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Luxembourg

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European Disability Expertise (EDE) provides independent scientific support to the Commission's policy Unit responsible for disability issues. It aims to mainstream disability equality in EU policy processes, including implementation of the United Nations Convention on the Rights of Persons with Disabilities.

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¹ For an introduction to the Semester process, see <https://www.consilium.europa.eu/en/policies/european-semester/how-european-semester-works/>.

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1 Executive summary and recommendations

1.1 Key points and main challenges for the European Semester in 2021

There is a great discrepancy between the omnipresent demands for inclusion published by official bodies and ministries and the actual participation of people with disabilities in social life. The policy cultivates the rhetoric of inclusion in programmatic and conceptual formulations, while at the same time maintaining or even expanding separative institutions for those that are considered not to be eligible for inclusion in the fields of education and employment (see competence centres in education and ‘inclusion’ in sheltered workshops, or the persistent exclusion of persons under guardianship from the right to vote). Inclusion is viewed primarily from an economic and neo-liberal perspective, without questioning the basic principles of a meritocratic society oriented towards proven performance. Performance appraisals, especially in the area of education and work, are largely based on the performance demanded and shown without sufficiently taking into account the way the performance is achieved.

In the educational sector, the incompatibility of introducing educational standards and achieving full inclusion is not recognised. Separating establishments are renamed to inclusive settings without any fundamental reorientation. The former regional special schools for pupils with cognitive impairments were re-branded as competence centres for intellectual development. With the introduction of the competence centres, no longer official figures are published regarding pupils who are taught separately. There are also no official figures on how many pupils were assigned to the competence centres from regular schools and vice versa. It is therefore impossible to give comparative statistical evidence of the extent to which inclusive education has currently developed in Luxembourg.

With regard to employment, the same problems remain as those already identified in the first Action Plan. People with disabilities experience considerable difficulty in finding a job in the mainstream labour market. Unemployment is disproportionately high among people with disabilities and lasts much longer than among job seekers without disabilities. People with disabilities are increasingly oriented towards working in a sheltered workshop under the national guidelines of the Employment Agency. The employment quotas for people with disabilities, which are legally mandated, are largely not met and are not monitored or imposed by the state.

Also, some social problems already addressed in the first Action Plan have still not been tackled, such as the legal incapacity of people under guardianship. People with disabilities under guardianship are extensively excluded from self-determination and political participation. They may not vote nor may they run as candidates. As a result, almost 10 years after the introduction of the UN-CRPD no improvement has been made in this area.

Furthermore, there are still problems in the implementation of the accessibility of buildings and infrastructure for public use.

1.2 Recommendations for Luxembourg

These recommendations are based on the evidence and analysis presented in the following chapters of our report.

Recommendation: Develop a sustainable employment policy that reduces the prevailing neo-liberalism and guarantees environmentally friendly, humane and meaningful working conditions for all.

Rationale: Integration into the primary labour market has not yet progressed. Companies do not employ people with disabilities within the legal framework, as existing law is not applied in practice. People with disabilities are increasingly directed towards the protected labour market. The existing capacity in sheltered workshops seems to be running out. A working atmosphere characterised by competitive pressure is also finding its way into the sheltered workshops. There is a need to move away from a policy, which reduces social issues to commercial interests alone. The policy approach urges the person with disabilities to adapt to the existing challenges of the labour market rather than the reverse. This contradicts the inclusion approach. The mandate of sheltered workshops should be reviewed. The wish expressed by people with disabilities in sheltered workshops to remain in a protected working environment, as they feel unable to meet the requirements of the primary labour market, should lead to an intensive examination of the prevailing neoliberal labour market conditions. The revised policy should be inclusive by-design ensuring that people with disabilities feel comfortable and confident to enter the labour market.

Recommendation: The rhetoric of full and universal inclusion must be abandoned in favour of an educational policy that takes account of individual characteristics and not only evaluates performance against the background of general educational standards.

Rationale: Society has to take into account how these standards have come about. The implementation of the idea of inclusion has led to a new dichotomy of the student population: students who are considered to be eligible for inclusion and students who are not suitable for inclusion. In particular, the inclusion of pupils with cognitive disabilities has not progressed. The renaming of the separate form of schooling to competence centres merely masks this fact. The scope of a full inclusion policy must be considered against the (un-)willingness to radically change the existing education system which insists on the basis of performance (grades and scores). The biased orientation of education towards economically valuable contents constitutes an additional disadvantage for pupils with disabilities, who often cannot keep up with this.

Recommendation: Stop the deprivation of rights of persons with disabilities under guardianship (Tutelle).

Rationale: People with disabilities under guardianship should not lose their legal self-determination as far as possible. At present, they are not allowed to carry out legal transactions, write a will, marry, dispose of certain sums of money or exercise the right to vote. People with disabilities under guardianship should be given more legal capacity. The precarious legal position of persons with disabilities under guardianship has already been highlighted in the first Action Plan and in the national report. Nevertheless, the situation has not changed in this respect up to now. It is therefore necessary to make appropriate amendments to the provisions on guardianship in order to adapt national legislation to the international obligations under the UN CRPD.

2 Opportunities to mainstream disability equality in the Semester documents

2.1 Country Report for Luxembourg (Staff Working Document)

Some more implicit statements about people with disabilities can be found in the country report. Most are about their integration into educational institutions or into the existing labour market. The focus is thus on the future or current economic function (economic value or cost) of people with disabilities. The following relevant references can be found in the report (CR):

- p. 5: Despite robust job creation, the proportion of people in certain population groups who are working or looking for work remains insufficient. Employment continued to increase in 2018 and in the first three quarters of 2019 and at 5.5 % unemployment is low. The youth unemployment rate fell to 13.8 % in the first three quarters of 2019, while the rate of young people not in employment, education or training is one of the lowest of the EU. The employment rate of older workers went up in 2018, to reach 40.5 % but it remains substantially below the EU average. Older and low-skilled workers, especially those with a migrant background, are less likely to find or stay in work.
- p. 17: A law aiming at keeping workers with disabilities longer in the labour market entered into effect at the beginning of 2016. In 2017, some new measures have been put in place for older jobseekers (specific ALMPs since 2016, measures to fight long-term unemployment since 2017 and in the ADEM, specific mandatory information sessions about activation and training measures).
- p. 17: A reform of the long-term care public insurance was enacted at the beginning of 2018, which keeps the evolution of long-term care costs in line with that of the share of dependent people in the total population, which is expected to ensure financial viability until 2030.
- p. 19: The employment of older workers remains among the lowest in the EU, particularly for the low-skilled, who are also particularly affected by long-term unemployment.
- p. 35: The high inactivity rate among the low-skilled (36.7 %) leaves room for improvement. In 2018, the share of low-qualified adults aged 25-64 in employment stood at 60.8 % (EU average at 56.8 %), against 72.8 % for people with medium-level qualifications and 84.9 % for those with tertiary education. Differences in unemployment rates according to the level of qualification are more contained, with unemployment among low-skilled workers aged 25-64 at 6.5 % in 2018, against 4.1 % for the high-skilled (49). However, almost 50 % of the unemployed have just completed lower secondary education and tend to display much longer unemployment spells.
- p. 37: Increase in the level of qualification required, with only 3 % of the job created requiring only upper secondary education (level 3 of the International Standard Classification of Education). Low-skilled and vulnerable job seekers are particularly at risk in this changing labour market.
- p. 39: The Amendment to the Labour Code of the 1st of August 2019 intends to improve the access to the regular labour market of employees with disabilities or those in external job reclassification (i.e. those who cannot fulfil any more their last job tasks for physical or health reasons, but do not qualify

for disability benefits) and to help them stay in employment through accompanying measures that may last up to two years, under the guidance of an ‘inclusion in employment assistant’. This is a positive step towards the transposition of the Convention on the rights of persons with disabilities and could have an impact on the employment rate of people with disabilities or in external reclassification (often older workers).

- p. 41: The attainment rate in tertiary education for people with disabilities is lower than the EU average... the United Nations Committee on the Rights of Persons with Disabilities pointed out critically in 2017 that the education laws still allowed for the segregation of students with disabilities and issued a number of recommendations' The attainment rate in tertiary education for people with disabilities is lower than the EU average (22.8 % against the EU average of 32.4 %). The tertiary education attainment gap between people with and without disabilities is the second largest in the EU (30 percentage points against an EU average of 10.2 percentage points). This could partly be due to the distorting impact of the high share of tertiary educated migrants in Luxembourg. However, the United Nations Committee on the Rights of Persons with Disabilities pointed out critically in 2017 that the education laws still allowed for the segregation of students with disabilities and issued a number of recommendations (66). Subsequently, the Law (*Loi du 27 juin 2018 relative à l'organisation de l'Université du Luxembourg*) is expected to improve the inclusion rate of students with special needs in tertiary education.

- p. 68: Overview of national expenditure on social protection benefits (in % of GDP). The Expenditure on social protection benefits (% of GDP) was 2.5 % in 2013 and 2.3 % in 2017.

2.2 Country Specific Recommendation for Luxembourg (CSR)

In 2020, the Country Specific Recommendation for Luxembourg included the following direct references to disability issues:

- 17. Luxembourg has taken a number of measures to maintain employment, notably on ‘chômage partiel’. However, special consideration should be given to more vulnerable groups, such as older and low-skilled workers, in a context where the new minimum income scheme (REVIS, ‘revenu d’inclusion sociale’) has already led to an increase of registered unemployed people with the public employment service, due to compulsory registration of its beneficiaries since January 2019. Those more vulnerable people would suffer most from an increased competition on the labour market as a result of the COVID-19 crisis.

It is striking that the recommendations do not mention people with disabilities as a target group. They refer to low skilled workers, vulnerable groups or older people but not to people with disabilities. However, not every low-skilled worker is a disabled worker and not every disabled person is low-skilled, but disabled persons are significantly over-represented in these target groups and should be acknowledged more explicitly. Low-skilling and disability should not be treated together as this would foster the consolidation of the respective prejudice.

The following relevant mentions can be found in the recommendations (CSRs):

- point 17 (p. 4) According to the Commission's forecast, unemployment is expected to rise to 6,4 % in 2020 and recover to 6,1 % in 2021. Luxembourg has taken a number of measures to maintain employment, notably on 'chômage partiel' (Kurzarbeit). However, special consideration should be given to more vulnerable groups, such as older and low-skilled workers, in a context where the new minimum income scheme (REVIS, 'revenu d'inclusion sociale') has already led to an increase of registered unemployed people with the public employment service, due to compulsory registration of its beneficiaries since January 2019. Those more vulnerable people would suffer most from an increased competition on the labour market as a result of the COVID-19 crisis.' Other vulnerable people suffering from the crisis might be temporary workers, as well as low-skilled workers in general.

3 Disability and the labour market - analysis of the situation and the effectiveness of policies

In 2017, the UN CRPD Committee made the following recommendations to Luxembourg:

Article 27 UN CRPD addresses Work and Employment.

47. The Committee recommends that the State party adopt measures to phase out sheltered workshops, with a time-bound schedule and plan for transfer of those currently employed in sheltered workshops into the open labour market, and increase the level of employment of persons with disabilities in the open labour market, in line with the Convention and in view of target 8.5 of the Sustainable Development Goals, and that it ensure the achievement of full and productive employment and decent work for all, including persons with disabilities, and equal pay for work of equal value. It also recommends that the State party: (a) Designate an entity for monitoring and sanctioning non-compliance of labour quotas in both the private and public sectors; (b) Take measures to ensure the effective monitoring of the provision of reasonable accommodation, with appropriate remedies for the denial of requests; (c) Provide vocational and professional training and provide incentives for the self-employment of persons with disabilities, particularly women with disabilities.

The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024 also includes a focus on work and employment.²

3.1 Summary of the labour market situation of persons with disabilities

Data from EU-SILC indicate an employment rate for persons with disabilities in Luxembourg of 51.1 % in 2018, compared to 70.1 % for other persons and approximately 0.3 points above the EU27 average - resulting in an estimated disability employment gap of approximately 19 percentage points (EU27 average gap 24.2, see Tables 2-4).

The same data indicate unemployment rates of 13.4 % and 6.2 %, respectively in 2018 (see Tables 5-7) and the economic activity rate for persons with disabilities in Luxembourg was 59.0 %, compared to 74.7 % for other persons (see Tables 8-10). These indications are broken down by gender and age in the respective tables in annex.

In addition to survey estimates, administrative data is available from the National Employment Agency (ADEM- *Agence pour le développement de l'emploi*).³ This concerns persons who are recognised as having reduced work capacity. On an annual

² National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024,
https://gouvernement.lu/fr/publications.gouv_mfamigr%2Bfr%2Bpublications%2Bplan-strategie%2Bhandicap.html

³ ADEM Employment report 2019, <https://adem.public.lu/en/publications/adem/2020/rapport-activite-complet-2019.html>.

basis, the situation of persons with disabilities (salariés handicapés) in this data has hardly changed at all.

Recently (2018), administrative regulations were introduced on applying for the new minimum income scheme (REVIS, ‘revenu d’inclusion sociale’)⁴ requiring compulsory enrolment at the employment office (ADEM) which require compulsory registration at the employment office (ADEM). Also, a specific qualification assessment and training measure (COSP-HR)⁵ was already introduced in 2017, targeting primarily people with disabilities in order to make them fit for the mainstream labour market.

