Research Paper

Disability policy of the European Union: The supranational level

La politique du handicap de l’Union européenne : le niveau supranational

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Abstract

During recent years disability policy at the European level has changed from a formerly disregarded branch of traditional social policy into a modern policy formation which comprises not only social protection and labour market integration, but also equal rights and non-discrimination. In the light of this evolution, against the background of an ongoing research project the paper explores these questions: what kind of a political body is the European Union (EU)? What kind of impact does it have on disability policy? How did EU disability policy evolve? What are the relations between social policy and equal rights policy? Do different welfare regimes operate at the EU level? The article presents results of a systematic analysis of disability related policy documents of the EU covering the period from 1958 until 2005. The documentary analysis shows that from the late 1970s up to the middle of the 1990s EU disability policy has centred around labour market integration. During the last decade, however, the equal rights approach has got more and more dominant. The paper concludes with suggestions for further research.

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Résumé


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Mots clés : Handicap ; Union européenne ; Égalité des droits ; Réadaptation ; Politiques sociales ; État providence ; Européanisation

Disability Policy in the European Union: the supranational level

When looking at the European level and searching for disability related policies one will find a very broad and diverse policy area: disability policy deals with health services and bioethics, education, employment and rehabilitation, accessibility and transport, housing and assistive technologies etc. It includes care, invalidity pensions, basic income and poverty relief. Moreover, it aims at guaranteeing equal opportunities, participation and inclusion for all people with disabilities. In other words, disability policy implies on the one hand a set of traditional social policy measures such as programmes for social protection and labour market integration. On the other hand, it is part of non-discrimination policy as well; together with gender, ethnic origin, religion or belief, age and sexual orientation disability is covered by the equal rights legislation of the European Union (EU). For this reason and for the purpose of reducing complexity, in this paper disability policy is defined as a “policy mix” of social protection, labour market integration, and civil rights policy (Maschke, 2004). Focusing on these three policy dimensions also implies this contention: the last decade has witnessed the rise of disability policy as a relatively clear-cut area whose specific policy mix is characterised by a combination of traditional social policy measures, so called “old policies” (Leibfried, 2006, p. 524), and “new policies” (ibid.) such as the civil rights approach. When one tries to understand what the new disability policy is all about and what the differences in comparison with old approaches are, one will discover that its logic still needs clarification. For what reasons and how has its current make-up, the combination of social policy and non-discrimination policy developed? How do these two approaches relate to each other? Do they harmonize or are there tensions?

In answering these questions disability policy research can serve as a case study to see the point of other new policies such as gender policy, diversity policy, non-discrimination policy, human rights policy etc., all of which have, in recent years, enriched political agendas at
the national, supranational and global level. Additionally, Disability Studies (Albrecht, 2006; Albrecht, Seelman and Bury, 2001; Davis, 2006; Priestley, 2001; Stiker, 1999; Tremain, 2005; Waldschmidt & Schneider, 2007) will benefit from disability policy research as well. In the light of an ongoing, maybe in the future even accelerating process of Europeanisation, it does make sense to analyse disability related programmes, policies and politics of the EU, as it is the EU and not longer only the national states which will increasingly shape the lives and biographies of disabled people of which 50 million are estimated to live in Europe. With regard to political science disability policy research also has something to offer: of course there is already much research on social policy issues, equal rights policies are also frequently studied, especially with reference to gender and ethnic origin, and there are already some valuable contributions on disability policy in different countries and at the international level (Aselmeier, 2008; Barnes & Mercer, 2005; Barnes, 2000; Blanck, 2005; Bussacchini, 2006; Devlieger, 2006; Drake, 1999; Hogelund, 2004; Hvinden, 2003; Lawson & Gooding, 2005; Maschke, 2007; Naue, 2005; Oliver & Barnes, 1998; Priestley, 2007; Shima, Zólyomi & Zaidi, 2008; Switzer, 2003; Waddington, 2006), but generally speaking comparative disability policy studies are still limited and in need of proliferation.

Doing research on European disability policy

This paper is based on an ongoing research project which started in April 2007. It examines supranational and national policies for disabled people and aims at analysing the rationalities of European social and equal rights policies. Altogether, the project consists of several stages and considers different policy levels: first, the supranational level, i.e. the development of EU disability policy is investigated. Disability related documents dating back to 1958 up to the present, covering the period of the EU until 2005, are collected and analysed. The documentary analysis is guided by this research question: which documents deal with non-discrimination policy, and which ones are concerned with social protection and labour integration? In a second step the national level is studied. Drawing on the welfare state typology of Gøsta Esping-Andersen (1990) three country reports are conducted: the United Kingdom is taken as a representative of the liberal welfare state, Germany as the conservative-corporatist type and Sweden as typical for the social-democratic model. The country reports look at national social policies and non-discrimination policies with regard to disabled people and they ask about the intersections and tensions between these two policy approaches. In the final stage of the research project, the interactions between the EU level and the national levels are investigated, and the impact of top-down and bottom-up processes of Europeanisation in the field of disability policy is explored and estimated.

