds prepared for jobs in the service sector; among those receiving further vocational training this share was 30 per cent (since the majority of persons undergoing rehabilitation are already qualified in manufacturing). Most of the measures were industry-wide, i.e. carried out outside the company. As a rule, retraining of disabled adults is limited to two years at most. More than half the people participating in retraining measures attend special preparation courses first (in 1996: 10,300 out of 17,800 newly admitted) (ANBA, 1996, p.19, 38; BMA Internet, 1997b)

One common feature of all the measures just listed, and the related services (counselling, training), is that they are funded by the FEO. In 1996, the FEO spent DM 2.14 billion on rehabilitation measures for re-integration into employment, including the funding of the 'non-service components' of occupational rehabilitation such as temporary allowances, integration assistance to employers after the successful completion of some form of vocational training (in 1996: DM 55.6 million), and motor vehicle assistance

(in 1996: DM 21 million) (BMA Internet, 1997b). The funding of services (mainly course expenses, subsidies to institutions for occupational rehabilitation - see below under 'institutional promotion') does not mean that the FEO provides them itself or via the numerous affiliated employment offices. Rather, actual provision is largely confined to counselling (particularly concerning integration plans) and careers advice, for which the employment offices have separate and specialized divisions (see above). Retraining and further training, though, should be provided for disabled people inside companies and administrations alongside non-disabled persons, whenever appropriate conditions exist (on-the-job training can be made possible by providing training subsidies to employers). Only where required because of the nature or severity of the disability or in order to guarantee the success of rehabilitation, does vocational training take place in special centres for vocational rehabilitation which provide industry-wide training (section 11, subsection 2a of the Rehabilitation Harmonization Act) (BMA, 1996, p.106, 109). However, at the end of 1995 only 16.3 per cent of all persons participating in training measures provided by the FEO within the framework of vocational promotion received training inside companies, including industry-wide sections; the total number dropped from 22,380 at the end of 1994 to 21,200 one year later (ANBA, 1995, p.65; 1996, p.67). So, initial training, retraining, and further training in special centres are not the exception but - on the contrary - the rule.

A preference exists in principle concerning the content of training measures. The eventual aim is 'to ensure that disabled people meet laid down job requirements, notably qualifications, through training in an officially recognised trainee occupation under the Vocational Training Act or the Handicrafts Regulation Act'. 'For young people who cannot be trained in officially recognised trainee occupations, despite extra assistance and the possibility of waiving training regulations, because of the nature or severity of their disability, the regional funds may create regulations on training outside officially recognised trainee occupations. The special training courses are intended to lead to a final qualification which guarantees access to officially recognised trainee occupations'. For adults, it is possible to be retrained in occupations other than the officially recognised trainee occupations (Thornton and Lunt, 1997, p.120 f.).

The non-profit-making vocational retraining centres (*Berufsförderungswerke*) can be regarded as one of the most important providers of retraining and further training for disabled adults which aim at return to work. Their clients already have work experience and need vocational reorientation because of accident, injury or disability. There are 28 vocational retraining centres in Germany, offering more than 14,500 training vacancies.¹³ In 1995, 21,241 persons were newly admitted to take part in measures provided by the retraining centres (ANBA, 1996, p.64). They are equipped with the necessary specialist (medical, psychological, educational and social) services. In the case of these industry-wide measures, the FEO (or any other responsible rehabilitation fund) accepts all expenses related to the measure, including accommodation and subsistence. The centres themselves are financed and administered by a range of organisations, including federal government, trade associations, insurance bodies, charities and churches. The vocational retraining centres are obliged to tailor training programmes to the changing demands of the labour market, at the same time taking account of the inclinations and abilities of persons undergoing

¹³ In addition, there are 48 vocational training centres (*Berufsbildungswerke*) with a capacity of about 12,500 vacancies, which provide initial training for disabled school-leavers, especially young people with learning disabilities for whom many centres are specially designated (ANBA, 1996, p.29; Thornton and Lunt 1997, p.121).

rehabilitation, and to adapt their training programmes to current developments in technology. Disabled persons have access to these centres irrespective of the cause of their disability. The centres also support disabled persons in the development of social skills (BMA, 1996, p.109, 111; BMA, 1996a, p.7 ff.; Thornton and Lunt 1997, p.121).

The FEO additionally funds training measures in workshops for disabled persons, and considers subsequent employment in those workshops as successful re-integration into working life where there is no other option. In July 1997, there were 635 sheltered workshops providing about 155,000 workplaces for persons undergoing rehabilitation (Bundesregierung, 1997, p.77). 'To prepare for employment in the workshop, benefits are awarded in accordance with section 11, subsection 3 of the Rehabilitation Harmonization Act and with the corresponding rules for the individual funds responsible for occupational rehabilitation, to promote participation in measures in the entry procedure and in the employment training offered by officially recognized workshops for disabled people, for up to a total of two years, with the vast majority of benefits being awarded through the FEO. It is the task of the workshops to assist disabled persons in such a way that, by the time they have completed their employment training, they are in a position to deliver a minimum amount of economically useful work. Beyond this primary aim, the workshop's task is to assist and encourage the individuals in attaining their full potential' (BMA, 1996, p.155). In 1995, almost 12,000 people were newly admitted to participate in training measures in workshops for disabled persons, about 28 per cent of them aiming at re-integration into employment. Most of the latter had mental health problems. (People with learning difficulties usually enter the workshops at a younger age without having been employed somewhere else before - ANBA, 1996, p.19, 64.) In 1996, the FEO spent DM 424.5 million on measures for the entry procedure and in the employment training section (Bundesregierung, 1997, p.77).

Finally, vocational assistance and training may be provided in one of the 20 medical and occupational rehabilitation centres (with some 1,000 places in the occupational division). In these centres, initial steps of vocational assistance (such as career identification and work experience, or preparatory measures directed at resuming employment or retraining) are arranged in the course of medical rehabilitation, in the case of certain neurological illnesses (Thornton and Lunt 1997, p.121). While most employment support services for return to work are delegated to one of the listed special centres or workshops, the FEO also subsidizes institutions offering services for occupational rehabilitation in relation to construction and equipment, called 'institutional promotion'. In 1995, the FEO spent DM 210 million on that purpose (1994: almost DM 141 million), of which DM 124 million was assigned to vocational (re-)training centres (1994: DM 61 million) and DM 86 million to sheltered workshops for disabled persons (1994: DM 80 million). The considerable increase in subsidies is mainly due to the need to catch up on these institutions in the new Länder (ANBA, 1996, p.29). Since this is a temporary process, it is not surprising that the numbers decreased. In 1996, the FEO spent DM 188.2 million on 'institutional promotion', including DM 111.8 million to vocational (re-)training centres, and DM 76.4 million to sheltered workshops for disabled persons (BMA Internet, 1997b).

Statutory pension insurance

What has been said about the discrepancy between funding support services for return to work and actually providing them, also applies to the second largest funders of occupational rehabilitation, the statutory pension insurance funds. However, this is only true for vocational assistance training measures where the pension insurance's contribution to services is largely confined to funding the related measures which will

actually be provided by either the companies themselves or, in most cases, by special retraining centres outside the companies.¹⁴ On the other hand, the statutory pension insurance funds are directly involved in support services for obtaining or keeping a job as part of occupational rehabilitation. It employs full-time specialist advisers on rehabilitation issues who work outside the office most of the time (comparable to vocational assistants in relation to accident insurance, as described below). These people visit companies, provide counselling services - mainly for employers on the adaptation of workplaces - and give information on available benefits to finance the required adaptations. In addition, they co-operate with employment offices (source: personal communication from VDR).

As has been pointed out before, measures for occupational rehabilitation include more than merely services. The pension insurance funds also provide a number of benefits and subsidies for employers or the disabled persons themselves to assist in obtaining or keeping a job (see 'supporting measures' above, and II.3.2). Since the pension insurance funds fall back upon the same providers of training services for occupational rehabilitation as the FEO, it is not surprising that it funds the same types of training services, too. In this respect, a standardization of rehabilitation benefits has been achieved. Thus, the pension insurance funds also pay for courses for the preparation of retraining and further training, basic training for blind people, and re-training and further training in enterprises and in centres outside the companies (VDR, 1996, p.295 f.). 'Occupational adaptation/ integration' is a measure particularly directed at job retention. In the statistics it is assigned to vocational training measures. However, it in fact combines services (training, counselling) and non-service components (benefits in kind). The typical characteristic of this measure is that it is provided in cases where occupational rehabilitation does not require much input, as compared to cases where qualifications have to be adapted fundamentally, or be newly acquired, by means of further training and retraining to achieve a disabled person's integration into working life. So, the threshold from a continued employment relationship into non-employed status does not have to be crossed; instead, measures of 'occupational adaptation/integration' are characterised by the fact that the employer, and the company respectively, remains the same after the measure has been completed (personal communication from VDR).

The vocational assistance measures funded by the pension insurance funds and completed in 1995¹⁵ were of the following kinds (VDR 1996, p.7, 228):

¹⁴ In contrast to that, the statutory pension insurance funds have their own hospitals and rehabilitation centres for medical rehabilitation (VDR, 1996, p.17 ff.).

¹⁵ The number of measures provided usually exceeds the number of persons undergoing rehabilitation since the latter sometimes receive more than one measure within the same period.

Employment Support and Rehabilitation Services - Germany

Table III.3:

<i>Total</i>	<i>86,331</i>	<i>100 per cent</i>	
'Finding an occupation' and 'work experience'	7,046	8.2	
Benefits for temporary work trials	322	0.4	
Retaining/obtaining a job	47,066	54.5	
including:			
redeployment in previous company	7,507	8.7	(16.0)
placement in another company	34,880	40.4	(74.1)
Preparatory courses	7,005	8.1	
Vocational training	13,137	15.2	
including:			
initial training	1,038	1.2	(7.9)
further training	1,394	1.6	(10.6)
retraining	5,822	6.7	(44.3)
occupational adaptation/integration	4,883	5.7	(37.2)
benefits for training inside companies	14	0.0	(0.1)
Measures in sheltered workshops	4,431	5.1	

In terms of average duration of the various measures it turns out that retraining is the most costly (taking 450 days on average), followed by initial training (335 days), further training (257 days), and 'occupational adaptation/integration' (195 days). Benefits for training inside companies are, on average, granted for a duration of 193 days. Measures for 'finding an occupation' and 'work experience' typically take only a short time (16 days on average) (VDR, 1996, p.232 f.).

The total of 86,331 vocational assistance measures was spread among a total of 79,170 persons undergoing occupational rehabilitation provided by the insurance funds (VDR, 1996, p.225). 64,307 of these measures were completed in the old Länder - compared to 59,908 in 1994 and 46,803 in 1993 (VDR, 1996, p.275); the considerable increase reflects the consequences of the amendment to the Labour Promotion Act (see III.1.2). In 1995, the pension insurance funds spent DM 1,286.4 million on vocational assistance measures (VDR, 1996, p.26). The figures listed above reveal that the assignment of rehabilitation services provided by the pension insurance funds to 'support services for return to work' appears appropriate since the types of measures directly aimed at job retention (redeployment in previous company and occupational adaptation/integration) are only of minor importance compared with the measures directly aimed at return to work (placement in another company, initial/further/re-training) within the corresponding category.

However, the salience of measures for retaining or obtaining a job which aimed at placement in another company (34,880) compared to vocational training measures (13,137) also shows that the main emphasis among vocational assistance measures in general is on the qualifications that the pension insurance's clients already possess instead of imparting additional qualifications to them by training measures. This bias is related to the fact that the pension insurance funds are mainly responsible for older people who are or have already been integrated into the labour market. These people often have the opportunity to obtain a workplace corresponding to their current qualification level, either with their previous employer or in another company (Bundesregierung, 1997, p.60).

Statutory occupational accident insurance

In addition to the prevention of occupational accidents and work-related illnesses, the statutory occupational accident insurance funds support the restoration of fitness for work by vocational assistance measures whenever prevention fails. Re-integration into employment, both job retention and return to work, is the aim of the assistance measures except in the case of children attending school or students (see III.1.2); in the latter case, measures will be provided to make first-time entry to employment possible. As has been pointed out before (III.1.2), it is difficult to determine the relative priority accorded to job retention on the one hand, and return to work on the other. However, the provision of vocational assistance from the accident insurance funds generally requires people to discontinue any work which is likely to cause work-related illnesses (HVBG 1995, p.40). So, in relation to illness, at least, the accident insurance funds promote 'return to work' in the sense of changing workplace or occupation. Job retention, on the other hand, is stressed as being an objective of rehabilitation measures insofar as the accident insurance funds explicitly state the principle that any promising measure for medical rehabilitation must be taken prior to occupational rehabilitation (HVBG, 1995, p.40). If measures for medical rehabilitation make occupational rehabilitation unnecessary, it can be concluded that the persons concerned will be restored to their full occupational potential, so that changing the job will be unnecessary, too.

The occupational accident insurance funds provide support services as well. Aside from general information and counselling services which every social insurance fund is obliged to provide in order to assist all persons concerned to cope with the complexity of the social benefit system, the accident insurance funds employ vocational assistants (see II.1.2). Most of the time, they work outside the office. As soon as it becomes obvious that measures for occupational rehabilitation will be necessary in addition to medical ones for successful re-integration into employment, the vocational assistants start preparing these while the injured persons are still undergoing medical rehabilitation. To guarantee successful transition from medical to occupational rehabilitation measures, the vocational assistants are supposed to be knowledgeable about both areas. Their main task is to identify possible means and objectives for occupational re-integration. In so doing, they have to take into consideration both the inclinations and desires of the persons undergoing rehabilitation, and the interests of the insurance fund that is allocating resources economically. The vocational assistants negotiate with all parties involved (physicians, enterprises, vocational retraining centres). In addition, the Rehabilitation Harmonization Act stipulates co-operation between accident insurance funds and employment offices in providing vocational assistance. In particular, the specialized services of the employment offices may be involved. The vocational assistants themselves undergo further training and instruction on a regular basis, so that they are up-dated on legislative issues and improvements in methods and practices of psychological and social care (HVBG, 1995, p.40 f.).

Employment Support and Rehabilitation Services - Germany

The accident insurance funds are aware of the fact that the catalogue of individual provision for vocational assistance according to the state insurance regulation (*Reichsversicherungsordnung - RVO*) is characterised by confusion (HVBG, 1995, p.42). However, the diversity of forms of assistance for occupational rehabilitation should provide sufficient flexibility to adapt to the requirements of the individual case (HVBG, 1997, p.28). The following main groups of measures can be distinguished (HVBG, 1995, p.42 f., 179 f.):

- measures for re-integration other than vocational training measures: these consist of financial assistance, for example for technical aids in the workplace or help in obtaining and keeping a job. Financial support is also available for self-employed persons to either establish their own business or to maintain it.
- measures for (re-)integration through vocational training measures. These include further vocational training, initial training, and vocational retraining. Here, the accident insurance funds fall back on enterprises or vocational (re-)training centres outside enterprises as the providers of training services. The insurance funds also pay for the latter within the framework of 'institutional promotion' (see above). Vocational training measures apply whenever financial or technical aids do not suffice to obtain or retain a job. Then, the insured persons are themselves obliged to contribute to the success of occupational rehabilitation by acquiring additional qualifications.
- preparatory measures, including basic training or acquiring school qualifications.
- supplementary benefits, as described in II.3.2.

In 1993, the accident insurance funds spent DM 549.7 million on vocational assistance, or 9.71 per cent of their total spending. This figure has increased immensely over the past decade; in 1980, vocational assistance absorbed only DM 5.6 million, or 0.26 per cent of total spending. This can be partially explained by examining the development of individual measures (see below). The greatest share in 1993 was assigned to benefits in kind (DM 189.9 million, or 34.5 per cent). Since these include all expenses for vocational training measures such as, for example, accommodation expenses, textbooks and equipment, they represent services indirectly provided by the accident insurance funds. The same applies to payments for technical aids or integration assistance paid to employers: since they are assigned to the same category of expense, i.e. vocational assistance or occupational rehabilitation measures provided by the accident insurance funds, they also implicitly represent measures of on-the-job-training inside enterprises. The remaining payments are assigned to non-service components of occupational rehabilitation such as temporary allowances to ensure subsistence whilst undertaking rehabilitation measures (DM 155.9 million), temporary allowances to compensate for a loss in income resulting from work-related illness (DM 78.2 million), paying social security contributions (DM 77.8 million), and travelling expenses (DM 24.5 million) (HVBG, 1995, p.169 f.).

The accident insurance funds funded 20,691 measures for occupational rehabilitation in 1993. Almost two thirds of them (13,264) were measures of assistance in obtaining or keeping a job. This group of measures is defined as activities of vocational assistance (mainly counselling services) which do not exclusively refer to internal administration. The vocational assistants' work has to be assigned to this area. Vocational retraining represented the second largest group of measures (2,819). These measures are of increasing

importance since their number rose by 47.7 per cent between 1985 and 1990, and again by 25.7 per cent up to 1993. An even larger proportionate increase - but involving smaller numbers - was reported for measures of further vocational training: 109 in 1985 and 230 in 1993. Only 320 measures were assigned to initial training, and 540 on 'finding an occupation' and 'work experience'. 946 measures were provided for 'vocational preparation', above all to obtain knowledge usually acquired at school. The increasing importance of particular vocational training reflects changes in the labour market. In more and more cases of occupational accidents and work-related illnesses, simple occupational adaptation or superficially acquired knowledge do not suffice to enable the persons concerned to retain their jobs or return to work. Instead, measures of retraining or further training are necessary. These are expensive and often take a lot of time - which partially explains the extraordinary increase in spending on vocational assistance. That is why assistance for self-employed persons to either establish their own business or to maintain it is considered to be a good substitute for training measures; however, only 41 measures were assigned to this in 1993, although this did at least increase from 26 in 1990 (HVBG, 1995, p.170 ff.).

The brief report on rehabilitation for 1995 states that assistance for occupational rehabilitation provided by the accident insurance funds increased by more than 14 per cent compared to 1993, in terms of both cases (1995: 18,757) and measures (1995: 23,719). 12,522 measures were due to occupational accidents inside the companies, more than 3,400 to road traffic accidents on the way to or from work, and 7,100 measures to (the risk of) work-related illnesses. In 1995, funders of statutory accident insurance spent DM 619.1 million on measures for occupational rehabilitation. Compared to 1993, this was an increase of 12.6 per cent. The largest proportion of total expenditure represented benefits towards the subsistence of persons undergoing rehabilitation and their families. Added to payments based on social security contributions and other cash benefits, these provisions amounted to DM 271 million. In addition, DM 87 million was paid for transitional allowances. Expenditure on benefits in kind amounted to DM 212 million, and DM 26.5 million of travelling expenses were reimbursed. In 1995, the number of cases of participation in vocational training rose by about 14 per cent compared to 1993, that is up to 3,801. Retraining, initial training and further training were still the most expensive forms of measures for occupational rehabilitation. That they were increasingly provided is seen as an indicator of the difficult situation in the general labour market (HVBG, 1997, p.29).

The following data show the distribution of the different types of measures for occupational rehabilitation provided in 1995 (HVBG, 1997, p.30 f.):

• assistance in obtaining or keeping a job	15,390
• integration assistance, technical aids (as benefits in kind)	1,382
• motor vehicle assistance	697
• accommodation assistance	138
• redeployment to different workplace	419
• vocational preparation	1,213
• occupational adaptation	230
• initial training	353
• retraining	3,150
• further vocational training	316
• other measures	431
• total number of measures	23,719

The figures show that vocational training measures have continued to gain importance: retraining measures rose by 11.7 per cent, further vocational training measures by 37.4 per cent, and vocational preparation measures by 28.2 per cent.

The Hauptfürsorgestellen

The Hauptfürsorgestellen provided 14,602 measures for occupational rehabilitation for 14,441 persons in 1994. These measures are provided within the framework of supplementary assistance in the work environment. However, the vast majority of measures (12,942, or 88.6 per cent) were assigned to 'assistance in obtaining or keeping a job'. The individual provisions belonging to this category have been discussed in detail in I.4.1. They mainly consist of financial aids to either employers or disabled employees; thus, services are not to the fore in this context. The provision of technical working aids or benefits for the creation of jobs and training places include services, particularly the provision of information and counselling; however, these cannot be documented separately as in the case of accident insurance (vocational assistants) or the Federal Employment Office (specialist careers counselling centres). For the year 1993, the Association of German Hauptfürsorgestellen did provide numbers on counselling services and company visits. According to this, disabled persons had been counselled at home 2,670 times, 35,111 company visits took place (including unrequested ones) and the Hauptfürsorgestellen participated in meetings of the disabled persons' representatives on 956 occasions (AGDHFS, 1994, p.56). Nevertheless, the share of services directly related to job retention (employment support on the job) or return to work (here equivalent to vocational retraining) cannot be clearly determined.

Training measures themselves also occur among the provisions by the Hauptfürsorgestellen. The statistics list 271 measures, which is less than two per cent, under the category 'further vocational training'. However, the design of these training measures does not correspond with the criterion for delimitation that was introduced at the beginning of this Part of the report. Compared with the other training measures which have been presented so far, the Hauptfürsorgestellen fund further training provided on the job, and it would be appropriate to assign these measures to 'support services for job retention'.