The introduction of sanctioning mechanisms up to the partial suspension of payments increases the pressure on job seekers with disabilities to comply with the new regulations. This may explain that the data of ADEM's key indicators do not reflect the expected increase in the number of registered people with disabilities but show a decline over the last three years. In fact, ADEM recorded 3,665 people with disabilities or reduced capacity to work in 2017. This number fell to 3,478 in 2018 and 3,354 in 2019, which represents an overall decrease of 8.5 % (2017-2019). In 2020, this number is now rising again as a result of the Covid-19 crisis and is estimated at 3,562 on the basis of the months April to July 2020. This represents an increase of 206 people (or 6.1 %) compared to 2019 (see Figure 1).

However, it should be noted that people with disabilities seem to be less affected by unemployment as a result of the Covid-19 crisis. While overall unemployment has been risen over 30 % (mean 2019 compared to average April to July 2020) unemployment of registered disabled persons increased during the same period a little bit over 6 %. The proportion of registered persons with disabilities among the overall group of unemployed has therefore decreased.

Unemployment in general and beside of Covid-19 crisis concerns people with disabilities much more in the form of long-term unemployment than it does for non-disabled people. The most recent yearly report of the ADEM emphasize a persistent disability gap in long time unemployment. In 2019, 31 % of all unemployed persons have been inactive for 12 months or more. The number of unemployed more than 12 month decreased by 6.8 % between 2018 and 2019 and their proportion decreased by 3 percentage points. For persons with disabilities the proportion of long-term unemployed (12 month and more) is well over 80 %.⁶

The lack of opportunities for the inclusion of people with disabilities in the labour market manifests in the identification of some persons as so-called severely disabled persons (personne gravement handicapée).⁷ A severely disabled person is someone

⁴ Act on Minimum Income Scheme (*Loi du 28 juillet 2018 relative au revenu d'inclusion sociale*), <http://legilux.public.lu/eli/etat/leg/loi/2018/07/28/a630/jo>.

⁵ Guiding Centre for professional and social Orientation 2017 (*Centre d'Orientation Socio-Professionnelle*), <https://adem.public.lu/en/demandeurs-demploi/handicap/COSP-HR.html>.

⁶ ADEM Full activity report 2019. Luxembourg, p. 75, <https://adem.public.lu/en/publications/adem/2020/rapport-activite-complet-2019.html>.

⁷ Income for people with severe disabilities when they do not have access to such employment or cannot work in an ordinary or sheltered environment. (*RPGH le revenu pour personnes gravement handicapées lorsqu'elle n'a pas accès à un tel emploi ou ne peut pas travailler en milieu ordinaire ou protégé*), <https://www.fns.lu/prestations/revenu-pour-personnes-gravement-handicapees-rphg/>.

who is assessed as not able to work either in the mainstream labour market or in a sheltered workshop. But the recognition can also be granted if the disabled person has not been able to find a suitable job despite intensive efforts. Severely disabled people can be regarded as not included in the mainstream labour market. Looking over the last five years the number of recognitions (severely disabled people, ‘personne gravement handicapée’) has been continuously rising (see Figure 3).

The situation described here regarding the lack of inclusion of people with disabilities in the labour market, which existed before the adoption of the UN Convention on the Rights of Persons with Disabilities, has not changed fundamentally.

3.2 Analysis of labour market policies relevant to the Semester

For reference, see also the 2020 [National Reform Programme](#) for Luxembourg.

Sheltered employment

The main explanation for the low increase in unemployment seems to be that the majority of registered people with disabilities are employed in the public sector or work in sheltered workshops ('ateliers protégés').⁸ Sheltered workshops are usually run by social welfare associations and non-profit organisations or foundations, but have close contractual ties with the state (secteur conventioné) and receive financial subsidies from the state. Although disabled workers have a regular employment contract in sheltered workshops, dismissals due to the economic crisis are practically non-existent. Self-employed persons with disabilities hardly exist and so scarcely play a role in unemployment statistics in Luxembourg.

In the current crisis situation, the lack of participation of people with disabilities in the regular labour market, and in particular their low employment in the private sector, appears to be a protective factor against crisis-induced unemployment. In a nutshell, this means that the unemployment rate among people with disabilities in Luxembourg has not increased significantly in the context of COVID-19, as this group of people had not been included in the primary labour market previously. These general unfavourable job market perspectives for people with disabilities may be a factor in the fact that the ADEM is increasingly orienting people with disabilities towards sheltered workshops (see Figure 4). This continuing trend towards separate workplaces (sheltered workshops) seems to be contrary to the inclusive spirit of the CRPD, whose text Luxembourg ratified in 2011.

An empirical study at Luxembourg University (2018) on the placement rate of people with disabilities from a sheltered workshop into the mainstream labour market indicates that less than 3 % was achieved, and in many cases rates below 1 % have been reported.⁹ The study found that in some workshops, over a period of four years,

⁸ Mellouet, Sarah (2019) *Handicap et entreprises: un « bilan emploi » en demi-teinte*, <https://www.fondation-idea.lu/2019/02/22/handicap-et-entreprises-un-bilan-emploi-en-demi-teinte/> (42% in sheltered workshops 18% in public sector and 40% in private sector). Based on data from ADEM.

⁹ Alves Rodrigues, Marcia, (2017). *Einstellungen von Werkstattbeschäftigen mit geistiger Behinderung bezüglich der Inklusion auf dem ersten Arbeitsmarkt - Eine empirische Studie*. Esch

not one single person could be included on the mainstream labour market. The problem to get included in mainstream labour market is even worse for the most frequent group in the workshops: people with cognitive and mental impairments. In addition, waiting lists indicate that in the national context of Luxembourg, people with disabilities must even wait for 'inclusion' in sheltered workshops (*ateliers d'inclusion*). Following the survey of the Employer's Association of the Social Sector (*Fédération des acteurs du secteur social au Luxembourg*, 2016) there is a total of 260 persons on the waiting lists and the waiting time is sometimes longer than 18 months (Ruppert, 2019).¹⁰

A fundamental turning away from the policy of sheltered workshops cannot be observed. The existing capacities are rather being expanded and an increasing orientation of people with disabilities towards sheltered workshops is becoming apparent (see ADEM Guiding decisions). The number of persons with disabilities working in sheltered workshops is rising (Figure 2).

Employment quota

The first shadow report (2016)¹¹ criticised that too few 'employees with disabilities' were employed within the private sector. The report notes that the statutory quotas for private employer are rarely put into practice. Legal penalties for not complying with quotas are scarcely applied, as there is no designated body in charge of monitoring and sanctioning non-compliance.

Among many reasons, one reason for the lack of inclusion in the mainstream labour market may be the reluctance of employers to hire people with disabilities. There is a quota system, but its enforcement by means of compensatory charges is de facto not implemented. The data shows that only a minority of the enterprises met with the legally binding quotas introduced 2003 (Act of 12 September 2003 on Person with disabilities)¹² (see Figure 5). Indeed, the first National Action Plan (2012)¹³ pleaded for the preservation of Workshops for persons with disabilities and preferred to promote integration into the labour market by raising awareness and training programmes. Enterprises would be positively encouraged to hire people with

Belval: Universität Luxemburg, unveröffentliche Abschlussarbeit im Studiengang BSSE (Tutoriat Limbach-Reich, Arthur).

¹⁰ Ruppert Luc (2019) *Inklusion auf dem ersten Arbeitsmarkt. Möchten Menschen mit einer Beeinträchtigung, die in einer Werkstatt für Menschen mit einer Beeinträchtigung in Luxemburg arbeiten auf den ersten Arbeitsmarkt inkludiert werden?* Esch Belval: Universität Luxemburg, unveröffentliche Abschlussarbeit im Studiengang BSSE (Tutoriat Limbach-Reich, Arthur) Inclusion in the mainstream labour market. Do people with a disability who work in a workshop for people with a disability in Luxembourg want to be included in the mainstream labour market. Unpublished Thesis: University of Luxembourg.

¹¹ Alternative Report on Implementation of the United Nations Convention on the Rights of Persons with Disabilities - Luxembourg 2016, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCSS%2fLUX%2f26160&Lang=en.

¹² Law of 12 September 2003 on disabled persons (*Loi du 12 septembre 2003 relative aux personnes handicapées*), <http://legilux.public.lu/eli/etat/leg/loi/2003/09/12/n1/jo>.

¹³ Action Plan Luxembourg (2012), *Aktionsplan Luxemburg: MFG*, https://www.rehadat-literatur.de/de/gesetze-recht-rechtsprechung/un-behindertenrechtskonvention-brk/aktionsplaene-international/?infobox=%2Finfobox1.html&serviceCounter=1&detailCounter=0&connectdb=veroeffentlichungen_result&wsdb=LIT&intlink=true&herausgeber=%22Ministerium+für+Familie%2C+Integration+und+die+Großregion+des+Großherzogtums+Luxemburg%22.

disabilities but threatening them sanctions if quotas were not met was not considered a solution (see amended Act of 12 September 2003 on the disabled).

The policy expressed here neglects to make entrepreneurs responsible for the inclusion of people with disabilities. The argument that the application and enforcement of quotas has not led to the desired result cannot be accepted. On the one hand, compliance with quotas was not systematically monitored and on the other hand, no sanctions were imposed. The Government takes the position that employers should be encouraged to hire disabled workers through financial incentives not by penalties. At the same time, however, sanctions are certainly applied if job seekers with disabilities do not cooperate with the employment office in the way requested.

The neo-liberal view that it should be up to the (labour) market on its own to decide who should be hired and who should not, is not compatible with the idea of inclusion. In a meritocratic society, people with disabilities will quickly fall behind in competition and may be excluded if the state does not take action, for example in the enforcement of quotas. Beyond the declarations of intent in the second Action Plan (2019), no substantial attempts to monitor and enforce employment rates (non-compliance of labour quotas) can be identified.

The new Action Plan (second Luxembourg National Action Plan - LAP2, 2019)¹⁴ emphasises the following measures: on the issue of employment quotas for people with disabilities: Evaluate and adapt the methods of application of employment quotas for the hiring of disabled employees. Collection of data on compliance with quotas. At the same time, the Action Plan takes a critical view of state intervention in business decisions concerning the recruitment of people with disabilities. In recent years, policy has considered these repressive measures to be an inappropriate response. Instead, the focus has been on financial incentives for employers to hire disabled persons. How these declarations of intent will be implemented and what results have been achieved has not yet been announced.

The COSP-HR programme

The main focus of active labour market policy with regard to people with disabilities in Luxembourg is to adapt the person to the predominant challenges of the existing labour market. An instructive example of this is the COSP-HR¹⁵ programme that has been launched in 2016/2017. The COSP-HR programme was established to help people with disabilities to get a job in the mainstream labour market. However, its success did not meet expectations. The main objective of the COSP-HR project is to assess the abilities and skills of jobseekers, having the status of a disabled employee and/or a person on external professional re-employment and to facilitate their professional (re)integration. A whole team of social workers, psychologists and occupational physicians and other professions from the paramedical and educational sector is dedicated to preparing people with disabilities or reduced working capacity for the labour market. At the beginning of the programme the objective was to get

¹⁴ MFAMIGR (2020). *National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024*, <https://mfamigr.gouvernement.lu/fr/publications/plan-strategie/handicapacc.html>.

¹⁵ Guiding Centre for professional and social Orientation 2017 *Centre d'Orientation Socio-Professionnelle*, <https://adem.public.lu/en/demandeurs-demploi/handicap/COSP-HR.html>.

employed at least 30 % of the participants on the main labour market. The outcomes for programme participants are summarised in Figure 6. The statistical analysis shows that not all participants stay on until the end of the programme (dropout 14 % -18 %). The remaining participants were divided into two groups: a) considered to be able to compete in the main labour market and b) oriented towards a sheltered workshop. The rate of participants who have been included in the programme at the beginning and have been successfully hired (on the main labour market) at the end of the programme varies between 10 % and 16 %. In other words, the original target of 30 % was never achieved and, looking back over the last three years employment has even declined continuously.

Wages

Disabled workers in the sheltered workshops are entitled to the National Minimum Wage, (Act on Minimum Wage (*Loi du 28 juillet 2018 relative au revenu d'inclusion sociale*)¹⁶ which will amount to 12.38 EUR in 2020. The salary may not be below the social minimum wage. (EUR 2,141.99 - index 834.76 as of 1 January 2020).¹⁷ The government expects these sums to guarantee an independent way of life, albeit at a minimum level. However, trade unions and Caritas Luxembourg consider these sums to be too low, given the high cost of living in Luxembourg.¹⁸

However, the situation can become problematic particularly for people with mental impairments (or psychiatric disorder) who, due to a failure to register under the REVIS Act, could lose their entitlement to the social inclusion income. In Article 3 of the REVIS act people will lose their right of the minimum wage if they do not collaborate with the labour agency (ADEM).¹⁹

Adapted workplaces

The need to adapt workplaces and make them more accessible to persons with disabilities is a key principle of the EU Social Pillar, but the number of measures financed annually by the employment office to make workplaces accessible to the disabled is quite modest, reaching only 20 in 2018 (Figure 7). These figures also reflect the low number of people with disabilities employed in the private sector.

***Revenue pour une personne gravement handicapée* – RPGH**

The second Luxembourg National Action Plan - LAP2)²⁰ criticises that identical treatment (income for severely disabled people, ‘Revenue pour une personne gravement handicapée’ – RPGH). There is no real difference in the treatment of disabled workers whose state of health prohibits them from performing any work (both on the primary labour market and in a protected environment – sheltered workshop)

¹⁶ Act on Minimum Income Scheme.

