



BAG WfbM

Bundesarbeitsgemeinschaft

Werkstätten für behinderte Menschen e.V.

The system and services of sheltered workshops in Germany



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Abbreviations

Abbreviation	German	English
SGB III	Drittes Buch Sozialgesetzbuch	Third Book of the Social Security Code
SGB VI	Sechstes Buch Sozialgesetzbuch	Sixth Book of the Social Security Code
SGB IX	Neuntes Buch Sozialgesetzbuch	Ninth Book of the Social Security Code
SGB XII	Zwölftes Buch Sozialgesetzbuch	Twelfth Book of the Social Security Code
WVO	Werkstättenverordnung	Workshop Regulation
WMVO	Werkstättenmitwirkungsverordnung	Workshop Cooperation Regulation
SchwabAV	Schwerbehinderten- Ausgleichsabgabeverordnung	Regulation about the equalization levy for the severe disabled



1. About us - German Federal Association of Sheltered Workshops

Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen e. V. (BAG WfbM) is the German association of sheltered workshops with its headquarter in Frankfurt and an office in the capital Berlin. BAG WfbM is providing its roughly 700 members with services like expert advice on questions related to employment, vocational education, financing and legal issues.

In Germany, sheltered workshops are highly specialised facilities for vocational rehabilitation who enable people with severe disabilities to participate in working life. In over 2,850 subsidiaries they provide vocational education, work opportunities and support in personal development for over 310,000 people with intellectual, psychological and severe and multiple disabilities.

In 2018, 93 % of the German sheltered workshops were organized in BAG WfbM.

BAG WfbM is providing its members with services like expert advice on questions related to employment, vocational education, financing and legal issues. BAG WfbM advocates for the participation of people with disabilities in working life.

Additionally, BAG WfbM is actively involved in the legislation process at federal level in Germany and also represents the interests of German sheltered workshops in Europe. In January 2015, BAG WfbM opened a small office in Berlin, the capital of Germany, to be even closer to the political decision-makers. This has proved to be a valuable step. 2015 and 2016 saw the government passing the most comprehensive legislative reform relating to people with disabilities. The objective pursued by the legal reform was to adapt the existing legislation to the aims of person-centred services and to further implement the Convention on the Rights of Persons with Disabilities of the United Nations (UNCRPD) in Germany. BAG WfbM was actively and closely involved in the legislation process. For example, BAG WfbM was able to achieve that people with disabilities in sheltered workshops in Germany will be remunerated at a higher rate. Moreover, it will monitor the further steps of the process that still need to be implemented.

BAG WfbM is active at the European level as well. As a member of the European Association of Service Providers for Persons with Disabilities (EASPD), BAG WfbM advocates for the recognition of the services of sheltered workshops as a key instrument to enable people with disabilities to access work as part of a meaningful process that allows them to be productive and create value. Similar concepts of sheltered workshops can be found in Switzerland, Austria and France.



2. General information about sheltered workshops in Germany

Sheltered workshops first emerged in the 1960s. When, after the Second World War, the first generation of people with intellectual disabilities reached the age to transition from school or training to work, no opportunities existed in the open labour market for this group of people.

Leading figures of the German federal association Lebenshilfe (a non-profit self-help organisation for people with intellectual disabilities and their families) and in particular its Dutch-born founder Tom Mutters created a unique model for German sheltered workshops modelled on the services offered by Dutch and French forerunners.

The German model is unique as regards the group of people using its services: Here, people with severe disabilities participate in working life in sheltered workshops. In other European countries, this group of people is usually cared for in day care centres, occupational services or living facilities.

The legal basis for the concept of German sheltered workshops was provided by the German Bundestag on 5 December 1974. The legislation includes many suggestions received from parents, welfare associations and specialists. It describes a model of vocational rehabilitation for severely disabled people, who are not, not yet or again not able to work on the open labour market. Today, sheltered workshops have evolved into highly specialised facilities of vocational rehabilitation.

Currently, over 310,000 people with disabilities participate in working life at more than 2,850 community-based workshops. The estimated number of staff is 70,000 people.

