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Research note on

**Discrimination on the grounds of
Ethnic origin, Disability and Sexual orientation**

The relevance of European policies

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Contents

1. Introduction	p. 3
2. POPULATION OF THE TARGET GROUPS	p. 4
2.1 Ethnic origin	
2.2 Disability	
2.3 Sexual orientation	
2.4 Global indicator	
3. WAGE DISCRIMINATION	p. 8
3.1 Ethnic origin	
3.2 Disability	
3.3 Sexual orientation	
4. THE EMPLOYMENT GAP	p. 14
4.1 Ethnic origin	
4.2 Disability	
4.3 Sexual orientation	
5. THE IMPACT OF THE FINANCIAL CRISIS ON EMPLOYMENT	p. 17
5.1 Temporary versus permanent employment	
5.2 Skilled versus unskilled workers	
5.3 Part-time versus full-time work	
6. EU STRUCTURAL FUNDS	p. 19
6.1 European Social Fund priorities	
6.2 Ethnic origin	
6.3 Disability	
6.4 Sexual orientation	
7. MAINSTREAMING VERSUS SPECIAL MEASURES	p. 22
8. EMPLOYMENT PROTECTION LEGISLATION	p. 25
9. CONCLUSIONS	p. 27
References	p. 29

1. Introduction

In 2000, the European Community (EC) enacted two Directives that prevent people in the European Union from being discriminated against on grounds of race and ethnic origin (Racial Equality Directive), and on grounds of religion or belief, disability, age or sexual orientation (Employment Framework Directive).

The two Directives define a set of principles that offer everyone in the EU a common minimum level of legal protection against discrimination.

The two Directives are:

1. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin¹;

Article 1 stipulates that: “The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment”.

2. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation²;

Article 1 stipulates that: “The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment”.

The first Directive concerning ethnic origin aims at combating discrimination in all fields (notably: employment, education and services) while the second Directive concerning people with disabilities or sexual orientation covers only employment and occupation.

All EU Member States were due to have transposed the Directives into national laws by the end of 2003. However, this process has not been uniformly applied in the EU countries.

In the following, we will focus on discrimination on the labour market and cover only three target groups, those concerned by ethnic origin, disability and sexual orientation.

We will first present an estimation of the number of people concerned (target group population) and describe the labour characteristics of these persons. This will enable us to make a comparison between the needs of these persons on the labour market and the means (financial and legal) developed at European and national level in order to sustain and complement the two Directives on the labour market.

¹ L 180/22 Official Journal of the European Communities 19.7.2000

² L 303/16 Official Journal of the European Communities 2.12.2000.

2. POPULATION OF THE TARGET GROUPS

2.1 Ethnic origin

Most available data use nationality or origin as a criterion. Foreign origin indicates that the person was born outside the country of residence. The term ‘foreigner’ refers generally to the nationality criterion.

The European surveys divide the total population resident in Member States into three basic groups based on place of birth³: 1) Native-born – those born in the Member State of residence, 2) Other EU-born – those born in another EU Member State, and 3) Non-EU-born – those born outside of the EU.

Available data indicate that in certain countries there is a big difference between persons born outside the country of residence and foreigners (e.g. France, Netherlands and in a lesser extent Belgium and the UK). In France foreign nationals represent 6,1% and persons born in another country 12,4%. In the Netherlands, these rates are: 4,4% and 12,8%⁴.

Generally, foreign nationals represent 6% of resident population aged 15-64 in the EU, while persons born in another country represent 10%, in 2007⁵.

It is important to note that data based on nationality present two disadvantages. Immigrants acquiring the nationality of the country of residence will appear as nationals of the host country in the statistics. Also, people born in ex-colonies but holding a passport of the residence country will appear as nationals in the statistics.

For the above reasons, we prefer data on origin rather than on nationality. Furthermore, as we are interested on discrimination on the labour market, we will favour data covering adult people.

It is important to note that these data do not take into account persons of the second and third generation who were born in the country of residence and acquired the nationality of this country. The Dutch data (CBS) report that about 20% of residents in the Netherlands have a migration background. Second generation migrants (persons issued from one or both parents born outside the Netherlands) represent 50% of this group⁶.

2.2 Disability

Unlike other target groups, people with disabilities may be registered in administrative registers if they receive a disability related benefit. Consequently, we possess two types of estimations of the target group: the number of people receiving a disability benefit and the number of people declaring an activity limitation in surveys.

The number of disability pensioners⁷ of working age varies sharply across countries as a result of different eligibility criteria (notably the minimum reduction in working capacity which is specified).

³ “Employment in Europe 2008”; European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, Unit D.1, October 2008.

⁴ “Employment in Europe 2008”

⁵ “Employment in Europe 2008”

⁶ <http://www.cbs.nl/nl-NL/menu/themas/bevolking/nieuws/default.htm>

⁷ This part draws on the following two studies:

a. “Final report: Study of Compilation of Disability Data from the Administrative Registers of the Member States, November 2007”. Study financed by DG EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES (Contract NO VC/2006/0229); APPLICA & CESEP & EUROPEAN CENTRE.

http://ec.europa.eu/employment_social/index/comp_disb_final_en.pdf

b. Final Report: “Exploring the synergy between promoting active participation in work and in society and social, health and long-term care strategies” Invitation to tender N° 2006/030 (2006 / S 123-130484), Contract reference VC/2006/0340; CESEP-BBJ-CREPP, February 2007.

http://ec.europa.eu/employment_social/spsi/docs/social_protection/final_report_en.pdf

The proportion of disability pensioners in EU Member States ranges from 2% to 11%. These estimates exclude pensions with an invalidity degree of less than 20%.

The distribution of disability pensioners by sex reveals that the number of women is relatively lower both in absolute and in relative terms. However, the trend indicates that among new pensioners the number of women is increasing. There is a very strong gender difference among recipients of disability pensions due to work accidents and occupational diseases. But this can partly be explained by the sectoral distribution of workers.

Surveys like the LFS ad hoc module 2002 and the SILC report the number of people who declare an activity limitation. Generally, these surveys report a much higher percentage of people with activity limitations than administrative data. This overestimation by surveys may result notably from the following reasons:

- a moderate activity limitation; the granting of a national pension requires generally a minimum disability degree of 30 to 50%. Consequently, people who report a moderate activity limitation might not reach the threshold required by national legislation;
- some activity limitations (or longstanding illnesses) are not covered by national protection systems. For example, psychical and psychological impairments are treated differently across Member States;
- a certain number of demands for invalidity allowances are rejected;
- surveys report a subjective self-assessment;
- the justification bias might imply that people out of the labour force may use disability as a reason to justify socially their status.

As certain national social security systems are very restrictive in granting disability pensions (e.g. they require a minimum incapacity rate of 50%), we prefer to report below the number of people who report activity limitations.