¹⁷ National Information Office, <https://guichet.public.lu/en/entreprises/ressources-humaines/remuneration/paiement-remunerations/salaire.html>.

¹⁸ Caritas Luxembourg 2019, <https://www.caritas.lu/en/publications/sozialalmanach>.

¹⁹ Act on REVIS 2018 Article 3 A person who does not comply with the collaboration agreement signed with the Employment Development Agency or who has refused to participate in an active measure in favour of employment proposed by the Employment Development Agency's services is not entitled to the Revis.

²⁰ MFAMIGR (2020). *National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities*, <https://mfamigr.gouvernement.lu/fr/publications/plan-strategie/handicapacc.html>.

and disabled workers who, for reasons beyond their control, have no access to paid work. The new Action Plan (second Luxembourg National Action Plan - LAP2, 2019) pleads therefore to rename the RPGH to ‘revenu d’attente d’inclusion professionnelle’ (income on support professional inclusion).

4 Disability, social policies and healthcare – analysis of the situation and the effectiveness of policies

In 2017, the UN CRPD Committee made the following recommendations to Luxembourg:

[Article 28 UN CRPD](#) addresses Adequate standard of living and social protection.

48. The Committee notes with concern that the State party does not have data on poverty and disability and that a large number of working-age persons with disabilities and elderly persons with disabilities are at higher risk of poverty. It also notes with concern that the additional costs associated with disability increase the risk of persons with disabilities being placed in institutions; it is also concerned that recent changes in the regulations on care provision may lead to a deterioration in the standard of living of persons with disabilities.

49. The Committee recommends that the State party collect data on the socio-economic situation of persons with disabilities with a view to designing policies to ensure an adequate standard of living for persons with disabilities and their family members. It also recommends that the State party: (a) Ensure that social protection policies and programmes ensure an adequate level of income and take into account the additional costs of disability; (b) ensure that persons with disabilities have access to a comprehensive range of services, including community-based social services, public housing programmes and services that promote self-reliance, in accordance with their rights, voices and preferences; (c) Pay attention to the linkages between Article 28 of the Convention and target 1.3 of the sustainable development goals, which calls upon States to establish appropriate social protection systems and measures for all, including social safety nets.

[Article 19 UN CRPD](#) addresses Living independently in the community.

37. The Committee recommends that the State party take into account its general comment No. 5 (2017) on living independently and being included in the community, and: (a) Adopt the legal and other measures necessary, including repealing Reform Act 7014 and relevant disability insurance systems, replacing them by legislation promoting the right to independent living and being included in the community, providing for, among others, personal assistance and clarifying the responsibilities and resource allocations of central and local authorities; (b) Develop and implement an effective deinstitutionalization plan, with a clear time frame and benchmarks, involving persons with disabilities through their representative organizations in all stages; (c) Adopt the measures necessary to ensure that persons with disabilities have a legal entitlement to a sufficient personal budget for independent living, which takes into account the additional costs related to disability and, at the same time, redirect resources from institutionalization to community-based services, while increasing the availability of personal assistance.

Article 25 UN CRPD addresses Health.

44. The Committee is concerned that health services and facilities at the local level are not sufficiently accessible to people with disabilities, particularly those with intellectual disabilities and those with significant support needs. It is also concerned about (a)The lack of training of health personnel on the rights of persons with disabilities and on human rights in general (b) Limited access to information on health services and facilities, including on sexual and reproductive health and rights and related services, especially for women with disabilities who still live in institutions.

45.The Committee recommends that the State party take measures to ensure accessibility to community-based health services and facilities for persons with disabilities, in particular those with intellectual or psychosocial disabilities and those with significant support needs. In particular, the Committee recommends that the State party: (a) Raise awareness among medical professionals of the rights of persons with disabilities recognized in the Convention by organizing training sessions and enacting rules of professional ethics in this area; (b)Take measures to disseminate information on health services and facilities, including sexual and reproductive health services, to persons with disabilities, in particular women, in accessible formats.

The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024 also includes a focus on autonomy and social inclusion.²¹

4.1 Summary of the social situation of persons with disabilities

Data from EU-SILC indicate the poverty risk rate for working age persons with disabilities in Luxembourg was 27.2 % in 2018, compared to 16 % for other persons of similar age - an estimated disability poverty gap of approximately 11 percentage points (see Table 14). For people aged over 65, the disability poverty gap was 6.6 points (15.3 % for older persons with disabilities and 8.7 % for other persons of similar age). The tables in annex also indicate the respective rates of AROPE ('At Risk of Poverty or social Exclusion') and break these down by gender as well age.

On the headline measures of poverty or social exclusion (AROPE) Luxembourg tracks rather close to the EU average, for both disabled and non-disabled persons. Nevertheless, the poverty risk for disabled persons of working age stands out as significantly high, and with a widening disability equality gap in recent years (although this relative poverty gap might be due to recent improvement of incomes among other persons in the population).

The average level of unmet needs for medical treatment reported by disabled and non-disabled persons in Luxembourg in recent years is much lower than the EU average

²¹ *National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024,*
https://gouvernement.lu/fr/publications.gouv_mfamigr%2Bfr%2Bpublications%2Bplan-strategie%2Bhandicap.html.

(see Table 15) but it remains considerably elevated for persons with more severe impairments.

Neither the second Luxembourg National Action Plan (LAP2), nor the first one, nor the National plan for smart, sustainable and inclusive growth Luxembourg 2020²² prioritise Article 28 or adequately provision social policies for disability. Specifically, the latter addresses disability only in relation with the other categories of the population such as old people or low-income families.

Consequently, neither of national plans contain appropriate measures in relation with the collection of data on the socioeconomic situation of persons with disabilities, securing income levels by taking into account the additional costs related to disability, or guaranteeing that persons with disabilities have access to sufficient community-based social services (public housing programmes and support services for living independently) respectful of their rights, will and preferences. Access by women and girls with disabilities and older persons with disabilities to social protection programmes and poverty reduction programmes is not emphasised.

This situation is in contrast with the Article 28 CRPD requirement for the recognition of the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability. The insufficient consideration of these social rights would explain the current situation in Luxembourg in relation with the relatively high level of poverty, high risk of social exclusions for people at need social care, including people with disabilities.

According to the Commission Staff Working document - *Country Report Luxembourg 2020*,²³ which is also negatively impacted by the unavailability of sufficient socioeconomic data as there are few figures in ‘direct’ relation with people with disability, the overall risk of poverty or social exclusion has increased in 2018 and reached the EU average (21.9 %), in movement away from the UN Sustainable Development Goal 1 (No poverty). Also, the social transfers continue to have a strong, albeit decreasing, impact on poverty reduction (33.5 % in 2018). Material and social deprivation²⁴ in Luxembourg represents 4.5 %, which is well below the EU average of 12.9 %, but keeps slightly increasing from 3.2 % in 2016 to 4.1 % in 2018 (Eurostat – European statistics on income and living conditions).

²² National plan for smart, sustainable and inclusive growth Luxembourg 2020, https://ec.europa.eu/info/sites/info/files/2020-european-semester-national-reform-programme-luxembourg_en.pdf.

²³ Commission Staff Working Document: *Country Report Luxembourg* (2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1584543810241&uri=CELEX%3A52020SC0515>.

²⁴ The Material and Social Deprivation indicator (MSD) is the result of a revision of the material deprivation indicator (MD). It takes into consideration a broader concept of deprivation as it also includes items related to social activities, whereas the MD measured only material deprivation. It is based on 13 items (of which some are common to MD). The MSD rate is the share of people in the total population lacking (because of an enforced lack) at least 5 items out of the 13 MSD items (as opposed to 3 or more out of 9 items for MD), <https://ec.europa.eu/social/main.jsp?catId=818&langId=en&id=82>.

4.2 Analysis of social policies relevant to the Semester

Neither equal rights in law nor a decent living standard can be described as fully achieved for all persons with disabilities in Luxembourg.

Standard of living

In its concluding observations on the initial report of Luxembourg on October 2017,²⁵ the CRPD pronounces some concerns on the implementation of article 28 ‘Adequate standard of living and social protection’ of the convention and provides recommendations. These include (1) the absence of data on poverty and disability, (2) the higher risk of poverty for many persons with disabilities of working age and older persons with disabilities, (3) the increased risk of persons with disabilities being institutionalized (due to the additional expenses related to disability), and (4) the risk of deterioration of the standard of living of persons with disabilities (due to recent changes to care insurance regulations). Consequently, the CRPD provides some recommendations. (e.g. the Committee recommends that the State party should review its guardianship system).

The new Revenu d’inclusion sociale (REVIS) scheme was introduced in January 2019, and is expected to further alleviate poverty, foster social inclusion and active participation in the labour market. According to civil society actors, its real impact on poverty will actually depend largely on whether the new activation measures succeed in promoting active inclusion and ensuring transitions towards employment. This is in line with the 2019 Report by STATEC on employment and social cohesion,²⁶ where, in one hand, the income actually available to families is found to be central to the ability to lead a decent life, and, on the other hand, the vast majority of income is found to come from work; hence the importance of having a job. The negative impact of the current COVID-19 pandemic on the job market would indicate the risk of additional stress on the job market for people with disabilities, and therefore lesser improvement in their social inclusion, if not deterioration. According to the Caritas Sozialalmanach 2019 ‘Schwéerpunkt: Qualitative Wuesstem’ report published before the pandemic (on 12 December 2019), the Luxembourg objective to reduce the number of people at risk of poverty to 6.000 by (indicateur Europe 2020) was already found to be not achievable.²⁷ The evaluation of the REVIS scheme is expected by 2021 though.

Independent living

In its concluding observations on Luxembourg's initial report of October 2017, the UN CRPD Committee pronounced reservations on the implementation of article 19 ‘Living Independently and Inclusion in Society’ of the convention and provides some recommendations.

²⁵ Committee on the Rights of Persons with Disabilities (2017). Concluding observations on the initial report of Luxembourg,
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsvP%2BdTidrgtVuqxAW%2B69tiKIXBXKWmNQXT%2Fmo%2FEyFUOnby%2FrpQIV67BUhoNbCdpCAc7SIOMvANsJafd2PwWE94Ei7KuLj0qhi2PXCwnuevVb>.

²⁶ Social cohesion rapport 2019. (*Rapport travail et cohésion sociale*) 2019,
<https://statistiques.public.lu/fr/actualites/conditions-sociales/conditions-vie/2019/10/20191015/20191015.pdf>.

²⁷ Caritas Sozialalmanach 2019, https://issuu.com/caritas.luxembourg/docs/caritas_sozialalmanach_2019_236052e0a39408.

The second Luxembourg National Action Plan LAP2 addresses these recommendations only partially as follows:

- Regarding adoption of legislative or other measures to (1) better promote the right to independent living and inclusion in society, in particular access to personal assistance services, and (2) define more precisely the responsibilities of central and local authorities and their resources, the LAP2 does not envisage the repeal of Law No. 7014 or the abolition of disability insurance systems.
- Regarding deinstitutionalisation of persons with disabilities, the LAP2 foresees the creation of different forms of adapted and individualised housing and their validation by a sample of 25 people until 2023. Although overall aligned with the CRPD recommendation, the LAP2 is not sufficiently ambitious in terms of coverage, resource allocation and clarity of criteria.
- Regarding the measures necessary to guarantee the right of disabled people to a personal budget, the LAP2 commits to the development of a personal assistance budget system by 2023 and foresees a feasibility pilot project involving 10 disabled people. Although overall aligned with the CRPD recommendation, the LAP2 is not sufficiently ambitious in terms of coverage, resource allocation, clarity of modalities.

Overall, the LAP2 identifies some objectives for the years 2019-2024 and indicates some progress in relation with the CRPD. However, key issues such as personalized budgeting or deinstitutionalization and independent living for people with disabilities overall have not been sufficiently taken into account. Community based living and deinstitutionalization (*vivre en communauté, désinstitutionnalisation*) are not mentioned but the reform of the long-term care insurance system strengthens the possibility of living in the community in a situation where care is needed.

On 1 January 2018, the reform of the long-term care insurance scheme came into force.²⁸ This reform introduced major changes to the organisation of LTC insurance, but did not call into question the four guiding principles of LTC insurance, namely:

- priority of rehabilitation measures over care for long-term care;
- priority of home care before institutional care;
- priority to benefits in kind before cash benefits;
- continuity in the provision of care.

The Assessment and Guidance Unit (*La Cellule d'évaluation et d'orientation*), which had been responsible for assessing and determining assistance and care, advice and control, was renamed to 'the Administration for the Assessment and Control of Long-Term Care Insurance' (*Administration d'évaluation et de contrôle de l'assurance dépendance*). The reform introduced, among other things, greater flexibility with regard to essential acts of life through the introduction of flat-rate billing, changes in the organisation and time allowed for support activities, domestic tasks and counselling activities (replaced by independence support activities, accompaniment activities and home-care activities) and the possibility of individual night-time care at

²⁸ Act on Social Insurance. (*Loi du 29 août 2017 portant modification du Code de la sécurité sociale*). <http://legilux.public.lu/eli/etat/leg/loi/2017/08/29/a778/jo>.

home.²⁹ This will allow a larger group of people with disabilities to stay in their neighbourhood.