The main target group consists of people with sensory disabilities (blind or deaf persons). The training measures provided are supposed to maintain or improve their vocational skills, and to introduce them to the use of modern technologies in the workplace. The providers of training services are not explicitly documented. The established training centres which have been described before would not be able to fulfil the on-the-job-requirement. In 1993, the Association of German Hauptfürsorgestellen stated that further vocational training on the job has to be more systematized (AGDHFS, 1994, p.55). Developments in subsequent years shows, at least, an increase in spending from DM 1.02 million in 1991 to DM 3.53 million in 1995. Besides these training measures, the Hauptfürsorgestellen also financially support independent training centres according to section 30, subsection 1, numbers 1-3 of the Compensatory Levy Regulation within the framework of 'institutional promotion' (in 1995: DM 23.03 million; AGDHFS, 1996, p.24).

III.4.2 Integrating return to work services into work environments

This section will focus on the location of training measures. As was pointed out in III.4.1, section 11, subsection 2a of the Rehabilitation Harmonization Act stipulates that vocational training (including further

training and retraining) for disabled persons in separate, industry-wide training centres should be the exception, applying only when required by the nature or severity of the disability or if there is no other way of guaranteeing the success of rehabilitation. Consequently, vocational training measures should primarily take place within companies alongside non-disabled persons. That is why the provisions of vocational promotion listed in section 11, subsection 2 of the Rehabilitation Harmonization Act also state that expenses for accommodation and subsistence are payable to accommodate people away from their own or the parental home if training measures carried out within companies make it necessary because of the nature or severity of the disability (BMA, 1996, p.109). 'Experience shows that such training programmes offer particularly good opportunities for lasting vocational integration since they enable the trainees to grow accustomed to the conditions and demands of everyday working life, and trainees are normally taken into employment afterwards' (BMA, 1996, p.107).

These advantages of vocational training provided within companies seem to apply more to disabled persons who seek first-time entry to employment. In III.4.1, it has already been said that - in spite of giving preference to companies as the location for vocational training - the proportion of people who received training within companies at the end of 1995 (21,200 people) was only 16.3 per cent of all people participating in training measures assisted by the Federal Employment Office. Among this group, about 70 per cent (14,848 persons) received initial training, but only 4,324 persons (or 20.4 per cent) were given retraining or further training (ANBA, 1996, p.67).

The accident insurance funds also give clear preference to companies as the location for vocational training. Since the costs of accommodation are usually avoided, training inside companies is more economical. In addition, there is a higher chance for the disabled trainee to find an adequate job in the same company after completion of vocational training. Altogether, these effects compensate for the longer duration of this kind of training compared to the one provided in separate centres. The provision of vocational training in vocational training centres should be the last choice, and only considered if accommodation in a boarding college and the supplementary assistance services are considered to be inevitable. As opposed to measures funded by the Federal Employment Office, training measures assisted by the accident insurance funds more often take place within companies. In 1993, 27.9 per cent of the total of 3,233 of these measures, i.e. 902, were carried out there, compared to 26.6 per cent carried out in vocational training centres and 35 per cent in other separate centres. Almost 76 per cent (685) of the measures within companies represented retraining (674) or further training (11); initial training was much less important (183). This shows that the advantages of training carried out within companies also apply to retraining and further training, and thus to job retention, albeit only in the sense of staying with the same employer; returning to the previous occupation happens in only very few cases, and the accident insurance funds consider this to be a negative result of vocational training (HVVG, 1995, p.181, 208 f., see also III.6.3).

No data are available about the location of vocational training provided as a part of 'supplementary assistance in the work environment' (i.e. Hauptfürsorgestellen) nor with regard to training measures provided by the pension insurance funds.

III.4.3 The types of enterprise providing return to work opportunities in co-operation with employment support and vocational rehabilitation services

The only funders which provide information about the relationship between types of enterprise and occupational rehabilitation services are the statutory occupational accident insurance funds. In their documentation on rehabilitation, it is shown how the individual measures for occupational rehabilitation are spread among different industries. The fact that only the accident insurance funds are interested in ascertaining additional information of this kind, can be explained by the differences in contribution rates in different branches of industry with varying hazard levels (see II.1.3).

The statistics show that in 1995 more than a quarter (27.1 per cent) of the total of 23,719 measures for occupational rehabilitation were provided to workers in the building and construction industry. Contrasting developments in numbers of measures can be ascertained across enterprises as a whole. Between 1990 and 1993, both sharp declines and distinct increases were observed. There was an increase of 51.5 per cent (to 1,836 cases) in food and allied industries, and a decline to 1,702 cases (from 2,657 cases in 1990) in the metal processing industry. Less pronounced increases were identified for the areas of industry relating to mining, chemicals, wood, paper, printing, textiles, leather, construction, transportation/traffic, agriculture and public administration. Declines were identified for the health service sector, for the sector concerned with building materials, gas and water, precision and electrical engineering, trade, and administration/management (HVBG, 1995, p.174).

More relevant with regard to rehabilitation services is the distribution of vocational assistance training measures. It is noticeable that in 1995 more than half of them were provided in the food and allied industries and the health service sector. 1,057 (33.6 per cent) of the total of 3,150 retraining measures assisted by the accident insurance funds took place in the food and allied industries, while 54.7 per cent of initial vocational training measures (193 out of 353) took place in the health service sector. The latter is to be traced to the widespread skin diseases in this area which often force the persons concerned to change occupation during their initial training. Motor vehicle assistance as part of the benefits for occupational rehabilitation was most often granted to workers in the metal-processing industry, the building and construction industry, and the agricultural sector, in which there are a lot of serious accidents which lead to considerably restricted physical mobility (HVBG, 1995, p.174, 186 f.; HVBG, 1997, p.30 f.).

However, these data do not say anything in detail about return to work opportunities or cooperation with rehabilitation services, but only show in which branches there is potential for this. A possible way of co-operating is to keep jobs open to persons undergoing rehabilitation measures. There is no official agreement or arrangement for this, but employers can be encouraged to do so by integration assistance benefits or as a result of efforts to mediate on the part of the vocational assistants. The salience of measures of assistance in obtaining or keeping a job, primarily consisting of counselling services (see III.4.1), show that considerable efforts are being made to induce employers to either keep jobs open or offer vacancies to people who have had an occupational accident or who have a work-related illness. Since the number of measures of assistance to obtain or keep a job generally approaches the total number of cases of occupational rehabilitation for most of the areas included in the report, it can be concluded that the accident insurance funds give priority to finding jobs for their clients within the area they had previously been employed in, and support employers' willingness to accommodate them in doing so. However, there are

some exceptions. In the food and allied industries, the relatively high number of retraining measures (see above) corresponds to a relatively small number of measures of assistance to obtain or keep a job in the same sector. This is also true for the health service sector. Moreover, the food and allied industries had the highest number of measures which aim at occupational rehabilitation through redeployment in different workplaces within the same company (111 out of a total of 372). The latter thus have to be assigned to 'job retention' according to the criterion 'staying with the same employer'. On the other hand, these measures do not fulfil the stricter criterion that we have been using for the purpose of delimitation, which relates to support services provided *on the job* (see III.1.1) (figures: HVBG, 1995, p.186 f.).

III.5 USERS OF SUPPORT SERVICES FOR RETURN TO WORK

III.5.1 Mechanisms for identifying and accepting users who have left their employment

Under the statutory pension insurance and particularly the statutory occupational accident insurance funds (i.e. the funds responsible for occupational rehabilitation services), eligible users can be identified in the course of the preceding medical rehabilitation measures for which the funds are also responsible. The advantage of this multiple responsibility is self-evident: the need for additional measures of occupational rehabilitation subsequent to medical ones can be ascertained, and the respective measures introduced, at a relatively early stage - thus saving both time and money. Moreover, this is in accord with the 'principle of intervention at the earliest possible stage in order to minimise the degree and effects of disability and to compensate as far as possible for unavoidable effects', derived from the 'social right' according to section 10 of Book 1 of the Social Code (BMA, 1996, p.9). The Federal Employment Office is faced with a different situation since it does not provide measures for medical rehabilitation. On the other hand, observing the principle of intervention at the earliest possible stage is facilitated for this fund since it is the Federal Employment Office which is usually contacted first in matters of occupational rehabilitation (see III.1.1). As providers of occupational rehabilitation within the framework of 'supplementary assistance in the working and professional environment', the Hauptfürsorgestellen identify eligible users on the criterion that measures provided by all other funds are insufficient to adequately and permanently integrate disabled people into working life (see III.1.1). In addition, their responsibility is confined to severely disabled persons (see III.3.1).

There are legal provisions with regard to accepting users. Until 1996, all disabled people had a legal claim to occupational rehabilitation benefits. These included both assistance in obtaining and keeping a job and vocational training measures. Formal acknowledgement of disability according to the Severely Disabled Persons Act had not been required in order to receive occupational rehabilitation measures. In fact, only about ten per cent of participants have been severely disabled persons. However, this legal right was abandoned with the introduction in January 1997 of the Growth and Employment Act. Only those already registered as severely disabled retained legal entitlement. All other cases were dealt with on a discretionary basis (Thornton and Lunt, 1997, p.119). As a reaction to sharp protest against these new provisions, the law was changed soon afterwards by an amendment to the Labour Promotion Act, in force since April 1997. Henceforth, disabled people have, again, a legal claim to vocational rehabilitation benefits whenever the nature or severity of their disability, or their need for special provision to secure the success of integration. The formal acknowledgement of disability according to the Severely Disabled Persons Act was

waived again primarily in order to restore the claim to vocational promotion benefits for persons with learning disabilities in particular, since they are usually not accorded the status of severe disability. For persons suffering from disabilities which do not explicitly require specific measures of promotion to secure integration, decisions will still be taken on a discretionary basis (BMA, 1997a, p.11 f.).

However, the legal claim described represents a very basic right. Which measures in particular and which amounts of financial benefits will actually be granted generally remain within the discretionary scope of the responsible fund (HVVG, 1995, p.43). The financial situation of the fund in question will play a crucial role for its 'generosity' in taking these decisions. The sole exception are the statutory pension insurance funds, whose rehabilitation benefits are subject to discretion on principle. They provide discretionary vocational assistance benefits for rehabilitation, especially where the earning capacity of an insured person, after 15 years of paying contributions, is substantially threatened due to a disability (BMA, 1996, p.99, 121).

Finally, examining the mechanisms for identifying and accepting users also includes the issue of the distribution of responsibility among the various funds. In III.1.2, we outlined some criteria according to which the users of rehabilitation services can be - at least roughly - shared out between the different funds. At this point, one further point should be added. While rehabilitation, in its objective, is to be orientated to the principle of finality which says that the necessary assistance must be offered to every disabled person or person who is in danger of becoming disabled, regardless of the cause of disability (BMA, 1996, p.7), the cause of disability does *de facto* determine the responsible fund, and thus the respective regulation which has to be applied (Burger, 1996, p.26). Since the Rehabilitation Harmonization Act does not completely standardize the rehabilitation benefits of the various funds, the cause of disability does influence the provision of assistance.

III.5.2 Arrangements for user choice and user control of service packages

According to section 4, subsection 1 of the Rehabilitation Harmonization Act, the introduction of measures for rehabilitation requires the consent of the disabled persons, they must become involved in their implementation and reasonable requests must be catered for as far as possible in deciding them. Since personal development is much more difficult for disabled persons in many instances, it is a question of strengthening and supporting their own initiatives and self-determination and thus their ability to help themselves wherever possible (BMA, 1996, p.33).

III.5.3 Disabled workers who benefit and those who miss out

All the major funds which assist persons through occupational rehabilitation provide data on the personal characteristics of their clients. It has to be stressed once again, however, that the term 'person undertaking rehabilitation' is not synonymous with 'disabled person', as defined in the Severely Disabled Persons Act (see III.4.1).

Federal Employment Office

Table III.4: Personal characteristics of persons newly admitted to occupational rehabilitation (OR) and to vocational assistance training measures (VATM) in 1995, aiming at re-integration

	OR	VATM
Total number of persons	202,685	53,397
Proportion of women	35.4 %	32.0 %
Proportion of foreigners	6.5 %	4.9 %
Age:		
under 25	11.2 %	19.0 %
25 - under 35	30.2 %	60.0 %
35 - under 45	24.7 %	17.1 %
45 - under 60	33.3 %	3.9 %
Education:		
without qualification from secondary school	9.6 %	8.0 %
qualification from secondary school	60.8 %	57.5 %
middle level education	24.6 %	28.3 %
A-level (<i>Abitur</i>) / academic standard required for entrance to university or to university for applied science	5.1 %	6.2 %
Training for an occupation:		
no completed qualification	25.6 %	21.6 %
company-related occupational qualification	68.9 %	74.4 %
training college / technical college	2.4 %	3.2 %
university / university for applied science	1.9 %	0.1 %
Gainful employment:		
employed (at some point) before	95.0 %	93.0 %
unemployed immediately prior to rehabilitation	42.3 %	47.8 %
Share of severely disabled persons and persons of equal status	14.2 %	7.6 %

NB: percentages are of the total (source: ANBA, 1996, p.33, 37)

The following aspects should be highlighted. About three-quarters of persons undergoing occupational rehabilitation, and vocational assistance training measures in particular, have completed some occupational qualification, and almost all of them (about 90 per cent) have a qualification from school. Vocational assistance training measures are provided more for younger people than is the case with measures for occupational rehabilitation in general. Persons with higher (school or occupational) qualifications show a

slightly greater willingness to enter training measures. For older people, other funds are more likely to be responsible because of preceding periods of employment (like pension insurance). In addition, other types of measures than vocational training are often more appropriate for them. The relatively high proportion of unemployed people undertaking occupational rehabilitation is related to the worsening situation within the general labour market (ANBA, 1996, p.19).

In addition to the figures listed in the above table, the following information has to be added. Almost half (49 per cent) of the people newly admitted to occupational rehabilitation aiming at re-integration and assisted by the Federal Employment Office in 1995 used to have an occupation in manufacturing, particularly in the metal-processing sector or the building and construction sector. About 40 per cent used to be employed in the service sector. As regards the type of disability, almost 60 per cent of the persons beginning occupational rehabilitation aiming at re-integration had skeletal, muscular or connective-tissue-related disorders, 6.1 per cent had sexual or nervous problems, 5.1 per cent heart conditions or circulatory disorders, 4.4 per cent skin diseases, 3.6 per cent disorders of the respiratory organs, and about eight per cent psychoses or neuroses, the latter being particularly among younger people (ANBA, 1996, p.11 f., 34).

Finally, the figures listed show that the proportion of women among the persons beginning occupational rehabilitation assisted by the Federal Employment Office only amounted to 35.4 per cent, and less than a third in the case of vocational assistance training measures. There are grounds to assume that women are especially under-represented in occupational rehabilitation, and in vocational assistance training measures in particular, although the available data do not suffice to prove it definitely¹⁶ (Niehaus, 1996, p.63). The proportion of women participants in training measures in the years 1984 to 1995 was between 31.4 per cent in 1984 (the lowest) and 34.5 per cent in 1995 (the highest). In its third report on the situation of disabled people and the development of rehabilitation, the Federal Government refers to the fact that, up until 1992, the proportion of women participants did not change much, although the absolute number of female participants doubled since 1984 (from 21,749 to 43,930). There are two comments that should be added. First, the subsequent development of rehabilitation was characterised by a sharp decline in absolute numbers between 1992 (43,930) and 1993 (37,479), probably due to the economic recession. The increase which was ascertained in 1995 (39,980 female participants) was not large enough to reach the previously highest level. Secondly, the data used refer to vocational training assistance measures aimed at both first-time entry and re-integration. The proportion of women participants in training measures for re-integration only has been considerably lower (1992: 31.2 per cent; 1993: 30.9 per cent; 1994: 30.4 per cent), and the absolute numbers show that the sharp decline between 1992 and 1993 was primarily experienced in the Western Länder for this type of measure, so that even after the general increase in 1995, the number still is considerably lower than it used to be (1992: 20,644; 1993: 16,228; 1994: 13,890; 1995: 14,381) (Bundesregierung, 1994, p.51; ANBA, 1995, p.34 f.; 1996, p.36 f.).

There has been some discussion about the reasons which cause women's under-representation among persons benefiting from occupational rehabilitation, and vocational assistance training measures in

¹⁶ Problems are caused by the lack of commonly acknowledged points of reference: which group of persons would be an adequate reference to ascertain under-representation, and what would be adequate yardsticks to ascertain a disability which really makes measures for occupational rehabilitation necessary?

particular. In its report, the Federal Government identifies a fundamental conflict between family duties and the woman's vocational promotion as the main problem underlying the phenomenon of being under-represented. This problem is aggravated by the fact that many women, because of the nature or severity of their disability, are dependent on training measures which cannot be provided locally so, to be able to participate, other accommodation must be made available. In addition, the majority of women undertaking rehabilitation are relatively young and are more often responsible for tasks related to their children's education and care. A parallel can be drawn with the status of severe disability. The traditional division of labour between men and women with regard to family duties, together with - on average - lower qualifications among women, make them more inclined to refrain from applying for formal acknowledgement of their disabilities, so that they are also under-represented in the official statistics on the labour market situation of disabled women. Another reason for under-representation is that women tend to receive only low levels of temporary allowances for occupational rehabilitation because the calculation is based on previous net earnings (sections 13 and 14 of the Rehabilitation Harmonization Act). However, because of family duties and bringing up children, women's employment records are often characterised by discontinuities which tend to restrict financial claims for vocational assistance (Bundesregierung, 1994, p.51; Niehaus, 1996, p.59, 64, 67).

There are several starting-points to improve the women's situation. The Federal Government listed in its report some measures that have already been taken; however, it admitted that they have not changed the situation much. Those measures include, for example, better access to temporary allowances and granting double the number of journeys home in the case of accommodation in boarding centres during rehabilitation measures. For people assisted by the statutory pension insurance, permission was also introduced in 1992 for women to take one child with them whilst participating in rehabilitation measures away from home (Bundesregierung, 1994, p.51). Beyond that, a suggestion has been made to replace the temporary allowance by a basic amount which ensures subsistence and is paid irrespective of previous employment. A model of decentralized vocational (re-)training centres which are closer to people's homes, but which can guarantee training standards comparable to non-local centres, allow for more flexible times of participation, and offer training for a wider range of occupations, is being tested in the New Länder (Niehaus, 1996, p.68).

Pension insurance

In 1995, 72.7 per cent of all persons undergoing occupational rehabilitation assisted by the statutory pension insurance funds were men, and only 27.3 per cent were women. 7.9 per cent of the persons assisted were not German nationals. The following data on the structural characteristics of the beneficiaries refer to percentages of the total number of occupational rehabilitation measures completed in 1995.

Employment Support and Rehabilitation Services - Germany

Table III.5:

	<i>OR</i>	<i>VATM</i>
Total (absolute number of measures)	86,331	13,137
Personal characteristics of beneficiaries		
Women	26.7 %	24.6 %
Age:		
under 25	2.4 %	1.8 %
25 - under 35	15.7 %	15.7 %
35 - under 45	32.0 %	46.8 %
45 - under 60	49.0 %	35.7 %
Previous occupation		
building and construction industry	24.1 %	24.3 %
metal processing industry	17.3 %	21.8 %
trade and transportation	14.0 %	12.8 %
administration and organisation	5.5 %	3.2 %
food and allied industries	4.2 %	4.4 %
other services	5.3 %	5.0 %
health service sector	2.0 %	4.5 %
Type of disability		
skeletal, muscular or connective-tissue-related disorders	56.0 %	60.3 %
mental/psychologically determined illness	9.2 %	7.9 %
circulatory disorders	7.5 %	6.6 %
sexual or nervous disorders	4.8 %	4.1 %

NB: OR = measures for occupational rehabilitation. VATM = vocational assistance training measures (as part of OR).
Source: VDR 1996, p.225 ff.

Most of the beneficiaries of measures for occupational rehabilitation in general and vocational assistance training measures which were provided for persons who had previously been employed in the health or other service sectors were women (80.3 per cent and 78.5 per cent respectively for OR, 79.0 per cent and 72.0 per cent respectively for VATM) (VDR, 1996, p.242, 256). Among the 13,137 vocational assistance training measures provided in 1995, 39.2 per cent were apportioned to skilled workers, 37.0 per cent to unskilled workers, and 10.0 per cent to salaried employees. 32.5 per cent of these measures were provided to people who had been unemployed immediately beforehand; only about half of the measures (50.7 per cent) were for people who had been fully employed before (VDR, 1996, p.248, 250).

Occupational accident insurance

The 20,691 measures for occupational rehabilitation provided through the accident insurance funds in 1993 were spread among 16,395 persons assisted. The prime cause of occupational rehabilitation were accidents at work; almost 60 per cent of all persons undergoing occupational rehabilitation in 1993 (9,803 cases)

Employment Support and Rehabilitation Services - Germany

received measures because of such accidents, 26 per cent (4,260 cases) because of work-related illnesses, and 14 per cent (2,332 cases) because of accidents which happened on the way to or from work. 14,473 measures were apportioned to 12,135 cases of occupational accidents, 6,218 measures to 4,260 cases of work-related illnesses. Thus, occupational rehabilitation appears more costly for work-related illnesses (1.46 measures per case) than for accidents (1.19 measures per case) (HVBG, 1995, p.174 ff.).