In this paper I will present research findings resulting from the first stage of the project, which concentrated on the supranational level (Waldschmidt & Lingnau, 2007). The documents being analysed covered disability policies which were initiated, developed and pursued by EU authorities over the last five decades. In order to study this material a qualitative content analysis combining the steps of summarising, explicating and categorizing was conducted (Mayring, 2003). For a start, by way of using official European Internet archives 30 documents could be identified which explicitly dealt with disability related aspects in the broader sense. They had been published by different EU authorities between 1958 and 2005. Besides a summary of content and a categorization according to three policy objectives (social protection, labour market integration and equal rights) the content analysis looked at the following criteria: date of publication, document title, responsible EU authority, kind of document and legal relevance (binding/not binding for member states). In a second phase, 19 documents were selected for a more specific analysis going into more detail. These documents were chosen for these reasons: they were legally binding for the
member states and/or marked a significant policy shift at the supranational level. This material was considered of high relevance as it represented policy measures which had great potential to influence the national level. The detail analysis also used a qualitative approach and included the steps of summarising the content, exploring the historical context and categorising the data along the following dimensions: disability definition, policy objective, actor and addressee, and type of policy instrument. An interpretative review of each document concluded this detail analysis.

On the basis of this empirical data, I will discuss several questions in the following. First, it will be necessary to reflect what kind of a political body the EU is in comparison with its members. Formally it is not a state, but what is it instead? Drawing on the well known welfare state theory of Stephan Leibfried and Paul Pierson (2000, 2005) two other questions arise: does Europeanisation as a process of both constructing new ‘ways of doing things’ at EU level and diffusing them into national policies (Radaelli, 2004) have an impact on disability policy? What are the relations between social policy and equal rights policy? Following these theoretical reflections, the paper presents some results of the documentary analysis. Findings indicate that the Council of the EU is a key actor, but EU disability policies that legally bind member states are still rare. The data also shows that the historic development of both social policy and disability policy is very similar. From the 1970s up to the middle of the 1990s European disability policy centred around the issue of “commodification” (Esping-Andersen, 1990; Lessenich, 1998; Waldschmidt, 2007), i.e. it was geared towards the labour market integration of disabled people. In recent years the equal rights approach has got more and more dominant. Having presented the results of empirical analysis there is one remaining question: do welfare (state) regimes make a difference? As the disability policy has its origin in social policy it makes sense to study possible links between welfare concepts and disability policy approaches. The article offers a matrix that combines the three classical types of welfare regimes developed by Esping-Andersen (1990), i.e. the liberal, the conservative and the universalistic model, with three dimensions of disability policy, i.e., social protection, labour market integration and equal rights. This matrix serves as a heuristic tool and leads to this conclusion: although the EU is not a state, it is very likely that different welfare regimes which are applied in different member states are present at the European level as well. The presumption is that due to bottom-up effects one model or a specific combination of different models will turn out dominant at the supranational level as well.

The EU as a multilevel system

First of all, when doing research on the EU, one has to take into account one fact which political scientists are of course familiar with, but it may not be common knowledge amongst other readers: strictly speaking, the EU is not a state. In other words, there are currently 27 members forming this supranational body and they all are national states, but the EU itself is something different. Systematically speaking, it is not in the possession of the typical rights and duties of national state sovereignty such as the monopoly on the use of force. Taking the example of citizenship the position of the EU in relation to the national level can be described as follows: there is a citizenship of the Union which was established by the Maastricht Treaty in 1992, but it is entirely the right of the member states to grant citizenship and the EU citizenship is only complementary to this national right, it does not replace it (Council of the European Union, 2008a). For this reason, the EU is regarded, at least from the perspective of political science, as a so called “multilevel system” (Hülser, 2002; Wessels, 2006). This term implies that there are three political levels, the regional, the national and the supranational level, all of which are interconnected and interconnected.
Their interactions are dynamic and may vary. For the purpose of an overview it is helpful to conceptualize the EU as a building that consists of three pillars (Council of the European Union, 2008b), whose fundamental principles, structure and procedures are formulated in official treaties, for example, in the Treaties of Maastricht (1992), Amsterdam (1997), Nice (2001) and the yet to be ratified Treaty of Lisbon (2007). The first pillar of the EU is represented by the European Community (EC), the second one is the Common Foreign and Security Policy (CFSP), and the third column consists of the cooperation in the field of Justice and Home Affairs (JHA). Of these three pillars, the European Community is the most important one for disability related policies. It comprises many policy areas such as the single market, social security and employment, health and education, science and culture as well as non-discrimination and equal rights. With respect to these policies the member states have granted the EU some of their sovereign rights, and during the course of the last fifty years the EU has managed to gain more and more legislative and executive powers. In some areas it can now enforce obligatory rules binding all member states (Hertz, 2002).