The Adapto service³⁰ for the temporary transport of people with disabilities is also measured to facilitate independent living in the community. It is aimed at persons with reduced mobility, or an irreversible impairment that prevents them from moving around independently, either by their own means or by using the public transport available. Since 1 March 2020, transport with the Adapto service is free of charge. However, Individuals with disabilities criticised that people whose mobility is only temporarily restricted cannot use the services of Adapto. It is also problematic that the accompanying of caregivers is restricted.³¹

Legal capacity

The second Luxembourg National Action Plan (LAP2) addresses the challenge to enhance the legal capacity of persons with disabilities under guardianship:

A.2.1: Delete in law on guardianship the mandatory limitations on the legal capacity of adults under legal protection.³²

Finding: Current legislation provides for several automatic limitations on the protected adult's capacity to act. Thus, for example, a protected adult does not have the right to sell his or her home and furniture (Article 490 Civil Code) without the authorisation of the guardianship judge. Furthermore, he or she does not have the right to make a will (Article 504 Civil Code) or to vote (Article 53 Constitution and art. 6 Electoral Law of 18 February 2003) if he or she has been placed under guardianship. An adult under guardianship may also not marry (art. 506 Civil Code) or make donations (Article 505 Civil Code) without the authorisation of the family council.

It should be noted that the current text of the proposed revision of the Constitution (parliamentary document No. 6030 of 28.6.2018) will abolish the automatic exclusion of the right to vote for persons under guardianship. Nevertheless, Article 65 of the proposal for a new Constitution provides that the law may provide for cases in which the judge may take a decision to prohibit the right to vote and to stand for election.

Although the LAP2 Action Plan proposes as a concrete measure to remove in legislation all automatic limitations on the legal capacity of protected adults to enable them to take their own decisions, with the assistance of their legal representative, the former restrictive rulings are still in force.

²⁹ General report on social security in the Grand Duchy of Luxembourg (2019), <https://igss.gouvernement.lu/fr/publications/rg/2018.html>.

³⁰ Announcement of *The GDL Réforme du transport spécifique 'Adapto': nouvelles modalités et création d'une plateforme unique de réservation*, https://gouvernement.lu/fr/actualites/toutes_actualites/communiques/2020/01-janvier/28-reforme-adapto.html.

³¹ Luxemburger Wort 05/06 09- 2020, <https://www.wort.lu/de/politik/wien-daeerf-mam-adapto-bus-fueren-a-wien-net-5f55fa57da2cc1784e365188>.

³² Act on Guardianship (1982). (*Loi du 11 août 1982 portant réforme du droit des incapables majeurs*), <http://eli.legilux.public.lu/eli/etat/leg/loi/1982/08/11/n3/jo>.

Healthcare

In its Concluding Observations on Luxembourg's initial report of October 2017, the UN CRPD Committee pronounced reservations on the implementation of Article 25 'Health' of the convention and provides recommendations. The second Luxembourg National Action Plan (LAP2) addresses these recommendations partially as follows:

- Regarding accessibility of local healthcare services to people with disabilities, and more specifically those with higher care needs and people with intellectual or psychological disabilities, the LAP2 foresees measures such as a health accessibility label ('label d'accessibilité'). However, these measures do not substantiate a significant impact potential. Specifically, implementation of the health accessibility label depends on the establishment of a new (building) accessibility law yet to be prepared, adopted and implemented. More specifically, the LAP2 doesn't clarify the practical modalities of the announced measures, in particular for people with intellectual or psychological disabilities, or people with disabilities needing more assistance.
- Regarding creating awareness among healthcare professionals about the rights of people with disabilities, and more generally the human rights, the LAP2 foresees the dissemination of relevant information in the health sector, and also training health professionals. However, the announced measures are neither sufficiently detailed nor accompanied by specific indicators for measuring their performance or impact. In addition, there is no provision for enacting rules of deontology in this area.
- Regarding improving dissemination of information about health services and centres, and more specifically with regard to sexuality and procreation, in particular to still institutionalised women, plans to create a directory of specialized health care providers and accessible services. However, no specific timeframe is provided, and performance indicators are 'linked' without explanation of justification to those applied to the rare diseases.

Overall, public policies related to the health of people with disabilities should be both more comprehensive and more specific. More comprehensive in that they should be designed based on a global/holistic understanding of disability (which is not a form of illness) and the needs of people with disabilities for health services , in one hand, and a sound understanding of the specific types of disability and their implications on the design of medical services in terms of usability, effectiveness and efficiency, on the other hand. For example, in order to be usable, effective and efficient, the on-line medical record service ('Dossier de Soins Partagé' - DSP)³³ should have been designed based on a detailed analysis of the medical follow-up processes for people with disabilities, in one hand, and should by-design take into consideration their peculiarities. For example, the usual authentication protocols involving for example a security token are not effective in many types of disability, and more generally the human-computer interaction interface. Although in relation with this specific topic, the LAP2 recognises the need for further adaptations, it recommends only a general comment on the way forward.

³³ LE DSP (DOSSIER DE SOINS PARTAGÉ) 2020, <https://www.esante.lu/portal/fr/je-m-informe/services-esante-pour-les-patients-187-211.html>.

5 Disability, education and skills – analysis of the situation and the effectiveness of policies

In 2017, the UN CRPD Committee made the following recommendations to Luxembourg:

Article 24 UN CRPD addresses Education.

43. Recalling its general comment No. 4 (2016) on the right to inclusive education and Sustainable Development Goal 4, especially its targets 4.5 and 4.8, the Committee recommends that the State party: (a) Amend the laws on education to ensure that no student is refused admission to mainstream schools on the basis of disability, ensure accessibility and allocate the resources necessary to guarantee reasonable accommodation, including assistant support staff, including pre-school and tertiary education and the private sector; (b) Adopt a legally defined procedure for the provision of reasonable accommodation at all levels of education and allocate the resources necessary to guarantee reasonable accommodation according to individual requirements in consultation with the person concerned; (c) Design and implement an action plan on inclusive education with sufficient resources, timelines and specific goals; (d) Increase awareness-raising initiatives, including training on inclusive education and its implementation mandatory for teachers, support teachers and non-teaching education personnel; (e) Increase data collection on, among others, the implementation of education laws and policies, and accessibility of school infrastructures, information and communications, including information and communications technology, to inform inclusive education policies.

The National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024 also includes a focus on education.³⁴

In its Concluding Observations (2017) on the initial report of Luxembourg the Committee on the Rights of Persons with Disabilities³⁵ remarks that education laws still allow for the segregation of students with disabilities, and that segregated education environments persist, especially for students with intellectual disabilities. It also calls for a legally defined procedure for the provision of reasonable accommodation and for assistant support staff in classrooms, in public and private schools. Finally, the Committee assumes that there is misunderstanding of reasonable accommodation as reflected in Act of 15 July 2011 and that there is an insufficient training of teachers, support teachers and non-teaching personnel on inclusive education.

³⁴ National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024,
https://gouvernement.lu/fr/publications.gouv_mfamigr%2Bfr%2Bpublications%2Bplan-strategie%2Bhandicap.html.

³⁵ The Committee on the Rights of Persons with Disabilities (2017), *Concluding observations on the initial report of Luxembourg*,
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnP%2BdTidrgtVugxAW%2B69tiKIXBXKWmNQXT%2Fmo%2FEyFUOnby%2FrpQIV67BUhoNbCdpCAc7SIOMvANsJafd2PwWE94Ei7KuLj0qli2PXCwnuevVb>.

5.1 Summary of the educational situation of persons with disabilities

The EU-SILC³⁶ estimates concerning educational attainment should be treated with some caution due to variable confidence levels, but they consistently indicate disability quality gaps. Table 16 indicates early school leaving rates disaggregated by disability status. Youth with disabilities (aged 18-24) tend to leave school significantly more than non-disabled peers of the same age groups (and this is reinforced by widening the sample size to age 18-29). Table 17 shows completion rate of tertiary education disaggregated by disability and age group. Persons with disabilities (age 30-34) are less likely to complete tertiary education than their peers (and this is reinforced in the wider sample for age 30-39).

The first CRPD shadow report (2016)³⁷ was pessimistic about the implementation of inclusion in education: As long as parallel education structures (special schools and regular schools) exist and are being promoted, the goal of a fully inclusive school system as required by the CRPD will not be reached. The shadow report stated that during the school year 2015-2016, 1,718 children and young persons with disabilities attended school. Of these, 764 were attending regular schools, 954 attended special schools (total of school-goers: approximately 87,000). The ‘inclusion percentage’ dropped from education level to education level. During the school year 2013-2014, only 4.74 % of all pupils with disabilities went to regular secondary schools. During the academic year 2015-2016, only 0.85 % of students the University of Luxembourg were students with disabilities requesting assistance or accommodations. It is difficult to get exact numbers, as there is an undefined number of children attending special schools abroad. There is even a convention (not mentioned by the State report) between the Ministry of Education and neighbouring country Belgium on covering the costs of schooling numerous Luxembourgish children attending specialized schools in Belgium.

After 45 years (1973 - 2018) the special school system (*éducation différenciée*) is being replaced by specialised pedagogical competence centres for school inclusion in July 2018.³⁸ While the special school system (*éducation différenciée*) was in force, about one percent of pupils of school age were taught in special institutions. The overall number of pupils showed a constantly rising trend. For the year 2018, statistics were no longer published in the annual reports of the Ministry of Education. There are also no summary figures available for the competence centres set up after the special school system (*éducation différenciée*) was closed. (see Figure 8).

³⁶ EU SILC (2020) Early leavers from education and training, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Early_leavers_from_education_and_training.

³⁷ Alternative Report on Implementation of the United Nations Convention on the Rights of Persons with Disabilities - Luxembourg (2016), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCSS%2fLUX%2f26160&Lang=en.

³⁸ *Loi du 20 juillet 2018 portant création de Centres de compétences en psycho-pédagogie spécialisée en faveur de l'inclusion scolaire. Loi du 20 juillet 2018 portant création de Centres de compétences en psycho-pédagogie spécialisée en faveur de l'inclusion scolaire*, <http://legilux.public.lu/eli/etat/leg/loi/2018/07/20/a664/jo>. Avec la mise en vigueur de la loi du 20 juillet 2018, le S-EBS a remplacé le Service de l'Éducation différenciée du ministère.

Today pupils with special needs may receive their schooling:

- in mainstream education (with or without special ambulatory support);
- through a mixed arrangement – i.e., schooling divided between mainstream and in a special education school;
- in a special education school (while remaining enrolled in their school of origin);
- in an accredited schooling establishment in Luxembourg or abroad.

With regard to secondary schools, the Act of 15 July 2011³⁹ introduced the right for reasonable accommodations (*aménagements raisonnables*) in secondary education. This Act applies to pupils with special educational needs, in secondary and technical secondary education and adult education, who have a particular impairment or disability whose impact prevents them from demonstrating the acquired skills in the assessment tests and which is such that these impairments can be remedied by the reasonable accommodations provided for in this Act.

The number of students who benefit from a reasonable provision in secondary education is growing steadily, from less than 1 per thousand in 2011 to 0.5 % of all secondary school students in 2019 (see Figure 1). The largest group are students with learning difficulties ('dys-') and ADHD, followed by sensory impairments and psychosocial conditions such as autism. Among the most frequently used accommodations are personal assistance and extension of the specified time limits.

In tertiary education the new act of the University of Luxembourg (2018) regulated for the first time the application of reasonable accommodation at the University (*Loi du 27 juin 2018 ayant pour objet l'organisation de l'Université du Luxembourg*).⁴⁰ This act defines a student with special educational needs by analogy with the secondary school law. Accommodations are foreseen first and foremost if they can compensate for the impairment or incapacity that hinders academic success. Preferential admission for students with disabilities or a quota system does not apply. In previous surveys, the proportion of students with disabilities at the University of Luxembourg has always been below 1 %. More recent figures since the adoption of the new university law are not available.

5.2 Analysis of education policies relevant to the Semester

For reference, see also the 2020 [National Reform Programme](#) for Luxembourg.

The first state report on CRPD implementation (2014)⁴¹ characterised the Luxembourg legislation as based on the following paradigms: (1) Schooling within regular education is the rule. In order to refer a child to a specialised school, specific procedures must

³⁹ Act on accommodations in secondary education (*Loi du 15 juillet 2011 visant l'accès aux qualifications scolaires et professionnelles des élèves à besoins éducatifs particuliers*), <http://legilux.public.lu/eli/etat/leg/2011/07/15/n1/jo>.

⁴⁰ Act on Luxembourg University 2018. (*Loi du 27 juin 2018 ayant pour objet l'organisation de l'Université du Luxembourg*), https://intranet.uni.lux/the_university/newlaw/Documents/Loi%20du%2027%20juin%202018%20Universit%C3%A9%20du%20Luxembourg.pdf.

⁴¹ First national periodic report (2014), <https://mfamigr.gouvernement.lu/dam-assets/publications/rapport/crdph/Rapport-periodique-etatique-CRDPH.pdf>.

be followed. This procedure includes a detailed assessment of the child, which is an essential element; (2) Every child has a right to education, to instruction, regardless of the complexity of his or her specific educational needs; (3) The place of schooling is offered according to the pupil's needs.

The new Action Plan (LAP2, 2019)⁴² identifies the following problematic in current policies: Some of the current legislation distinguishes between 'pupils with special educational needs' (*élèves à besoins éducatifs particuliers*) and 'pupils with special educational needs' (*élèves à besoins éducatifs spécifiques*), while the law of 20 December 2002 (*élèves à besoins éducatifs spécifiques*) does not distinguish between pupils with special educational needs and pupils with special educational needs. July 2018 creating specialised psycho-pedagogical competence centres for school inclusion (*loi du 20 juillet 2018 portant création de Centres de compétences en psycho-pédagogie spécialisée en faveur de l'inclusion scolaire*) only uses the term 'children with special educational needs' (*enfants à besoins spécifiques*). This distinction appears to create unjustified discrimination, since a child appears to be entitled to different types of assistance depending on the category into which he or she has been placed.