As regards people's previous position in working life and gender, the beneficiaries of measures for occupational rehabilitation 1993 show the following characteristics (HVBG, 1995, p.190):

Table III.6:

	<i>Cases</i>	<i>Percentage</i>
Children, students		
male	68	0.4
female	42	0.3
Others not gainfully employed		
male	166	1.0
female	61	0.4
Undergoing vocational training		
male	353	2.2
female	317	1.9
Wage earners		
male	10,849	66.2
female	1,775	10.8
Salaried employees		
male	701	4.3
female	1,125	6.9
Self-employed		
male	352	2.1
female	55	0.3
Farmers		
male	246	1.5
female	80	0.5
Others		
male	110	0.7
female	95	0.6
Total	16,395	100.0
male	12,845	78.3
female	3,550	21.7

Employment Support and Rehabilitation Services - Germany

The following figures show the distribution of different types of measures for occupational rehabilitation in relation to previous position in working life and gender (HVBG, 1995, p.190 f.):

- 1) assistance in obtaining or keeping a job
- 2) integration assistance, technical aids (as benefits in kind)
- 3) motor vehicle assistance
- 4) 'finding an occupation' and 'work experience'
- 5) vocational preparation
- 6) occupational adaptation
- 7) initial training
- 8) retraining
- 9) further vocational training
- 10) total number of measures (does not equal the sum of the respective lines since the categories 'accommodation assistance' and 'others' have been left out)

Table III.7:

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Children, students										
male	42	13	9	-	6	-	8	8	5	99
female	15	14	10	-	2	-	2	3	1	53
Others not gainfully employed										
male	126	7	29	2	5	-	1	4	-	185
female	51	7	2	-	2	-	1	6	1	72
Undergoing vocational										
Training										
male	271	29	19	5	40	5	33	61	5	496
female	175	14	2	4	29	1	155	49	4	455
Wage earners										
male	9,353	661	452	234	577	106	48	1,508	151	13,565
female	1,201	97	37	42	165	18	32	640	20	2,306
Salaried employees										
male	600	54	82	17	14	1	3	61	8	868
female	796	45	20	64	73	2	27	398	29	1,486
Self-employed										
male	310	18	26	3	8	-	-	17	-	408
female	38	4	-	1	3	-	-	7	-	65
Farmers										
male	97	112	19	-	-	-	-	15	2	258
female	30	42	1	-	-	-	-	1	-	81
Others										
male	84	13	15	-	14	2	3	24	4	175
female	75	3	2	-	8	4	7	17	-	119
Total	13,264	1,133	725	372	946	139	320	2,819	230	20,691
male	10,883	907	651	261	664	114	96	1,698	175	16,054
female	2,381	226	74	111	282	25	224	1,121	55	4,637

The majority of persons undergoing occupational rehabilitation assisted by the accident insurance funds were male wage earners (66.2 per cent of all cases). They received 13,565 or 65.6 per cent of all measures provided in 1993. Female wage earners represent the second largest group of participants (10.8 per cent of all cases, and 11.2 per cent of all measures provided), female salaried employees the third largest group (6.9 per cent of all cases, and 7.2 per cent of all measures provided). Looking at the distribution of individual types of measures, it turns out that 76.3 per cent of all measures for 'occupational adaptation'¹⁷, 62.3 per cent of all motor vehicle assistance, and 61 per cent of all vocational preparation, but only 53.5 per cent of all retraining measures were allocated to male wage earners. Female wage earners, whose proportion was only 10.8 per cent of all cases, on the other hand, received 22.7 per cent of all retraining measures, 17.4 per cent of measures for vocational preparation, 12.9 per cent of measures for occupational adaptation, but only 5.1 per cent of the total of motor vehicle assistance. Thus, male wage earners seem to have more injuries resulting in disabilities which seriously limit their walking abilities. The relatively high proportion of women among the participants in vocational training measures suggests that they are more suited for these types of measures because of age and educational background. Male wage earners, on the other hand, are usually more often re-integrated into working life by measures for occupational adaptation. Farmers hardly participate in vocational training measures. Their re-integration is most often achieved by benefits for integration assistance and for technical working aids (HVBG, 1995, p.176).

As regards the type of disabilities covered by the accident insurance funds, it has already been mentioned that most of them, or 74 per cent of all cases, result from occupational accidents. Consequently, persons with injuries of the legs or the pelvis benefit most from motor vehicle assistance. Accommodation assistance (102 measures in 1993) was primarily assigned to persons with paraplegia. 17.7 per cent of all vocational training measures were directed at persons whose hands were injured. Among the 4,260 persons who received measures for occupational rehabilitation in 1993 and who suffered from work-related illnesses, and among the totality of 6,218 measures directed at this group, only two types of illness were of major importance with regard to occupational rehabilitation: skin diseases (59.4 per cent of all cases, and 58.4 per cent of all measures), and impairments of the respiratory tract (33.4 per cent of all cases, and 36.0 per cent of all measures). 99.2 per cent of all retraining measures provided for persons suffering from work-related illnesses in 1993 were assigned to these two types of disability. However, it has to be noted that skin diseases and defects of the respiratory tract will only be formally acknowledged as work-related illnesses if they force the person in question to change their job. That is why retraining is of utmost importance (HVBG, 1995, p.178). As regards occupational background, a considerable proportion of persons participating in vocational training came from the food industry (1,023 cases out of a total of 3,336, i.e. 30.7 per cent). Among them, many had been employed in bakery and were suffering from work-related illnesses such as skin diseases or disorders of the respiratory tracts. Almost 20 per cent (661 cases) came from domestic cleaning services, almost ten per cent had been metalworkers or mechanics, and 6.5 per cent had been employed in the health service sector (HVBG, 1995, p.183, 202 ff.).

¹⁷ 'Occupational adaptation' refers to training measures which are more superficial than further training, initial training or retraining. Persons completing them will be semi-skilled afterwards. See III.4.1 (pension insurance) for a further explanation.

The Hauptfürsorgestellen

In 1994, the distribution of measures for occupational rehabilitation provided by the Hauptfürsorgestellen within the framework of 'supplementary assistance in the work environment' were related to the variables 'gender' and 'age' as follows:

Table III.8:

	<i>Assistance in obtaining/ keeping a job</i>	<i>Further vocational training</i>	<i>Other measures</i>	<i>Total number of measures</i>
Total number of measures	12,942	271	1,389	14,602
Women	34.4 %	33.2 %	42.3 %	35.1 %
Age:				
under 25	5.3 %	4.1 %	6.3 %	5.4 %
25 - under 35	27.1 %	39.9 %	35.6 %	28.1 %
35 - under 45	26.7 %	29.9 %	29.7 %	27.1 %
45 - under 61	40.9 %	26.2 %	28.4 %	39.5 %

Among the causes of disability, general diseases (including vaccine damage) play an important role (15.9 per cent of all persons benefiting from supplementary assistance in the work environment). 12.1 per cent of this group of persons had disabilities which occurred prior to or at birth. 68.6 per cent of these people had disabilities with other or several causes at the same time. Among the various types of disability, poisoning through drugs etc. is the predominant one (27.9 per cent of all cases), followed by skin diseases (18.3 per cent), eye diseases (including blindness) (11.8 per cent), and epilepsy (8.8 per cent) (Statistisches Bundesamt, 1996a, p.7, 26 f.).

III.6 DESIGN AND DELIVERY OF EMPLOYMENT SUPPORT AND REHABILITATION SERVICES

III.6.1 The effects of the distribution of responsibility for provision of services

In the preceding sections, some important statements have already been made about the effects of the distribution of responsibility for the provision of employment support and rehabilitation services for job retention and for return to work respectively (see III.2.1, III.2.7 referring to support services provided on the job, and II.3.4, III.1.1, III.5.1 referring to rehabilitation services).

We have noted that:

- the provision of services for job retention which are provided on the job (i.e. securing existing employment relationships) can primarily be assigned to the Hauptfürsorgestellen as providers of

‘supplementary assistance in the work environment’, its affiliated services, or independent funds working on behalf of the Hauptfürsorgestellen;

- the provision of services for return to work can primarily be assigned to the funders of occupational rehabilitation (mainly the Federal Employment Office for younger disabled employees, the pension insurance funds mainly for older disabled employees,¹⁸ and accident insurance in the case of occupational accidents and work-related illnesses);
- the provision of placement services for first-time entry to employment can primarily be assigned to the Federal Employment Office.

In practice, there are a number of problems concerning the boundaries between the different types of services and responsible funds, as well as between the various providers of the same type of service. With regard to the latter, the debate about the delegation of responsibility for support services for job retention by the Hauptfürsorgestellen to independent funds has been considered in detail above (see III.2.7).

The double function of the Federal Employment Office in the areas of ‘return to work’ and ‘first-time entry’ makes it the main responsible fund for relatively young disabled persons who are looking for a job, irrespective of whether they have been employed before. Employment offices also offer access to the general mechanisms for promoting employment since not every disabled person needs to rely on specialized, i.e. disability-related, integration services. The statutory social insurance funds, on the other hand, are responsible for the integration of disabled persons into working life (occupational rehabilitation) whenever the latter meet certain eligibility criteria (qualifying periods in the case of pension insurance, disability resulting from occupational accident or work-related illness in the case of accident insurance). Thus, there is no distinction in principle between job retention, return to work or first-time entry in the case of the statutory insurance funds’ responsibility. However, return to work has been identified as their main focus, at least in relation to the provision of services, since vocational training services (representing a major part of measures for occupational rehabilitation) often involve retraining and the acquisition of new qualifications, where the previous job cannot be retained. For other types of services provided by statutory insurance funds, such as support services for obtaining or keeping a job, it was shown that, at least in the case of the pension insurance, placement in another company (return to work) plays a more important role compared to redeployment in the previous company and thus staying with the same employer (job retention) (see III.4.1).

Although the main focus of the support services provided by the Hauptfürsorgestellen (or on their behalf) is on job retention (i.e. securing existing employment relationships), their activities are not exclusively confined to this task. The problem of clearly separating rehabilitation measures from ‘supplementary assistance in the work environment’ is well-known (Ernst, 1995, p.101). So, the annual statistics on

¹⁸ The Federal Employment Office is responsible for occupational rehabilitation if the insured person has contributed to the pension insurance funds for less than 180 months (or equivalent qualifying periods) (BfA-Mitteilungen 3/97, Blatt 11).

rehabilitation published by the Federal Statistics Office¹⁹ also list the measures for vocational promotion which are provided by the Hauptfürsorgestellen within the framework of 'supplementary assistance'. In addition, the Severely Disabled Persons Act assigns responsibility to the Hauptfürsorgestellen for carrying out measures which are clearly for the benefit of disabled persons *looking for a job*, such as granting benefits to employers for the creation of training vacancies for severely disabled persons (section 15 of the Compensatory Levy Regulation), financial support for special programmes run by the Federal Employment Office to reduce unemployment among severely disabled persons (section 16 of the Compensatory Levy Regulation), subsidizing or fully paying for technical working aids (section 19 of the Compensatory Levy Regulation), or assistance for severely disabled persons who would like to establish or maintain their own business (section 21 of the Compensatory Levy Regulation). Section 18, Subsection 2, number 1 makes clear that 'supplementary assistance' is not confined to securing existing employment relationships, but that it serves the integration of severely disabled persons into working life in general. At the same time, the statutory insurance funds, as purchasers of rehabilitation, often remain responsible even after disabled persons have successfully returned to work (Ernst, 1995, p.101).

One reason for overlapping activities can be found in a conceptual feature of the distribution of responsibility. Responsibilities are assigned to administrative institutions and organizations in the first place, and not in accordance with the categories used in the present study (policies, benefits, services) or with the main objectives of job retention and return to work. Strictly speaking, there are guidelines for the activities of the various funds which provide support services so that an overlap does not have to occur. However, in practice things look different. While the Federal Employment Office merely supports and assists individuals, the Hauptfürsorgestellen also aim to promote the occupational integration of particular groups of severely disabled persons, such as people with mental health problems. As regards their main task, i.e. securing existing employment relationships, the Hauptfürsorgestellen pursue the aim of group-related promotion by the provision of services for psychological and social care (see III.2.1). Beyond that, the Hauptfürsorgestellen increasingly promote projects and experiments which involve the placement of disabled people in the general labour market. Thus, the Hauptfürsorgestellen also engage in finding training vacancies for disabled persons, as does the Federal Employment Office. However, their recent efforts in the placement of disabled persons also, and particularly, includes the continuation of assistance while disabled persons become accustomed to their new job. The Federal Employment Office, on the other hand, breaks off its activities as soon as a long-term employment relationship has been established (i.e. a contract has been signed): its involvement is more concerned with vocational training measures.

It is due to history and tradition that the responsibility for rehabilitation services is split among numerous funds. However, there are some guidelines according to which the responsibility for rehabilitation services can be assigned to the various funds, as was outlined in III.1.2. Responsibilities for rehabilitation assistance can be clearly assigned on the basis of three main principles - the insurance principle, the principle of provision, and the welfare principle (BfA-Mitteilungen 3/97, Blatt 10-11). In individual cases, however, problems are still very likely to occur in the identification of the responsible fund, and this could violate the principle of introducing measures for rehabilitation as early as possible. This was one of the main reasons for the 1974 Rehabilitation Harmonization Act, which aims to co-ordinate rehabilitation efforts among the

¹⁹ This statistical documentation will not be compiled for any years after 1996 as there will no longer be a legal basis for it (source: personal communication from the Statistisches Bundesamt).

various funders (the 'general plan'), standardise assistance and benefits, and establish common principles (see III.1.1).

In earlier sections we pointed out that the Act has not completely achieved its goals since it does not really codify all provisions for rehabilitation; instead it generates more of a comprehensive framework within which the traditionally differentiated system of multiple responsibility is still kept (see III.1.1). That is why the principle of finality cannot be entirely maintained in providing rehabilitation services; the cause of disability determines the responsible fund *de facto*, and thus, since measures are still not provided alike, the extent of assistance received also differs (see III.5.1). Critics say that the Harmonization Act is still full of loopholes and provides for different access to rehabilitation benefits for the various groups of disabled persons (Semlinger 1985, p.24). In addition, from the point of view of disabled persons, confusion still prevails within the legislation on rehabilitation and assistance for severely disabled persons, and the related uncertainty about the individual's legal position (Burger, 1996, p.29). In responding to a parliamentary question in 1995, the Federal Government noted that the split responsibility for rehabilitation services and benefits still causes problems. However, the government took the view that uniform assistance and benefits cannot be achieved among the various funds, even in the long run, 'because of the financial circumstances' and because a connection has to be maintained between rehabilitation and other fundamental tasks of the fund in question²⁰ (Bundesregierung, 1995, p.6). The argument of 'financial circumstances' probably refers to the different funding principles underlying the various funds (see footnote no.8).

Apart from efforts to standardize rehabilitation assistance, the Rehabilitation Harmonization Act also includes regulations on the introduction of measures for rehabilitation, and cooperation and coordination in providing them. Whenever a rehabilitation funder finds out about a case where measures for rehabilitation are advisable, but where it is not itself responsible for provision, it is still obliged to immediately inform the responsible fund so that adequate measures can be introduced without delay. The application for rehabilitation measures to a fund which is not responsible for these is treated as if it was received by the responsible fund (section 4, subsection 2 of the Rehabilitation Harmonization Act). Moreover, where the responsible fund has not been identified but the need for rehabilitation measures has been ascertained, the Act determines the funds which will have to provide provisional benefits at the latest after a period of six weeks (the Federal Employment Office in cases of occupational rehabilitation, and the statutory pension insurance funds in cases of medical rehabilitation - section 6, subsection 2 of the Rehabilitation Harmonization Act).

As regards cooperation and coordination, section 5 of the Rehabilitation Harmonization Act stipulates that:

- centres for information and counselling should be run jointly by several funds (subsection 1);

²⁰ As regards social assistance, and thus mainly assistance and benefits for social rehabilitation (see III.1.2), the principle of being subsidiary to all claims to benefits from other welfare funds (see II.2.1) is a main feature which cannot apply to any other fund. In addition, social assistance is funded by tax revenues as opposed to contributions, as in the case of the statutory insurances and the Federal Employment Office (unemployment insurance), and special taxes as the compensatory levy in the case of the Hauptfürsorgestellen (BfA-Mitteilungen 3/97, Blatt 10-11).

Employment Support and Rehabilitation Services - Germany

- measures for rehabilitation have to be provided comprehensively (within the scope of the responsibility of the fund in question), so that other funds do not have to be involved (subsection 2);
- if the rehabilitation process comprises several measures, or if various funds have to be involved, a general plan has to be drawn up which covers all the measures to be provided (subsection 3) (see III.1.1);
- the Federal Employment Office has to be consulted by other funds involved in rehabilitation prior to the introduction of measures for vocational assistance, and the Office has to submit an integration proposal (subsections 4 and 5) (see III.4.1).

There is thus a need for co-operation to make joint funding and comprehensive case management possible. This especially applies to new forms of assistance for which there is hardly any experience in allocating and sharing responsibility. However, the current legal position limits the possibilities for co-operation through joint funding (Ernst, 1995, p.101 f., 104 f.).

What has been said about the objective of standardising assistance and benefits also applies to the goals of the early introduction of measures, cooperation and coordination. The effectiveness of legislation and regulation will always be limited if conflicting goals are imposed on organizations or if the 'internal logic' of organizations is neglected. From this point of view, the law does not go much beyond the character of a declaration of intent. All the rehabilitation funders are confronted with increasing financial pressure in dealing with their clients' claims. They are subject to an injunction to allocate their resources economically. There are considerable incentives for the individual fund to shift responsibility for persons who are to undergo rehabilitation onto other funds, so that their own financial burden can be eased. Despite a lack of 'official' evidence, anecdotal evidence indicates that, in many cases, disabled persons become victims of the loopholes which still characterise the law. Many are discouraged by uncertainty about their legal position, and confused by multiple responsibilities and contacts. Especially in situations where people are primarily preoccupied with coping at a personal level with the experience of having become disabled, the complexity of the social benefit system causes additional problems for them.

Drawing up 'general plans' to facilitate the coordination of rehabilitation measures provided by various funds seldom occurs, and cooperation between funds is rarely found. So, for example, a statutory social insurance fund will only be really interested in the introduction of rehabilitation measures without delay, and in the success of those measures, if the person concerned would otherwise be entitled to claim pensions or other benefits from the same fund. However, if these persons can be referred to benefits from another fund (somebody insured by the pension insurance is referred to the unemployment benefit fund, for instance), the incentive to contribute to a successful rehabilitation process tends to decrease. The Federal Government's statement in its response to a parliamentary question in 1995 (see above) may be taken as evidence for the assertion that the Rehabilitation Harmonization Act has not been very effective. The Government admits that problems still exist with regard to the introduction of rehabilitation measures and the assignment of responsibility among the various funds, and states that there is still much to be improved in order that measures should be 'really provided without delay', to 'coordinate assistance better', and to 'promote cooperation between the individual funders' (Bundesregierung, 1995, p.6 f.). That is a bad

testimonial for rehabilitation policies - considering that these problems have been identified and known about for many years, and the Rehabilitation Harmonization Act has been in force since 1974.

Representatives of the Hauptfürsorgestellen suggest that the problems caused by multiple and overlapping responsibilities should be settled through shifting the main responsibility for all activities at the enterprise level to the Hauptfürsorgestellen. They justify this by pointing to the local presence of their organizations and the resulting proximity to enterprises - which grant better access to enterprises compared with national rehabilitation funds. They argue that this particularly applies to assistance measures provided on the job to secure existing employment relationships (such as the services for psychological and social care; see III.2.1), but also - and increasingly - to placement services for return to work or first-time entry to employment. However, since the Federal Employment Office is still seen as the main fund for vocational training, specialist integration services may alternatively be affiliated to the funders of vocational training measures. Representatives of the Hauptfürsorgestellen acknowledge that there are limits to delegation to the local level, in particular with regard to conceptual issues (target group, eligibility, contents of measures etc.) and a certain degree of standardization and equal opportunity needs to be guaranteed. In addition, responsibility is still assigned to national organizations for the funding of measures (Heuser, 1993, p.114; Ernst, 1995, p.103 f.). In fact, cooperation between the Hauptfürsorgestellen and national rehabilitation funds such as pension insurance funds is a grey area. The only definite criteria for the delineation of responsibility are the different funding arrangements (compensatory levy revenue vs. social insurance contributions), together with the related eligibility criteria and groups of clients, while the different objectives and contents of services only result indirectly. It is mainly this which explains the overlap in activities (personal communication from VDR).

Results of the 1997 VDR study on the development of occupational rehabilitation

In 1995, the Rehabilitation Commission for Vocational Promotion of the Federation of German Pension Insurance Funds started a study on occupational rehabilitation. The goal of this study was to develop and improve the conceptual framework and contents of occupational rehabilitation services. There were three reasons leading to the initiation of the study (VDR, 1997, p.1):

- The 10th amendment to the Labour Promotion Act in 1993 (see III.1.2) made pension insurance an almost equally important fund for occupational rehabilitation, as compared with the Federal Employment Office (p.60);
- Moves towards a prolonged working life involve increasing challenges for the labour market integration of elderly people whose work productivity has decreased;
- Increasing financial pressures increasingly demand the substitution of successful labour market integration for early retirement pensions, and put even more emphasis on the principle of 'rehabilitation before payment of pension' (pp.1,7).

The study basically deals with three areas: (1) access to benefits and services for occupational rehabilitation, and the related decision-making processes; (2) the type and delivery of benefits and services for occupational rehabilitation; (3) quality and cost management.

Among the numerous results and recommendations highlighted in the report, the following should be noted here:

1. Access and proceedings

Access possibilities: In spite of the 10th amendment of the Labour Promotion Act in 1993, the Federal Employment Office is generally the fund which is first contacted when continued employment is at risk because of health problems. In about three-quarters of all cases in which measures of occupational rehabilitation are eventually provided by the pension insurance funds, the initial applications are made to the Federal Employment Office because health problems are often not immediately identified as a cause of unemployment. The initiation of rehabilitation measures is thus delayed. Moreover, being subject to unsuccessful efforts by the employment office to find employment opportunities over a longer period of time may reduce people's willingness to eventually enter into measures for occupational rehabilitation provided through pension insurance. Instead, they may accept a situation of simply receiving an invalidity or early retirement pension (p.70).