In German sheltered workshops, persons with intellectual disabilities, psychological disabilities and also a small number (about 3 %) of people with physical disabilities are able to participate in working life. The share of people with intellectual disabilities is about 75 % and the share of people with psychological disabilities is about 21 %.¹

In Germany the term “sheltered workshop” is not used anymore. To shift the focus away from the idea of protection and towards the concern of supporting people with disabilities, the term “Workshop for disabled people” or “Workshop for people with disabilities” is used. However, ‘sheltered workshop’ will be used hereinafter because it is the term that is internationally used.

¹BAG WfbM statistics (as of 1 January 2018)



3. Authority in charge

The responsible authority for sheltered workshops is the Federal Minister of Labour and Social Affairs, Mr. Hubertus Heil from the Social Democratic Party of Germany, who has been in office since March 2018. In the Federal Ministry of Labour and Social Affairs, it is Directorate-General V – Participation / Matters concerning Persons with Disabilities / Social Compensation / Social Assistance, which is in charge of sheltered workshops. Head of the DG is Mrs. Anette Tabbara. Division V a 2 of this DG is in charge of the participation of severely disabled persons, Workshops for Persons with Disabilities and the rehabilitation fund. Head of the division is Dr. Peter Mozet.

The governing grand coalition agrees on the necessity of sheltered workshops to enable participation in working life for severely disabled people. Sheltered workshops are regarded as a place for vocational and educational training for this group of people with the perspective to realize the transition of people with disabilities onto the open labour market. The government accordingly stated, responding to an official request from an opposition party, that sheltered workshops are part of an inclusive labour market².

4. Financial structures of German sheltered workshops

Sheltered workshops in Germany cannot finance themselves. In Germany, people with disabilities are entitled to receive direct funding from the state.³ They are entitled to receive compensation payments for their disabilities as well as social security payments. Depending on the type and severity of the disability, they receive financial compensation from the insurance in charge. The responsible body can be the health, pension or accident insurance authorities, but also the federal employment agency (unemployment insurance). People with severe disabilities have a legal claim to vocational rehabilitation in Germany. The financial means for that purpose are distributed by the regional agency of public assistance.

The regional agency of public assistance is allowed to transfer the financial means for the vocational rehabilitation directly to the respective part of the support network for people with severe disabilities.

² Grounds of the Law: BT-Drucksache 18/12680, 07.06.2017, S. 10f.

³ §§ 53 ff. SGB XII



The support network consists of work opportunities in inclusive enterprises, the concept of supported employment, the “budget for work”⁴ and participation in working life through the services of a sheltered workshop.

With regard to training and education for people with disabilities after school, there are opportunities to obtain vocational training⁵ in so-called vocational training centres⁶. Vocational rehabilitation centres⁷ and vocational training centres for people with psychological illnesses⁸ provide services for adults, in general for people who have already worked on the open labour market. People with disabilities who are more severely disabled can obtain vocational education⁹ in the sheltered workshops’ department of vocational education.

Sheltered workshops receive a reimbursement per workshop user which depends on his or her degree of disability¹⁰. These ongoing payments in form of cost rates are calculated either per calendar day (365 days) or per working day (250 days). Generally, the sheltered workshop is in negotiation with the regional agency of public assistance once a year to define the cost rates for the next 12 months. In addition, sheltered workshops can obtain the financial means for their buildings and technical equipment, if they can prove the need and significance of the investment.

Sheltered workshops are non-profit-organizations. Their main goal is to enable participation in working life and not to generate a profit. However, they have to generate a minimum amount of profit because they are obliged by law to remunerate the workshop users according to their performance.¹¹

The income generated by sheltered workshops through their economic activity must be used as follows: a minimum of 70% of the income is used for the remuneration of the workshop users¹².

⁴ nationwide available since 2018, § 61 SGB IX

⁵ Vocational training means here that the trainees can obtain a professional qualification certificate.

⁶ German: *Berufsbildungswerk* – for young people with different impairments; not exclusively for people with disabilities.