Competence centres

The establishment of competence centres in 2018 is expected to lead to a decline in the number of pupils taught separately. The number of pupils with special educational needs who were taught in nearby countries has already decreased. With the Act of 20 July 2018 eight Special Competence Centres promoting inclusive education in schools, plus an Agency, have been established:

- The Centre for the Development of Sight-related Skills (*Centre pour le développement des compétences relatives à la vue* - CDV);
- the Centre for the Development of Motor Skills (*Centre pour le développement moteur* – CDM);
- The Centre for Children and Young People with Autism Spectrum Disorder (*Centre pour enfants et jeunes présentant un trouble du spectre de l'autisme* - CTSA) ;
- The Centre for Intellectual Development (*Centre pour le développement intellectuel* - CDI) ;
- the Speech Therapy Centre (*Centre de Logopédie* - CL);
- The 'Grande-Duchesse Maria Teresa' Centre for the Development of Learning Experiences (*Centre pour le développement des apprentissages 'Grande-Duchesse Maria Teresa'* - CDA) ;
- The Centre for Social and Emotional Development (*Centre pour le développement socio-émotionnel* - CDSE) ;
- the Centre for High-Potential Children and Young People (*Centre pour enfants et jeunes à haut potentiel* - CEJHP);
- the Agency for Transition to Independence (*Agence pour la transition vers une vie autonome* - ATVA).

⁴² MFAMIGR (2020) *National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities 2019-2024*, <https://mfamigr.gouvernement.lu/fr/publications/plan-strategie/handicapacc.html>.

Each Centre provide ambulatory or in-house support.⁴³ Due to the differentiated offers of the competence centres, it is no longer possible to give exact figures regarding the separating schooling. The relevant publications no longer provide the relevant statistics. Neither the press releases at the beginning of the school year nor the annual reports of the Ministry of Education contain statistics on separate schooling in the competence centres established in 2018.

Conclusion

As in the labour market, national policy in the field of education seems to be based on an inclusive approach that focuses on achieving the required performance targets and educational standards. Inclusion is sought primarily by compensating for disadvantages and making reasonable arrangements where it appears possible to achieve the educational objectives. First and foremost, education is not seen as an end-in itself, but as a chance and a condition for successful performance on the market (labour market). In practice, the key indicators are often not (no longer) collected or published, so that it is not even possible to check whether the established criteria are met.

The introduction of the competence centres does not fundamentally eliminate the problem of pupils with specific special educational needs not being educated in a mainstream school. The crucial role of the competency-based approach in the primary school, whose achievement is the sine qua none of further academic progress, inevitably leads to pupils slipping from mainstream school into specialised units (separated education). This particularly affects pupils with cognitive impairments.

On the positive front, however, it should at least be noted that the new education legislation has led to a reduction in foreign schooling and that pupils from near foreign countries have been reintegrated into the Luxembourg system.

⁴³ Information of the Luxembourg Administration 2020 (*Informations de l'administration luxembourgeoise 2020*), <https://quichet.public.lu/en/citoyens/enseignement-formation/education-prescolaire-primaire/besoins-specifiques/besoins-specifiques.html>.

6 Investment priorities in relation to disability

6.1 Updates on use of existing EU funds (to 2020)

The Luxembourg ESF programme is prioritising employment and the integration of in the job market particularly focussing on youth.⁴⁴

COSP-HR project is dedicated to persons with disabilities and aims to facilitate their professional (re)integration in the labour market. The COSP-HR project (mentioned several times in this report) was co-financed by the European Social Fund, the Ministry of Labour and Employment, and Social economy and solidarity and the Ministry of Family, Integration and the Greater Region.

6.2 Priorities for future investment (after 2020)

In general, the issues dealt with by the EU have a very strong economic focus. The question arises, however, in my view, whether the current inclusion policy in education systems and in the first labour market takes into account the constraints and pitfalls of a neoliberal and meritocratic society that is oriented solely towards the perceived result, so that inclusion degenerates into a rhetorical phrase that merely expresses a submission to inhuman competition in a system that makes people ill (fear of school, bullying, burnout, etc.).

Nevertheless, it is vital to target investments in a way that responds to those challenges. For example:

CSR1 highlights the need to ‘appropriate availability of health workers’ and to accelerating reforms to improve e-Health. In this regard, the disproportionately unmet needs of disabled persons are clearly evidenced in Luxembourg and need to be mentioned.

CSR2 targets the need to ‘Mitigate the employment impact of the crisis, with special consideration for people in a difficult labour market position’. As the evidence in our report shows, disabled persons in Luxembourg face considerable barriers to employment in the open labour market, which need to be addressed in any investment (taking account of Social Pillar principles and those of the CRPD).

CSR3 urges an investment focus on digital transition and sustainable infrastructure, including transport and buildings. It is essential to ensure, in this context, that accessibility for disabled persons is built-in, in accordance with Article 9 CRPD and EU public procurement and accessibility Directives, as well as structural fund rules.

⁴⁴ The ESF in Luxembourg, <https://ec.europa.eu/esf/main.jsp?catId=388&langId=en>.

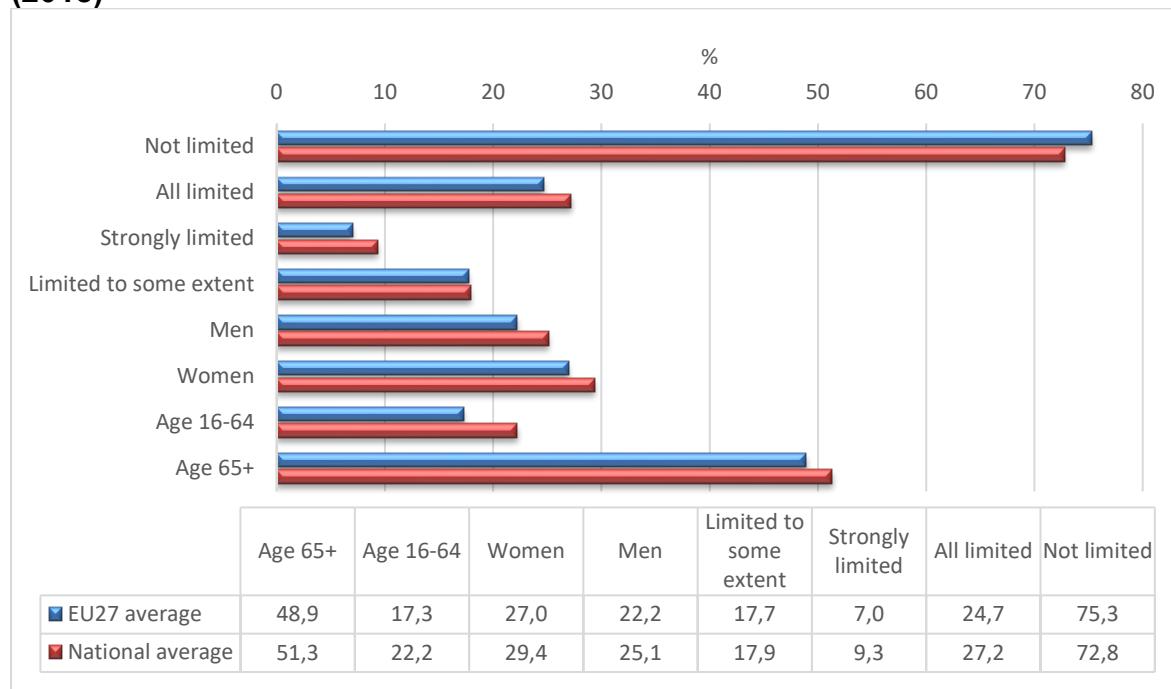
7 Annex: disability data relevant to the Semester

See also disability data published in the Eurostat database⁴⁵ and statistical reports.⁴⁶

Unless specified, the summary statistics are drawn from the most recent EU-SILC data available to researchers from Eurostat. The EU-SILC sample includes people living in private households and does not include people living in institutions (congregative households). The sampling methods vary somewhat in each country.

The proxy used to identify people with disabilities (impairments) is whether ‘for at least the past six months’ the respondent reports that they have been ‘limited because of a health problem in activities people usually do’.⁴⁷

Table 1: Self-reported ‘activity limitations’ as a proxy for impairment/disability (2018)



Source: EU-SILC 2018 Release 2020 version 1

In subsequent tables, these data are used to indicate ‘disability’ equality gaps and trends relevant to the analytical chapters – for the labour market, social policies and healthcare, and education – by comparing outcomes for persons who report and do not report ‘activity limitations’.⁴⁸ National estimates for Luxembourg are compared with EU27 mean averages for the most recent year.⁴⁹

⁴⁵ Eurostat health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

⁴⁶ Eurostat (2019) *Disability Statistics* https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Disability_statistics.

⁴⁷ The SILC survey questions are contained in the Minimum European Health Module (MEHM) [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Special:WhatLinksHere/Glossary_Minimum_European_Health_Module_\(MEHM\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Special:WhatLinksHere/Glossary_Minimum_European_Health_Module_(MEHM)).

⁴⁸ This methodology was developed in the annual statistical reports of ANED, available at <http://www.disability-europe.net/theme/statistical-indicators>.

⁴⁹ The exit of the United Kingdom from the EU changes the EU average. Averages were also affected in 2015 by a discontinuity in the German disability data due to a definitional change.

7.1 EU data relevant to disability and the labour market (2018)

Table 2: Employment rates, by disability and gender (aged 20-64)

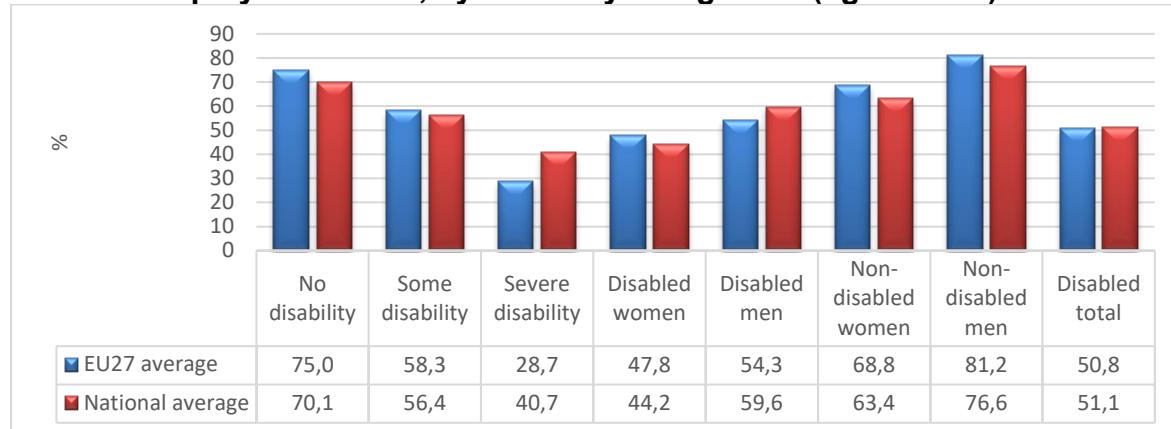


Table 3: Employment rates in Luxembourg, by disability and age group

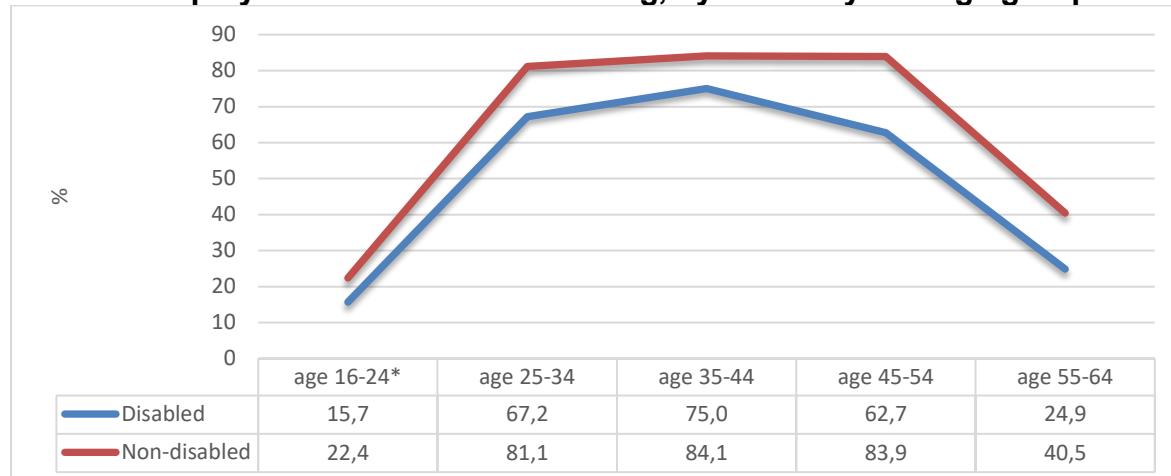
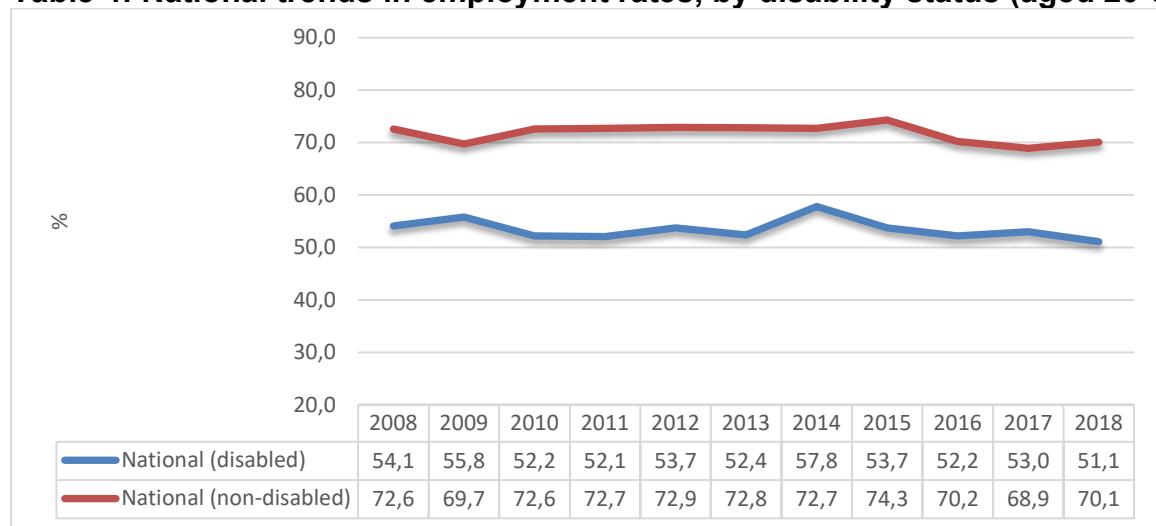