An average of 16.4 per cent of cases of occupational rehabilitation funded by the pension insurance follow measures for medical rehabilitation (provided, too, by pension insurance). This kind of access is considered to be advantageous since the necessary measures for occupational rehabilitation and employment promotion can be identified early on, while the process of medical rehabilitation is still continuing. According to the commission's point of view, the smooth transition from medical to occupational rehabilitation, all provided through pension insurance, appears to be very effective since time-consuming and costly changes of fund responsibility are prevented (p.71).

However, the study suggests that more needs to be done in order to guarantee that the rehabilitation clinics run by the pension insurance funds, and their staff, are sufficiently qualified in matters of employability and occupational rehabilitation (p.66 f.). In addition, criticisms may be made that costly medical rehabilitation might be abused as a means of preparing for occupational rehabilitation (p.71).

Access to rehabilitation measures (funded through pension insurance) via company doctors or the medical services of a company only plays a minor role. Internal company medical staff generally do not know about the possibilities of applying directly to the pension insurance funds for rehabilitation benefits and services.

Proceedings: The fact that the responsibility for occupational rehabilitation is split among three groups of funds (pension insurance funds, the Federal Employment Office and accident insurance funds) reflects the principle of adequate risk assignment: measures for occupational rehabilitation are provided by the fund which also bears the financial risk of their failure (by being confronted with the resulting benefit claims) (see III.1.1). As a consequence of this principle, the Federal Employment Office focuses more on the prevention of unemployment, and pension insurance on the prevention of early retirement (p.72). On the other hand, this way of allocating risk is quite confusing from potential clients' point of view (p.73). That is why the legislation has obliged all funds to cooperate by enacting the Rehabilitation Harmonization Act (see above), and thus to guarantee comprehensive case management.

However, the study emphasizes that the obligation to cooperate also involves some considerable disadvantages. First of all, it takes time and thus creates costs. Fund-related problems, such as a shortage

of personnel, tend to have cumulative effects. Finally, shared responsibilities usually delay rehabilitation proceedings. A survey among different funds revealed, that the average time for handling applications (until a final decision is made) was 313 days (pp.74, 77).

Integration proposal and general plan: The integration proposal provided by the employment offices and the general plan illustrate the problems involved in cooperation and possible ways of overcoming them. In practice, the employment offices' integration proposal has turned out to be extremely time-consuming. A survey of the pension insurance funds revealed that it takes, on average, 117 days until the employment offices make their proposals after having been requested by a pension insurance fund. That is why the commission recommends an amendment to the law (Section 57 of the Labour Promotion Act, and Section 5, Subsection 4 of the Rehabilitation Harmonization Act respectively), so that the pension insurance funds are no longer obliged to consult the Federal Employment Office or, at least, that the former make their own proposals which then have only to be approved by the latter (pp.35, 86).

The study confirms that drawing up general plans does not play an important role in practice. The reason is that the obligation to draw up a general plan is based on the unrealistic idea that the process and result of rehabilitation can be planned. The commission recommends the use of general plans only as long as these can be handled in a flexible manner. When drawing up general plans turns out to be too formalized and too time-consuming, a more flexible planning of the course of rehabilitation exclusively by one rehabilitation fund is preferable (p.78).

2. Benefits and services

It was stated earlier in this section that return to work plays a more important role with regard to rehabilitation services provided through pension insurance than does job retention. However, the commission's report suggests that job retention should be paid more attention as a goal of rehabilitation efforts. Above all, cost considerations lead to the preference of measures which make job retention possible over measures which are provided outside the company and are, therefore, often not compatible with maintaining the employment relationship (p.10). The commission's recommendations that measures for occupational adaptation and further training should have precedence over more expensive initial training and retraining has to be seen against this background.

Measures for occupational adaptation and further training are based on the occupational qualifications that have already been acquired (p.128). Thus, they are not only less costly but also more compatible with job retention and with being provided inside the company. However, more costly retraining is often considered to be the only secure way of labour market integration. So it is not surprising that it still represents the essential part of vocational training provided through pension insurance. In 1995, the composition of vocational training was as follows (in terms of measures granted - as opposed to measures completed, as in III.4.1):

Table III.9: Measures of vocational training granted in 1995

Occupational adaptation	7,852	29.8 %
Further training	2,833	10.7 %
Initial training	1,526	5.8 %
Retraining	14,275	54.1 %
Total	26,386	100.0 %

Source: VDR 1997, p.128 f.

As a consequence of reduced budgets, the commission recommends:

- checking on opportunities for occupational adaptation and further training more thoroughly before granting retraining services, i.e. to only grant the latter if it is quite clear that the former cannot guarantee long-term integration into the labour market (pp.27, 130);
- strengthening the relations between vocational training and actual practices in companies, either through shifting parts of the rehabilitation process into the company or at least to incorporate traineeships in training measures provided outside companies (in retraining centres, for example) (p.131). Training measures may then be provided on a part-time basis which makes job retention possible, or retraining might mainly be provided inside the company so that the funding party (in this case pension insurance) can confine itself to supplementary assistance (pp.11, 25, 27).

Apart from cost considerations, the alignment of measure design with either job retention or return to work cannot remain independent of the structural characteristics of the group of participants. Here, the different branches of the pension insurance system (separate funds for wage earners and salaried employees) become relevant. It turns out that the health problems of salaried employees can usually be much better compensated by measures compatible with job retention (for example by occupational adaptation), as compared with the disabilities of wage earners which result from greater physical demands, in which case more extensive measures appear necessary, which can only rarely be combined with maintaining the previous employment relationship (p.75).

With regard to the users of vocational training services, the commission suggests that the relatively costly programmes offered by the vocational retraining centres and funded by the pension insurance should mainly focus on elderly clients. Younger and relatively more capable clients should be directed towards training measures provided inside companies, in order to take account of their higher integration chances (p.28).

The study criticizes the pension insurance's funding of measures for occupational rehabilitation which are provided in sheltered workshops since these measures hardly ever result in integration into the general labour market (p.29).

Finally, the report recommends further consideration of the possibilities offered by private employment agencies. The pension insurance funds may profit from the latter's efforts to support their clients' return to work. The commission also suggests rewarding such efforts by external services in an 'unconventional' manner by means of outcome-related fees (p.32).

3. Quality and cost management

Those of the commission's recommendations which are expected to have early effects on quality and cost put the main emphasis on cost reduction in vocational promotion. Here, the increasing importance of job retention as a goal of occupational rehabilitation measures becomes clear. The report emphasizes that measures for medical rehabilitation should be given precedence over those for occupational rehabilitation if the former are sufficient for people to take up their previous employment (job retention) (p.33). Moreover, it is explicitly stressed that measures which make re-employment in the previous job (i.e. job retention) possible are to be given priority over costly measures of vocational training (p.34).

The increasing importance of job retention may also result from the realization that many people who undergo vocational retraining do not really see their disability as the main reason for the vocational reorientation. In an empirical study in two vocational retraining centres, remarkable differences were discovered in the way that those affected saw the importance of their vocational retraining for their life history. Many people receiving rehabilitation expressed dissatisfaction with their previous occupational development as the reason for undertaking vocational reorientation (Vonderach, 1997).

In relation to long-term considerations about quality and cost management, the commission recommends a more decentralized form of organization according to which the specialist rehabilitation advisers of the pension insurance (local rehabilitation teams) play a key role. Since they take action at a local level, the suggestion is to give them the main responsibility for case management, cost and quality management and cooperation and coordination with the local employment offices (p.182 f.). This recommendation has to be seen against the experience of assistants in the accident insurance funds (see II.1.2) as very good case managers. The success of integration has turned out to be considerably higher in cases where those assistants were involved in the process of transition from rehabilitation measures to the open labour market (Bundesregierung, 1997, p.68).

To control costs, the commission suggest regionally differentiated budgets for each local rehabilitation team (p.184). The control of the overall administration process, including for example the determination of budget sizes, would be centralised (p.35). Quality management requires the installation of comprehensive and, above all, outcome-related information and documentation systems. Finally, cost accounting should be refined so that as many individual cost components as possible can be assigned to individual clients (p.37).

III.6.2 The effect of relationships between services on their effectiveness

The relationships between services have been dealt with in detail in the preceding sections in connection with the delimitation and overlap of responsibilities (especially with regard to the objectives of return to

work, job retention and first-time entry to employment), cooperation, vocational training, eligibility, and assessment.

III.6.3 The results of vocational training and rehabilitation

The Federal Employment Office

The Federal Employment Office states that the individual process of rehabilitation is not finished until the person in question has been permanently (re-)integrated into the labour market. As measures of success the FEO refers to:

- a) placement in a permanent employment relationship, usually combined with measures of vocational assistance, including support to find a permanent job (return to work);
- b) placement in the employment section of a sheltered workshop for disabled persons;
- c) job retention (with the same employer) through redeployment inside the company;
- d) job retention (same workplace) through adaptation of the workplace.

The prospects of (re-)integration considerably depend upon the current state of the economy and the situation in the general labour market. How fast (re-)integration can be achieved is also influenced by personal characteristics: The older people are, and the more they show deficits in educational and vocational qualifications, the more the opportunities decrease for successful and fast (re-)integration. From its own point of view, the FEO regards cases of rehabilitation as concluded if:

- e) the person who has completed occupational rehabilitation decides to continue attending her/his previous centre;
- f) the person in question is not suited to rehabilitation measures or
- g) is not willing to participate;
- h) the person undergoing rehabilitation decides to attend a centre for general education, or
- i) a centre for vocational training;
- j) occupational rehabilitation ends up in measures for medical rehabilitation, or
- k) measures for social rehabilitation;
- l) there are other reasons, including an integration proposal from the FEO to the responsible rehabilitation fund.

(ANBA, 1996, p.24, 43)

Taking account of just the people who participated in rehabilitation measures for re-integration (i.e. job retention or return to work) assisted by the FEO, the results for 1995 are as follows (ANBA, 1996, p.43):

Table III.10:

<i>Cases completed, total</i>	242,538	100.0 %
Reintegration into labour market	95,790	39.5 %
a) return to work (placement)	54,367	22.4 %
b) placement in sheltered workshop	3,485	1.4 %
c) job retention through redeployment	915	0.4 %
d) job retention (same workplace)	37,023	15.3 %
Other ways of concluding	146,748	60.5 %
e) continue at previous centre	214	0.1 %
f) not suited	9,882	4.1 %
g) not willing	18,515	7.6 %
h) centre for general education	223	0.1 %
i) centre for vocational training	489	0.2 %
j) medical rehabilitation	5,083	2.1 %
k) social rehabilitation	729	3.0 %
l) other reasons (incl. other funds responsible)	111,613	46.0 %

The outcome of 56.8 per cent of all the completed cases which resulted in reintegration into the labour market was a return to work (i.e. changing employer); only 39.6 per cent ended up with job retention.²¹ However, this is not true if one looks at the new Länder separately. Here, the relationship is reversed, with 46.4 per cent of completed cases ending in job retention, and only 44.8 per cent in a return to work. Whenever the job is changed subsequent to rehabilitation measures, the occupational orientation is more directed towards the service sector. In 1995, 43 per cent of all persons who retained their job after occupational rehabilitation were employed in manufacturing, 46 per cent in the service sector. Among those who did not stay with the same employer, only 27 per cent returned to manufacturing jobs while 49 per cent found jobs in the service sector. These relations reflect the contents of retraining and further training which many persons assisted by the FEO took part in. The majority (60.5 per cent) of cases completed and directed at re-integration did not end in reintegration into the labour market. However, unwillingness to participate or a lack of suitability played only minor roles. Most of the cases were subject to the

²¹ This confirms that the classification of rehabilitation services as 'support services for return to work' instead of 'support services for job retention' seems more appropriate (see III.1.1).

responsibility of other funds. The high number listed under this category shows how much the FEO is involved in occupational rehabilitation assisted by other funds, in particular by making integration proposals (ANBA, 1996, p.25 f.).

Separate data are available on vocational assistance training measures. In 1995, 109,762 cases were concluded, 83,336 (75.9 per cent) successfully. Among the latter, 33,983 (40.8 per cent) were concluded by passing some kind of examination. 26,426 cases (24.1 per cent of all training measures) were not successfully concluded, of which almost 88 per cent dropped out early, 16.8 per cent for health reasons, and 7.5 per cent because of taking up a job (ANBA, 1996, p.66). It has been pointed out above that the vocational retraining centres play a crucial role in providing training services for occupational rehabilitation. The FEO has for many years funded about 70 per cent of all rehabilitation measures delivered by these centres; However, as a result of policy changes (see III.1.2), its share has shrunk and become similar to that of pension insurance, that is about 45 per cent in 1997 (Seyd, 1997, p.256). Good placement results for those who complete the courses at these centres are taken as an evidence for the fact that the work done by the vocational retraining centres is successful: 'according to surveys carried out among former trainees one year after completion of their course, the results have remained about 80 per cent in the average (in a wide range between occupations) over a number of years' (BMA, 1996, p.111). However, this proportion also includes initial training centres. In its response to a parliamentary question, the Federal Government refers to a 1992/93 survey carried out by the Association of German Vocational Retraining Centres into the long-term success of integration of persons who had received vocational training only in these retraining centres. According to the survey, 84 per cent of former participants were still employed six to ten years after completion. Among the remaining 16 per cent, only 11 per cent were registered as unemployed. The long-term integration proportion is higher than the 72 per cent who were in employment one year after completing vocational training in retraining centres (Bundesregierung, 1995, p.23 f.). The fact that the long-term percentage is higher may reflect the length of time it takes to find employment - depending, for example, on the general labour market situation.

According to the Federal Government, 'the success of vocational integration is due not least to the fact that participants in these measures are continually introduced to modern technologies such as numerically controlled machines, computer-controlled drawing systems, modern data processing equipment and microelectronics and, therefore, have greater opportunities than others for employment in modern industries'. In their report on the situation of disabled persons, the Federal Government attributes the high placement rates to the efforts the rehabilitation institutions have made to co-operate with firms providing training places or practical experience. 'For the future, however, increasing placement difficulties for the participants must be expected so that more transitional care will be necessary'; in fact, the proportion of people still without employment one year after completion of retraining has been increasing (BMA, 1996, p.111; Bundesregierung, 1994, p.44; Thornton and Lunt 1997, p.121 f.).

In spite of impressive placement rates, the vocational retraining centres have been sharply criticized by some experts. The system is accused of 'limiting the rehabilitation of persons with disabilities almost exclusively to these institutions, even though the integration proportion of leavers is permanently dwindling. At the same time, the admission criteria are being raised: more and more these institutions tend only to accept persons with minor health impairments and to reject people with disabilities as not being fit for training. The German institutional rehabilitation system turns out to be a cul-de-sac which cannot easily be opened

up due to the money allocated to this system and the political influence of these institutions' (Frehe, 1995, p.73). In addition, not all of the vocational rehabilitation institutions for disabled adults are equipped to train people other than with physical impairments. The problem - that less qualified and older people with especially severe disabilities (i.e. those who are supposed to be difficult to place after completion of the training measures) are under-represented in these measures - has often been termed 'creaming'. Correspondingly, skilled workers and salaried employees are over-represented. Since these effects probably contribute to the good results, the actual labour market success of rehabilitation measures provided in the vocational retraining centres is difficult to assess (Thornton and Lunt, 1997, p.122 f.; Rendenbach, 1990, p.108 ff.).

Statutory pension insurance

The statutory pension insurance funds report the results of measures for occupational rehabilitation only with regard to vocational training. Of a total of 13,137 vocational training measures which were provided in 1995, 7,605 (57.9 per cent) were concluded successfully. 3,390 measures (25.8 per cent) were discontinued early, mainly for health reasons (1,874 measures, or 55.3 per cent of all measures discontinued early). 1,526 measures (11.6 per cent) were not concluded successfully, i.e. the participants did not pass the required examination. As regards the occupational background of the participants, it is striking that, within all the major groups to which the majority of measures were allocated, the proportion that were successfully concluded was above the average of 57.9 per cent. Vocational training measures for persons who have been initially trained for jobs in the health service sector were most successful: 396 measures out of a total of 498, i.e. 79.5 per cent, were successfully concluded in 1995. The respective rates for the other major groups are as follows: 60.4 (metal-processing), 69.5 (construction), 59.5 (engineering), 64.9 (trade and transportation), 61.9 (administration and organisation) (VDR, 1996, p.260).

In its response to a parliamentary question, the Federal Government dealt with the economic benefits of rehabilitation, taking statutory pension insurance as an example. The advantage of carrying out rehabilitation measures may be calculated by comparing the expenditure on rehabilitation with the avoided pension payments plus the continuing social insurance contributions (including the employers' contributions). Such a calculation has only been made for in-patient medical rehabilitation measures, according to which 'investments' in medical rehabilitation pay off as soon as occupational integration is extended for three to four months. However, this kind of calculation does not take into account the effects on other social insurance funds, nor on the economy as a whole (Bundesregierung, 1995, p.23). The Federal Government is convinced that measures for occupational rehabilitation, too, pay off even from a purely economic point of view (Bundesregierung, 1994, p.44).

Statutory occupational accident insurance

The results of measures for occupational rehabilitation provided by the statutory occupational accident insurance funds have already been presented in II.1.5. Some of that information will be repeated here.

The statistical data on the results of measures for occupational rehabilitation list the numbers of cases using the following categories:

- a) successful integration into working life (there is no further distinction between job retention and return to work; see also III.1.2);

Employment Support and Rehabilitation Services - Germany

- b) successful integration into working life only after additional measures for occupational rehabilitation;
- c) integration is impossible because of the severity of the consequences of the occupational accident, or because of other health reasons or death;
- d) integration is not achieved because of a lack of adequate vacancies;
- e) integration is not achieved for personal or other reasons.

For the year 1993, the following results are given (HVBG, 1995, p.198):

Table III.11: Numbers of cases

<i>Age</i>	<i>Total</i>	<i>(a) successful</i>	<i>(b) additional measures</i>	<i>(c) impossible</i>	<i>(d) lack of vacancies</i>	<i>(e) personal reasons</i>
Below 20	1,371	1,069	91	44	91	76
20 - 24	2,991	2,242	215	80	259	195
25 - 29	2,421	1,883	169	84	162	123
30 - 34	1,734	1,374	115	73	117	55
35 - 39	1,472	1,161	97	70	103	41
40 and above	6,356	4,431	446	530	509	440
Total	16,395	12,200	1,136	883	1,244	932

The figures show that 74.4 per cent of all persons completed measures for occupational rehabilitation, assisted by the accident insurance funds, by having been successfully integrated into employment. In 6.9 per cent of cases, successful integration was achieved by means of additional measures, so that the integration quota was 81.3 per cent altogether. Only for 18.7 per cent of all cases (categories (c) to (e), i.e. 3,059 cases) it must be stated that measures for occupational rehabilitation were not successful. However, this share contains 932 cases in which mainly personal reasons (such as motherhood, or health reasons other than accident or work-related ones) led to the failure of occupational rehabilitation. Subtracting these cases, only a proportion of 13 per cent of cases remains: the accident insurance funds attribute these to the fact that the vocational assistants have failed (albeit not in the case of death). Age turns out to be a factor influencing the success of measures for occupational rehabilitation. Considering only people under the age of 40, the total integration quota (including category (b)) amounted to 84.3 per cent, whilst it was only 76.7 per cent for the group of people '40 and above', which represented almost 39 per cent of all persons who completed measures for occupational rehabilitation in 1993. The accident insurance funds also judge the relatively lower proportion of older people to be satisfactory (HVBG, 1995, p.178 f.).

The 1993 rehabilitation report lists separate statistics on the results of vocational training measures as a subgroup of measures for occupational rehabilitation, using the same outcome categories as above. This reflects the official point of view that the accident insurance funds' obligation to assist disabled persons with vocational training does not end until these persons enter a new and adequate employment relationship which takes account of their inclinations, abilities, and former occupation.²² Successful completion of training measures alone is not regarded as sufficient. To ascertain success, the accident insurance funds check whether people have taken up employment within six months of successfully completing vocational training measures. For 1993, the following results are given (HVBG, 1995, p.198 f.):

Table III.12: Number of cases

<i>Age</i>	<i>Total</i>	<i>(a) successful</i>	<i>(b) additional measures</i>	<i>(c) impossible</i>	<i>(d) lack of vacancies</i>	<i>(e) personal reasons</i>
Below 20	572	425	35	3	53	56
20 - 24	1,452	1,030	91	6	180	145
25 - 29	759	525	57	3	102	72
30 - 34	281	187	20	3	48	23
35 - 39	136	79	11	1	28	17
40 and above	123	72	10	4	21	16
Total	3,336	2,327	224	20	434	331

The figures show that 69.8 per cent of all persons completed vocational training measures, assisted by the accident insurance funds, by having been successfully integrated into employment. In 6.7 per cent of cases, successful integration was achieved by means of additional measures, so that the integration quota was 76.5 per cent altogether. In 23.5 per cent of all cases (categories (c) to (e), i.e. 785 cases) occupational integration failed. Almost all these cases were due either to a lack of adequate vacancies (13 per cent) or to personal reasons (9.9 per cent). As compared with measures for occupational rehabilitation in general, vocational training measures were directed more at younger people: 83.4 per cent of all cases receiving such measures were below 30. This corresponds to a lower success rate among older participants. So, for the group aged between 35 and 39, the integration quota after having successfully completed vocational training was 66.2 per cent, and only 58.1 per cent without additional measures. (For the correlation between gender and occupational background of participants see II.1.5.) (HVBG, 1995, p.180 f.).