⁷ German: *Berufsförderungswerk* – for adult people with different impairments; not exclusively for people with disabilities.

⁸ German: *Berufstrainingszentrum*

⁹ Vocational education means here that, in contrast to vocational training (fn. 5), the people with disabilities trained in the sheltered workshops’ department of work are not entitled to a professional qualification certificate at the end of the measure.

¹⁰ § 125 Abs. 3 S. 3, § 131 Abs. 1 Nr. 2 SGB IX

¹¹ § 219 Abs. 1 Nr. 1 SGB IX

¹² § 12 Nr. 1 WVO



The remaining 30% can be used for reserves.¹³ The reserves are not allowed to exceed the cost for staff for a period of six months.

The estimated average income by turnover is 26,7% and the income by subsidies 73,3%. It is important to know that sheltered workshops do not get subsidies for only providing work opportunities for people with disabilities. Sheltered workshops are highly specialised facilities of vocational rehabilitation.

5. Access to sheltered workshops in Germany

People with disabilities have freedom of choice.¹⁴

If a person with disability is offered a contract by a regular company and decides to work there, the federal employment agency first has to make every effort to realize this. It can deploy various instruments: The employer can obtain financial aids for workplace adaption¹⁵ as well as subsidies to compensate for a lower work performance; additionally, the person with disability can receive supported employment for up to three years.

People with disabilities, who are not able to perform more than three hours of work under the conditions of the open labour market due to the nature of their disability¹⁶, have access to the services of a sheltered workshop and can decide whether they want to use them. They are considered fully incapacitated for work.

People with disabilities who want to participate in working life through the services of a sheltered workshop should be able to achieve a minimum level of economic output.¹⁷ Additionally, they should not pose a danger to themselves or others.

There are no waiting lists for sheltered workshops in Germany. Uniquely in Europe, federal law states that if a person with disability chooses to exercise his or her legal right to use the services of a sheltered workshop, provided he or she meets the requirements, the person has the right to immediately get a place in a workshop.

¹³ § 12 Nr. 2 WVO

¹⁴ § 8 SGB IX

¹⁵ § 26 SchwbAV

¹⁶ § 8 Abs. 1 SGB II, § 43 Abs. 2 S. 2 SGB VI

¹⁷ § 58 Abs. 1 SGB IX



6. System of sheltered workshops

The services of German sheltered workshops are divided into three units: the entry procedure, the department of vocational education and the department of work. Whereas the services of the entry procedure and of the department of vocational education are generally funded by the employment agency, the services of the department of work are funded by the agency in charge for the person with disability.¹⁸

6.1 Entry procedure

Participation in working life in a sheltered workshop always begins with the entry procedure.¹⁹ This is a period of usually three months during which the people with disabilities can familiarise themselves with the workshop setting. Together with the sheltered workshop, they can begin to decide which areas of the workshop are suitable for them according to their dispositions and skills²⁰. At the same time, it is determined whether the services of the sheltered workshop are suitable for the respective person.

6.2 Department of vocational education

If both the sheltered workshop and the person with disability decide that the services of the sheltered workshop currently offer the right measures, the entry procedure is generally followed by a period of usually two years in the department of vocational education.

In the department of vocational education, many different skills are trained with the objective to individually develop, enhance or recover the performance and ability to work of each person with disability. This is done by promoting the personal development of the participants, systematically developing their professional and life skills and preparing them for appropriate activities either in the sheltered workshops department of work or on the open labour market. According to a holistic educational concept, the vocational action ability of each participant is built and developed in a person-centred way. This includes various measures as the spectrum of offers must be as broad as possible to correspond with the individual skills but also the type and severity of the disability²¹. Alongside vocational education in the field(s) the person wants to work in, courses are also offered that focus on the development of practical life skills (e.g.

¹⁸ See above Nr. 4

¹⁹ § 57 Abs. 1 Nr. 2, Abs. 2 SGB IX

²⁰ § 57 Abs. 1 Nr. 1 SGB IX; § 3 WVO

²¹ § 4 Abs. 2 WVO



societal norms, punctuality, personal care and hygiene, road safety education, money management).