As a multilevel system the EU is very complex, and, of course, there are also many different actors – for example, regional bodies, national governments, civil society organizations, stakeholders etc. – who all are trying to exert their influence on EU authorities (Wessels, 2006). When having a closer look at the political system of the EU one will also find several major authorities, such as the European Parliament, the European Court of Justice, the Council of the EU, the Commission of the EU, and the European Council (also: European Summit). Of course, every authority is trying to exert its influence as well, both internally and externally. As a result complex power plays are constantly going on, and many institutional developments at the supranational level do not follow a master plan, but are the products of political compromise or simply hegemony of certain interests (Weidenfeld, 2006).

In the research project which I present in this paper the activities of neither the European Court of Justice nor the European Parliament were taken into account, as the analysis concentrated on those policies that were likely to influence member states’ policies. From this perspective it made sense to concentrate on the Council as well as on the Commission and, to a minor extent, on the European Council as the three key actors. The most influential body of the EU is the Council in which depending on the issue on the agenda the Ministers of each member states are involved. As the primary decision-making authority it is entitled to issue acts of (secondary) legislation, so called Directives and Regulations that bind all member states (Moussis, 2006; Wessels, 2006: 91). Secondly, the Commission is a central body in the EU as well. Its members act independently from the member states, therefore the Commission is regarded as a unique supranational body in the narrow sense (Wessels, 2006, pp. 94–97). This authority can be considered as the executive branch of the EU, as it is responsible for policy implementation. Additionally, it has the official right to propose via the so-called Recommendations new (secondary) legislation to the Council; by this means the Commission is able to act as an innovative motor for political change, and can initiate new political developments. Last but not least, the European Council (European Summit) is important. It consists of the Prime Ministers or heads of governments of all member states as well as of the President of the Commission. The European Council is considered to be the “architect” and builder of the EU (Wessels, 2006, pp. 86–88); it issues programmatic papers, sets the general direction and decides about common affairs of high importance. The European Council also agrees upon the Treaties which afterwards have to be ratified by all member states. These treaties represent the primary legislation of the EU and may be compared with national constitutions or fundamental laws. In short, the European Council is responsible for conceptualising the polity of the supranational level and thus plays a decisive role as well.
The Impact of Europeanisation in Disability Policy

Having a clear insight into the political system of the EU is necessary for empirical analysis, but at the same time a good understanding of its relevance for social policy is also needed. Historically, policies of poverty relief and vocational rehabilitation have been the two dominating strategies in disability policy. That is why disability policy still tends to be considered as just one branch of traditional social policy. However, it is not yet clear how to include equal rights policy into this picture: is this new approach to be regarded as a further branch of social policy or are we witnessing the development of a new policy field with its own rationality which has nothing to do with welfare matters? In other words, if one views social policy in a rather traditional manner, as an approach which addresses mainly the (mostly male) members of the labour force and their families, only the policies of social protection and rehabilitation would count and equal rights policy would simply be ignored. But in social policy research there is also a broader understanding of social policy (Allmendinger & Ludwig-Mayerhofer, 2000; Böhnisch, Arnold & Schröer, 1999; Kaufmann, 2005): it is considered as an approach to guarantee social security for all people, regardless of their status at the labour market, and one of its function is to regulate society as a whole, its norms and values, structures and dynamics. From this point of view it does make sense to take policies of non-discrimination and equal rights into account as well, and to consider disability policy as a proof and test case for the evolution of a ‘new’ social policy. Against this analytical background these questions need clarification: what kind of influence on social policy does the EU have? Is it a weak or a strong actor in social policy with regard to member states?