However, while it is justifiable to include all people who declare a severe activity limitation (although on average about 40% of them declare receiving a disability benefit), it might be exaggerated for our purposes to include all people who declare a moderate activity limitation. About 15% of people with moderate activity limitations receive a disability related benefit. However, in countries with relatively generous social security systems (e.g. Netherlands, Finland, and Sweden) this rate is about 20%. Consequently, we consider that a good approximation of the number of people with a disability includes people who declare a severe activity limitation and 20% of those who declare a moderate activity limitation.

According to this method, we can estimate that 8% of adult men and 9% of adult women in the EU have a disability. In order to avoid problems related to ageing and the nature of disability, we have excluded elderly people from our estimations. For information, if we focus on children, a synthesis of administrative (ordinary and special education) and survey data provides that about 5% of children of school age have a disability (special education need).

It is interesting to note that generally surveys do not cover people in institutions.

An important characteristic of this target group is that the prevalence of disability increases sharply with age. While at an early age, we may advance that hereditary factors might be important; the high rate among older workers might be due to factors like bad working conditions, job satisfaction, poverty, education, risky life styles, etc.

2.3 Sexual orientation

Certain surveys focus on sexual behaviour (self-reported sexual behaviour). Others identify people that have lived together as a couple with a partner of the same sex. Finally, other surveys focus on self-identification. The latter two definitions are very restrictive. Furthermore, the first (couple) excludes people not living in couple.

Wellings et al. (1995)⁸ use ‘the National Survey of Sexual Attitudes and Lifestyles’ in Britain. This survey covers 19.000 individuals between the ages of 16 and 59. The authors focus on behaviour and not on self-identification. The main resulting figures are the following: 6.1% of men reported some kind of homosexual experience, and 3.5% having had at least one homosexual partner. The corresponding figures for women are 3.4%, and 1.7%. If we specify the time period, we have 1,4% and 0,6% respectively of men and women who had at least one same-sex partner in last five years. The prevalence is slightly higher for the age group 35-44.

Critics argue that this method might entail a systematic misreporting. These estimates might systematically undercount same-sex populations because they have special incentives to misreport. They have special incentives to misreport and non-respond due to social threats and labour discrimination.

Existing estimates in the US vary between 1% and 10% of the adult population. However, underlying definitions vary significantly.

Berga and Lienb⁹ find that 7.1% of US males and 4.1% of females are not exclusively heterosexual. This is a large definition. The criterion is based on Americans who have had sex with at least one same-sex partner within the last five years. They correct for possible misreporting.

J. M. Bradford (2006)¹⁰ adopts a more restrictive definition based on self-identification. He reports 3,2% of men and 2,6% of women. The sample covers all US workers.

To summarise, we consider that a good approximation for the EU is 4% for men and 2,5% for women. This is close to the British rate based on those having had at least one homosexual ‘partner’ corrected for misreporting.

2.4 Global indicator

The following tables present the number of people by ground of discrimination.

Table 3 presents the total number of people covered by ethnic origin, disability and sexual orientation. The total number of people covered by the Directives on ethnic origin, disability and sexual orientation amount to 22% of adults aged 16 to 64 years. Foreign-born represent 10%, people with disabilities 8,5% and homosexuals 3,5%. The main differences across countries stem from different rates of foreign-born people and in a lesser extent by the prevalence of disability.

On average and for the total number covering all three target groups, there is not a significant difference between men and women, despite our assumptions concerning sexual orientation.

⁸ See also : Wellings et al. (1994) MICHELE CALANDRINO: SEXUAL ORIENTATION DISCRIMINATION IN THE UK LABOUR MARKET; UNIVERSITY OF OXFORD, St. Antony’s College, 1999

⁹ Nathan Berga, and Donald Lien: “Same-sex sexual behaviour: US frequency estimates from survey data with simultaneous misreporting and non-response”; Applied Economics, 2006, 38, 1–13.

¹⁰ John M. Blandford: The Nexus of Sexual Orientation and Gender in the Determination of Earnings; Industrial & Labor Relations Review, Volume 56, Issue 4 2003 Article 4.

Figure 1: Men: Population of target groups (Ethnic origin, Disability and Sexual orientation (SO))
% of adult population same sex

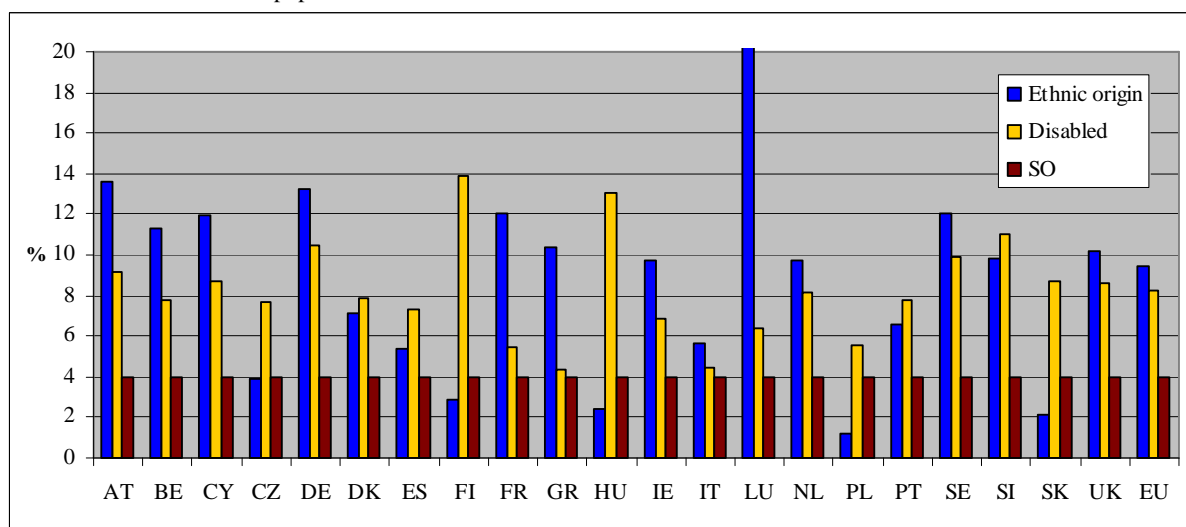


Figure 2: Women: Population of target groups (Ethnic origin, Disability and Sexual orientation (SO))
% of adult population same sex