The statistical information on the outcomes of vocational training measures allow a more exact classification in terms of job retention and return to work. Job retention in this context is explicitly considered to be a failure since it is argued that vocational training is just provided in cases in which the earlier job or occupation cannot be practised any more in a competitive way (see II.1.5). It is assumed that re-employment in the former professional environment after having gone through vocational training, that is

²² The attribute 'new' implies that vocational training measures aim more at return to work than at job retention.

mainly retraining²³, would result in damage to the insured person's health, or would probably be connected with lower wages/salaries compared to what the person was paid before. Thus, ascertaining the success of vocational training requires that the disabled persons have found adequate employment according to the qualifications they have newly acquired through vocational retraining. Taking up employment after completion which is new, but which does not meet this requirement, is also regarded as failure since it implies that retraining measures would not have been necessary (HVBG, 1995, p.181).

The figures (HVBG, 1995, p.208 f.) show that, of 3,233 cases of vocational training in 1993 (excluding the agricultural sector), 2,072 were successfully integrated into new employment corresponding to the qualification which was obtained by vocational training measures; this is a proportion of 64 per cent. The remaining cases could not be considered successful since they represented people who returned to their earlier occupation (25), returned to work not corresponding to their new qualification (142), were not integrated at this point (430), or about whom a statement was not possible since evaluation of vocational training allows for a waiting period of six months after the training has been completed (564). The latter share usually contains successful cases which have not been ascertained at the time of reporting, so that the success rate of 64.1 per cent might be slightly underestimated. That in 430 cases integration had not yet been achieved, was attributed mainly to personal reasons (only 'satisfactory' grades, age, limited mobility, for example) or to the general economic situation (recession) (HVBG, 1995, p.182).

With regard to occupational reorientation, a considerable share of persons participating in vocational training came from the food industry (1,023 cases out of a total of 3,336, i.e. 30.7 per cent), in particular the baking trade (see 5.3). After successful completion of vocational training measures in 1993, by far the largest proportion of participants found employment in office jobs (1,046 cases, i.e. 31.4 per cent). From a medical point of view, these jobs are often safe. Moreover, they correspond to the aptitude and inclinations of many participants. Other important 'target occupations' were engineering (375 cases or 11.2 per cent), marketing (256 cases or 7.7 per cent), and banking/insurance (135 cases or 4.1 per cent) (HVBG, 1995, p.183, 204 f.). The most popular target occupations (office work, engineering, marketing) related to the vocational training measures with the longest duration. In 2,780 cases out of a total of 3,233 (not including the agricultural sector) vocational training measures were successfully completed - a rate of almost 86 per cent (HVBG, 1995, p.184, 206 f.).

For 1995, the report on rehabilitation released by the accident insurance funds is not as detailed as the one for 1993. In relation to the outcomes of vocational training measures, it only says that the integration quota fell from 76.5 per cent in 1993 to 74.8 per cent in 1995. It emphasizes that the proportion for cases in which additional measures were not necessary for successful integration fell more sharply from 69.8 per cent to only 60.2 per cent within the same period. That means that, in 14 per cent of cases, additional measures were provided to achieve successful integration (HVBG, 1997, p.29).

Most of the data on the outcomes of measures for occupational rehabilitation refer only to 1993. However, the structure of expenditure appears relatively stable in the long run. Ascertaining the success of

²³ Of the 3,233 cases of vocational training in 1993 (not including the agricultural sector), 81.1 per cent represented retraining measures (HVBG, 1995, p.182, 200 f.).

reintegrating disabled persons assisted by accident insurance is not problem-free. All the numbers presented are based on a preselection of more serious cases, which makes the figures less meaningful: there are many cases in which out-patient treatment is not necessary, so that reintegration is not really a problem. The success rates reported are thus only proxies (personal communication to HVBG).

The Hauptfürsorgestellen

No data were identified on the results of measures for occupational rehabilitation, or vocational training in particular, which were assisted by the Hauptfürsorgestellen within the framework of 'supplementary assistance in the work environment'.

Failure rates

The relatively high rate of failure in vocational retraining has been identified as a serious problem. Failure refers both to the non-attainment of adequate integration into employment following training measures, and to training measures themselves, i.e. failing required examinations and not acquiring qualifications that the participant was designated for. Both kinds of failure represent costs for the rehabilitation funds and for the economy as a whole.

Of the 109,762 concluded cases of vocational training which were assisted by the Federal Employment Office in 1995, for example, almost a quarter (24.1 per cent) were not successful in terms of acquiring the targeted qualification. 87.8 per cent of them, or 21.1 per cent of the total, represented cases in which training measures were discontinued early (absolute number: 23,199). Among this latter group, health reasons played a major role (4,439 cases or 19.1 per cent of all those discontinued early). Only relatively small proportions were discontinued early because of changing to other training measures (1,445 cases or 6.2 per cent) or taking up a job (1,983 cases or 8.6 per cent). 3,227 cases, i.e. almost three per cent of all participants, did not successfully conclude training even though they did not drop out early. It has to be noted, however, that these figures also include initial training aimed at first-time entry to employment. In 1995, in about 46 per cent of all cases newly admitted, vocational training was directed at reintegration into employment (ANBA, 1996, p.66, 36 f.). A 1992 study by the Institute for Research on Labour Market and Occupations (IAB), which is affiliated to the Federal Employment Office, revealed that almost a third of participants in retraining measures had not been integrated into the labour market two years after completion. Moreover, the integration rate was considerably different for men (73 per cent) and women (63 per cent) (Fessler, 1997, p.363).

Among the vocational training measures assisted by the pension insurance funds, 25.8 per cent were discontinued early in 1995 (more than half of them due to health reasons, see above). Of the 3,233 persons participating in vocational training measures assisted by the occupational accident insurance funds in 1993 (not including the agricultural sector), only 14.1 per cent were not listed as having successfully passed vocational training, of whom 237 (7.4 per cent of the total) discontinued early (HVBG, 1995, p.207).

There is a large number of reasons in addition to those already mentioned (especially health reasons) for these relatively high proportions of persons who did not meet the requirements of vocational training measures, or who discontinued them early. So, for example, among the cases in which training measures assisted by the Federal Employment Office were discontinued early in 1995, more than half (12,846) are listed under the category 'other reasons'. Numerous studies suggest that the reasons for failure also have

to be seen in the context of organizational issues. In many cases, the initiation of measures for occupational rehabilitation is delayed, so that there is a considerable amount of time between the occurrence of a disease or disability on the one hand, and the introduction of rehabilitation measures on the other. Such delays are not only due to psychological defence mechanisms, which lead to putting off retraining or further training, even though the person in question knows about their necessity; they are also due to a lack of information about possible vocational assistance measures, to lengthy procedures to ascertain responsibility on the part of the rehabilitation funds, and - from the point of view of the disabled person - to the often confusing, partially inefficient, and at the very least incomprehensible administration of the rehabilitation funds (Fessler, 1997, p.357).

Furthermore, deficits have been identified with regard to the counselling and advice services provided by the rehabilitation funds, in particular concerning questions of career guidance and career choice. According to critics, a lot of empirical studies have shown that counselling on rehabilitation matters does not meet the high standards set down by law, according to which career choices are supposed to be aligned with the disabled persons' aptitude, inclinations and health state, and with the current situation in the general labour market; In addition, advice services should provide assistance for self-help. In many cases, the people who had been advised voiced their discontent with the quality and results of counselling services. This is generally caused by a shortage of time: two or three appointments of about 30 minutes each do not suffice to deal fully with the specific problems of the persons seeking advice and who find themselves in exceptional, emotionally very demanding situations. Because of the time constraints, conversations are usually confined to providing general information on rehabilitation. Nevertheless, surveys have shown that many of the people who received advice services criticized both the amount and the quality of the information. In particular, the criticisms refer to the withholding of important information and to presenting information too positively. People undergoing measures for occupational rehabilitation afterwards are thus not prepared to deal with the problems and stress that occur during participation, and will thus be disappointed. Altogether, the advice services are criticized for making disabled people's decisions for them, being too rigid and too schematic, and tending towards simplistic solutions. Initiative of one's own is weakened instead of being promoted (Fessler, 1997, p.358 f.).

Problems continue to occur while the measures for occupational rehabilitation are carried out (most of the time as industry-wide measures in special centres). A recurrent problem is that the schedule which has to be fulfilled asks too much of the participants considering the relatively short period of time the measure is supposed to take (according to the law this should generally be at most two years for retraining - compared to a regular duration of initial training of three years). On top of that, participants are often not used to training any more, they lack adequate learning skills, and they miss out on training for health reasons. Their emotional situation is usually quite difficult; many participants do not really succeed in coping with their new role of being a student or trainee again, especially as they used to have recognized positions in working life. Accommodation in a boarding college, often being away from their families, and alcohol abuse are further issues in this context. However, that mainly applies to the vocational training centres. These have specialized services for medical, psychological and social care; however, on average only one psychologist is responsible for almost 500 participants. Vocational training inside companies or in more local training centres is much less frequently associated with such problems. On the other hand, critics see a tendency for participants to be seen more as (cheap) workers/employees rather than trainees. In addition, participants

must then attend general vocational colleges, the schedules of which are not compatible with the shorter duration of rehabilitative retraining as compared with ordinary training (Fessler, 1997, p.360 ff.).

III.6.4 Arrangements for outcome-related funding

Against a background of general financial pressures (discussed in more detail in section III.7), it seems understandable that efforts to monitor the outcomes of assistance provided for occupational rehabilitation have been increased, above all in the form of statistical documentation - as has been presented in the preceding section (for example 'integration balances' according to section 11 of the Labour Promotion Reform Bill). Simultaneously, the methods of New Public Management have been introduced for all kinds of public administration, together with a more outcome-related allocation of resources (cf. Zängle/Trampusch, 1997, p.305 f.).

III.6.5 Funding of Hauptfürsorgestellen personnel

There is a particular feature concerning the funding of 'supplementary assistance in the work environment' provided by the Hauptfürsorgestellen. The related measures are funded through the revenue of the compensatory levy. Taking parts of this revenue to fund personnel of the Hauptfürsorgestellen as the providing institution and its administration activities is not permitted; instead, they are funded through the Länder budgets. This arrangement is considered to be problematic. It is claimed that the successful and purposeful expenditure of the levy revenue also depends on the employment of sufficient personnel for counselling services etc. The fact that administration costs cannot be covered by the levy revenue is said to restrict the Hauptfürsorgestellen's capacity for action (Ritz, 1997, p.468).

III.7 LINKS WITH BENEFITS AND EMPLOYMENT POLICIES

Most rehabilitation services are provided by statutory insurance funds: pension insurance, occupational accident insurance and unemployment insurance (Federal Employment Office). Funding is thus linked to social insurance contributions. The level of contributions, and thus the size of the budgets, is subject to political decisions. The logic of social policy has been characterized by need-related funding for a long time. As a first step, a certain condition in society has been identified which was regarded as being socially not acceptable. This condition must then be taken up by influential pressure groups in order to become a part of the political agenda. The final step is an amendment to the Social Code which establishes new entitlements for a particular group of the population. So, funding social policies and programmes has primarily been a legal question. Economic considerations have not played an important role.

In recent years, which have been characterized by high unemployment, the level of social insurance contributions as a part of wage costs has been increasingly blamed for contributing to unemployment. In addition, the continuous introduction of new entitlements to provisions granted by the statutory insurance funds has brought the latter under increasing financial pressure. The view has grown that the expansion of social provisions has to be stopped, since it seems that otherwise the disadvantages for society as a whole

would exceed the benefits for particular groups. As statutory insurance funds, the providers of rehabilitation services are obliged to observe the principles which govern public budgets, in particular an economical allocation of resources. However, legislation which creates an increasingly complex body of claims and entitlements counteracts such efforts. Moreover, inefficiency is likely to occur since the funder is not the recipient of rehabilitation services, which creates a need for, and the problem of, monitoring.

High general unemployment affects the statutory insurances in their role as rehabilitation funds in two ways: while the number of people who pay contributions to social insurance decreases, labour market prospects for people undergoing occupational rehabilitation simultaneously worsen. Rehabilitation funds then have to manage on lower budgets in a more difficult situation. According to expert estimates, 100,000 more unemployed people cause a loss in contributions plus a simultaneous increase in social benefits to be paid out amounting to three to four billion DM. The pension insurance funds additionally have to deal with the unfavourable demographic developments associated with increasing life expectancy. In fact, expenditure on occupational rehabilitation has been cut by all the funds. As a reaction to decreasing revenue, the occupational accident insurance funds stopped their subsidies for 'institutional promotion' (see III.4.1) at the beginning of 1997. On the other hand, the decrease in employment also caused the number of occupational accidents to fall, so that the demand of the accident insurance funds for rehabilitation vacancies has dropped considerably over the past years (Seyd, 1997, p.256).

IV. ADAPTATION OF WORK AND WORKPLACE

Part IV is concerned with practical solutions to adapting the work-station, workplace and job procedures to the needs of workers who become disabled. It focuses on external services available to enterprises to assist them in making adjustments, whether those services are accessed directly in the marketplace or via agencies. External services may provide advice or practical help both in adjusting the demands of the job and in adapting the work environment, temporarily or permanently. They may operate as private consultancies, voluntary bodies, quasi-governmental agencies, or as part of employment services.

The initial sections of this Part consider policy responsibilities, details of providers, funders and users, technical advisory services, sources of technical equipment and advice about accommodating work routines. Later sections focus on the factors which affect the success of adaptation services in promoting job retention and return to work.

IV.1 RESPONSIBILITY FOR POLICY AND PROVISION

IV.1.1 The main bodies responsible for work environment policies and their role in promoting adaptations for job retention and return to work

Section II.1.1 described the role of the statutory occupational accident insurance funds in relation to work-related injury or illness. In addition, two groups of industry-wide bodies are responsible for the maintenance of industrial health and safety standards: the supervisory bodies of the statutory occupational accident insurance funds, and the state factory inspectorates. The statutory occupational accident insurance funds are obliged to give instructions to enterprises about measures to prevent accidents and work-related illnesses and to give instructions to insured people about accident prevention at work. All the assistance schemes of the various funds which promote the integration of disabled persons into employment contain provisions for the adaptation of work and workplace to meet the needs of disabled employees.

IV.1.2 Comparison of the attention given to policies which promote job retention and those which promote access to work

Institutional work environment policies are primarily aimed at the prevention of occupational accidents and work-related illnesses (and thus the occurrence of disabilities). The respective attention given to job retention and access to work in the provision of workplace-related assistance has to be derived from the overall policy priorities by which the various funds are characterized (as described earlier).

IV.1.3 The main providers of technical and advisory services

The Federal Employment Office, its affiliated employment offices and the Hauptfürsorgestellen provide technical and advisory services by employing full-time advisers. The rehabilitation funds deliver their own

advice services; specialist rehabilitation advisers in the case of pension insurance funds, vocational assistants in the case of accident insurance funds. However, whenever specific technical advice is required they fall back on other funds. The employment offices have to be involved in decisions on occupational rehabilitation anyway. The law only establishes very basic guidelines, primarily derived from the employers' obligation to fulfil their quota (see section 14, subsection 3 of Severely Disabled Persons Act). The provider funds are responsible for determining the nature of their own work environment policies.

A considerable proportion of technical and advisory services, though, is provided by the actual suppliers of technical equipment and aids for disabled employees, i.e. private manufacturers and firms. Disabled employees who are in need of technical aids to retain their job or facilitate their work can directly contact the manufacturers (which they may know about from advertisements). Funding, however, depends on the employment offices, Hauptfürsorgestellen, or other funders of occupational rehabilitation (e.g. pension insurance or accident insurance funds). That is why private firms offering technical equipment immediately contact these funds when they become aware of a request for services. They take up the disabled worker's concerns and deal with the correspondence with the rehabilitation funds. They also organise presentations of innovative products for rehabilitation fund advisers.

The full-time advisers within the rehabilitation funds have a double function: whenever they learn about the need for additional technical equipment for disabled employees, they contact private suppliers. On the other hand, they also function as a monitoring body to make sure that their subsidies are only used for equipment provided by 'genuine' firms. Thus, they contact two or three suppliers which make an offer for the equipment for the workplace in question, from which the advisers choose one. This arrangement may be successful in keeping 'black sheep' outside the suppliers; on the other hand, it has an inherent tendency towards forming a cartel, so that new firms face difficulties in entering the market.

IV.1.4 The relationship between providers of technical and advisory services and providers of employment support and rehabilitation services

There is no separation between the providers of technical and advisory services, on the one hand, and providers of employment support and rehabilitation services on the other.

IV.2 TECHNICAL AND ADVISORY SERVICES FOR MODIFICATIONS TO WORK-STATION AND WORKPLACE

IV.2.1 Technical and advisory services available to enterprises to design, cost and plan the implementation of modifications to the work-station or workplace to accommodate disabled workers

Technical and advisory services are provided by the funds described in earlier sections. The services include the design and planning of workplace adaptations, and an approximate calculation of the cost of

implementation. In addition, the services try to give information on possible subsidies from external funds (including their own).

Private manufacturers supplying rehabilitation equipment play an important role for the technical and advisory services. Advisers have to keep in touch to them, or at least keep themselves up-dated about new products which enhance the possibilities of employing disabled people.

The Federal Ministry for Labour and Social Affairs has engaged the *Institut der deutschen Wirtschaft* (Institute for the German Economy) in Cologne to set up a database, called REHADAT, to collect comprehensive information about the integration of disabled persons into working life. This database includes: documentation of examples for successful occupational integration, technical working aids, literature, rehabilitation institutes, legislation and precedents, addresses, and seminars.

Disabled persons themselves, but also all kinds of organizations and institutions which deal with the integration of disabled persons into the labour market, in particular including the technical advisors employed by the Hauptfürsorgestellen and the Federal Employment Office, form the target group of the database. There are several possibilities of data retrieval (CD-ROM, inquiry in writing or over the phone, online access). Since October 1997, REHADAT can also be retrieved on the Internet (<http://www.rehadat.de>). The data is kept up-to-date. As REHADAT is more and more becoming well-known, and against the background of the European integration process, users increasingly tend to urge the providers of REHADAT to complete their documentation, in particular on technical working aids, and to also consider experiences from abroad (Bundesregierung, 1997, p.142).

IV.2.2 Services specifically directed towards job retention

The available data do not allow the identification of services that are specifically directed towards job retention. The work-environment-related provisions within the framework of the 'supplementary assistance in the work environment' (in relation to the Hauptfürsorgestellen), for example, apply both to the creation of jobs and training places, and to equipping and adapting the workplace to meet the needs of disabled employees. Even if these subsidies are directed towards the creation of new workplaces, it cannot be assumed that this is for the sake of access to work rather than job retention. Workplaces may be newly established in order to make redeployment possible within an enterprise, so that employment relationships between disabled employees and employers are not altered in the sense of crossing the threshold from continued employment into non-employed status (the criterion for job retention).

IV.2.3 The availability of technical and advisory services and their use by enterprises

No information has been identified concerning the structural characteristics of enterprises using technical and advisory services. In medium-sized and big companies, though, there is a tendency to carry out workplace adaptations by using internal resources and services. This particularly applies to branches where quite a lot of employees become disabled at work, so that the companies feel in some way obliged to provide such adaptations themselves in the context of an integrated staff policy. They also possess the

required expertise and human resources within the enterprise to be able to undertake technical adaptations on their own. However, against a background of increasing competition and pressure to take efficiency measures, it is reasonable to assume that enterprises' willingness to provide costly workplace adaptation is considerably reduced.

As regards the availability of these services it can be stated, though, that resources are scarce. The Hauptfürsorgestellen, for instance, employ one or two full-time technical advisers for the entire area of Rhineland-Palatinate. The Federal Employment Office employs one full-time technical adviser for each employment office district. However, advisers within the employment offices are also responsible for non-disabled employees. As a consequence, enterprises often have to face a long waiting period before actually using these services (as at 1995, six months was not unusual). Counselling about technical aspects of the work environment is extremely time-consuming, given that the relevant area is large and considerable effort is required to keep up-to-date about technical developments.

The availability of technical and advisory services is also linked to the extent of the related financial subsidies. Until 1995/96, subsidies were paid up to DM 80,000. Since then, they have shrunk to a limit of DM 30,000. Since special equipment for workplaces to meet the needs of disabled employees is very expensive, the number of applications for such provision and related services has decreased considerably. In addition, the general economic situation is characterised by the creation of very few new workplaces. As a consequence, a distinct reduction of the workload of the technical advisers has been ascertained over the past two years. The waiting periods experienced in 1995 hardly occur any more. On the contrary, the technical advice services tend to be no longer fully occupied (source: personal communication to aktion 16).

IV.2.4 Factors which encourage or discourage the use of technical and advisory services

Since the granting of financial subsidies for the adaptation of workplaces and related technical and advisory services largely depends on the responsible funds (as opposed to generally applicable rules and criteria), it has to be assumed that awareness and knowledge of the available provision and application procedures depend - above all - on the relationship between the individual enterprise and the responsible fund. Where there are regular contacts and a tradition of cooperation, technical and advisory services will be used more by enterprises than where an enterprise wants to reduce contact with external institutions as much as possible. Since it can be said that the access of external providers of assistance measures is largely determined by enterprises' willingness or reluctance to cooperate, it has to be concluded that enterprises - to a considerable degree - themselves decide on the level of take-up of provision and use of related services. Correspondingly, the actual level of take-up depends on enterprises' attitude and experiences with regard to cooperating with external providers.