In order to explore these questions drawing on Leibfried and Pierson (2000, 2005) proves helpful. The two political scientists are of the opinion that there are tensions between national welfare states and the developing single market pursued by EU authorities. Although member states remain the primary institutions of European social policy, “[t]he process of European integration has eroded both the sovereignty (by which we mean legal authority) and the autonomy (by which we mean de facto regulatory capacity) of member states in the realm of social policy.” (Leibfried & Pierson, 2005, p. 186) In short, the contention is: “Member governments still ‘choose’, but they do so from an increasingly restricted menu.” (Leibfried & Pierson, 2000, p. 288)

Over the years, social policy has gradually got included into the supranational multilevel system, and more and more national states see their competences in social policy matters controlled and constrained. However, in order to assess the EU’s influence on (national) social policy one has, according to Leibfried and Pierson (2000, 2005), to distinguish between three forms of policy measures. First, there are measures which belong to a so called “negative integration” aiming to create a single market by securing basic commercial liberties (such as the free exchange of capital, labour, products and services). Secondly, there are measures that exert “indirect pressure” on national economies to fulfil the criteria of the common market as well as those of the European Monetary Union. Thirdly, there are measures that aim at “positive integration”; they consist of concrete initiatives to develop common social standards and social rights to be followed and implemented by all member states. In conclusion, Leibfried and Pierson (2000, 2005) claim that in the case of both negative integration and indirect pressure the EU has been able to exert strong influence, whereas it is a rather weak actor when it comes to measures of positive integration. When one reflects this approach with regard to disability policy one has to note that this policy has only loose links with the areas of negative integration and indirect pressure being the political fields in which the EU is a strong actor. Instead, disability policy means coping with mechanisms of positive integration being a field in which the EU plays a weak role. And of course there is this question: does European disability policy really follow the general trend of social policy for
which weak positive integration is typical or can we see a different dynamics in this case? And what follows from this approach for a better understanding of the relationship between social policy and equal rights policy?

Turning to the last question, an argument by Leibfried (2006, p. 526) can serve as a guideline. He maintains that in the EU a “silent non-discrimination revolution” (ibid.) is going on. In the context of the process in which member states adopt EU rules the equal rights approach could gradually turn out as a substitute for traditional social policy. In other words, the following development is envisaged: against the background of a weak EU influence in the realm of traditional social policy it seems likely that European authorities will be busy to establish a strong policy of equal rights and non-discrimination being a vacant area with more scope for top-down processes that lead national institutions and policies to converge (Hvinden, 2003). But at the same time, due to negative integration and indirect pressure a liberal, market oriented welfare model could possibly be established which insists on social risks to be mainly private affairs and state interventions to be restricted to cases of severe need and poverty. Under the precondition that the EU remains a weak actor in the provision of social security and in order to compensate for this weakness chooses instead to follow a strong equal rights policy there is the danger that the equal rights approach will gradually replace traditional social policy, not only at the EU, but on the national level as well. To put it all in a nutshell, the crucial question is: are the EU and its member states heading towards a combination of social policy and equal rights policy or will only a model of equal rights policy be implemented? Is equal rights policy a new policy that is added on to and complements social security measures or will it in the end substitute social policy?

Additionally, in order to come to a thorough understanding about what is really going on in Europe, one needs to reconsider the concept of Europeanisation. Obviously, the EU is a so called multilevel system and against this background it is not sufficient to understand Europeanisation only as a process of domestic political change caused by the process of European integration. Instead, it makes sense to consider bottom-up impacts on the EU level as well (Axt, Milososki & Schwarz, 2007). Drawing on Radaelli’s well known definition according to which “Europeanisation consists of processes of (a) construction, (b) diffusion and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies” (Radaelli, 2004, p. 4), I will in the following focus on the first feature which is mentioned in this definition, which is the aspect of construction: how has disability policy emerged and been constructed at the supranational level during the last fifty years? The basic assumption behind this approach is: exploring the evolution, making and consolidation of EU disability policy as a first step will make it easier to comprehend fully possible pressures on member states.

**Analysing the Disability Policy of the EU**

With these questions in mind I will now turn to the documentary analysis and present some of its results. As mentioned before, the content analysis concentrated on 19 documents which were either legally binding for the member states or marked a significant policy shift at the supranational level. In the following these four aspects of EU disability policy will be discussed: actor/addressee constellations, policy instruments, policy objectives, and historical development.

One dimension which the analysis looked for were the actors and their addressees. Which EU authorities actively promoted disability policy and which were responsible for its implementation at the supranational level? Of the 19 key documents which underwent detail analysis the majority
(16) were issued by the Council, two documents came from the Commission, and one document originated from the European Council. Due to the selection of documents the actor/addressee constellations mirrored the general decision making process in the EU. The Council directed its documents to the member states as well as asked the Commission to control or to report on certain issues. The Commission delivered Recommendations to the Council with the intention to make the latter adopt certain measures or programmes. The European Council agreed upon the Treaties of the EU.