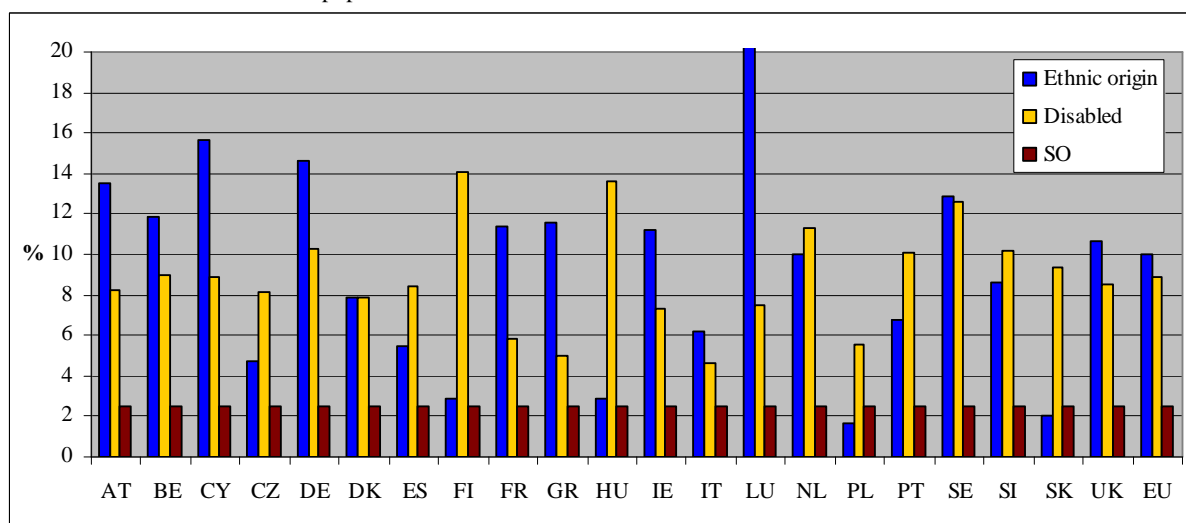
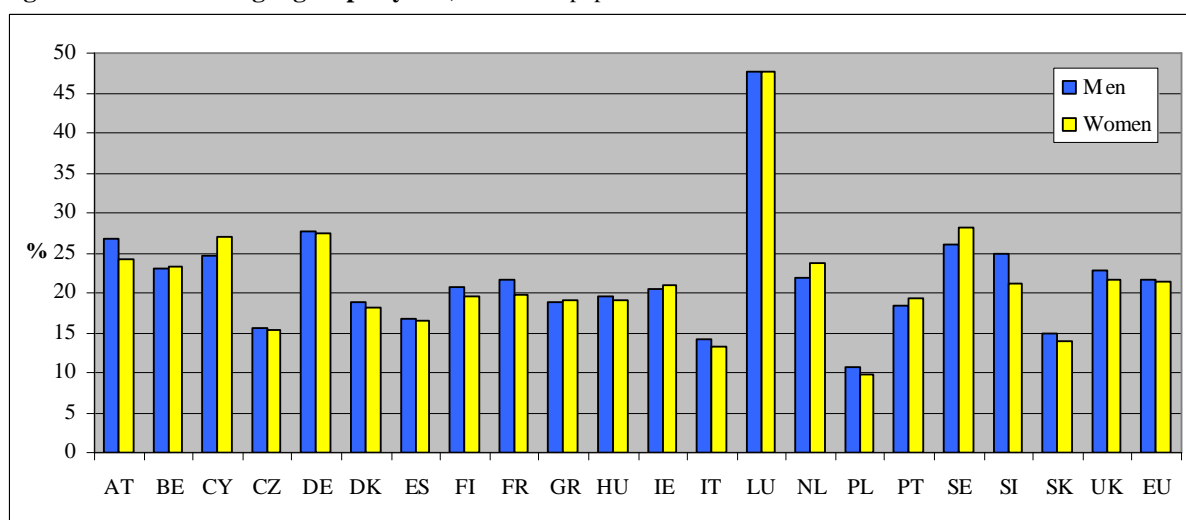


Figure 3: All three target groups by sex; % of adult population same sex



Source of data: Eurostat, European Commission (DG EMPL), OECD, National statistical offices and own estimations.

Note: The number of people concerned by ethnic origin covers generally adults (15+) while persons with a disability covers people aged 15 to 65 years. For Luxembourg the rates concerning ethnic origin are: Men: 37% and women% 38%. Data refer to 2005 or closest available date. The EU is simple (non-weighted) average.

3. WAGE DISCRIMINATION

3.1 Ethnic origin

There is a vast literature on wage gaps between immigrant and native workers. However, the conclusions vary sharply across countries and inside countries across sectors of economic activity. Most of these studies use the Oaxaca-type decomposition (Endowments and Discrimination) to explain wage differentials.

J. Pouget (2005) studies national origin wage differentials in France¹¹. He investigates the wage structure of “second generation” immigrants (whose both parents were born in North Africa or whose both parents were born in Southern-Western Europe (Spain, Portugal, Italy)). He compares their compensation to the compensation of employees whose both parents were born in France. He performs the Oaxaca-type decomposition to explain national origin wage differentials: Endowments and Discrimination. He finds no national origin wage discrimination. National origin wage differentials are explained by differences in endowments. For comparison, we may note that INSEE¹² notes that the wage gap for all migrants was 13% in 2002 and the wage gap for migrant women compared to native women was 17%.

A. Aldashev et al. (2008)¹³ analyze the wage gap between natives and immigrants (foreigners and citizens with migration background) in Germany. They find a substantial gap for both groups with respect to natives. Discarding immigrants who completed education abroad reduces much of the immigrants' wage gap. They conclude that educational attainment in Germany is an important component of economic integration and degrees obtained abroad are valued less.

R. J. R. Elliott and J. K. Lindley (2006)¹⁴ investigate occupational attainment as well as estimating earnings differentials for non-white migrants and non-white natives including occupational effects. Although occupational segregation and other human capital and socio-economic factors provide a partial explanation for the raw earnings differential, evidence of ethnic based disadvantage in most occupations persists. However, relative to white natives, they find no evidence of an ethnic pay disadvantage for white and South Asian Professional workers.

When we compare wages between immigrant and natives, it is important to note that data based on nationality provides bigger differences than data based on origin. In fact, foreign-born people who acquired the nationality of the country of residence and are employed in public administration and education gain higher wages than the average. Consequently, if we include this group among nationals, the difference between immigrants (foreigners) and natives (nationals) is exacerbated. Also, having acquired the nationality of the receiving country may be information positively assessed by employers.

The previous studies have generally shown that some of the observed pay disadvantage to migrants can be explained by differences in human capital endowments. For example, on average immigrant workers tend to have lower qualifications than natives. A proportion of the migrant earnings gap could be explained by the occupational distribution of migrants. The raw data suggest that migrants are over-represented in low paying occupations.

The previous studies provide mixed conclusions. Often the results depend upon the data used. In the following, we will attempt to present a synthesis of published data and studies on the subject.

¹¹ Julien Pouget: The French Structure of Earnings Survey 2002, INSEE, 2005

¹² Les immigrés en France, édition 2005, Fiche technique, INSEE

¹³ Alisher Aldashev, Johannes Germandt, Stephan Lothar Thomsen: The Immigrant Wage Gap in Germany, ZEW - Centre for European Economic Research Discussion Paper No. 08-089, 2008

¹⁴ Robert J. R. Elliott and Joanne K. Lindley: “Immigrant Wage Differentials, Ethnicity and Occupational Clustering”. Sheffield Economic Research Paper Series, University of Sheffield, May 2006.