IV.3 DESIGN AND IMPLEMENTATION

IV.3.1 Factors in control, funding, management or staffing which impede or facilitate adaptation services

Section III.6.5 noted the problem of personnel within the Hauptfürsorgestellen being funded by the Länder governments. Their related expenses are not covered by revenue from the compensatory levy. This arrangement also applies to the employment of technical advisers at the Hauptfürsorgestellen and limits the scope for designing work environment policies.

In IV.1.3 it was pointed out that it is crucial for the private suppliers of technical aids and related advisory services to be in touch with the funding institutions and persuade them to subsidize the equipment they supply. Employers do not usually object to such workplace adaptations as long as they do not have to bear the costs, or at least only a small fraction of about ten to 20 per cent. However, the financial situation of the responsible funds has changed recently. The high general unemployment limits the scope for subsidies particularly directed at disabled employees which are provided by the Federal Employment Office. The Hauptfürsorgestellen have increasingly been involved in new projects (see III.2.1) which account for a considerable amount of their budgets. So, in many cases only a share of about 50 per cent of the expense for technical equipment can be covered by subsidies. Employers are often unwilling to accept to pay for the rest. Combining partial subsidies from different funds is not possible as the Hauptfürsorgestellen are not permitted to play a subsidiary funding role. The problem can sometimes be settled by postponing the measure and waiting for the following year's budget.

V. ENTERPRISE STRATEGIES

This final Part provides information about effective enterprise policies, management systems and programmes to retain workers whose continued employment is at risk because of disability. The focus is on activities which are introduced and managed by enterprises as an integral part of human resource and workplace relations management. It includes both integrated policies for the management of disability and specific practical initiatives in the workplace to promote job retention.

V.1 CORPORATE POLICIES AND PLANS

V.1.1 The development and prevalence of corporate employment policies and plans for the retention of disabled employees

Particularly in big enterprises with a relatively strong representation of employees' interests, some pressure is put on employers to achieve internal agreements on the employment of severely disabled people and people with health problems in general. As indicated in I.2.2, one of the main purposes of such agreements is to lay down concrete measures for the implementation of the goals and guidelines provided by law, especially the Severely Disabled Persons Act, at an enterprise level. Other than in relation to the employment quota, the law includes either only very basic guidelines and requirements or merely procedural regulations (see I.2.1: Severely Disabled Persons Act as a 'law of good will'). Even the fulfilment of the quota, or prevention of having pay the compensatory levy, can be approached in very different ways (such as via internal recruitment or awarding contracts to sheltered workshops). However, as some examples show, internal agreements often do not go beyond a confirmation, on the part of the employers and the enterprise management, of the goals and intentions provided by the law. In many companies it is regarded as a degree of success when the management can be encouraged to explicitly declare itself for these goals.

Both the development and prevalence of corporate policies and plans depend very much on the circumstances applying within individual firms: the type of enterprise (branch or industry, average qualification level of employees, size), and particularly on extent to which there is a tradition of worker participation. In addition, corporate policies and plans specifically directed at disabled employees are most prevalent in branches and industries in which most of the disabilities which occur are due to the nature of the work. This applies, for example, to the coal and steel industries (Kotthoff, 1986, p.40, 44).

V.1.2 Prominent actors and influences in the development of policies and plans for the retention of disabled employees

The driving forces behind the implementation of corporate policies and plans aiming at job retention for disabled employees are the works councils and the disabled persons' representatives. The works council is generally considered to be the more influential institution due to its legal basis (the Works Constitution Act), which provides a more effective means of exerting pressure at the enterprise management level. The Severely Disabled Persons Act, which determines the position of the disabled persons' representatives, merely lays down some procedural requirements (employers' obligation to inform and involve the

representatives); however, it does not provide representatives with any sanctions. Thus, the disabled persons' representatives often have to rely on the works councils' support in pursuing the interests of disabled employees. Many of them confine themselves to providing advice for disabled employees with regard to social legislation and leave issues related to the employment of disabled persons in the enterprise completely to the works council (Kotthoff, 1986, p.20, 43 f.).

In enterprises where employees' interests are not represented very well - this is especially true for smaller enterprises or for those with mainly unskilled workers - the unions are more involved in assisting newly disabled employees, particularly in the case of dismissals. Larger companies which provide their own medical services²⁴ also involve company medical officers in designing corporate policies and plans for disabled employees. The contribution of company medical officers, however, is often no more than of a supplementary kind since they usually lack an adequate knowledge of workplaces and work routines (Kotthoff, 1986, p.44). That is why the works council's commitment to the interests of disabled employees appears indispensable.

The degree and effectiveness of worker representation and participation has already been considered above as being a crucial influence on the development and prevalence of corporate policies and plans for disabled employees. In his 1986 study,²⁵ Kotthoff showed that a more integrative approach towards disabled and other employees is closely linked to the intensity of worker participation whereas, in enterprises where employees' interests are hardly represented, employers tend to discriminate against disabled workers and try to get rid of them by exerting considerable pressure on them. Such discriminatory behaviour on the part of employers is also more prevalent in areas where unskilled work is predominant.

The development of corporate policies and plans can rarely be traced to the influences of special legislation like the Severely Disabled Persons Act. These legal provisions may only be ascribed a supporting function. Much more important seems the degree to which a company considers the perception of its staff policy outside the company to be important for business success. In particular, firms which are exposed to the public and which are dependent on the recruitment of highly qualified workers will be interested in having a good reputation with regard to the way they treat their staff, especially workers and employees with health problems or disabilities. For such companies, the fulfilment of legal norms becomes kind of a moral obligation, also with regard to their outward reputation. For Daimler Benz AG, for example, to pay a compensatory levy of some half a million DM might not be an issue at all in terms of financial burden. However, such an amount indicates that the employment quota was not fulfilled and that the company was subject to related sanctions, and this would be perceived as an embarrassment.

²⁴ Although no specific information is available about those companies which provide their own medical services, it may be assumed that these will be in the manufacturing sector, such as the motor vehicle, chemical and steel industries.

²⁵ The study by Kotthoff was based on surveys among enterprise managers, works councils, disabled persons' representatives and disabled employees in 1983-84. Although carried out some time ago, the findings of the study appear to be still relevant today. According to discussions with disabled person's representatives at Daimler Benz AG in October 1997, the same situation applies with regard to the role of works councils, employment opportunities for people with health problems, the position of disabled persons' representatives, and co-operation with external organizations. Some of the findings have also been confirmed in a more recent study by Sadowski/Frick (1992), in particular with regard to the importance of the participation of works councils and disabled persons' representatives.

Frick/Frick (1994) have shown that keeping a newly disabled employee may represent a rational enterprise policy if it elicits a high degree of support and loyalty from non-disabled as well as from disabled employees. 'This will be more likely, if not only the disabled but also the healthy employees can assume that in the case of disability they will not be laid off, but either moved to another less strenuous job or that their workload will be reduced. ... As ... workers' perception of their firm's personnel policy ... has an enduring effect on their productivity. If the employment of the disabled, especially if they were already employed in the firm before the disability occurred, meets the workforce's conceptions of equity and fairness, the user costs of labour can be much lower in a firm with a high percentage of disabled employees than in a comparable one with a low percentage of disabled wage and salary earners' (Frick/Frick, 1994, p.222).

V.2 CO-ORDINATED RESPONSES TO DISABILITY

V.2.1 The development and prevalence of integrated disability management systems

It can reasonably be assumed that only relatively large companies are likely to set up a comprehensive body of internal regulations and institutions which are directed at disabled employees. They are also more likely to use a more comprehensive concept of 'disability'. Most of such systems are rooted in the realms of health and safety at work. Consequently, their primary focus is on the prevention of disabilities caused by work. However, they often also seek to prevent existing disabilities from becoming worse through work. The understanding of disability itself differs from the one underlying the legislation. While the provisions of the Severely Disabled Persons Act apply to persons for whom certain degrees of disability are ascertained on the basis of medical criteria (see I.4.1), provision for disabled employees within enterprises aims at persons with a limited range of employment opportunities in the company because of health problems. Thus, the occupational point of view is considered more important than the medical one, since health problems which do not restrict the range of possible activities on the job will not be treated as disabilities within internal systems.

V.2.2 The characteristic features of integrated disability management systems

The characteristic features of integrated disability management systems may be illustrated by a case study. We would like to describe the approach taken by Daimler Benz AG.²⁶ In their case, the integrated disability management system is assigned to the area of internal company health policies and their 'health management system' is, accordingly, run by the medical services of the company. It comprises:

- advice services and involvement in the analysis of working conditions and design of the work environment;

²⁶ The information used in this section was obtained from the internal company brochures called '*Grundsätze und Handlungsleitfaden zur Beschäftigung der Mitarbeiter/-innen mit Einsatzeinschränkungen*' (Principles and guidelines for the employment of employees with a limited range of employment opportunities) and '*Gesundheits-Management. Der Werksärztliche Dienst*' (Health management. The medical services of the company).

- industrial medicine (check-ups, counselling, documentation, first aid);
- internal company rehabilitation services, the re-integration of employees, and the employment of persons with a limited range of employment opportunities;
- counselling on issues of social medicine (motivation, atmosphere at work, absenteeism, alcohol and drug abuse, designing new forms of work).

The system shows that severely disabled workers definitely benefit. However, the target group is much more comprehensive and does not require an official acknowledgement of disability. The provisions refer both to prevention and to dealing with consequences when damage to health has occurred.

In its 'Principles and guidelines for the employment of employees with a limited range of employment opportunities' of July 1997, Daimler Benz AG laid down a procedure which has to be observed when dealing with employees with a limited range of employment opportunities. It comprises the following steps:

- An employee indicates problems with her/his state of health.
- The internal company health service ascertains limitations with regard to the range of employment opportunities.
- The personnel department registers these limitations.
- The internal company health service checks options of further employment in the following order:
 - 1) Will the person in question be able to stay on at the same workplace?
 - 2) Will the person be able to stay on at the same workplace if additional measures of workplace adaptation or of vocational qualification are taken?
 - 3) Is there another adequate workplace in the same section of the company in which the person in question could be employed?
 - 4) Is there another adequate workplace in the same section of the company in which the person in question could be employed if additional measures of workplace adaptation or vocational qualification are carried out?
- If none of these options offers a solution to the problem, the issue is assigned to a higher committee.

The procedure reflects the clear preference for job retention in the most narrow sense (keeping the same workplace) over redeployment within the company, in order to leave the employees concerned in their familiar work environment whenever possible.

V.2.3 Prominent actors and influences in the initiation and development of integrated disability management systems

The same partners are influential in the initiation and development of integrated disability management systems as were mentioned in V.1.2 with regard to the development of corporate employment policies and plans for disabled people: works councils, disabled persons' representatives, unions and company medical officers. External influences may include providers of support and advisory services (see V.9.1). The influence of the statutory occupational accident insurance scheme, however, is mainly confined to the area of accident prevention rather than the management of disability.

V.3 PRACTICAL PROGRAMMES AND INTERVENTIONS IN THE WORKPLACE

V.3.1 Enterprise programmes targeted at employees potentially absent from work because of disability

No information was identified about special enterprise programmes targeted at employees potentially absent from work because of disability. Nevertheless, absenteeism is a preferred target for company health policy. In Germany, there has recently been a big controversy about a new legal provision which allows employers to cut down on the continued payment of wages in the case of sickness. Many companies try to avoid cutting down on these payments as they expect this to have considerable negative effects on the working atmosphere and thus on productivity. In order to tackle the problem of absenteeism, some enterprises have initiated visiting programmes (in which a company representative visits the sick worker at home) or have introduced obligatory talks with superiors as soon as sick workers return to work. However, these approaches are not specifically directed at disabled workers.

More closely related to the problem of absenteeism among disabled workers is enterprises' intention and willingness to give priority to carrying out measures for occupational rehabilitation within the workplace, in cooperation with the responsible rehabilitation funds. The internal agreement of Daimler Benz AG includes such a declaration of intent.

V.3.2 Enterprise-initiated programmes to adjust the workplace and work-station

In the case of Daimler Benz AG, once again, there is a special section which advises on workplace and work-station design. Its focus is less on adjusting workplaces than on involvement in the initial planning processes. The underlying idea is to avoid costs caused by the inadequate employment situation of workers rather than merely reducing such costs once they have occurred. The prior consideration of ergonomic requirements in setting up new workplaces or work-stations is associated with the much greater potential for cost reduction compared to adjustment of the work environment after the event. However, the services also refer to the adjustment of existing work environments. So, such internal workplace design services have to be seen primarily against the background of general efforts to reduce costs in the production process. This work-environment-related approach is considered to be a continuation of current cost-reduction-programmes focusing on workers' motivation at work (such as working in teams). The internal

service uses different tools to design work environments and takes technical and ergonomic requirements into account from the outset, such as video simulations, special computer programmes or benchmarking.

It is obvious that the internal services described are not specifically directed at disabled employees. In fact, the scope is larger, and the main focus is clearly on the prevention of health problems caused by work (for example, if a badly designed workplace is detrimental to posture). On the other hand, there is an important link between these services and enterprise policies for disabled employees since the new techniques make it possible to take into account the difficulties of disabled employees at work at the time of planning new work-stations. At the annual meeting of the disabled persons' representatives of Daimler Benz AG in October 1997, the construction of a new plant was reported in which, as the result of foresight in the planning process, it would be possible to employ 38 workers with a limited range of employment opportunities (out of a total workforce of 90). In addition, in the 'Principles and guidelines for the employment of employees with a limited range of employment opportunities' the costs caused by the inappropriate employment of workers are explicitly referred to.

However, as Daimler Benz AG certainly does not represent the average company, it has to be assumed that such approaches of cost management by adequately designing work environments do not reflect an industry-wide standard. Even the Daimler representatives had to admit that there is still a long way to go to really achieve the implementation of these approaches on a large scale. For a long time, ergonomics have been dismissed as being too expensive to be pursued further.

V.3.3 Evidence of outcomes of practical programmes and interventions in the workplace

The Daimler Benz representatives admitted that the use of new techniques for shaping and designing work environments to facilitate the further employment of disabled workers is still far from being realised on a large scale. At present, it seems particularly important to convince senior management and the board of directors that such new approaches have to be adequately promoted.

V.4 WORK ACCOMMODATIONS

V.4.1 Schemes initiated by enterprises to adapt working hours and work demands

It is important, first of all, to report on a trend which counteracts working conditions which facilitate the retention of newly disabled employees. Due to intense rationalization processes, particularly since the mid-1970s, traditional employment opportunities for disabled persons in regular production have more and more disappeared (Kotthoff, 1986, p.11 ff.):

- Measures of technical rationalization have made it possible to produce the same output with less work. In redistributing the remaining work to workplaces equipped with new techniques, older employees with health problems have been the first to be selected as not being capable of meeting work demands. These new techniques often make work easier in physical terms; however, they are

also often linked to more monotonous work and to higher pace, so that the work might be characterized by more strain.

- Rationalization measures directed at the organization of the work are particularly responsible for the vanishing of employment opportunities for disabled persons in regular production. There have been considerable efforts to plan and control work sequences more exactly - linked to more exact calculation and planning with regard to the employment of staff. In their efforts to reduce costs many German companies primarily focus on personnel. Since wages cannot be easily cut, the most common approach is to increase work productivity by the intensification of work, or by reducing slack. A simple form of this approach is to cut back on staff, but to keep the required amount of work constant. Another organizational change which affects employment opportunities for disabled persons has been the increasing flexibility in placing workers in production processes. Larger product ranges with smaller lines per product have often led to the workers having to change workplace several times a day. The kind of work they have to do in each workplace is usually similar; nevertheless, such an arrangement prevents them from really becoming used to the detailed aspects of any one workplace. In addition, permanent change often requires people to be in good physical condition. Finally, concepts of lean production have been implemented, so that production has become more specialized, with fewer production sequences. This has caused many less physically strenuous workplaces to disappear. Rationalization measures directed at the organization of work have also considerably reduced the scope for the supervisors of individual work-stations to compensate for drops in performance due to workers' health problems. Personnel costings are based on people with no limitations on employment except a certain accepted quota of working hours lost through absenteeism. To fulfil the required production target, supervisors are very much interested in recruiting only fully capable workers for their section. Organizational rationalization has been most prevalent in branches of standardized mass production and unskilled work. However, it increasingly affects skilled work, too.

- A third major kind of rationalization aims at the reduction of overhead costs and hourly rated workplaces. It is precisely in these areas that most employment opportunities for workers with health problems have been found. Typical examples are storekeeping and quality control. Storekeeping has in many cases been automated and older disabled workers often have problems in adapting to new technologies. Hourly rated work of quality control has often been shifted back to the production lines.

This trend of the disappearance of traditional employment opportunities for disabled persons in regular production has to be seen in relation to a rising number of workers and employees whose health situation restricts their employment opportunities. Whether technical changes in production do - in the final analysis - contribute more to protecting health (by reducing physical strain) or whether they tend, rather, to increase the risk of health damage (by introducing new kinds of strain like stress) is hard to judge. What is true, though, is that increasing work demands, by which organizational rationalization has been particularly characterized, cause health problems to lead more directly to limitations on employment opportunities (Kotthoff, 1986, p.16).

The 1986 study by Kotthoff has revealed typical patterns of how companies treat their newly disabled employees, in particular those whose health condition has deteriorated with increasing age and duration of employment. The study shows several patterns of discrimination and exclusion, with most of the cases in companies characterized by mass production, unskilled labour, relatively weak employees' representation (works councils, disabled persons' representatives), and thus a low degree of worker participation. Even though the study is relatively old (1986), we would like to pick out some of the patterns and describe them with particular regard to work accommodations directed at newly disabled employees. At a meeting with the disabled persons' representatives of Daimler Benz AG in 1997, we checked on the main results of Kotthoff's study and found that they still apply.

A pattern of 'un-bureaucratic integration' has been found in mid-sized companies with 300 to 1,000 employees. The main common features of these companies has been, that, first, the management is willing to take on responsibility for employees with health problems; secondly, the works council maintains a strong position; and thirdly, the management and works council maintain a relationship of mutual trust and cooperation. In addition, the employees' health problems are actively noted, and supervisors and works councils are kept informed about individual cases through a close communication network. The concrete measures which have been taken in these companies to employ newly disabled workers are numerous and differ according to individual circumstances and production structures. The most important strategy has been to grant supervisors some organizational scope to retain their workers with health problems. Although there are no official regulations, the supervisors are directly responsible for providing newly disabled workers with adequate jobs, taking their health state into account. Management, on the other hand, backs the supervisors if observing this responsibility prevents the latter from reaching their production targets. A prevalent practice has been to keep quality control as a typical area for disabled workers instead of assigning this task to workers as unpaid extra work. This has been easier for high quality production in which quality control plays an important role. An alternative strategy is to assign the 'easiest' kinds of task-based work to newly disabled workers, or to engage non-disabled co-workers to assist their disabled colleagues. However, this latter strategy can lead to some resistance on the part of non-disabled workers.

In addition, companies adopting this approach have barely had to reduce employment opportunities in those sections which are assigned to overheads or which are paid by the hour (like storekeeping, product control, workshops, gatemen, guard duties, or packaging). Prior to placing people in such positions, redeployment is carried out in less physically strenuous workplaces in different sections of regular production. However, measures of vocational qualification and related redeployment in higher ranked workplaces are rarely undertaken. The common feature of all these different strategies is that there is no formal or bureaucratic regulation and no codified distribution of responsibility among the various actors in the enterprise. Instead, all the strategies represent *ad hoc* measures. The decisive aspect is, though, that there is somebody to whom workers with health problems can refer. Usually, the works councils take the function of being the main contact. In addition, personnel departments and company medical officers may be involved. The works councils also make it their business to look for alternative employment opportunities. To be successful in that, they need to have good information about workplace conditions in all the different sections of the company, and have to maintain a good relationship with both supervisors and management (Kotthoff, 1986, 27 ff.).

In the *coal and steel industry*, the study by Kotthoff found a developed social system of integration and care. Working in the steel industry, for example, is typically characterised by high physical strain, heavy labour, unfavourable workplace conditions (heat, gas, dust, noise), and a high risk of occupational accident. Although the steel industry has been exposed to extraordinary economic pressure which has involved extensive reductions in staff, especially among older workers, it still employs a considerable share of persons who are not fully capable of working (in 1986: more than 30 per cent). The study traces this phenomenon to the uncontested principle that workers must not be dismissed for health reasons. As opposed to the first pattern described above, there is a status-securing system of generally applicable rules which represents a separate area of responsibility with its own employees who are in charge of applying these rules. The body of rules is regarded as so stable that it will be adhered to even if individual actors change, because claiming its provisions is perceived as being a legitimate right. According to this system, workers aged 45 or over (and a minimum tenure of 15 years) are entitled to less physically strenuous workplaces, together with an adjustment to 90 per cent of their previous wage (from the age of 50: no adjustment to previous wage). An additional internal agreement lays down that workers below 45 can claim the same provision when they have completed 15 or 20 years of heavy work (depending on the amount of heat they have had to work in).