A second feature which was analysed were the policy instruments which EU authorities applied in order to produce policy outputs. The categorization distinguished between legal, financial/regulating and cultural/stimulating measures: all acts of primary and secondary legislation – for example Article 13 of the Amsterdam Treaty – were of course classified as legal means; financial/regulating instruments were those which entailed actions and programmes – such as Community action programmes for disabled people – sponsored and funded by the EU; lastly public campaigns and activities intended to change values, norms, and attitudes in society – for example the “European Year of People with Disabilities” (2003) – were regarded as cultural/stimulating methods. Since clear cuts between these three strategies could not be made, the individual document was categorized according to the dimension that was dominant. Nevertheless, the result is striking: twelve documents were found to apply cultural/stimulating policy instruments and five worked with the financial/regulating approach, but only two applied the instrument of law. The Amsterdam Treaty and the Employment Equality Directive (2000/78/EC) were the two legal instruments; both put non-discrimination legislation into force and were issued during the years 1997–2000. In short, both measures documented an increase in legal competence at the EU level. However, on the whole the EU turned out as an actor which at least in the period from 1958 until 2005 and in the case of disability policy mainly relied on cultural/stimulating instruments. Following Priestley (2007) this approach can be called “soft policy” (in contrast to “hard policy” such as legislation and jurisdiction), but the term may be misleading: when it comes to the point of implementation it may turn out that stimulating public discourse and influencing cultural values both prove effective political strategies.

The third question of the documentary analysis was: what policy objectives do EU authorities pursue, do they aim at social security or employment, or do they follow an equal rights approach? Against the background of the restricted (legal) competence of the EU in the field of traditional social policy the missing of documents that explicitly dealt with social protection was not very surprising. Considering the policy shift towards equal rights in recent years it was not unexpected, either, that four documents concerned equal rights issues. Amongst them were Article 13 of the Amsterdam Treaty and the Employment Equality Directive (2000/78/EC). However, the majority of the analysed key documents (15 out of 19) referred – more or less explicitly – to the aim of improving the employment situation of disabled people. In short, they were concerned with traditional rehabilitation policy and labour market integration. It is interesting to note that some documents which at first sight stressed the issue of social integration, at a closer look turned out to centre around employment and the labour market as well. Integration into the labour market was considered by both the Commission and the Council as an essential instrument to secure disabled people’s social integration (Europäische Kommission, 1996; Rat der Europäischen Gemeinschaften & Die im Rat vereinigten Vertreter der Mitgliedsstaaten, 1981). Of course, none of these employment related documents was legally binding for the national level, since the EU holds only restricted legal competence in this area. But considering policy objectives with regard to disabled people, one can conclude that from 1958 until 2005 the EU level was preoccupied with the aspect of “commodification” (Esping-Andersen, 1990; Lessenich, 1998; Waldschmidt, 2007),
and not with equal rights. In the light of current political debate it sometimes seems as if the EU has always viewed disability policy from an equal rights perspective, but obviously this is just one side of the story. In other words, using a historic approach in content analysis and overlooking the whole era of the EU helps to keep a sense of proportions. Against the background of establishing the single market disability related policies of EU authorities have for a long time concentrated on employment issues. However, equal rights turn out to be the only branch in disability policy where one finds formal acts of legislation.

Fourthly, on the basis of the EU documents the historical approach was pursued further. First of all, it is striking that it took the EU nearly 20 years after its start in 1957 to publish the first document that can be considered as explicitly relevant for disabled people: on June 27, 1974, the Council issued the “Resolution [...] establishing the initial Community action programme for the vocational rehabilitation of handicapped persons” (Rat der Europäischen Gemeinschaften, 1974). The year 1974 can thus be defined as the starting point of official EU disability policy. However, this policy took an unhurried course, at least during early years. Between 1974 until 2005 only one document belonged to primary legislation; it concerned the Amsterdam Treaty and the right to non-discrimination in Article 13. Only three documents were acts of secondary legislation; but only one document of them had legally binding force on member states: it was Directive 2000/78/EC, applying the right to non-discrimination to the area of employment (Rat der Europäischen Union, 2000). In short, over the period of nearly five decades there were only two legally binding documents of the EU which concerned disability policy, and these two belonged to general non-discrimination legislation. In earlier years, there were two other formal acts of secondary legislation, but they were not legally binding: in 1986 the Council published the “Recommendation on the Employment of Disabled People in the European Community” (Rat der Europäischen Gemeinschaften, 1986), and twelve years later the “Council Recommendation [...] on a parking card for people with disabilities” (Rat der Europäischen Union, 1998) was issued. In conclusion, at the early stage of EU disability policy, from 1974 until 1986 employment issues were of most importance; in recent years starting with activities of the Commission in 1996 the civil rights approach proves to be the prominent topic on the EU disability agenda. When one uses these findings in order to develop a historic overview of European disability policy, one will end up with these five stages:

1. 1974–1979: the first EU action programme with regard to disabled people focuses on vocational rehabilitation. This programme has the primary objective to restore disabled people’s abilities to join the workforce. It is part of the EU’s aim to strengthen the common market by tackling unemployment and increasing employment rates.