Available data and studies indicate that, in Europe, the raw (unadjusted) wage gap between foreign-born and natives is about 10% but there are big differences across countries. For example, unadjusted (raw) data do not present a wage gap in Poland.

Once we adjust data in order to take into account differences in endowments and job characteristics, we find that the wage gap persists in Austria and Luxembourg, and in a lesser extent in Belgium, Denmark, Finland and UK. There is apparently no discrimination based on origin in France, Germany and the Netherlands. Generally, women appear to be more vulnerable even after adjustment for educational and other endowments. Concerning origin, workers born in another European country seem less discriminated compared to people born outside Europe.

The earnings disadvantage of migrants disappears in several countries once comparisons are made controlling for occupational and sectoral characteristics. This would suggest that the earnings disadvantage that we observe at the mean might be a consequence of occupational segregation. However, critics might argue that lower human capital (education) might explain the clustering of immigrants in certain occupations or sectors of economic activity.

Concerning sectoral distribution, men are overrepresented in 'Horeca', 'Construction' and 'Personal services' where wages are relatively low. They are underrepresented in 'Public administration' where wages are relatively high. Concerning women, they are strongly overrepresented in 'Personal services' (Social and personal service activities and Private households with employed persons) and in 'HoReCa' where wages are relatively low. Migrant women are underrepresented in 'Public administration' and 'Education' where wages are relatively high¹⁵.

Concerning qualifications, we may note that migrants are strongly overrepresented in elementary occupations (notably migrant women). The wage of elementary occupations represents only 65% of the average wage of all occupations in Europe.

Education appears to be an important factor in explaining the wage gap. Several researchers have focussed on the quality of migrants' education and its transferability in the country of residence. However, this does not take into account the fact that second generation has been educated in the country of residence and consequently, the question of transferability is not relevant. Even among those foreign-born an important number has been educated in the country of residence. INSEE (2005) notes that the employment rate of young migrants (aged 19-29) born in France from foreign-born parents experience an employment rate of 46% compared to 55% for young whom both parents were born in France.

B. R. Chiswick¹⁶ found that post-immigration earnings of foreign-born males are relatively steeper than native males, in the US. He explained this characteristic by the difficulty of a complete transfer of human capital as well as lacking language knowledge at the time of arrival. As these skills are improving through time, the human capital of immigrants grows relative to that of natives, and immigrants experience faster wage growth.

European experience does not confirm these conclusions. The evolution of wages by age group (not longitudinal data) indicates that hourly wages of natives and foreign-born workers have similar paths. However, in certain countries the wage gap increases with age (e.g. Austria, Netherlands and Sweden) while generally immigrant women's wage is lower at all ages. On average, it appears that in several countries the wage gap increases with age.

¹⁵ See Eurostat and OECD.

¹⁶ Chiswick, Barry R. (1978): "The effect of Americanization on the earnings of foreignborn men", *Journal of Political Economy*, 86(5):897-921. For a discussion see: Stefanie Brodmann "The Economic Performance of Immigrants: A Longitudinal Analysis of Earnings Mobility in Denmark and Germany" Pompeu Fabra University, Barcelona, Spain, 2006.

3.2 Disability

In this part, we will summarise the results of a European Commission study carried out by Applica-CESEP-Alphametrics based on EU data¹⁷.

The authors estimate the effect of disability on wages by using a Mincer type earnings function. The variables included in the wage equation are standard ones explaining differences in worker productivity:

- personal characteristics: age, level of education, work experience, experience squared to control for declining investment in job-specific training over time, country of origin;
- job characteristics: occupation, type of contract, company size, sector, and so on.;
- a functional limitation variable to control for the direct impact of disability on productivity, which here is taken as health status.

At EU level, gross hourly wage of full time working men with activity limitations is about 13% (11%) lower compared to non-disabled men (women). The wage gap appears to be relatively high in Estonia, the Netherlands, Hungary, Ireland, Sweden and UK.

A gross earnings function (in semi logarithmic form) is estimated by OLS separately for men and for women. In order to avoid comparability problems, the analysis is confined to employees working full time. Full results cover only Austria, Estonia, France and Luxembourg. Alternative methods taking into account selection problems have also been used.

It is assumed that activity limitations have an intercept effect on wages. In other words, they imply a parallel downward shift of the gross wage at each age. In order to assess how much of the wage gap is due to discrimination, a gross cash earnings function is estimated for full-time male employees¹⁸.

The estimates indicate that the current gross cash wage of people with activity limitations (retained in the regressions) amounts to 84% of that for people without such limitations. When differences between the two in education, occupational characteristics, health and the other factors listed above are taken into account, this percentage increases to 90%. The remaining difference of 10% could be attributable to discrimination. However, it is arguable that health status is not a good proxy for functional limitations and their effect on productivity. Of course, the 6% explained by lower educational attainment and occupational characteristics may represent pre-labour market discrimination. In other words, it still remains to explain why people with activity limitations have lower educational attainment. Part of this might be due to people with learning impairments.

It is important to note that pre-labour market discrimination – i.e. that which occurs before someone starts pursuing a working career – might itself determine the educational level and skills of people with disabilities (i.e. their endowment of human capital). In fact, people who expect that they will be discriminated will tend to invest less in human capital than non-disabled. The expected return to education of discriminated people is less compared to non-discriminated people and this pushes them to invest less.

However, this argument applies mainly to those who have a congenital disability or who acquired it at an early age. This argument does not hold for older workers who become disabled due to bad working

¹⁷ “Men and Women with disabilities in the EU: Statistical analysis of the LFS Ad hoc module and the EU-SILC”: study financed by DG Employment, Social Affairs and Equal opportunities carried out by APPLICA & CESEP & ALPHAMETRICS, Final report 2007
http://ec.europa.eu/employment_social/index/lfs_silc_analysis_on_disabilities_en.pdf

¹⁸ The results for women are very sensitive to methods and hypotheses and are not presented here.

conditions, low living standards, etc. In this case, it is low education which leads to unskilled low paid jobs and latter to disability.

3.3 Sexual orientation

When we treat the wage gap, we have to take care when comparisons are made. Empirical studies show consistently that married men earn higher wages than unmarried men and women (both married and unmarried). This is known as the marriage premium. This raw wage premium is about 25% for married men in Europe. This does not apply for women.

Plug and Berkhout (2001) study the earnings of two cohorts of higher vocational and university graduates 20 months after graduation in the Netherlands. This study uses multiple regression analysis that includes a gay dummy. They find that young gay male workers, with or without a partner, earn about 3 percent less than heterosexual men but that similarly qualified lesbian workers earn about 4 percent more than their heterosexual female co-workers.