BAG WfbM is working on a system by which – on the basis of a harmonised educational framework aligned to the recognized German system of vocational education – qualification modules can be achieved and certified, so that an employer is able to know which components of a regular professional training have been completed successfully by the person with disability.

6.3 Department of work

After completing the process in the department of vocational education it is re-examined whether the person with disabilities is able to find employment on the open labour market – for example through the above-mentioned measures of inclusive enterprises, supported employment or the “budget for work” – or for example if the person can obtain vocational training in vocational training centres.

Otherwise, workshop users have the opportunity to transfer to the department of work. They have the right to indefinitely stay in the department of work. The sheltered workshop is required to have as broad a range of work opportunities as possible corresponding to the open labour market in order to take account as far as possible of the nature and severity of the disability, the different abilities and the suitability and inclination of the person concerned²². The sheltered workshop is obliged by law to make every effort to support every workshop user individually in their development with the aim of a transition onto the open labour market²³. The number of transitions of workshop users to the open labour market is very low. This is because people with disabilities who have access to sheltered workshops in Germany have particularly severe disabilities. It is correspondingly difficult to find companies which are willing and able to provide suitable working conditions.

7. Activities of sheltered workshops

Sheltered Workshops are providing person-centred services such as:

-  Permanent structured work
-  Vocational education adapted to the competences of the individual

Each in the fields of:

²² § 5 Abs. 1 WVO

²³ § 5 Abs. 4 S. 1 WVO; § 58 Abs. 2 SGB IX



- ◆ ICT (e.g. copy centres, digital archiving, etc.)
- ◆ Customer services (e.g. catering, laundry, retail sales, etc.)
- ◆ Handiwork (e.g. packaging, dismantling, assembling, etc.)
- ◆ Community services (e.g. gardening, cleaning of common and private spaces, etc.)
- ◆ Producing and selling a huge variety of products

Additionally, they facilitate the options of:

- ◆ On-site work (sometimes open to the general public, e.g. restaurants, laundries, etc.)
- ◆ Integrated workplaces: temporary or permanent secondment of a person to a work place in the open labour market while he or she remains a workshop user
- ◆ Mobile units: small teams of workers hired by external organizations or by public authorities to take care of various community services (e.g. gardening in public areas, cleaning in public or private entities, etc.)
- ◆ Support for the transition onto the open labour market for workshop users who wish for it and for whom it is possible

Other services are:

- ◆ Medical rehabilitation
- ◆ Support for personal development
- ◆ A variety of leisure activities
- ◆ Recognition of learning experience

8. Legal status of people with disabilities in sheltered workshops

In Germany, people with disabilities in sheltered workshops are not employees but have an employee-like status²⁴, which grants them all the rights of an employee but not the duties. Therefore, workshop users don't receive a wage but a remuneration. The average remuneration on federal level is about € 180 per month.

Additionally, people with disabilities receive financial support from the state for their livelihood, such as residential and care allowances, and basic security benefits to secure the subsistence level. The remuneration is credited against the basic security benefits, if it exceeds a certain amount.

²⁴ § 221 Abs. 1 SGB IX



It is estimated that, including the remuneration from the sheltered workshop, a workshop user has a net income of around € 900 per month, depending on the individual case. This does not include financial support for additional medical rehabilitation from health insurance, if needed, and costs for accommodation and heating. On the other hand, workers who obtain minimum wage have a net income of about € 1.000. Because the minimum wage is so low in Germany, they also often have to top up their income by government welfare aid such as housing allowance.

As soon as a workshop user has been working in a sheltered workshop for a total of twenty years, he or she is entitled to a so-called work incapacity pension. The pension is calculated on the basis of 80 % of the average income in Germany.

It is then – depending on how long the person has been working in a sheltered workshop, which corresponds to the period during which the premiums have been paid – usually higher than the retirement pension of a German average worker. However, as long as the workshop user has not reached retirement age, many factors (e.g. the housing situation, assistance need, other financial assets, etc.) determine whether the work incapacity pension is sufficient or if the person still needs additional financial support.