2. 1980–1986: during the first half of the 1980s there is a backlog in disability policy which corresponds with a general stagnation in social policy. But global disability policy proves influential. As a reaction to the “International Year of the Disabled” declared by the United Nations (1981) the Council and the Commission publish documents concerning the social integration of disabled people and a framework for the development of community action.


4. 1996–2000: against the background of the Amsterdam Treaty there is a new orientation in European disability policy. A significantly new political strategy is implemented that emphasizes equal rights. Since the middle of the 1990s, policies of vocational rehabilitation loose
their primacy, and the EU documents of this period focus on equal opportunities and non-discrimination.

5. since 2000: during the latest period the EU sticks to its focal point of social participation and equal opportunity. The right to non-discrimination is put into practice. There is a proliferation of Council documents that are of relevance to disabled people. The “European Year of People with Disabilities” (2003) provides new impulses for public awareness of disability issues.

However, in order to fully understand this development it proves necessary to additionally take the chronology of European social policy into account and to compare both developments with each other. Drawing on models by Becker (2006) and Däubler (2006) seven historic phases of the EU social policy can be distinguished:

1. 1958–1973: social policy exists only on a very low level. Only two Regulations concerning the discrimination of migrant workers are issued.
2. 1974–1979: the first EU action programme in social policy is started in 1974. It aims at better working conditions and more democracy in business and companies. During the following years this programme leads to a number of Regulations being adopted on issues such as equal pay and gender equality at the workplace.
3. 1980–1985: due to the strictly liberal economic approach of Prime Minister Margaret Thatcher all concrete social policy initiatives of the Commission meet the British veto. At this time, decisions by majority vote are not yet possible in the EU; for this reason any social policy at all comes to a standstill.
4. 1986–1992: the EU becomes an actor in social policy and can increase its influence. There are also successful lobby activities by trade unions. A number of social policy initiatives are started; they mainly concern those areas that affect working conditions as well as the relationships between employers and the labour force. Significant Regulations are put into force that primarily address the area of employment.
5. 1993–1997: the Treaty of Maastricht creates new rules. On the one hand, it brings more competences for EU authorities, as decisions by qualified majority vote are henceforth possible. The new provision applies to nearly all areas concerning social policy. On the other hand, the Treaty emphasizes the principle of subsidiarity according to which the EU is to become active only in cases when neither member states nor management and unions can find solutions.
6. 1998–2000: the Treaty of Amsterdam which is put into force in 1999 marks a significant shift in both social policy and disability policy. The social policy agenda of the EU is consolidated; the right to non-discrimination is taken up. From this time on disability is regarded as a civil rights issue and the right to non-discrimination is acknowledged as an integral part of social rights. Equal opportunity and equal treatment, especially in the labour market, become accepted guidelines.
7. Since 2000: common aims for social policy and equal rights policy are formulated. With the Treaty of Nice (2001) the European Council adopts the human rights charter. It also agrees upon a European social agenda, and decides to implement an ambitious social policy action programme for the next ten years to come. Mainstreaming the issues of non-discrimination into all policy areas becomes a prominent objective.

By way of this comparison (Table 1) it can be illustrated that the development of EU disability policy closely corresponds to the ups and downs of general social policy at the European level. Looking back into the history of the EU, one will find periods in which the Union did not have any...
Table 1
European social policy and disability policy in comparison.