For the UK, G. R. Arabsheibani et al. (2002)¹⁹ use the Oaxaca-Blinder method to explain wage differences. They study heterosexual couples and homosexual cohabitants identified in the Labour Force Survey. Although the average earnings of homosexual cohabitants are higher, they argue that there is a wage discrimination against them compared to either married couples or all heterosexual cohabiting couples. They find that the returns to higher education are lower for gays than for non-gays. They conclude that it is homosexual men who are subject to discrimination and therefore are likely to benefit from legislation in the UK. The lower relative reward for given characteristics is more marked amongst gay men. Indeed, lesbians have a marked advantage in pay, in endowments and in the structure of rewards. On the contrary, there is no significant difference when they compare gays versus unmarried couples.

Using more recent data, G. R. Arabsheibani et al. (2006) find that gay men in couples earn 6% less than comparable heterosexual men. Lesbian women in couples are paid 11% more than comparable heterosexual women. The results control for any differences in pay and employment that may be caused by such differences in age, education, race and health as well as differences in regional settlement patterns, occupation or industrial affiliation.

Table 1: Hourly wage gap in the UK

	Wage of homosexual couples/heterosexual couples in %	
	Men	Women
Controlled	- 6%	+ 11%
Raw	- 1%	+ 35%

Source: G. R. Arabsheibani et al. (2006).

M. Calandrino (1999)²⁰ uses longitudinal data. He finds that the mean gross hourly wages in the UK are lower for gays (7,6) than for heterosexual men (7,9), and higher for lesbians (6,3) than for heterosexual women (5,6). He then controls for factors that affect the wage rate and are related to workers' productivity. He finds that for men this difference persists and is significant at least in one specification of the model. In the case of women, it is possible to argue that the difference in gross hourly wages can be explained by the control variables that have been introduced in the model of wage determination. M. Calandrino argues that families represent strong safety nets for individual workers and that this possibility of 'income-insurance' is not open to homosexuals. As a result they might be more risk averse within the labour market and decide to trade-off some income in exchange of greater job security and better benefits. The higher labour market attachment of lesbian women might explain differences with heterosexual women.

¹⁹ G. Reza Arabsheibani, Alan Marin and Jonathan Wadsworth: "Gays' Pay in the UK", Research Paper 2002-1; School of Management and Business, University of Wales, UK.

²⁰ MICHELE CALANDRINO: SEXUAL ORIENTATION DISCRIMINATION IN THE UK LABOUR MARKET; UNIVERSITY OF OXFORD, St. Antony's College, 1999

Table 2: Gross hourly wage in the UK

UK	Heterosexual	Gay	Heterosexual	Lesbian
	Men		Women	
Gross hourly wage	7,9	7,6	5,6	6,3

Source: Longitudinal survey; M. Calandrino (1999) .

There is an important literature on the subject in the US.

Clain and Leppel (2001) use data from Public Use Micro-data Sample (PUMS) of the 1990 US Census of Population and Housing. People of the same sex who live in a household and declare themselves as partners are classified as gays or lesbians. This study uses multiple regression analysis that includes a gay dummy. Their results indicate that gay men earn less than men not living with partners but lesbians earn more than other women. Both gay men and lesbians have a higher level of education than non-gays.

Allegretto and Arthur (2001)²¹ used also the 1990 U.S. Census Public Use Microdata Sample (PUMS) to examine the earnings patterns of male workers in same-sex couple households relative to the earnings of male workers in households comprised of married and unmarried different-sex couples. The study uses multiple regression analysis that includes a gay dummy. The authors found that gay men earned much less than married heterosexual men. They attributed the bulk of the earnings differential to the effects of marital status rather than sexual orientation.

This raises the question concerning the base group for comparability. As married men gain generally more than men living alone, comparison ought to take into account this fact.

Klawitter and Flatt (1997)²² used the 1990 Census data and run earnings regressions that controlled for education, age, race, urban residence, region, English proficiency, and work disability. They found that men in same-sex couples earned about 26 percent less than married men, but their earnings were similar to those for men in unmarried different-sex couples. Earnings for women in same-sex couples were higher than those for married women, but this difference disappeared for a sample limited to women who were full-time, full-year workers. The effect of sexual orientation on average earnings did not seem to be affected by the presence of laws prohibiting employment discrimination based on sexual orientation.

N. Natham and D. Lien (2006)²³ summarise the US situation in the following table.

Table 3: Characteristics of self-reported heterosexuals and non-heterosexuals adults, US (GSS 1991–2000)

	Heterosexuals		Non-heterosexuals	
	Men	Women	Men	Women
Age	40,07	39,01	39,30	36,18
Income	15,01	11,91	13,91	12,47
Degrees	1,64	1,63	1,85	1,69

a. Income is measured on a 23-category scale. The average male's income (in the 13–15 range) corresponds to US \$20.000–US \$30.000 in 1998 dollars. The average female income (in the 11–12 range) corresponds to US \$15.000–US \$20.000.

b. The variable Degrees is a count variable ranging from zero to four that indicates the number of degrees each respondent has earned.

Source: Nathan Berga, and Donald Lien (2006).

J. Brandford (2003)²⁴ analyses the 1989–96 General Social Survey data. He finds that gay men experienced a 30–32% income disadvantage relative to heterosexual peers, while lesbian women

²¹ Cited in John M. Blandford: The Nexus of Sexual Orientation and Gender in the Determination of Earnings; Industrial & Labor Relations Review, Volume 56, Issue 4 2003 Article 4.

²² Cited by Marieka M. Klawitter: "The Determinants of Earnings for Women in Same-Sex and Different-Sex Couples"; Paper prepared for presentation at Allied Social Science Associations meetings, Chicago, January 1998.

²³ Nathan Berga, and Donald Lien: "Same-sex sexual behaviour: US frequency estimates from survey data with simultaneous misreporting and non-response"; Applied Economics, 2006, 38, 1–13.

²⁴ John M. Blandford: The Nexus of Sexual Orientation and Gender in the Determination of Earnings; Industrial & Labor Relations Review, Volume 56, Issue 4 2003 Article 4.

enjoyed a wage premium of 17–23%. However, lesbian women appear to earn more than other female workers but continue to earn less than the group of men as a whole. J. M. Brandford claims that employers may view marriage as promoting job stability among male workers and may therefore provide a compensation premium to married men not afforded to unmarried men. In contrast, employers may penalize marriage in female workers based on a perception that married women's workplace productivity will be diminished by competing demands in the home. This approach is based on strong assumptions concerning the distribution of tasks inside the household. He argues that if demand-side discrimination based on marital status exists, the rejection of traditional gender norms (manifested as non-participation in heterosexual marriage) might benefit lesbian workers while further depressing the wages of gay men. Thus, he concludes that the effects of nonconformity may in part offset bias effects for lesbian, while exacerbating them for gay.