Altogether it can be said, that during their working life many workshop users have funds that are approximately equal to the minimum wage. The problem is, however, that the system is very complex, which is why BAG WfbM is calling for a simplification of the payment system.

9. The workshop council and women's representative

German sheltered workshops are obliged by law to implement a workshop council elected from and by the workshop users in the department of work²⁵. This is what distinguishes the German system from every other system in the world.

Similar to works councils the number of representatives in the workshop council is staggered according to the size of the sheltered workshop. As a result of the above-mentioned legislation reform the number increased to up to 13 representatives. The workshop council's task is to represent the interests of people with disabilities in the work department vis-à-vis management of the sheltered workshop. This includes acting as their interlocutor in case of problems involving the services of the sheltered workshop and monitoring their legal rights. It also provides support in exercising participation rights as well as the newly given rights of co-determination, for example regarding the self-defined statutes of the respective sheltered

²⁵ §§ 1 f. WMVO



workshop, working hours, compliance of required periods of recuperation and recreation, remuneration principles and other protective rights of workshop users in the department of work.

Similarly, as a result of the above-mentioned legislation reform, since 2017 every sheltered workshop is required to appoint a women's representative elected from and by the female workshop users in the department of work.²⁶ Her task is to foster gender equality, reconciling work and family life and be interlocutor in cases of physical, sexual and psychological violence.

The work of both, the workshop council and the women's representative is funded by the sheltered workshops. At regional and federal level, associations of these self-representative bodies have also been formed, in particular in case of the long-established workshop councils. At the national level, 'Werkstatträte Deutschland e. V.' represents the interests of all workshop users in Germany and the association 'Starke.Frauen.Machen' acts as a nationwide network of women's representatives in sheltered workshops.

10. German quota system and forms of financial support for the employment of people with disabilities

In 1953, a quota system for the employment of people with disabilities was introduced in Germany. All public and private companies with a minimum of 20 employees in the yearly average have to employ at least 5% of people with severe disabilities.²⁷ If the company does not fulfil this quota, it has to pay a penalty: the so-called equalization levy. The maximum is € 320 per month and work place not occupied by a person with disabilities. If a company awards a contract to a sheltered workshop, half of the value of the work done by the sheltered workshop (minus the materials costs) can be subtracted from the equalization levy.²⁸ The amount of money collected from the equalization levy is put into the so called equalization fund.²⁹ The equalization fund has to be used for the financial support of measures for employers hiring a person with disabilities and for measures and infrastructures supporting the participation of people with disabilities in working life.

If an employer hires a former workshop user who is trying to make the transition onto the open labour market, there is financial support for a testing-period of three months. The complete

²⁶ §§ 1, 39a ff. WMVO

²⁷ § 154 SGB IX

²⁸ § 223 SGB IX

²⁹ § 161 SGB IX



costs of labour of the person can be paid by the rehabilitation agency. In some cases, financial support can be given for more than three months, depending on the individual case.³⁰

The rehabilitation, the integration or the federal employment agency bear the costs for the accessibility and the workplace adaption for a person with disability. The employer is entitled to receive the complete costs depending on the individual case.

Additionally, there is a compensation for the lower working performance of people with disabilities who work under the conditions of the open labour market. The amount of money paid depends on the level of performance and also on the need for qualification, adjustment to the new job, etc. Support of up to 70% of the wages for a period of 24 months is possible.³¹ For people with particular severe disabilities – for example people with disabilities who come from sheltered workshops and are no longer considered fully incapacitated for work – can receive support for a period of 60 months. If the work performance improves after 12 months, the financial support is reduced by 10% per year.

People with disabilities who are considered fully incapacitated for work and are therefore entitled to the services of a sheltered workshop can also use the so-called “budget for work”³². This measure was explicitly introduced by the new legislation described above to provide an alternative to the services of sheltered workshops for people unable to work under the conditions of the open labour market, but who still prefer to work outside a sheltered workshop.

The new regulation states that people with disabilities who are entitled to the services of a sheltered workshop and who are offered an employment contract on the open labour market, which is remunerated according to market conditions or a collective agreement, are entitled to a “budget for work”.