<table>
<thead>
<tr>
<th>Periods of the EC/EU</th>
<th>Social Policy of the EC/EU</th>
<th>Disability Policy of the EC/EU</th>
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<tbody>
<tr>
<td>1958–1973</td>
<td>(1) Social policy exists only on a very low level</td>
<td>(1) First action programme with regard to disabled people focuses on vocational rehabilitation</td>
</tr>
<tr>
<td>1974–1979</td>
<td>(2) The first action programme in social policy is started</td>
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</tr>
<tr>
<td>1980–1986</td>
<td>(3) British veto leads to general stagnation in social policy</td>
<td>(2) Stagnation in disability policy; impulses by global disability policy</td>
</tr>
<tr>
<td>Since 2000</td>
<td>(7) Common aims for social policy and equalization policy issues are formulated</td>
<td>(5) Non-discrimination policy is implemented; the “European Year of People with Disabilities” (2003) gives additional impulses</td>
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at all or only very limited possibilities to be an actor in social policy. In early stages the traditional approach of employment related social policy was followed; accordingly disability policy also focused on labour market issues, i.e. vocational training and occupational rehabilitation. The 1990s turned out to be the decade which witnessed a significant shift towards equal rights, and again disability policy also got transformed, thus reflecting this overall trend. However, despite these similarities there are also some interesting differences to be noted. The first difference is that explicit disability policy had a rather late start and its historic stages can be systematized only in five periods, instead of seven as it is the case with regard to social policy. Secondly, it is interesting to observe that in 1981 the disability policy got impulses from the global level, at a time when European social policy experienced a backlog. Thirdly, when digesting the parallel development one gets the impression that in the case of disability policy the shift towards equal rights is quite remarkable, especially when one considers that up till the beginning of the 1980s both the medical model of disability and the rehabilitation approach had been virtually uncontested and viewing disability as a civil rights issue had been an approach pursued only by a minority. But one can also remain sceptical: which factors have made it possible to integrate equal rights and non-discrimination policy into a disability policy agenda that used to rely on traditional social policy measures?

**Discussing empirical results: the impact of different welfare (state) regimes**

Disability policy is, as we have seen, part and parcel of social policy, and its effects and developments can probably best be understood within social policy arrangements. That is why comparative welfare state theory may offer a suitable framework for better understanding European disability policy. During the late 1980s Esping-Andersen (1990) has developed a welfare state typology, which is still valid for comparative welfare state research. Despite some criticism
which point to gender and normality biases (Barnes, 2000; Lessenich & Ostner, 1998; Maschke, 2004; Sainsbury, 1996; Waldschmidt, 2007), this typology has been described as “trailblazing” (Schmidt, Ostheim, Siegel & Zohlnhöfer, 2007, p. 42) and is still being consulted, more than 20 years after its setting up (Aselmeier, 2008; Barnes, 2000; Mohr, 2007; Schmid, 2002). For this reason I will draw on this welfare state theory in the final part of this paper as well. My last question is: how does equal rights policy relate to traditional social policy? In answering let me start with the three types of “welfare state regimes” which Esping-Andersen (1990, pp. 26–29) has identified and which each designates a cluster of certain characteristics. Of course one should be aware that there is no real existing welfare state that is actually congruent to one of these three ideal models. In fact, each empirical welfare regime represents a “system mix” (Esping-Andersen, 1990, p. 49).

First, there is the liberal model: characteristically, it has a universal, however low, basic social security system with means-tested assistance. In this concept, the clientele of national social policy typically consists of members of the lowest income class. In contrast, the social security of the middle class and high earners is provided by the market, typically by private insurance, a system which is promoted by the state. Therefore in liberal regimes the individual’s dependence from the labour market is high and social rights are minimal. The social stratification in liberal systems is essentially hierarchical: on the one hand, there is a low level of social security for welfare recipients, on the other hand there is the market-dependent welfare for the (privately insured) majority. Examples of this model are Canada, Australia, the USA, and the United Kingdom in the EU (Esping-Andersen, 1990, pp. 26–27; p. 53). The second type is the conservative model. This welfare state regime dominantly relies on occupation oriented and status conserving social security benefits. Social rights are coupled with social status and class affiliation. Since benefits are dependent on membership in the social insurance scheme with its wage-related contributions, there is less redistribution, and, as an effect, no little social stratification, either. Social security is distributed by the state, not in the market; accordingly, private insurance plays a minor role. In addition, the principle of subsidiarity is quite strong in conservative welfare regimes. As a consequence, the orientation to the family with a traditional distribution of roles – women as care-takers, men as earners – is predominating. Austria, Germany, France and Italy are regarded as typical examples of this type of welfare state (Esping-Andersen, 1990, p. 27). The third welfare model is called social-democratic, since in the respective nations social democracy was the strongest force behind social reforms. This welfare state aims at the universal security of the population and on equality at a high level. Social benefits and income oriented achievements are conceptualised to meet the aspirations of the middle class. Another feature of this model is a high degree of freedom from the labour market. Individual social rights are granted for everybody, irrespective of family, professional status or social class. A fitting cluster of this welfare model can be found in the Scandinavian countries such as Sweden and Norway (Esping-Andersen, 1990, pp. 27–28).