There is an official company procedure to ascertain eligibility: the company medical officers decide upon eligibility and notify the human resources department which, in turn, informs the disabled persons' representatives. If workers are considered to be eligible, they are put on a list which grants them a special status and the entitlement to special measures for securing their status. Due to this systematic procedure, there is a high degree of transparency with regard to the health situation of the workforce. However, health problems or disabilities are not discriminated against, but are dealt with in a system of 'institutionalized consideration'. Depending on the nature and degree of the limitations to employability, various options are taken into account:

- Newly disabled workers are kept at their previous work-station. They can either be assigned to less physically strenuous workplaces within the same station (all such workplaces in question being reserved for this group of workers), or they are kept at their previous workplaces by reducing the required performance, while waiting for less physically strenuous workplaces to become vacant.
- Newly disabled workers are redeployed in other work-stations or departments. These redeployments are carried out by means of a waiting list following rules governing job seniority. Both the workers concerned and the works councils have to agree on the measure.
- Newly disabled workers are redeployed in sheltered workshops belonging to the company. These workshops are mainly defined by the fact that they are not exposed to the 'pressure exerted by piece rates'. They consist of various employment opportunities which require manual skills and work experience.
- Retraining is primarily provided for workers whose disabilities do not result from a long-term drain on their strength, but who suffer from specific disabilities (like allergies or as a result of occupational accidents) which occur relatively early during their working life. By retraining they should be enabled to establish a new occupational career. The retraining measures are provided either inside the company or by external institutions; in any case, the continuation of the employment relationship

(i.e. job retention) is guaranteed. Compared to the other options described above, the number of cases for which retraining has been initiated is relatively low.

In this integrative system, works councils and disabled persons' representatives do not only play a demanding and monitoring role but are actively involved in case management and the search for adequate solutions to problems of employment of disabled workers. On the other hand, it has to be emphasized that this pattern of treating employees with health problems must be traced to the peculiarities of the hierarchy and social structures in the coal and steel industry which are characterized by a long tradition of worker participation (equal representation on the supervisory board, nomination of the personnel manager by the unions and the resulting extension of influence of the works council). That is why the probability of successfully retaining newly disabled workers is much higher in companies of this industry compared to other large enterprises (Kotthoff, 1986, p.31 ff.).

A further example of taking account of the diminished performance of newly disabled employees in the enterprise's cost calculations was reported by Semlinger. This enterprise established a *special cost centre* to which newly disabled employees were assigned. For a certain period they could carry out work of minor performance; their diminished productivity was considered in the calculation of the company's overhead costs. This method served two aims. First, newly disabled employees remained integrated while they waited for an adequate vacancy within the company where they could reach a higher productivity. Secondly, the division or department of the company from which the newly disabled person came did not have to accept overtime work or reduced income (Semlinger, 1985, p.102).

Some *other patterns* will only be mentioned briefly. Kotthoff' noted that, according to other studies, there was a pattern of 'defensive integration' in large companies where the employment of newly disabled persons is exclusively regarded as the management's business. This involves a high need for control of the employees' health situation. The motivation of the management is based more on negative incentives such as screening the company from the unfavourable consequences of work-related disabilities (such as costs, claims, reduced performance, deterioration of working atmosphere with negative impact on productivity). The employment of disabled workers is linked more to discipline, control and monitoring functions. Moreover, it represents a non-participative approach. Finally, the study examined some companies within the service sector. It found that there was a tendency for the consideration of disabled employees to be less clear than in industry. This result is connected to the fact the companies examined had a relatively large share of female employees so that health problems are tackled by means of specific, women-related employment strategies such as part-time work or short-term employment relationships (Kotthoff, 1986, p.35 ff.).

Sheltered workshops represent another form of work accommodation for disabled employees. One example is the 'Behindertenbetrieb', a subsidiary of BASF in Ludwigshafen. It is an economically independent workshop, but only takes orders from the BASF parent company or its affiliated firms and other subsidiaries. The 'Behindertenbetrieb' was founded in 1945 and represents the main means used by BASF to employ their disabled employees. The target is - in the ideal case - to temporarily absorb newly disabled employees, and to employ them so that they are enabled to return to regular work-stations after an appropriate period of convalescence. Only in cases where this target cannot be achieved should the workshop guarantee secure employment opportunities for disabled workers until retirement. Experience

has shown that disabled people who complete some vocational training usually manage to return to work outside the workshop. The concept of the workshop thus not only contributes to the economic activities of the parent company and its affiliated subsidiaries, but also boosts the disabled persons' self-esteem.

Among the main groups of disabled persons employed in the BASF workshop are blind or deaf people, people with epilepsy, mobility disabilities (wheelchair users), neurological diseases or learning disabilities, or people injured by occupational accidents. Access to employment in the workshop is based on application or a recommendation by the disabled persons' representatives in their individual places of work and is available for severely disabled persons or persons of equal status. Each case is dealt with individually.

There are major differences between the BASF 'Behindertenbetrieb' and the sheltered workshops for disabled people according to the Severely Disabled Persons Act. The BASF workshop, for example, is neither obliged to absorb severely disabled persons from the entire region nor to maintain a minimum capacity of 120 workplaces. It does not need external services of psychological and social care, although such services can be received from internal (BASF) providers. There is no employment training since the disabled persons entering the workshop have usually been employed before.

The management of the BASF workshop recognizes the requirement to closely cooperate with doctors, the Hauptfürsorgestellen, the occupational accident insurance funds, and the disabled persons' representatives. The workshop maintains a special service which collects particularly severely disabled persons and drives them to work. The fields of work primarily comprise the sewing of work clothes (about 30 per cent of entire performance), the arrangement of papers and folders (for example for events of further training; about ten per cent of entire performance), dismantling and recycling of bicycles (4 per cent), secondments of staff to other places for particular work (like photocopying), and making brooms and brushes (7 per cent). The last type of work represents the traditional kind of work in sheltered workshops for disabled persons. The workshop is paid either according to the number of items produced (fixed price), quantity, working hours, or it is paid a flat rate (for example for each bicycle dismantled) (BASF, 1995).

Information from the BASF workshop shows that, at the end of 1995, it employed 41 persons. Among these there was hardly anyone with manual or technical skills since these people usually manage to return to work after a relatively short period of time. From its founding in 1945 up to 1994, almost 750 people have been employed there, of whom 44 per cent have been successfully placed in or returned to regular work-stations within the BASF parent company. However, efforts at placement or promoting return to work have become less successful because the number of employment opportunities traditionally appropriate for disabled persons has been decreasing within BASF, too. That the ten per cent level of absenteeism is above average has to be traced to the numerous measures of medical rehabilitation which - according to the concept of the workshop - take place while the disabled persons are employed there. In 1995, just two blind employees managed to cover the entire demand for brooms and brushes at BASF (BASF, 1995).

V.5 'RETURN-TO-WORK' PROGRAMMES

V.5.1 Enterprise-led 'return-to-work' programmes targeted at employees absent from work because of disability

The BASF workshop that was described above as a work accommodation measure can also be regarded as a 'return-to-work' programme. It absorbs workers who cannot stay in their previous workplaces because of disability. The workshop employment is supposed to be temporary. It grants the disabled person a period of convalescence while still being a part of the BASF parent company. The BASF workshop has a 44 per cent success rate in enabling people to return to work.

At the disabled persons' representatives meeting at Daimler Benz AG, it was reported that keeping the workplace open for someone who has to undergo measures of medical rehabilitation has become an increasingly rare concession by the employers, so that some representatives hesitate to recommend participation in such measures to their clients.

V.5.2 Enterprise measures to help disabled workers to find suitable employment elsewhere

It seems that most enterprises confine the assistance they provide for disabled employees who have to leave the company to financial assistance, such as severance pay. Thus, they leave measures to help disabled workers to find suitable employment to the employment offices or to the Hauptfürsorgestellen.

V.6 DEFINITION AND ASSESSMENT OF DISABILITY

V.6.1 The effect of perceptions of 'disability' on enterprise job retention programmes

It has been pointed out earlier (see V.2.2) that the target group for enterprise policies concerning disabled people tends to be quite comprehensive and often does not require an official acknowledgement of disability. While the official procedure of acknowledgement of disability is primarily based on merely medical criteria, enterprise policies are much more orientated towards the limitations to employment possibilities, with medical criteria playing only an indirect role. As a consequence, the concept of 'employees with limited employment possibilities' does not automatically overlap with the status of severe disability according to the Severely Disabled Persons Act.

V.6.2 The effect of procedures for identifying disability at work on access to enterprise job retention and 'return-to-work' programmes

Procedures for identifying and assessing disability at work have been described above (Daimler Benz AG: see V.2.2, Kotthoff study: see V.4.1). It is not only the internal company medical services (company

medical officers) who play an important role in identification and assessment: enterprises characterized by a more integrative personnel policy also expect all supervisors and managers at all levels to take care of their staff and to make note of employees who are in danger of becoming disabled (see V.4.1).

Access to enterprise programmes usually tends to be more generous the more a disability is related to work, because the employer feels more obliged to take on responsibility.

V.7 INTERNAL RELATIONSHIPS

V.7.1 The relationship between actors within the enterprise impeding or facilitating strategies to promote job retention

Section V.1.2 dealt with the relationship between works councils and disabled persons' representatives. It has been stated that the works council is generally considered to be the more influential institution due to its legal basis. Thus, disabled persons' representatives often have to rely on works councils' support in pursuing the interests of disabled employees. At the Daimler Benz meeting, we discussed the possibility of combining the two functions, i.e. to belong to the works council and to be a disabled persons' representative at the same time. Many representatives were convinced that by simultaneously belonging to the works council, their work would become more accepted by the enterprise management, which communicates to employees primarily via the works council in any case. However, some representatives also pointed out some disadvantages in combining the two functions. Particularly in big companies, a single person may not be able to cope with the work of looking after all disabled employees while, at the same time, doing her/his duty as part of the works council. There would also be a tendency for the two mandates to become blurred. In addition, employees often shy away from talking about their disabilities before they have security concerning their future employment prospects. In such a situation, they usually prefer talking to a disabled persons' representative who is not a member of the works council. The works council is thus associated with a higher probability of personal information leaking through to management.

The disabled persons' representatives of Daimler Benz stressed their claim to be accepted by the works councils even if they do not belong to them. Good cooperation requires regular participation by the representatives in the meetings of the works councils. A division of responsibility according to which works councils only care for 'healthy' workers while all 'sick' workers are left to the disabled persons' representatives has to be avoided. Rather, works councils have to be aware of their responsibility towards disabled workers.

V.7.2 Effects of remuneration practices on job retention

On average, disabled workers are relatively old and usually have very long tenure, since the majority of them have been internally recruited. Workers' earnings usually rise with job seniority. This causes the labour cost of disabled employees to be higher than the labour cost of non-disabled workers, particularly if disabilities are associated with reduced performance. Frick has shown that - against this background -

using the opportunity of early retirement as provided by social security law matches the interests of both employers and disabled workers (see I.8.2).

V.7.3 Financial obstacles to internal job retention measures

The extension of work environments characterised by work for specific tasks, and a tendency towards teamwork with fixed output requirements (and related remuneration), mean there is little scope to employ people with lower performance levels in the longer term without exposing the team to conflicts (see V.4.1).

V.8 LINKS WITH EMPLOYMENT POLICY OBLIGATIONS, RECOMMENDATIONS AND INCENTIVES

V.8.1 Enterprise compliance with disability employment obligations

Enterprise compliance with disability employment policies has been analysed in detail in Part I (concerning the employment quota, internal recruitment, early retirement, and awarding of contracts to sheltered workshops).

Deficits in compliance may be traced to different underlying motivations. Employment policies enshrined in legislation are supposed to reflect the interests of society (for instance, non-discrimination and the protection of disadvantaged groups). These policies do not completely embrace the interests of enterprises which see their main responsibility almost exclusively towards their own disabled workers, whose disabilities are linked to work and usually to long tenure.

V.8.2 Ways in which employment and labour market policies impede or facilitate enterprise-led work adaptation programmes

High general wage levels in Germany create a need for organizational rationalization, which has consequences for the number of employment opportunities for disabled persons (see V.4.1). That is why the right to free collective bargaining and the resulting pay policy affect employment opportunities for disabled workers at an enterprise level.

V.9 LINKS WITH EMPLOYMENT SUPPORT AND REHABILITATION SERVICES

V.9.1 Enterprise responses to externally funded support and advisory services

Some experts estimate the influence of external organizations on the employment of disabled workers in companies to be almost insignificant (Kotthoff, 1986, p.41). Since external providers very much depend on enterprises' willingness to cooperate, it can be assumed that those enterprises which mainly benefit from their assistance are those which pursue an integrative staff policy anyway, so that the selection of enterprises

which benefit is highly biased. On the other hand, those employees who are most in need of externally provided assistance may have hardly any access to it.

At the annual meeting of the disabled persons' representatives of Daimler Benz we asked about their relations to externally funded support and advisory services. Their assessment of cooperation with external providers turned out to be quite varied. Relationships were judged very differently, depending on the region from which they came. One representative stressed her good cooperation with external services for psychological and social care (see III.2.1). For her, these services are extremely important because many disabled workers shy away from revealing their problems towards the disabled persons' representative; instead, they prefer to talk to someone not belonging to the company. However, it was confirmed that the overall influence of the Hauptfürsorgestellen and the 'psychological and social services' is limited. These services are usually contacted when problems have already occurred, rather than contributing to the prevention of conflicts. The union's representative mentioned that only about a third of all enterprises know whom to contact at the relevant Hauptfürsorgestellen.

A similarly inconsistent range of opinions was ascertained concerning cooperation with the various rehabilitation funds. The Rehabilitation Harmonization Act was sharply criticized for being ineffective. Because of their budget constraints, the various funds still try to shift responsibility to other funds. Eligibility criteria have become more and more restrictive. Disabled workers who have to rely on the provisions of the rehabilitation funds are still confronted with a high degree of insecurity about their legal status and entitlements. However, one disabled persons' representative reported that, in his company, representatives of the rehabilitation funds are regularly involved in internal company discussions which aim to find solutions in individual cases of disability.

The statements on cooperation with employment offices were also quite varied. Some representatives pointed out that such cooperation, with regard to disabled workers, is not very important as this would only affect newly recruited disabled people. As a consequence of the continuing disappearance of workplaces appropriate for disabled persons (see V.4.1), the main focus is on retaining newly disabled workers rather than recruiting disabled people from outside the enterprise. Thus, cooperation with employment offices has become less relevant. Other representatives said, though, that they still cooperate closely with the employment office, and that this cooperation also refers to the employment of internally recruited or retained disabled workers. So, it seems that external institutions have some discretionary scope in providing assistance. The distinct regional differences in cooperation with external organizations can also be viewed as a reflection of the recurrent controversy about which fund is actually responsible.

Another important aspect was highlighted in relation to the decreasing number of adequate workplaces for disabled employees, resulting mainly from organizational rationalization. It has already been mentioned that employers' organizations complain about the employment quota being of a wrong standard (see I.2.1). One representative implicitly referred to this critique by stating that, in many enterprises, problems arise in finding severely disabled persons who can actually be employed in the existing workplaces, even though both the works councils and the enterprise management seek to promote their employment. The complaint that there are not enough 'employable' severely disabled persons to fulfil the quota must be seen against the background of highly rationalized work environments which often make it impossible to employ disabled

persons. This restricts the potential for cooperation between companies and the external funds which are involved in placing disabled persons in regular employment.

The disabled persons' representatives of Daimler Benz admitted that they also hold responsibility for good cooperation with external organizations. They thus have to try hard to keep in regular touch with them, and are aware of the fact that it is usually up to them to take the initiative since for the Hauptfürsorgestellen, for instance, it is not really possible to have real access to an enterprise unless they have been previously contacted. On the other hand, the disabled persons' representatives often do not have enough time to think about maintaining good relations with external organizations on top of their internal duties.

It has already been mentioned that unions are particularly involved in assisting newly disabled employees in enterprises where employees' interests are poorly represented (see V.1.2). Another important contribution of the unions that was identified by the disabled persons' representatives is the arranging of study-groups where the unions bring together representatives of different companies to encourage them to exchange experiences about employing and retaining disabled workers. These study-groups thus act as a form of benchmarking. It is easier for a disabled persons' representative to encourage management to try out new options for the employment of disabled workers if they can refer to other companies where new strategies have been successfully applied. The Hauptfürsorgestellen sometimes organize similar study-groups.

V.9.2 Opportunities and barriers to the effective co-ordination of external support services and enterprise programmes

Section III.2.6 considered some aspects of access to enterprises for external support services. The support services' access to disabled employees in companies, and opportunities to involve supervisors and enterprise management in the process of assistance, very much depend on the services' ability to create an atmosphere of cooperation and mutual trust in relation to the enterprises.

There may be a tendency for enterprises which are engaged in the implementation of internal programmes of employee support or health and safety at work to show some reserve in contacting and involving external organizations. They may want to prove that they are able to take care of problems of disability and health risks at work on their own, and that they do not have to rely on external resources for this. That might also be perceived as a strong indicator of corporate identity towards employees. We asked a representative of the management level of Daimler Benz (from the 'health and safety at work' section), for example, about cooperation with the responsible occupational accident insurance fund. He pointed out that the industrial health and safety standards given by the accident insurance funds merely represent minimum standards for Daimler Benz, and that internal efforts go far beyond these standards.

REFERENCES

ANBA (1995) Berufliche Rehabilitation. Arbeits- und Berufsförderung Behinderter im Jahr 1994 - Kurzbericht (*Occupational Rehabilitation. Employment and vocational promotion of disabled persons in 1994 - abridged version*). Supplement to Amtliche Nachrichten der Bundesanstalt für Arbeit (ANBA) (*Official news from the Federal Employment Office*), Nürnberg, No. 11/95, November 1995.

ANBA (1996) Berufliche Rehabilitation. Arbeits- und Berufsförderung Behinderter im Jahr 1995 (*Occupational Rehabilitation. Employment and vocational promotion of disabled persons in 1995*). Supplement to Amtliche Nachrichten der Bundesanstalt für Arbeit (ANBA) (*Official news from the Federal Employment Office*), Nürnberg, No. 8/95, August 1996.

ANBA (1996a) Arbeitsmarkt 1995. Amtliche Nachrichten der Bundesanstalt für Arbeit (ANBA) (*Official news from the Federal Employment Office*), Nürnberg, Sondernummer (*special issue*), 1996.

Arbeitsgemeinschaft der Deutschen Hauptfürsorgestellen (AGDHFS 1994) (*Association of the German Hauptfürsorgestellen*) (Publ.): Jahresbericht 1993. Teil B. Aufgaben nach dem Schwerbehindertengesetz (*Annual Report 1993. Part B. Responsibilities according to the Severely Disabled Persons Act*), Münster 1994.

Arbeitsgemeinschaft der Deutschen Hauptfürsorgestellen (AGDHFS 1995) (*Association of the German Hauptfürsorgestellen*) (Publ.): Jahresbericht 1994/95. Aufgaben nach dem Schwerbehindertengesetz (*Annual Report 1994/95. Responsibilities according to the Severely Disabled Persons Act*), Karlsruhe 1995.

Arbeitsgemeinschaft der Deutschen Hauptfürsorgestellen (AGDHFS 1996) (*Association of the German Hauptfürsorgestellen*) (Publ.): Jahresbericht 1995/96. Aufgaben nach dem Schwerbehindertengesetz (*Annual Report 1995/96. Responsibilities according to the Severely Disabled Persons Act*), Karlsruhe 1996.

Arlitt, Peter (1996) Niemand kann gezwungen werden, einen Behinderten einzustellen. Möglichkeiten und Grenzen des Schwerbehindertengesetzes (*Nobody can be forced to take on disabled people. Possibilities and Limits of the Severely Disabled Persons Act*), Sozialrecht + Praxis VdK, Bonn No.5, pp.287-292.

BASF (1995) Der Behindertenbetrieb. Präsentation von G.Gottwald in October 1995. (*Sheltered workshop for disabled workers and employees. Paper for an internal BASF presentation.*)

Beule, Peter (1990) Psychosoziale Betreuung im Rahmen der begleitenden Hilfe (*Services for psychological and social care in the context of supplementary assistance*) in: Behindertenrecht, München, No.6, pp.145-153.

BfA-Mitteilungen (1997) Rehabilitation - Wer sorgt für unsere Gesundheit? (*Rehabilitation - who does take care of our health?*). Publ.: Bundesversicherungsanstalt für Angestellte (BfA) (*Federal Insurance Institute for Salaried Employees*), Berlin, No.3, 1997 (15 August), pp.10-11.

Bundesministerium für Arbeit und Sozialordnung (BMA 1994) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Social Security at the Glance*. Bonn: BMA 1994.

Bundesministerium für Arbeit und Sozialordnung (BMA 1995) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Übersicht über das Sozialrecht (Survey of Social Legislation)*, Bonn: BMA 1995.

Bundesministerium für Arbeit und Sozialordnung (BMA 1996) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Eingliederung Behinderter in der Bundesrepublik Deutschland. The Integration of Disabled Persons in the Federal Republic of Germany*, Bonn: BMA 1996.

Bundesministerium für Arbeit und Sozialordnung (BMA 1996a) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Berufsförderungswerke. Einrichtungen zur beruflichen Eingliederung erwachsener Behinderter - Umschulung (Vocational Retraining Centres. Centres for occupational integration of disabled adults - retraining)*, Bonn: BMA 1996.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Soziale Sicherung im Überblick (Social Security at the Glance)*. Bonn: BMA 1997.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997a) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Änderung des Arbeitsförderungsgesetzes ab 1. April 1997 (Amendment to the Labour Promotion Act)*, Bonn: BMA.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997b) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Entwurf zum Rentenreformgesetz 1999. Begründung, Gesetzestexte (Auszüge), Erläuterungen (Draft Bill of the Reform of Pensions Act 1999)*. Bonn: BMA 1997.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997c) (*Federal Ministry of Labour and Social Affairs*) (Publ.): *Übersicht über das Arbeitsrecht (Overall view of labour law)*. Bonn: BMA 1997. p.38 f.; English version: The Federal Ministry for Labour and Social Affairs (Publ.): *Labour Law in Germany. An Overview*, Bonn: The Federal..., 5th revised and extended edition 1994. p.38 f.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997 Internet) (*Federal Ministry of Labour and Social Affairs*): *Social Security*, chapters 11 (Occupational Accident Insurance), 12 (Pension Insurance), 17 (Social Assistance). <http://www.bma.de/soziales/englisch/>.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997a Internet) (*Federal Ministry of Labour and Social Affairs*): *Berufliche Beratung und Rehabilitation junger Menschen mit Behinderungen (Career advice and rehabilitation of young persons with disabilities)*. <http://www.arbeitsamt.de/info/schrift/jungebeh.htm>.