Basically, the “budget for work” is a service to enable participation in working life and thus despite their employee status, these people remain fully incapacitated for work.

The “budget for work” includes a wage subsidy of up to 75 % paid to the employer to compensate for lower work performance. In addition, it covers the expenses for disability-related guidance and assistance at the workplace.

³⁰ § 46 SGB III

³¹ § 90 SGB III

³² § 61 SGB IX



The services related to the “budget for work” can be carried out by a sheltered workshop or other service providers.

11. Outlook – Sheltered workshops in the light of the UNCRPD

Sheltered workshops allow people with disabilities to achieve rehabilitation through work as required in Articles 26 and 27 UNCRPD. But sheltered workshops do not only contribute to the implementation of the rights under Article 26 (Habilitation and Rehabilitation) and Article 27 (Work and Employment) of the UNCRPD. They provide flexible and individually person-tailored services and thus fulfil a variety of requirements of the UNCRPD.

The social- and community-based services they offer, such as retail stores, restaurants, integrated workplaces in enterprises of the open labour market, and many others contribute to raising awareness for people with disabilities in society (Article 8).

Among other things, sheltered workshops support and assist access to means of transport, information and communication as well as other facilities and services (Article 9). They support and assist people with disabilities in exercising their legal rights (Article 12). They also enable them to live independently and be integrated in their community (Article 19). With their services of vocational education, they provide access to education for a group of people who often are largely excluded from the recognized vocational education and training systems (Article 24). With work-related measures and leisure activities, workshop services also contribute to participation in cultural life and recreation, leisure and sports (Article 30).

With regard to the recently completed review of the federal legislation relating to the participation of people with disabilities, German authorities want to improve the services provided by sheltered workshops. Therefore, the legislative amendment focuses on the expansion of person-centred services. Additionally, it sets out that the level of support required by people with disabilities must be determined individually and strengthen their right to freely choose the services they need.

German sheltered workshops have, over the years, continuously developed and improved their services and are determined to continue improving them in the future. Their expert knowledge regarding vocational and educational education and the adaptation of work processes as well as work places are already and could be used even more to advice employers of the open labour market who wish to employ people with disabilities. Thus, many services of German sheltered workshops already are carried out on the open labour market.

The focus of all their actions is the well-being of people with disabilities and the goal to provide and maintain high quality of their services according to the principles of the UNCRPD.



However, the common interpretation of the UNCRPD, especially Article 27, could lead to the end of the sheltered workshop system.

It is a well-known fact that Article 27 of the UNCRPD does not mention the system of sheltered work and employment. In addition, the differentiation of its second half sentence tends to be overlooked, which states that “the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment *that is open, inclusive and accessible to persons with disabilities.*” As long as this objective is not achieved, the uncompromising access – in the sense of a compulsion – to the open labour market would leave a lot of people with disabilities behind who are not able, even with high support structures, to work on the open labour market.

Correspondingly, the thematic study on the work and employment of people with disabilities from the United Nations High Commissioner for Human Rights states that sheltered work has to be regarded as an arrangement that provides ongoing support to those who, for a variety of reasons, may be unable to assume employment in the open labour market. At the same time, it should be transitional, as people move to more open forms of employment that enable them to work alongside persons without disabilities.³³

Ideas about which people with disabilities belong to which group vary widely of course. However, as long as the labour market per se is not inclusive, sorting strictly according to the principle of performance and thus also excluding people without disabilities, the services of sheltered workshops and other providers of occupational rehabilitation are needed. The fact that the current system is not only unable to assimilate people with disabilities but actually aggravates the situation is particularly evident in the ever-increasing numbers of people with psychological disabilities in sheltered workshops.

As long as the system remains unchanged, the services of sheltered workshops and other providers of occupational rehabilitation are an integral part of an inclusive labour market.

³³ Thematic study on the work and employment of persons with Disabilities - Report of the Office of the United Nations High Commissioner for Human Rights; 12 December 2012; Paragraph 16.