Gay men have been shown to be more likely than other men to work in professions that are female identified (services, non-profit, etc.). J. M. Brandford argues that for non-heterosexual workers, gender-divergent occupational patterns may reflect a strategy of avoiding workplace cultures in which conformity to traditional gender norms, which include heterosexual marriage, is enforced for majority-gender workers. Again, divergence from expected gender patterns may be expected to benefit lesbian workers relative to their heterosexual peers. In contrast, an overrepresentation of gay workers in female-identified jobs should lower expected returns to human-capital characteristics for those workers, given the comparatively low compensation in most such jobs.

J. M. Brandford argues that the direct effect of employer bias and the influence of bias-driven occupational sorting are expected to depress the earnings of lesbian and gay workers relative to their heterosexual peers. Nonconformity to gender norms—through nonmarriage and gender-atypical occupational patterns—may, however, introduce offsetting effects for lesbian workers. Therefore, the net expected effect of sexual orientation in the workplace is negative for gay workers and theoretically ambiguous for lesbian workers.

M. M. Klawitter²⁵ analyses a certain number of social characteristics. She considers that women in same-sex couples have more of many characteristics expected to pay off in the labour market: urban location, education, occupational status, and less frequent child-rearing. She runs multivariate regressions to assess the contributions of these characteristics. Although women in same-sex couples earned more on average than married and unmarried women in different-sex couples, the decompositions show that much of the difference is attributable to differences in characteristics. Women in same-sex couples lived in higher-paying labour markets, had more education, and worked in higher paying occupations and industries than do women in different-sex couples. The models also suggest that women in same-sex couples had higher pay-offs to characteristics, but that these are offset by lower base salaries. She concludes that this pattern could reflect differing impacts of labour market discrimination on women in same-sex couples across education levels, locations, or occupations and industries.

²⁵ Marieka M. Klawitter: "The Determinants of Earnings for Women in Same-Sex and Different-Sex Couples"; Paper prepared for presentation at Allied Social Science Associations meetings, Chicago, January 1998.

4. THE EMPLOYMENT GAP

4.1 Ethnic origin

Discrimination does not manifest itself solely in wage differentials, but also in different employment rates and opportunities of career advancement. For example we have seen that migrants are overrepresented in sectors with low wages and few career opportunities (e.g. personal services).

At the EU level, the employment rate wage gap appears to be relatively small although significant for women born outside the EU²⁶. Aggregation at EU level hides the existence of two groupings of Member States:

In the first group of countries including the old immigration countries (Belgium, Denmark, Finland, France, Germany, Luxembourg, the Netherlands and the UK) the employment rates of the non-EU-born are significantly below those of the national averages.

In particular in Belgium, Denmark, Finland, France, Germany, Luxembourg, the Netherlands and Sweden, the employment rate differential is more than 10 percentage points for men. The employment rate gap for women born outside the EU is on average 20% for these countries (except Luxembourg where it is very low). Furthermore, the employment gap is generally higher for younger age groups.

Even if we adjust for differences in education and socio-economic characteristics (age, experience, education, qualifications, marital status, health, etc.), the employment gap remains significant for men born outside the EU and all foreign-born women²⁷. The gap is particularly high for women born outside the EU. For the latter, the employment rate gap is equivalent to an educational depreciation (e.g. passing from middle to low education level or from high to medium educational level).

In the second group, positive differences in migrants' employment rates relative to natives' average are observed in the 'new' immigration countries (notably Greece, Italy, Portugal and Spain). The high employment rates reveal a strong presence of young immigrants and a selection process in entry.

These rates do not exclude discrimination. N. Drydakis and M. Vlassisa (2007)²⁸ investigate the extent of ethnic discrimination in the Greek labour market. They use correspondence testing to examine directly whether ethnic discrimination currently exists in the Greek labour market. They focus on the hiring process and extend the analysis by gathering information on insurance coverage registrations, as well as on wage offers. They conclude that ethnic discrimination in the Greek labour market is significant in terms of access to occupations, insurance coverage and wages. The same methodology has delivered similar results for recruitment discrimination in Germany, the Netherlands and Sweden²⁹. Discrimination in recruitment appears to be higher in low compared to high-skilled occupations.

The employment gap has to be assessed in relation to the Lisbon objectives. Guideline 17 states that "Policies should contribute to achieving an average employment rate for the European Union (EU) of

²⁶ See notably: 1) "Employment in Europe 2008"; European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, Unit D.1, October 2008. 2) European Commission: "Migrant women in the European labour force: Current situation and future prospects" by Jennifer Rubin, Michael S. Rendall, Lila Rabinovich, Flavia Tsang, Constantijn van Oranje-Nassau, Barbara Janta; Rand Europe; 2008.

²⁷ See the Statistical Annexes of "Men and Women with disabilities in the EU: Statistical analysis of the LFS Ad hoc module and the EU-SILC": study financed by DG Employment, Social Affairs and Equal opportunities carried out by APPLICA & CESEP & ALPHAMETRICS, Final report 2007. The econometric analysis includes different socio-economic characteristics including origin and health.

²⁸ Nick Drydakis and Minas Vlassisa: "Ethnic Discrimination in the Greek Labour Market: Occupational Access, Insurance Coverage, and Wage Offers", University of Crete, 2007.

²⁹ Magnus Carlsson and Dan-Olof Rooth: "Evidence of Ethnic Discrimination in the Swedish Labor Market Using Experimental Data"; Discussion Papers Series, IZA DP No. 2281; Institute for the Study of Labor, 2006.

70 % overall, of at least 60 % for women and of 50 % for older workers (55 to 64) by 2010, and to reduce unemployment and inactivity. Member States should consider setting national employment rate targets³⁰.

The following table indicates that the priority concerning people born outside the country of residence is to increase the employment rate of women born outside the EU. The employment rate of men born outside the EU needs also to be increased in order to reduce the employment rate gap.

Table 4: The employment rate gap by type of discrimination in the EU (2005 or latest available year)

	Men		Women	
Lisbon objectives	70 (Men & Women)		60	
Ethnic origin				
15-64	Natives	Born outside EU	Natives	Born outside EU
Old immigration MS	75	67	64	48
New immigration MS	73	80	53	58
Disability				
25-64	No activity limitation	Activity limitation	No activity limitation	Activity limitation
	80	50	60	40
Sexual orientation				
UK only	Heterosexual	Gay	Heterosexual	Lesbian
	88	88*	69	74*

Source: Estimations using European Commission reports (different studies and publications).

*: For sexual orientation, we have taken a simple average of M. Calandrino (1999) and G. R. Arabsheibani et al. (2002). The study by M. Calandrino finds a 4% gap. See also discussion in point 4.3.

4.2 Disability

The low employment rate of people with disabilities has been reported by several surveys (LFS Ad hoc module, SILC) and several studies. Generally countries with a quota scheme do better than other countries (Austria, France, Germany, Italy, Luxembourg and Spain). The difference between the overall employment rate and the employment rate of people with activity limitations is relatively lower. Finland presents also relatively good results for people with activity limitations and this might be explained by an active policy at local level.