Bundesministerium für Arbeit und Sozialordnung (BMA 1997b Internet) (*Federal Ministry of Labour and Social Affairs*): *Berufliche Wiedereingliederung Behinderter (Occupational re-integration of disabled persons)*. <http://www.arbeitsamt.de/info/schrift/einglied.htm>.

Bundesregierung (1994) Dritter Bericht der Bundesregierung über die Lage der Behinderten und die Entwicklung der Rehabilitation (*Third Report of the Federal Government on the Situation of the Disabled People and the Development of Rehabilitation*), Bonn 1994 (Unterrichtung durch die Bundesregierung, Deutscher Bundestag Drucksache 12/7148).

Bundesregierung (1995) Arbeitswelt und Behindertenpolitik (*Working world and policy for disabled people*). Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Ottmar Schreiner, Karl-Hermann Haack (Extertal), Gerd Andres, weiterer Abgeordneter und der Fraktion der SPD (*Federal government's statement in the response to a parliamentary question*), Bonn 1995 (Antwort der Bundesregierung, Deutscher Bundestag Drucksache 13/2441).

Bundesregierung Beschäftigung Schwerbehinderter bei den Bundesdienststellen, Unterrichtung durch die Bundesregierung [*Employment of severely disabled people by the federal administration; Information from the federal government*], Bonn: 1997, Deutscher Bundestag Drucksache 13/8918.

Bundesregierung Vierter Bericht der Bundesregierung über die Lage der Behinderten und die Entwicklung der Rehabilitation (*Fourth Report of the Federal Government on the Situation of the Disabled People and the Development of Rehabilitation*). Bonn 1997 (Unterrichtung durch die Bundesregierung, Deutscher Bundestag Drucksache 13/9514).

Burger, Stephan., Schröder, Michael. (1994) Labour Market Policy for Disabled People in Germany - the Shortcomings of Legal Interventions. Trier: Studien- und Forschungsschwerpunkt Services Administration & Management (SAM) und Zentrum für Arbeit und Soziales (ZENTRAS), University of Trier (Diskussionsbeitrag No.41).

Burger, Stephan (1996) Ökonomische Analyse der medizinischen Rehabilitation. Rehabilitation zwischen sozialpolitischem Anspruch und arbeitsmarktpolitischen Interessen (*Economic Analysis of Medical Rehabilitation. Rehabilitation between socio-political demands and labour market policy interests*). Frankfurt/Main, New York: Campus (Campus: Forschung Vol.739; Trierer Schriften zur Sozialpolitik und Sozialverwaltung Vol.14).

Delsen, Lei (1996) 'Employment Opportunities for the Disabled', in *International Handbook of Labour Market Policy and Evaluation*, (ed. Schmid, Günther), Cheltenham: Elgar pp.520-543.

Dobbe, Bernhard (1995) Erfahrungen und Perspektiven der psychosozialen Betreuung Schwerbehinderter im Arbeitsleben nach dem Schwerbehindertenrecht (*Experiences and prospects of services for psychological and social care in the working environment for severely disabled persons according to the law concerning severely disabled persons*), in Behindertenrecht, München, No.4, pp.85-88.

Ernst, Karl-Friedrich (1995) Betreuungs- und Beratungsdienste in der beruflichen Eingliederung Schwerbehinderter - Zusammenarbeit zwischen Arbeitsverwaltung und Hauptfürsorgestellen (*Care and counselling services for occupational integration of severely disabled persons - cooperation between employment offices and Hauptfürsorgestellen*), in Behindertenrecht, München, No.5, pp.101-105.

FAZ 25.8.97 (1997) Arbeitsanreize für Sozialhilfeempfänger. Die Anrechnung von Zusatzeinkommen wird geändert/Minister Seehofer plant Verordnung (*Work Incentives for Recipients of Social Assistance*). Frankfurter Allgemeine Zeitung No.196, 25 August, p.13.

Fessler, Ulrich (1997) Der schwierige Weg zum neuen Beruf. Problembereiche in der beruflichen Rehabilitation und einige Lösungsvorschläge (*The difficult way to a new job. Problems of occupational rehabilitation and some suggestions for resolving*), in Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB), Stuttgart *et al.*, No.2, pp.356-373.

Forschungsstelle Arbeitsrehabilitation psychisch Kranker in der Klinik für Psychiatrie der Universität Münster (1996) (*Research centre for occupational rehabilitation of emotionally disabled persons in the university clinic of Münster*): Begleitende Hilfen im Arbeitsleben für psychisch Kranke und Behinderte (*Supplementary assistance in the working environment for emotionally disabled persons*), Publ.: Bundesministerium für Arbeit und Sozialordnung (BMA) (*Federal Ministry of Labour and Social Affairs*). Bonn: (Forschungsbericht Sozialforschung No.257).

Frehe, Horst (1995) 'Mandatory Employment or Equal Opportunities? Employment Policy in Germany', in *Mandatory Employment or Equal Opportunities? Employment Policies for People with Disabilities in the UN-European Region*, (ed. Leichsenring, Kai; Strümpel, Charlotte), Vienna: European Centre for Social Welfare Policy and Research pp.71-82.

Frick, Bernd., Frick, Joachim (1994) 'Labor Market Policy and the Convergence of Interests: The 'Benefits' of the German Handicapped Act for Employers and Employees', in *Labour market dynamics in present day Germany*, (ed. Schwarze, Johannes *et al.*) Frankfurt/Main: Campus; Boulder, Colorado: Westview Press, pp.217-239.

Hartmann, Maria (1991) Arbeitsassistenten - eine bayerische Lösung (*Working assistants - a Bavarian approach*), in *Behindertenrecht*, München, No.1, pp.7-12.

Hauptverband der gewerblichen Berufsgenossenschaften (HVBG 1995) (*Main Association of the Industrial Employers' Liability Insurance Funds*): Reha 93. Rehabilitation und Rehabilitations-Statistik in der gesetzlichen Unfallversicherung 1993 (*Rehabilitation and Statistics on Rehabilitation in the Statutory Occupational Accident Insurance 1993*), Sankt Augustin: HVBG *et al.* 1995.

Hauptverband der gewerblichen Berufsgenossenschaften (HVBG 1997) (*Main Association of the Industrial Employers' Liability Insurance Funds*): Geschäfts- und Rechnungsergebnisse der gewerblichen Berufsgenossenschaften (*Report of the Industrial Employers' Liability Insurance Funds*), Sankt Augustin: HVBG *et al.* 1997.

Hauptverband der gewerblichen Berufsgenossenschaften (HVBG 1997a) (*Main Association of the Industrial Employers' Liability Insurance Funds*): Reha 95. Rehabilitation und Rehabilitations-Statistik in der gesetzlichen Unfallversicherung 1995 (*Rehabilitation and Statistics on Rehabilitation in the Statutory Occupational Accident Insurance 1995*), Sankt Augustin: HVBG *et al.* 1997.

Hein, Birgit (1995) Rehabilitationsmaßnahmen 1993 (*Measures for rehabilitation in 1993*). In: *Wirtschaft und Statistik (Publ.: Federal Statistics Office)*, Stuttgart, No.12, pp.907-913.

Henniges, Hasso von (1997) Arbeitsmarktsituation und Merkmale von arbeitslosen Schwerbehinderten (*Labour market situation and characteristics of unemployed severely disabled persons*), Nürnberg: Institut für Arbeitsmarkt und Berufsforschung der Bundesanstalt für Arbeit (IAB) (IAB projektbericht).

Heuser, Klaus (1987) Begleitende Hilfe im Arbeitsleben für psychisch Behinderte (*Supplementary assistance in the working environment for emotionally disabled people*), in Behindertenrecht, München, No.5, pp.104-106.

Heuser, Klaus (1991) Organisation und Finanzierung psychosozialer Betreuung im Arbeitsleben (*Organization and funding of services for psychological and social care*), in Behindertenrecht, München, No.1, p.1-7.

Heuser, Klaus (1993) Thesen zum Stellenwert der Begleitenden Hilfen im Arbeitsleben (*Propositions on the role of supplementary assistance in the working environment*), in Behindertenrecht, München, No.5, pp.114-115.

Huber, Achim., Ochs, Peter (1994) Die Vertretung der Schwerbehinderten im Betrieb: Handlungsanleitungen und Orientierungen für die Praxis (*Representation of severely disabled people in companies: instructions for taking action and orientations for practice*), Köln: Bund-Verlag.

Isenberg, Karl (1996) Verzicht auf einen Schwerbehindertenausweis aus Gründen der Eingliederung in das Berufsleben (*Relinquishment of the special identity card for severely disabled persons for reasons of integration in working life*) in Behindertenrecht, München, No.2, p.45.

iwd 2/96 (1996) Pflichtquote ist falsches Maß (*Obligatory employment quota is the wrong yardstick*). Informationsdienst des Instituts der Deutschen Wirtschaft (iwd), Köln, No.2, p.3.

iwd 21/97 (1997) Pflichtquote nicht praxisgerecht (*Obligatory employment quota is not practical*). Informationsdienst des Instituts der Deutschen Wirtschaft (iwd), Köln, No.21, p.6.

Kotthoff, Hermann (1986) Betriebliche Personalpolitik im Umgang mit gesundheitlich Beeinträchtigten. Eine Untersuchung über Arbeitseinsatz und Arbeitssituation von behinderten und kranken älteren Arbeitnehmern (*Human resource management in companies with regard to persons with health limitations. A study on the employment and the working situation of disabled and sick elderly workers and employees*), Publ.: Arbeitskammer des Saarlandes, Saarbrücken.

Krüger, Jörg., Sievering, Oliver., Wüstenbecker, Michael (1995) Sozialhilfe - ein Überblick: rechtliche Grundlagen und empirische Entwicklung (*Social Assistance - a survey*). Paderborn: Fachbereich Wirtschaftswissenschaften, Universität/Gesamthochschule Paderborn (Arbeitspapiere des Fachbereichs Wirtschaftswissenschaften).

Montada, Leo (1997) Behinderungen auf dem Arbeitsmarkt (*Disabilities on the labour market*). In: Behinderte auf dem Arbeitsmarkt (*Disabled persons on the labour market*), (ed. Niehaus, Mathilde; Montada, Leo), Frankfurt/Main, New York: Campus 1997, pp.3-17 (ADIA-Stiftung zur Erforschung neuer Wege für Arbeit und soziales Leben, Schriftenreihe Vol.4).

Neuhäuser, Jenny (1997) Sozialhilfe und Leistungen an Asylbewerber 1995 (*Social Assistance and Payments to Applicants for Political Asylum in 1995*), in *Wirtschaft und Statistik (Publ. Federal Statistics Office)*, Stuttgart, No.5, pp.331-341.

Niehaus, Mathilde (1996) Lebenssituation und Zugang zur beruflichen Rehabilitation (*Situation and access to occupational rehabilitation*), in *Berufliche Rehabilitation in Berufsförderungswerken (Occupational rehabilitation in vocational retraining centres)* (ed. Vonderach, Gerd), Edewecht: Stumpf & Kossendey pp.56-68 (Texte zur Sozialforschung, Vol.11).

Oyen, Renate (1989) Berufsbildung, Arbeitsmarktchancen und betriebliche Integration Behinderter. Überblick über die empirische Forschung der 80er Jahre (*Vocational Training, Labour Market Opportunities, and Internal Company Integration of Disabled People. Survey of the Empirical Research of the 80s*), *Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB)*, Stuttgart *et al.*, No.4, pp.507-522.

Rendenbach, Ingo (1990) Ökonomie der Schwerbehindertenbeschäftigung. Eine marktorientierte Perspektive. (*Economics of the employment of severely disabled persons. A market-oriented perspective*), Frankfurt/Main, New York: Campus (Campus Forschung Vol.641; Trierer Schriften zur Sozialpolitik und Sozialverwaltung, Vol.3).

Ritz, Hans-Günther (1997) Beschäftigungspflicht und Ausgleichsfonds als internationaler Sozialstaatsstandard in der Behindertenpolitik (*Obligation to employ and compensatory levy fund as international standard in social policy for disabled persons*), in *Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB)*, Stuttgart *et al.*, No.2, pp.455-473.

Sadowski, Dieter., Frick, Bernd (1992) Die Beschäftigung Schwerbehinderter. Betriebswirtschaftliche Analysen und politische Empfehlungen (*The Employment of Severely Disabled Persons. Business Management Analyses and Policy Recommendations*), Publ.:Ministerium für Arbeit, Soziales, Familie und Gesundheit Rheinland-Pfalz (*Ministry for Labour, Social Affairs, Family and Health Rhineland-Palatinate*), Idstein: Schulz-Kirchner Verlag.

Sadowski *et. al.* (1992) Die Wirkungsweise des Schwerbehindertengesetzes - Vollzugsdefizite und Verbesserungsvorschläge (*The functioning of the Severely Disabled Persons Act - Deficiencies in the implementation and suggestions for improvements*), Publ. Bundesministerium für Arbeit und Sozialordnung (*Federal Ministry of Labour and Social Affairs*), Bonn: (Forschungsbericht Sozialforschung No. 230).

Schröder, Michael (1997) Betriebliche Vollzugskosten der Arbeits- und Sozialgesetzgebung. Ein internationaler und intertemporaler Vergleich (*Compliance costs of labour and social law on the enterprise level*), Frankfurt/Main: New York: Campus Verlag, p.145 ff.

Semlinger, Klaus., Schmid, Günther (1985) Arbeitsmarktpolitik für Behinderte. Betriebliche Barrieren und Ansätze zu ihrer Überwindung (*Labour Market Policy for Disabled People. Internal Company Barriers and Approaches to Overcoming*) (ed. Wollmann, Hellmut; Hucke, Jochen. Basel, Boston, Stuttgart: Birkhäuser Verlag (Policy Forschung. No.2).

Seyd, Wolfgang (1997) Stand und Entwicklungsperspektiven der beruflichen Rehabilitation Erwachsener (*State and prospects of occupational rehabilitation of adults*). In: Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB), Stuttgart *et al.*, No.2, pp.255-268.

Sozialverband Reichsbund e.V. (1997) Dokumentation Einschränkungen im sozialen Bereich 1985 - 1995/97 (*Documentation on cuts in public spending on social affairs*), Bonn: Sozialverband Reichsbund e.V.

Sozialverband Reichsbund e.V. (1998) (publ.) REHA-Informationen (subtitle: Informationsdienst des Bundesvorstandes Abteilung Sozialpolitik), Bonn, March.

Statistisches Bundesamt 1996 (1996) (*Federal Statistics Office*) (Publ.): Statistical Yearbook 1996 for the Federal Republic of Germany, Stuttgart: Metzler Poeschel.

Statistisches Bundesamt 1996a (1996) (*Federal Statistics Office*) Auszug aus der Statistik der Rehabilitationsmaßnahmen 1994 (*Excerpt of the set of statistics on the measures for rehabilitation in 1994*), Wiesbaden, May.

Statistisches Bundesamt 1997 (1997) (*Federal Statistics Office*) (Publ.) Datenreport 1997. Zahlen und Fakten über die Bundesrepublik Deutschland (*Statistics and data on the Federal Republic of Germany*). Bonn: Bundeszentrale für politische Bildung.

Statistisches Bundesamt 1997a (1997) (*Federal Statistics Office*), Referat Ib4, internal statistics ST 37 and ST 36.

Statistisches Bundesamt 1997b (1997) (*Federal Statistics Office*) (Publ.): *Statistical Yearbook 1997 for the Federal Republic of Germany*, Stuttgart: Metzler Poeschel.

SU 24/97 (1997) Rentenreform wird in Angriff genommen. Gesetzentwurf von Bundesregierung beschlossen (*Tackling the reform of pensions. Draft bill passed by government*), Sozialpolitische Umschau, Ausgabe 24/97, Nr. 277/1997. Bonn: Presse- und Informationsamt der Bundesregierung, pp.3-14.

SU 30/97 (1997) Rentenreformgesetz 1999. Gesetzentwurf derzeit im Bundestag beraten (*Pension Reform Bill 1999. Draft bill being discussed in parliament*), Sozialpolitische Umschau, Ausgabe 30/1997, Nr. 355/1997, Bonn: Presse- und Informationsamt der Bundesregierung, pp.17-26.

SU 5/98 (1998) Bund erfüllt Beschäftigungsquote bei Schwerbehinderten. Aus dem Bericht der Bundesregierung (*Federal government fulfills employment quota with regard to severely disabled persons*), Sozialpolitische Umschau, Nr.5/1998. Bonn: Presse- und Informationsamt der Bundesregierung 12, January, pp.26-29.

Thornton, Patricia., Lunt, Neil (1997) *Employment Policies for Disabled People in Eighteen Countries: A Review*, York: Social Policy Research Unit, University of York.

Verband Deutscher Rentenversicherungsträger (VDR) (1996) (*Federation of German Pension Insurance Funds*) (Publ.) VDR Statistik Rehabilitation des Jahres 1995 (*VDR Statistics on rehabilitation 1995*),

Frankfurt am Main: VDR, November.

Verband Deutscher Rentenversicherungsträger (VDR) (1997) (*Federation of German Pension Insurance Funds*) (Publ.): Abschlußbericht der Reha-Kommission-Berufsförderung des Verbandes Deutscher Rentenversicherungsträger. Empfehlungen zur Weiterentwicklung der beruflichen Rehabilitation in der gesetzlichen Rentenversicherung (*Final Report of the Rehabilitation Commission for Vocational Promotion of the Federation of the German Pension Funds. Subtitle: Recommendations for the Development of Occupational Rehabilitation in the Statutory Pension Insurance*), Frankfurt am Main: VDR (DRV-Schriften Band 7).

Vonderach, Gerd (1997) Lebensgeschichte und berufliche Rehabilitation. (*Life-history and occupational rehabilitation*). In: Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB), Stuttgart *et al.*, No.2, pp.374-382.

Winkler, Albrecht (1996) Integration of Persons with Disabilities into the Labour Market and State Intervention. Crucial design features and the effectiveness of compulsory employment policy from a German perspective. Paper prepared for the Expert Meeting 'Rehabilitation of partially disabled workers in the workforce in various European countries: decisive factors seen from an international perspective' at the University of Utrecht, November.

Zängle, Michael., Trampusch, Christine (1997) Berufliche Rehabilitation in den Beruflichen Fortbildungszentren der Bayerischen Arbeitgeberverbände e.V. (bfz e.V.) (*Occupational rehabilitation in centres for further vocational training run by the Bavarian employers' federation*), in Mitteilungen aus der Arbeitsmarkt- und Berufsforschung (MittAB), Stuttgart *et al.*, No.2, pp.305-318.

ZB Info 1/97 (1997) Hilfen für Behinderte im Beruf (*Subsidies for working disabled people*), ZB - Zeitschrift: Behinderte im Beruf, Wiesbaden, supplement to No.1.

ZB Info 3/96 (1996) Feststellung des Grades der Behinderung (*Ascertainment of the degree of disability*), ZB - Zeitschrift: Behinderte im Beruf, Wiesbaden, No.3, p.13.

ZB Info 3/96a (1996) Integrationsfachdienste (*Specialized services for integration*), ZB - Zeitschrift: Behinderte im Beruf, Wiesbaden, No.3, p.6-11.

ZB Info 4/97 (1997) Pflichtquote herabsetzen? (*Lowering the employment quota?*). ZB-Zeitschrift: Behinderte im Beruf, Wiesbaden, No. 4, pp.12-13.

Zentrum für Arbeit und Soziales (ZENTRAS) (1997) (*Centre for Labour and Social Policy*): Dokumentationssystem Schwerbehinderte und Arbeitswelt, Teil II: Statistisches Archiv, Band 10 (*Documentation system on severely disabled persons and working world, part II: statistical archives, vol.10*). Trier: Studien- und Forschungsschwerpunkt Services Administration & Management (SAM) und Zentrum für Arbeit und Soziales (ZENTRAS).

**International Research Project on Job Retention
and Return to Work Strategies for Disabled Workers**

PUBLICATIONS

Albrecht, M. and Braun, H. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Germany.* Geneva: International Labour Organization.

Cuelenaere, B. and Prins, R. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Netherlands.* Geneva: International Labour Organization.

Duckworth, S., McGeer, P., Kearns, D. and Thornton, P. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: United Kingdom.* Geneva: International Labour Organization.

Grapin, P., Lambert, T., Fradin, N., Tizroutine, T., Jafflin, D., Halimi, C., Coda-Vaillant, M. and Mérian, I. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: France.* Geneva: International Labour Organization.

Gunderson, M., Gildiner, A. and King, A. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Canada.* Geneva: International Labour Organization.

Karlsson, A. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: Sweden.* Geneva: International Labour Organization.

O'Leary, P. with Dean, D. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: USA.* Geneva: International Labour Organization.

Pernice, R. and Lunt, N. (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Study Report: New Zealand.* Geneva: International Labour Organization.

Thornton, P. with others (1998) *International Research Project on Job Retention and Return to Work Strategies for Disabled Workers. Key Issues.* Geneva: International Labour Organization.