The empirical basis of this typology stems more or less from the Western world, and other regions such as Eastern Europe and Asia have been neglected, but other typologies have come to nearly the same threefold picture, and by now it can be called a ‘classical’ approach in social policy research (Aselmeier, 2008, pp. 92–98). For this reason I will also use it when analysing whether and if yes, to which extent, certain welfare regimes relate to which aspect of disability policy. Of course, the area of civil rights policy has not been covered by Esping-Andersen, since it is a relatively new policy field which has been developed only since the 1990s. However, the relevance of non-discrimination and civil rights policy in relation to different welfare regimes can be deduced by taking system rationalities into account. In the following, I suggest a logical-deductive approach in order to estimate how strong the three main dimensions of disability policy,
i.e. social protection, labour market integration and equal rights are likely to be in different welfare (state) models (Table 2).

In the liberal welfare regime with its focus on the market, surely social protection in terms of granting a minimum living wage will be in operation. However, it is probable that schemes for job market integration will comparatively seldom be applied, since they are rated as interfering with the forces of the free market. Instead, following the rationality of the liberal welfare model it is likely that non-discrimination policy will strongly be represented, since it aims at providing free and equal access to the market for all individuals so that they are able to supply themselves. In contrast to the liberal approach, in conservative-corporatist welfare regimes a strong accentuation of labour market integration is very likely, since in conservative social policy the social insurance-based schemes heavily rely on the individuals’ participation in the labour market. Due to the paternalistic orientation of this model, one can also expect that people with disabilities have access to basic social protection. In contrast, civil rights will only be of minor value, as this approach contradicts with the status orientation of the conservative model. With regard to the social-democratic welfare model it is probable that basic social care systems are of high importance, whereas measures of job market integration will be weaker. One can also conclude that civil rights and non-discrimination policies are of middle relevance: on the one hand they are compatible with this welfare regime’s orientation towards social solidarity, on the other hand the universalistic approach can foster the assumption that there is no need for civil rights given the high level of social rights. In short, the assumption is that in this welfare model social solidarity has a higher importance than individualist civil rights. In conclusion, one can offer the following model as a heuristic device for empirical research on the national level.

But how do these conclusions relate to the EU? As mentioned earlier, the EU is not a state but a multilevel system which rests on national states; however, due to bottom-up effects it is very likely that different welfare regimes which are applied in different member states are present at the supranational level as well. Empirical findings show that during the 50 years of its existence, the EU has gradually discovered disability as an explicit policy issue. In earlier periods, from 1974 until 1996 there was a clear focus on the issue of employment and the EU authorities considered disability mainly to be a problem at the labour market. In other words, during this period the conservative welfare approach seems to have been dominant at the EU level. But during the last decade disability has become a branch of civil rights policy. Especially the Treaty of Amsterdam (1997) with its right to non-discrimination is to be considered as a turning point in the EU disability policy. With this primary legislation, disability got explicitly integrated into the EU polity. As a result, one finds a proliferation of disability policy measures in the following years most of which emphasize equal rights issues. There are also strong hints that starting from 1997 the EU has turned out a strong actor in the area of disability policy. However, the remarkable activities in fostering equal rights have not been accompanied with an equivalent rise in social policy measures. Of course, one has to pay attention to the fact that with regard to traditional social policy the EU does not have the same power of enforcing rules and regulations. There are institutional reasons why
the EU is still a weak actor in “old” social policy (Leibfried, 2006: 524). But whatever the reasons are, social security goes along with an emphasis on equal rights. Drawing on the presented matrix one can consequently conclude that from the late 1990s onwards the EU has pursued a liberal regime in disability policy.

Conclusion

Against the background of an ongoing research project this paper has explored possible effects of Europeanisation on disability policy. The EU proves playing an important role in modernising this policy. But the effects of the supranational level might be worrying as well, since on the whole one gets the impression that civil rights policy tends to replace and not complement measures of social security. However, research findings are still tentative and the picture is not yet complete. Further research is needed that takes into account all EU authorities. If one does not only consider documents which explicitly focus on disability issues, but additionally searches for all policy acts which mention disability in the text, there will be much more data to be studied, and the recent shift towards mainstreaming disability, in other words: the trend towards ‘implicit’ disability policy can be analysed. Of course, the national level is to be investigated as well: there are both bottom-up and top-down processes, and it is in the member states where disability policies gets finally enacted and implemented. In an enlarged Europe the national level has become more diverse and could win more significance again. In addition, both the role of global disability policy and the influence of civil society should be topics in European disability policy research. Disabled people’s organisations have played and will continue to play a decisive role in disability policy. The UN Convention on the Rights of People with Disabilities (United Nations General Assembly, 2006) has set the disability policy agenda for the years to come; it is now up to the EU to react and comply. Last but not least, further research should compare the similarities and differences between disability policy and other related areas, such as gender, age, ethnicity and sexual orientation. Comparative studies at many different levels are likely to lead to valuable insights.

References