In terms of the Lisbon objectives, people with a disability ought to be the priority group.

4.3 Sexual orientation

M. Calandrino (1999) notes that the statistical and econometric evidence seems to suggest that, at least for gays, discrimination is indeed present. This discrimination does not manifest itself solely in wage differentials, but also in different employment rates and opportunities of career advancement.

However, G. R. Arabsheibani et al. (2002) note that the results depend on the groups to whom we compare gays. In a more recent article, G. R. Arabsheibani et al. (2006)³¹ study same sex couples and compare them to heterosexual couples. They find that gays experience a 3 percentage point employment gap (raw data indicate an advantage of 3 points) and lesbian an advantage of 12

³⁰ COMMISSION OF THE EUROPEAN COMMUNITIES: COM(2007) 803 final, PART V COMMUNICATION FROM THE COMMISSION TO THE SPRING EUROPEAN COUNCIL INTEGRATED GUIDELINES FOR GROWTH AND JOBS (2008-2010) including a COMMISSION RECOMMENDATION on the broad guidelines for the economic policies of the Member States and the Community (under Article 99 of the EC Treaty) and a Proposal for a COUNCIL DECISION on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty).

³¹ Reza Arabsheibani, Alan Marin and Jonathan Wadsworth: Gay pay in the UK; Centre Piece Summer 2006.

percentage points (raw data indicate an advantage of 15 points). The results control for any differences in pay and employment that may be caused by such differences in age, education, race and health as well as differences in regional settlement patterns, occupation or industrial affiliation.

D. Weichselbaumer (2001)³² investigates discrimination against lesbians in Austrian labour markets. A labour market experiment is conducted. Job applications of candidates, who are equivalent in their human capital but differ in their sexual orientation, are sent out in response to job advertisements. The results show a strong negative effect for lesbian orientation while gender identity does not have a significant overall impact on hiring chances. The author finds that indicating a lesbian identity reduces one's invitation rate to an interview by about 12%.

The above results concern only the UK and Austria. Consequently, any conclusions have only an indicative value for the EU as a whole.

³² Doris Weichselbaumer : Sexual Orientation Discrimination in Hiring ; Linz Economics Working Paper No. 00-21; University of Linz - Department of Economics; Institute for the Study of Labor (IZA); October 2001.

5. THE IMPACT OF THE FINANCIAL CRISIS ON EMPLOYMENT

The recent financial crisis and the emerging economic recession raise new questions concerning the employment of disadvantaged groups in the EU.

5.1 Temporary versus permanent employment

We consider generally that workers with temporary contracts are the first victims of a recession. In fact, the cost of firing these workers is lower compared to workers with a permanent contract (and well established rights). Available data indicate that migrants are overrepresented among workers with temporary contracts. Also, young people are overrepresented. Consequently, we expect a strong negative impact of the current recession on young foreign workers.

It is interesting to note that discrimination on the base of ethnic origin might appear in recruitment during an expansion period and in firings during a recession period. Foreign born might be the first victims of a recession. In France the National Federation of Construction noted that from 1974 to 1981 the building sector declined by 11,7%. The reduction of the foreign employee component was 30% of the 1974 foreign workforce. The decrease in the number of French workers employed represented only a 3,9% decline of the 1974 level³³.

People with a disability are not expected to be affected disproportionately from this point of view. First, they are not overrepresented among workers with temporary contracts and secondly positive action (e.g. quota schemes) might protect them.

Concerning sexual orientation, if we assume as several studies have shown that the work characteristics of this group is close to jobs held by women, we may advance that they are overrepresented among workers with temporary contracts and consequently they might be hit by the recession.

5.2 Skilled versus unskilled workers

It is widely accepted that the unemployment rate of unskilled workers is more sensitive to the business cycle compared to that of skilled workers.

As discussed above, foreign-born workers and people with disabilities are overrepresented in “elementary occupations”. Generally, the cost of firing and eventually rehiring an unskilled worker is less expensive for a company than for skilled workers. For these reasons, foreign born workers and people with a disability might be overrepresented in firings. This does not hold for people discriminated on the basis of sexual orientation.

Another important factor is sectoral distribution. Foreign born workers are concentrated in industrial sectors which are very sensitive to cyclical movements (e.g. construction, car industry, etc.). The accumulation of these characteristics (low skills and sensitive sectors) may exacerbate the negative impact on the employment of foreign-born workers. However, this might not be true globally. Foreign born workers are also overrepresented in sectors like HoReCa and certain personal services which seem to resist better during a recession.

Between 1990 and 1993 the UK experienced a period of sharp economic decline. However, employment in the lower-paying sectors remained relatively stable and the recession had less than average impact in areas such as food retailing, fast food, restaurants, pubs and hairdressing and cleaning and catering³⁴ all sectors with high foreign born employment. In

³³ <http://www.age-of-migration.com/na/casestudies/10.3.pdf>

³⁴ “The impact of economic recession on pay increases and the low paid”; A research report by Incomes Data Services for the Low Pay Commission, Incomes Data Services Ltd, London March 2006.

fact, the retail distribution and hotels and catering had employment levels that remained fairly stable through the recession. On the contrary, manufacturing and construction lost many jobs. A notable feature of this time was the extension of part-time working in the retail sector as a number of companies move to ‘key time working’ and zero hour contracts³⁵.

5.3 Part-time versus full-time work

Foreign-born and people with a disability are overrepresented in part-time jobs. The question is how enterprises adjust during an economic recession. Generally, we consider that enterprises are more likely to adjust employment or hours worked. This is particularly true in sectors with high flexibility.

A. Lester notes³⁶ that average hours of full-timers and part-timers considered separately appear less cyclical than average hours as a whole. Given that most part-time workers are casuals, with relatively low hiring and firing costs, it might be expected that part-time employment growth would be more cyclical than full-time employment growth. In fact, however, the reverse is true: the cycle affects full-time employment growth earlier, and probably more strongly, than part-time employment growth, with the share of full-timers in total employment falling most rapidly during downturns. Although some full-time workers are cushioned from variations in employment by modifying hours, full-time employment responds more strongly to the cycle than part-time employment.

According to this criterion, both disadvantaged groups (migrants and persons with a disability) ought to resist better than other groups during an economic depression.

Furthermore, part-time workers now have the right to equal treatment with full-time staff in a certain number of Member States (e.g. Netherlands, UK). This means that working part-time can't be used as a reason for selection for redundancy, unless it can be justified objectively.

Another factor is the concentration of foreign-born in the highly flexible sector of personal services, hotels, restaurants and pubs. These sectors seem to be more flexible (in terms of decreasing wages or hours) and consequently resist better than manufacturing during a recession. However, further decreases of working hours and/or reduction of wages in these sectors might push certain persons into the group of working poor.