Table 4: National trends in employment rates, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

7.1.1 Unemployment

Table 5: Unemployment rates by disability and gender (aged 20-64)

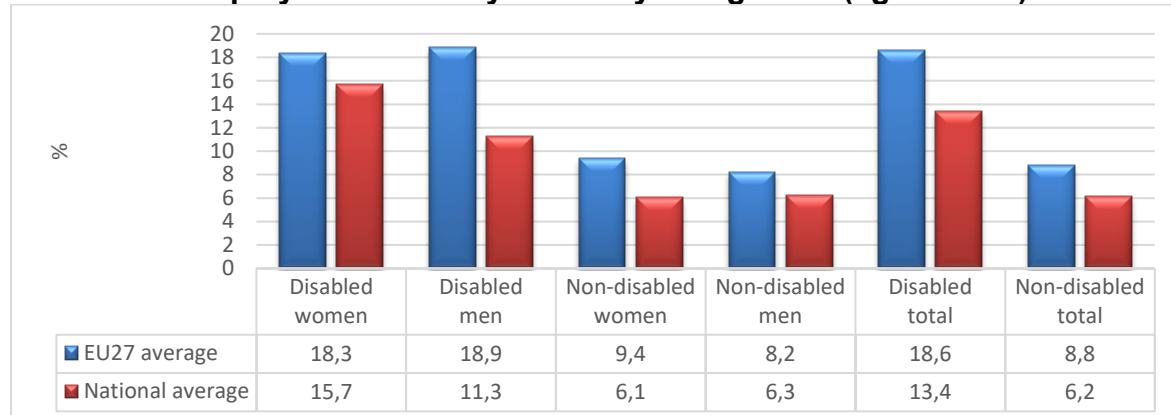


Table 6: Unemployment rates in Luxembourg, by disability and age group

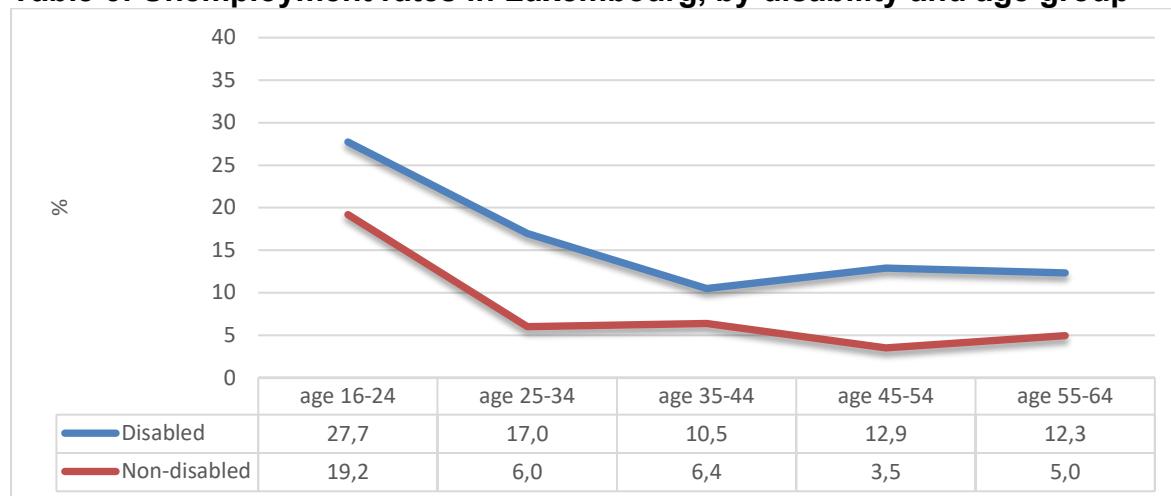
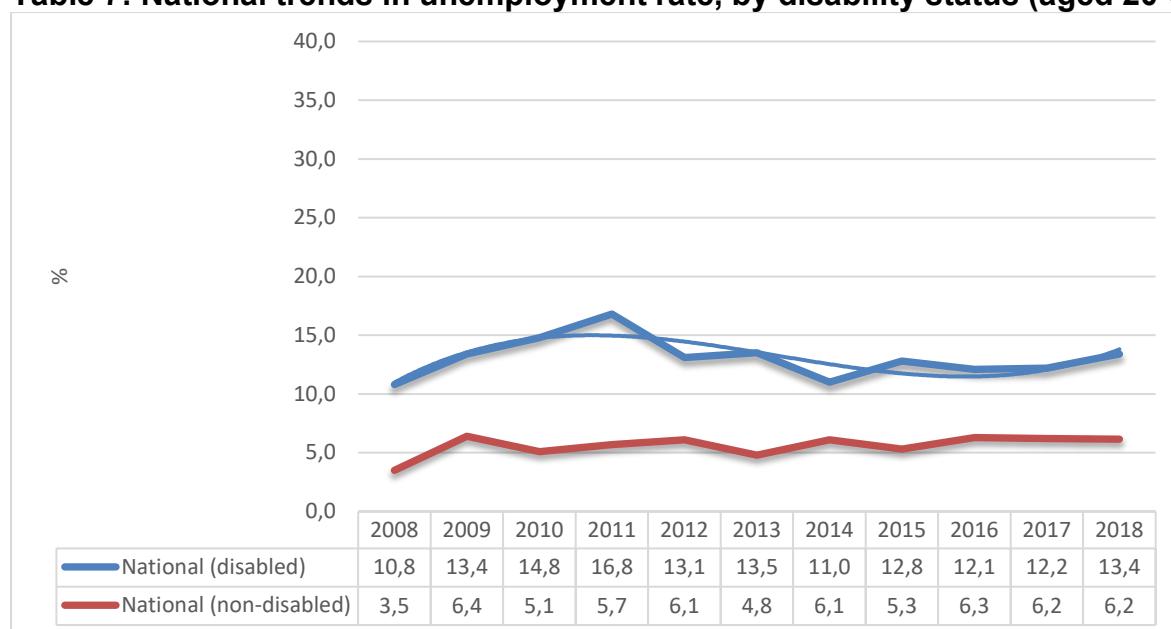


Table 7: National trends in unemployment rate, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

7.1.2 Economic activity

Table 8: Economic activity rates, by disability and gender (aged 20-64)

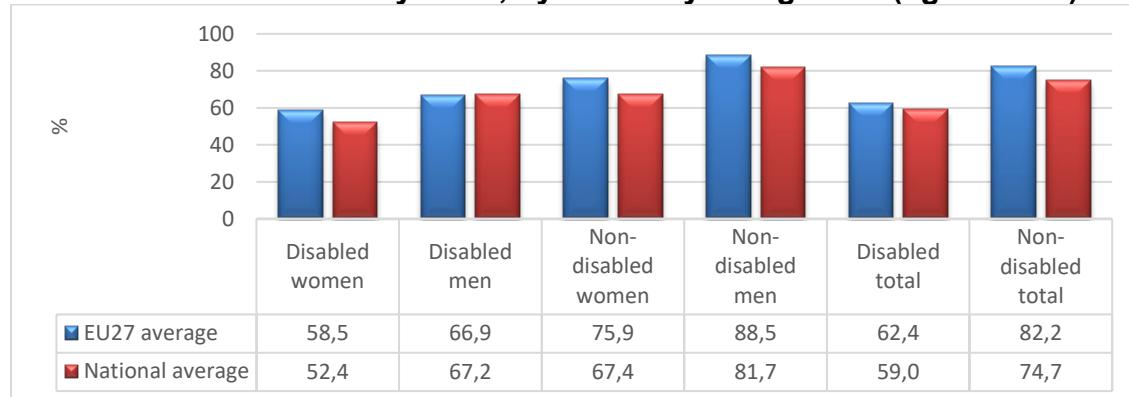


Table 9: Activity rates in Luxembourg, by age group

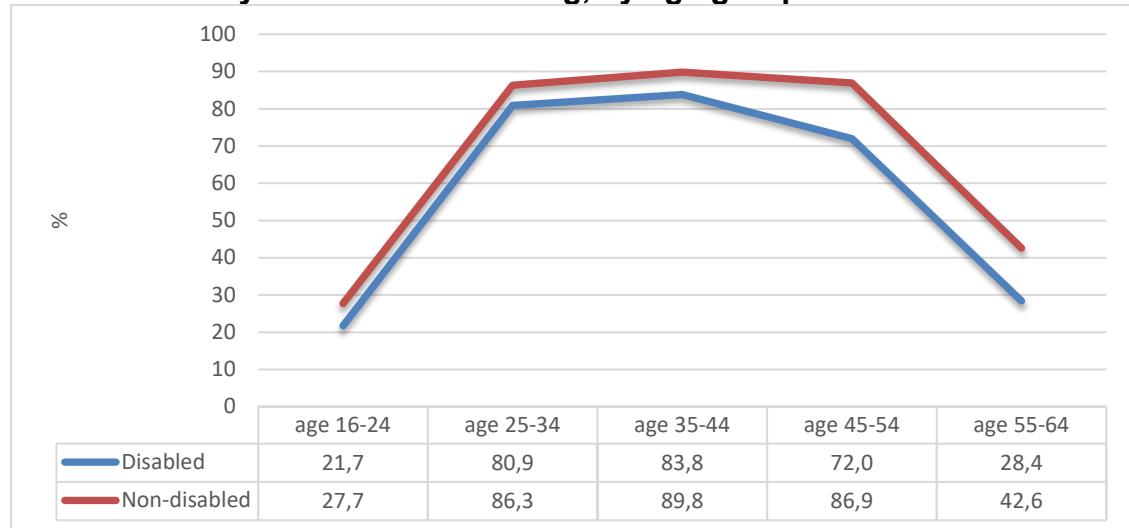
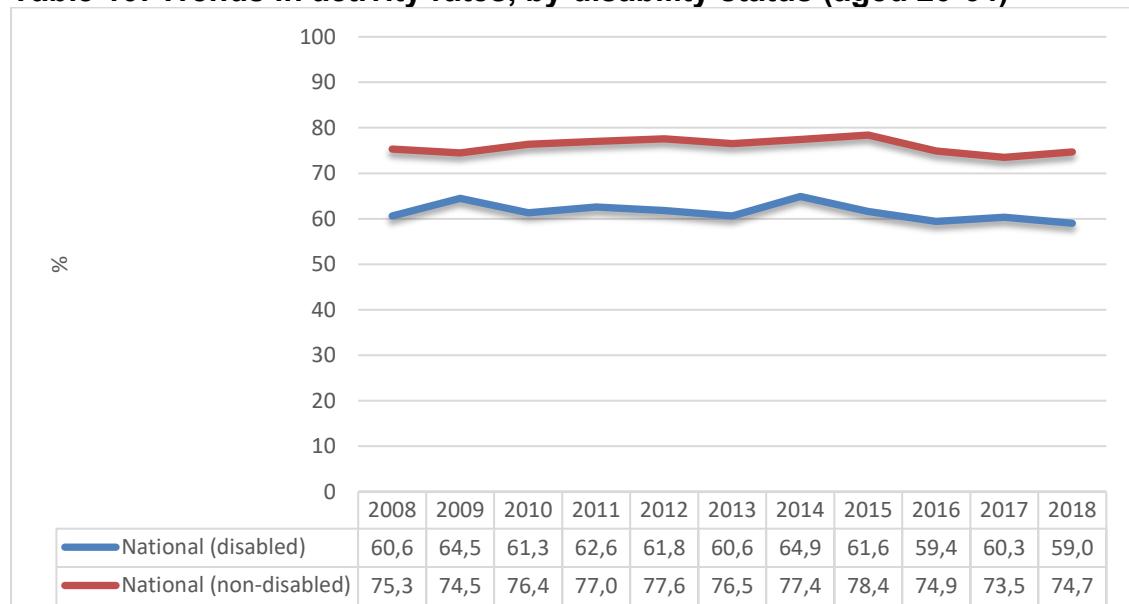


Table 10: Trends in activity rates, by disability status (aged 20-64)



Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

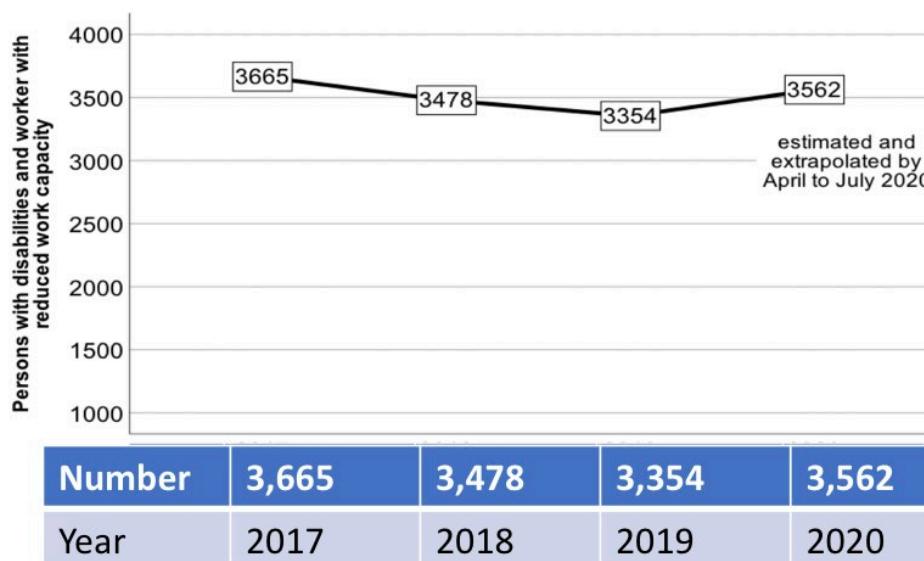
7.1.3 Alternative sources of labour market data in Luxembourg

Disability data is not included in the core European Labour Force Survey but labour market indicators for Luxembourg were disaggregated from ad modules conducted in 2001 and 2011. These can be found in the Eurostat disability database.⁵⁰

The Ministry of Labour publishes every year the data relating to registered jobseekers with disabilities. Disabled workers are identified by the enrolment at the National Employment Service (ADEM) and recognised as a disabled worker (*salarié handicapé*) by the Employment Service. Luxembourg participated in the European LSF Module 2002 Employment of Disabled Persons.

Additional sources and data are integrated within the text above.

Figure 1: Persons with disabilities and worker with reduced work capacity⁵¹



⁵⁰ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

⁵¹ Calculation by the authors based on the monthly reports of ADEM. The comparison to the month of the previous year shows an increase of 26%. This statement can indeed be found in the ADEM report for July 2020. Special percentages of change for persons with disabilities are not published in this report, https://gouvernement.lu/fr/actualites/toutes_actualites/communiques/2020/08-aout/20-chomage-juillet.html.

Figure 2: ADEM Guiding decisions⁵²



Figure 3: Severely disabled persons (with the status of ‘personne gravement handicapée’)⁵³



⁵² Data compiled by the authors, on the basis of ADEM yearly reports (decisions of the Guiding Commission (*la Commission d’orientation et de reclassement professionnelle*)- COR, <https://adem.public.lu/en/publications/adem/2020/rapport-activite-complet-2019.html>.

⁵³ Data compilation by the authors based on statistics of the National Solidarity Fund - FNS <https://www.fns.lu/rapports-dactivite/>.

Figure 4: Jobs in sheltered workshops⁵⁴

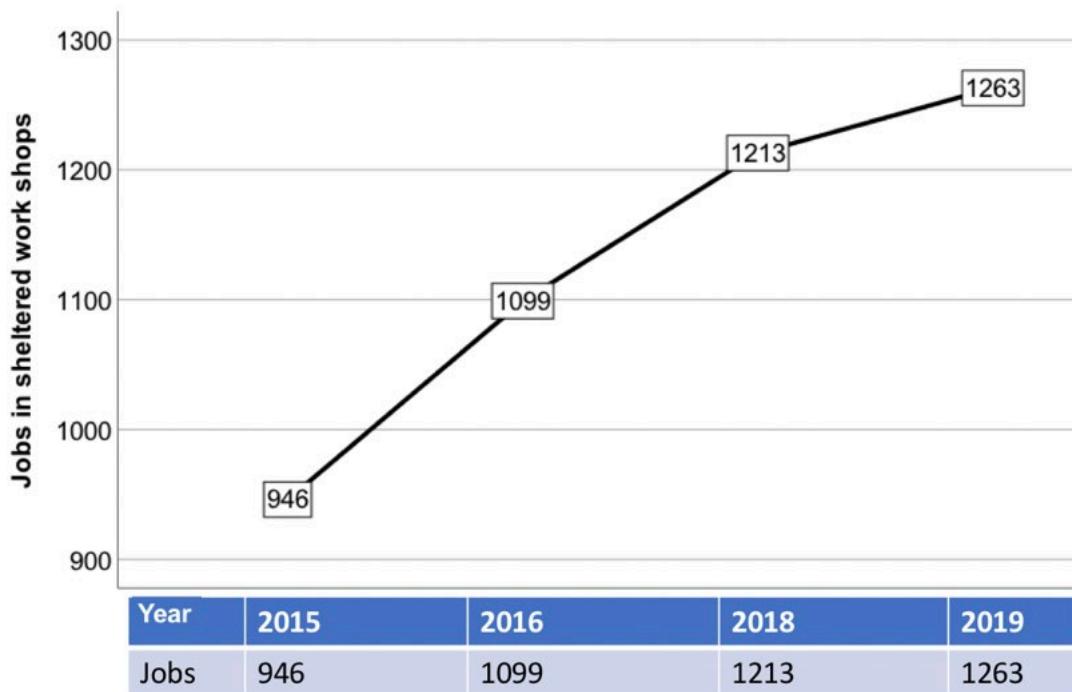


Figure 5: Quota-(un-)fulfilment

Size (employees)	Mandatory quota	Enterprises	Employees	Compani es comply	Employme nt potential
25-49	1 employee	865	38.303	5 %	865
50-299	2 %	835	69.926	10 %	1.399
300 and more	4 %	126	72.314	0 %	2.893
Total		1826	180.543		5.157

Source: data compiled by Mellouet 2019, 2⁵⁵

⁵⁴ Data compiled by the authors based on date of the ADEM reports. In 2017 no data can be found, <https://adem.public.lu/en/publications/adem/2020/rapport-activite-complet-2019.html>.

⁵⁵ Mellouet, Sarah (2019) entreprises: un « bilan emploi » en demi-teinte, <https://www.fondation-idea.lu/2019/02/22/handicap-et-entreprises-un-bilan-emploi-en-demi-teinte/>.

Figure 6:The COSP-HR Programme

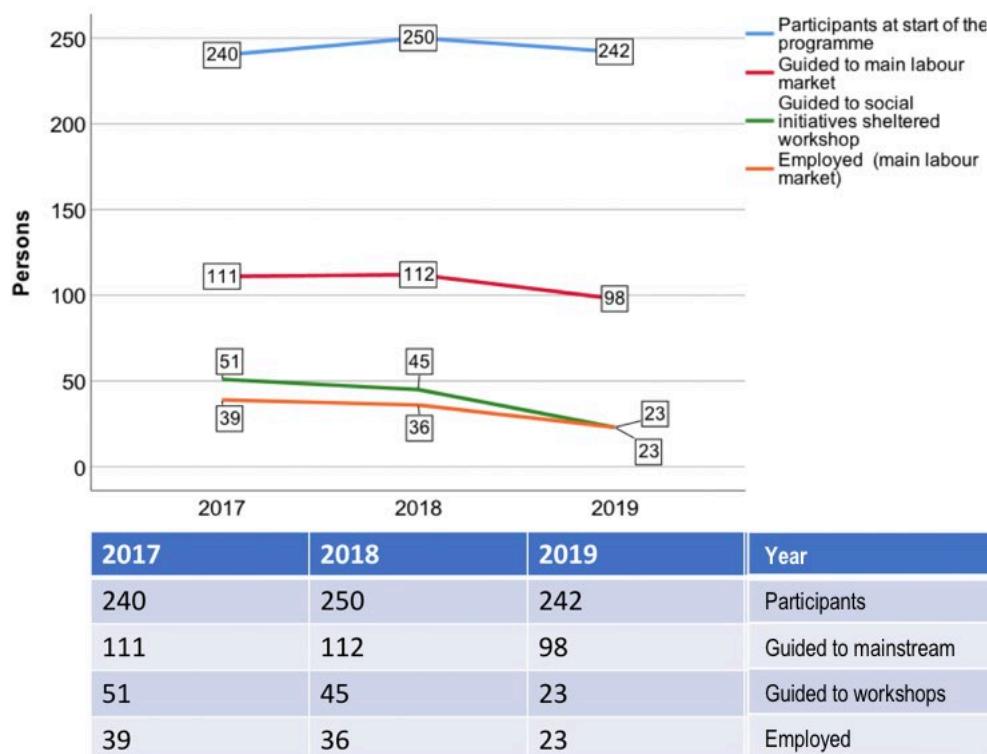
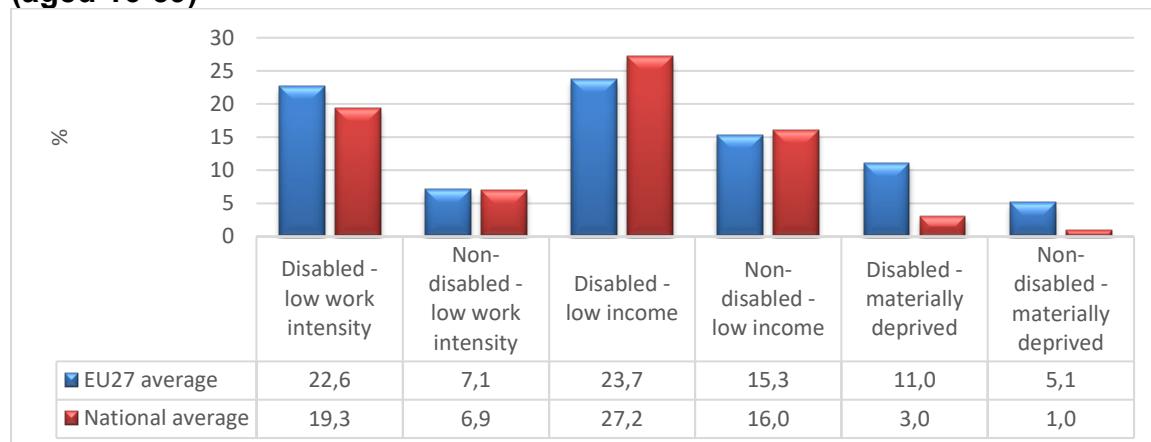


Figure 7: workplaces equipped for the employment of disabled people by the employment office⁵⁶

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019
Number	7	4	5	8	9	10	12	20	17

7.2 EU data relevant to disability, social policies and healthcare (2018)

Table 11: People at risk of poverty or social exclusion, by disability and risk (aged 16-59)



⁵⁶ Data compiled by the authors, on the basis of ADEM yearly reports, <https://adem.public.lu/en/publications/adem/2020/rapport-activite-complet-2019.html>.

Table 12: People at risk of poverty or social exclusion, by disability and gender (aged 16+)

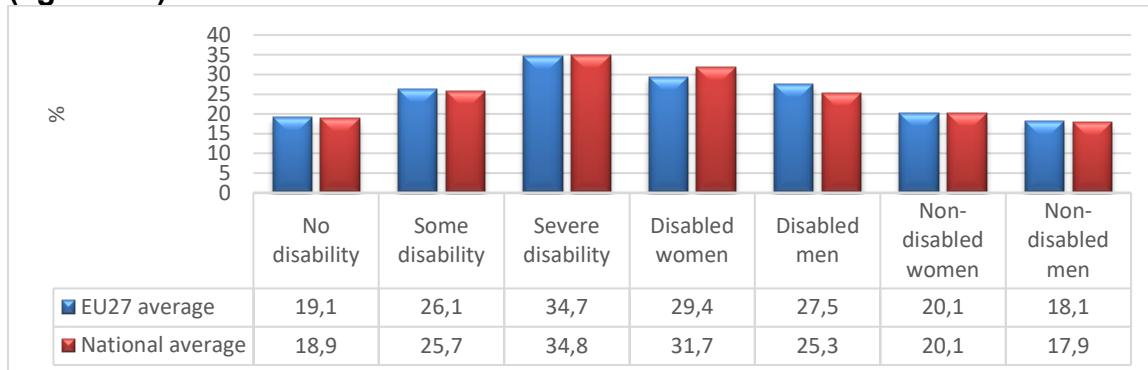
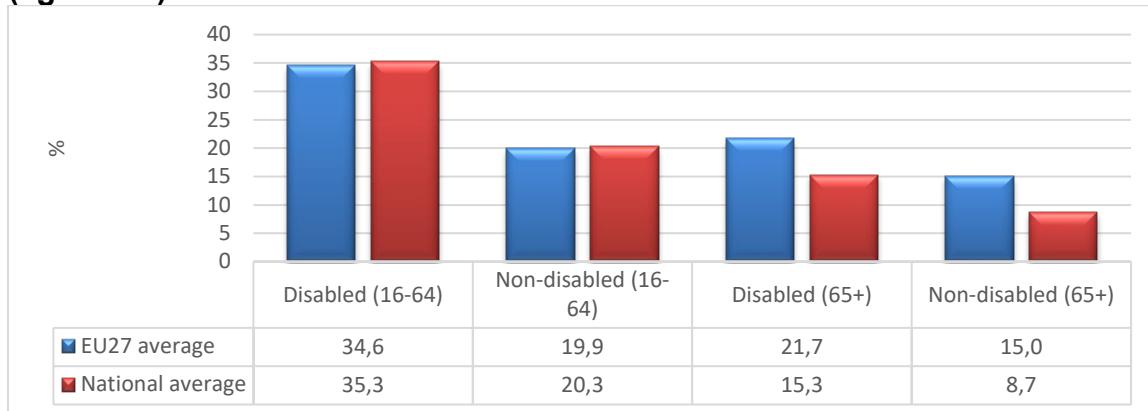
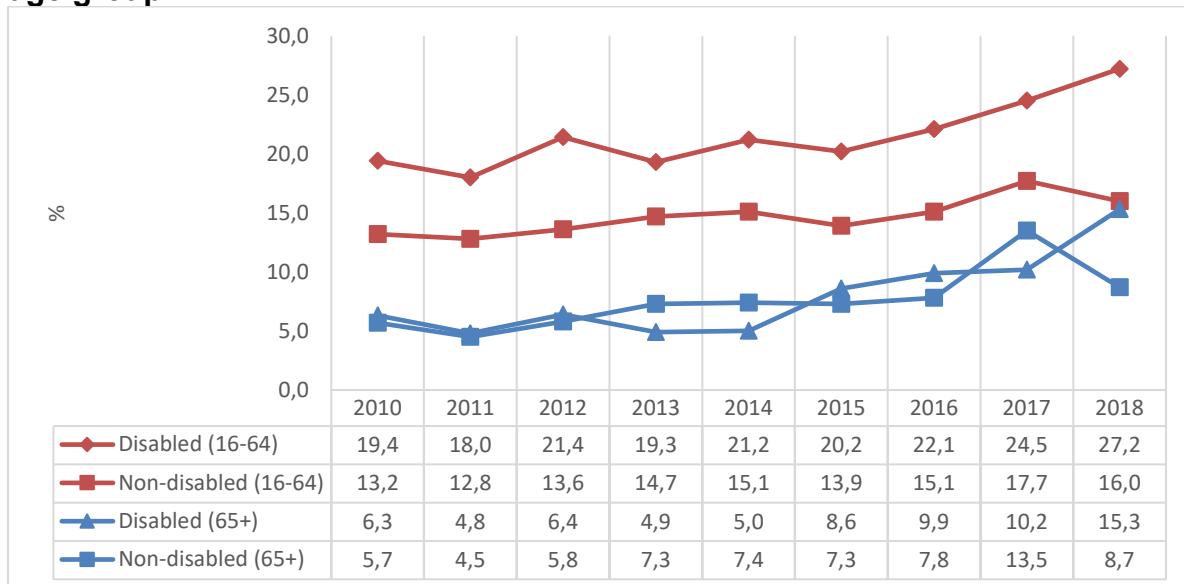


Table 13: Overall risk of household poverty or exclusion by disability and age (aged 16+)



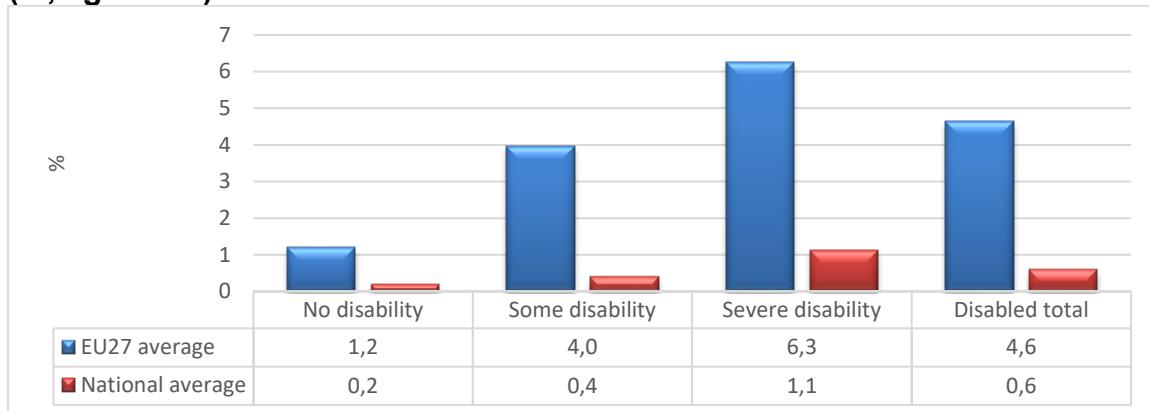
Source: EU-SILC 2018 Release 2020 version 1 (and previous UDB)

Table 14: Trends in the risk of poverty after social transfers, by disability and age group



Source: Eurostat Health Database [[hlth_dpe020](#)] - People at risk of poverty

Note: this table shows national trends in financial poverty risk, rather than the general AROPE indicator (which is not as comparable between age groups due to the effect of paid employment); the survey does not distinguish 'activity limitation' for children under 16.

Table 15: Self-reported unmet needs for medical examination, 3-year average (% , aged 16+)

Source: Eurostat Health Database [[hlth_dh030](#)] – ‘Too expensive or too far to travel or waiting list’

Note: due to large variations an average of three years is indicated. EU mean averages are also skewed by high values in a minority of countries within disability groups but median averages for the total disability and no disability groups in 2018 are consistent with the 3-year mean values.

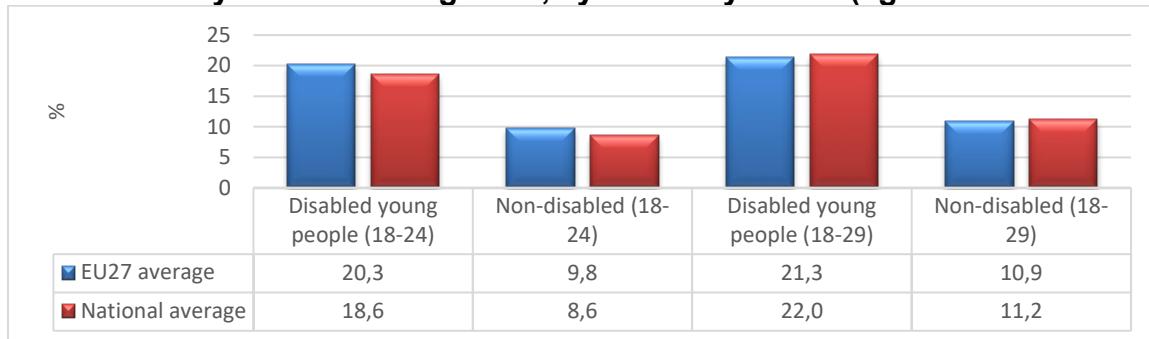
7.2.1 Alternative sources of poverty or health care data in Luxembourg

The EU-SILC data provides a comprehensive and reliable source concerning poverty or social exclusion rates. In addition to the summary tables presented so far, the Eurostat disability database also contains breakdowns concerning disability and poverty before and after social transfers, as well as in-work-poverty.⁵⁷

National surveys or studies may offer additional information.

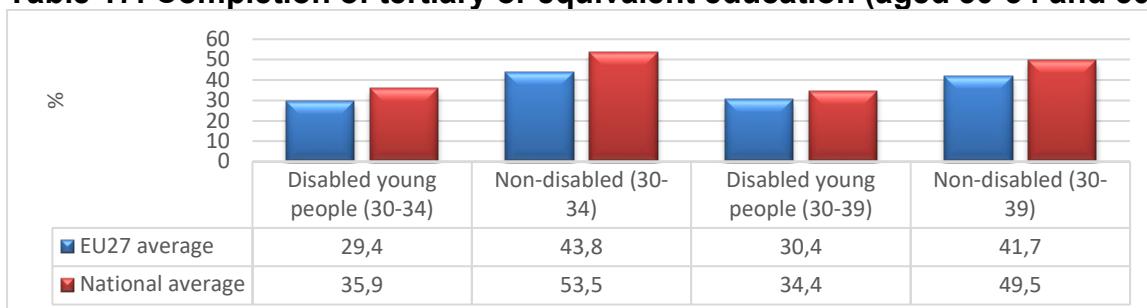
Alternative sources and data are integrated within the text above.

7.3 EU data relevant to disability and education

Table 16: Early school leaving rates, by disability status (aged 18-24 and 18-29)⁵⁸

⁵⁷ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

⁵⁸ There was a change from ISCED 1997 to ISCED 2011 qualification definitions in 2014 although some Member States continued to use the older definition after this time.

Table 17: Completion of tertiary or equivalent education (aged 30-34 and 30-39)

Source: EU-SILC 2018 Release 2020 version 1 (and preceding UDBs)

Note: Confidence intervals for the disability group are large and reliability low (due to the small sample size in the target age group). An average of several years may be needed to establish trends or to compare breakdowns by gender.

7.3.1 Alternative sources of education data in Luxembourg

Disability data is not included in the core European Labour Force Survey, but education and training indicators were disaggregated from ad hoc modules conducted in 2001 and 2011. These can be found in the Eurostat disability database.⁵⁹ Similar caution is needed with this data.

Some administrative data is also provided in the European Agency's Statistics on Inclusive Education (EASIE), concerning the population of enrolled students identified with special educational needs in Luxembourg.⁶⁰

The EASIE data collection takes place every two years. The most recent data available at the EASIE homepage are from the year 2017.

Additional sources and data are integrated within the text above.

⁵⁹ Eurostat Health Database, <https://ec.europa.eu/eurostat/web/health/data/database>.

⁶⁰ European Agency for Special Needs and Inclusive Education, *Statistics on Inclusive Education*, <https://www.european-agency.org/data/data-tables-background-information>.

Figure 8: Students with special needs at school age educated under the special needs system (éducation différenciée)⁶¹

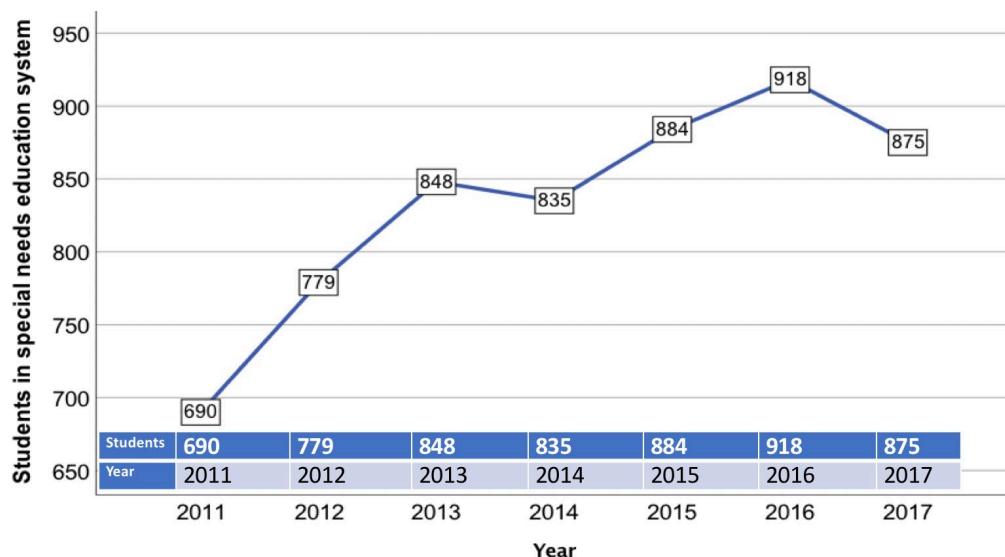
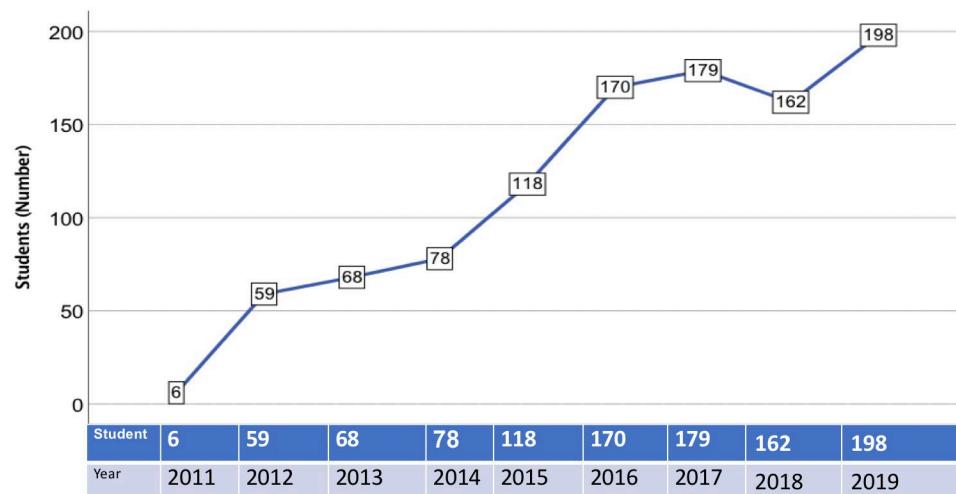


Figure 9: Students in secondary education with reasonable accommodations



⁶¹ Data compilation by the authors based on statistics of the yearly reports of the Ministry of Education, <https://men.public.lu/fr/publications/rapports-activite-ministere/rapports-ministere/rapport-activite-2018.html>.

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