³⁵ “The impact of economic recession on pay increases and the low paid”; A research report by Incomes Data Services for the Low Pay Commission, Incomes Data Services Ltd, London March 2006.

³⁶ Ashley Lester: “Labour Demand and the Economic Cycle”; Reserve Bank of Australia Bulletin February 1999

6. EU STRUCTURAL FUNDS

6.1 European Social Fund priorities

The ESF priorities for 2007-2013 cover 15 categories, one of which is Specific action to increase migrants' participation in employment. Another concerns integration of all disadvantaged people into employment³⁷:

Increasing the adaptability of workers and firms

1) Development of Lifelong Learning (LLL) systems; 2) More innovative and productive ways of working; 3) Employment and training support for workers and companies

Improving access to employment and sustainability

1) Modernisation of labour market institutions; 2) Active and preventive measures to support employment; 3) Active ageing and longer working lives; 4) Supporting self employment and new businesses; 5) Improving equal access to employment (gender equality); 6) *Increasing migrants' participation in employment*

Improving the social inclusion of less-favoured persons

Integrating disadvantaged people into employment

Improving human capital

1) Reforming education and training systems; 2) Promoting education and training throughout working life; 3) Developing human potential in research and development

Other

1) Partnerships, networks and initiatives; 2) Improving institutional capacity

6.2 Ethnic origin

The European Commission notes that integration of migrants is a priority. Actions aimed at promoting the integration of migrants into the labour market were eligible in the 2000-2006 programming period, although the regulation made no specific mention to this target group. The Regulations for 2007-13 place a greater emphasis on the issue, by mentioning:

- specific action to increase migrants' participation in employment, and
- reporting requirements (implying visibility and evaluation).

A two-track approach may be relevant: 1) Mainstreaming (integration of migrants in all European Social Fund (ESF) programmes) and 2) Specific action for migrants.

The 'priority axis' is an important dimension. The Council Regulation³⁸ provides that a priority is a group of operations which have specific measurable goals. This is important for monitoring and evaluation. The priority "Increasing migrants' participation in employment" can be found in national

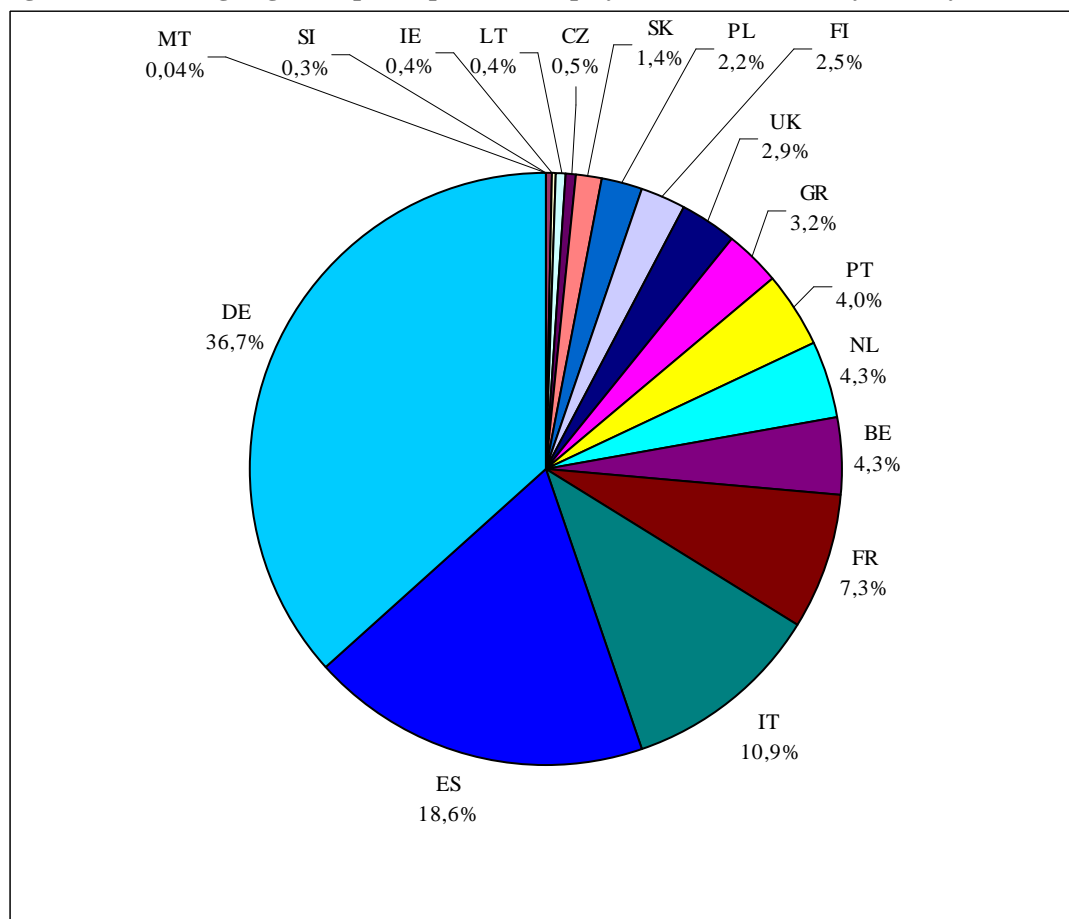
³⁷ COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

³⁸ COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999. REGULATION (EC) No 1081/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999.

Operational Programmes Employment, Operational Programmes Convergence, Operational Programmes Regional Competitiveness, Operational Programme Education and Lifelong Learning, etc.

The total budget for “Increasing migrants' participation in employment” is 1.170.542.355, 00 Euros. The following figure presents the distribution by Member State. We may note the lack of specific actions in Austria, Denmark, Luxembourg and Sweden where available research indicates the presence of significant problems. The Netherlands has also a relatively low budget. However, actions in these countries are funded under alternative priorities (8 and 10 of ESF).

Figure 4: Increasing migrants' participation in employment; Distribution by country



Note: The budget is zero for AT, BG, CY, DK, EE, HU, LU, LV, RO and SE.

Source: ESF (European Commission)

6.3 Disability

The European Commission notes that actions aimed at promoting the integration of people with disabilities were eligible in the 2000-2006 programming period, although no specific mention was made of this target group. The Regulations for the 2007-13 place a greater emphasis on this issue. They refer to accessibility and make specific reference to people with disabilities as a target group. However, reporting requirements are not well established. In fact, the new Regulations stipulate that the annual implementation report should contain information “on action to strengthen integration in employment and social inclusion of other disadvantaged groups, including people with disabilities”.

Member States may address the needs of people with disabilities by implementing specific actions and by following a mainstreaming approach.

6.4 Sexual orientation

The European Social Fund (ESF) is supporting activities in the Member States that fight discrimination in access to employment and in the workplace. The scope of ESF includes combating all forms of discrimination in the labour market. However, sexual orientation plays an insignificant role in planned activities.

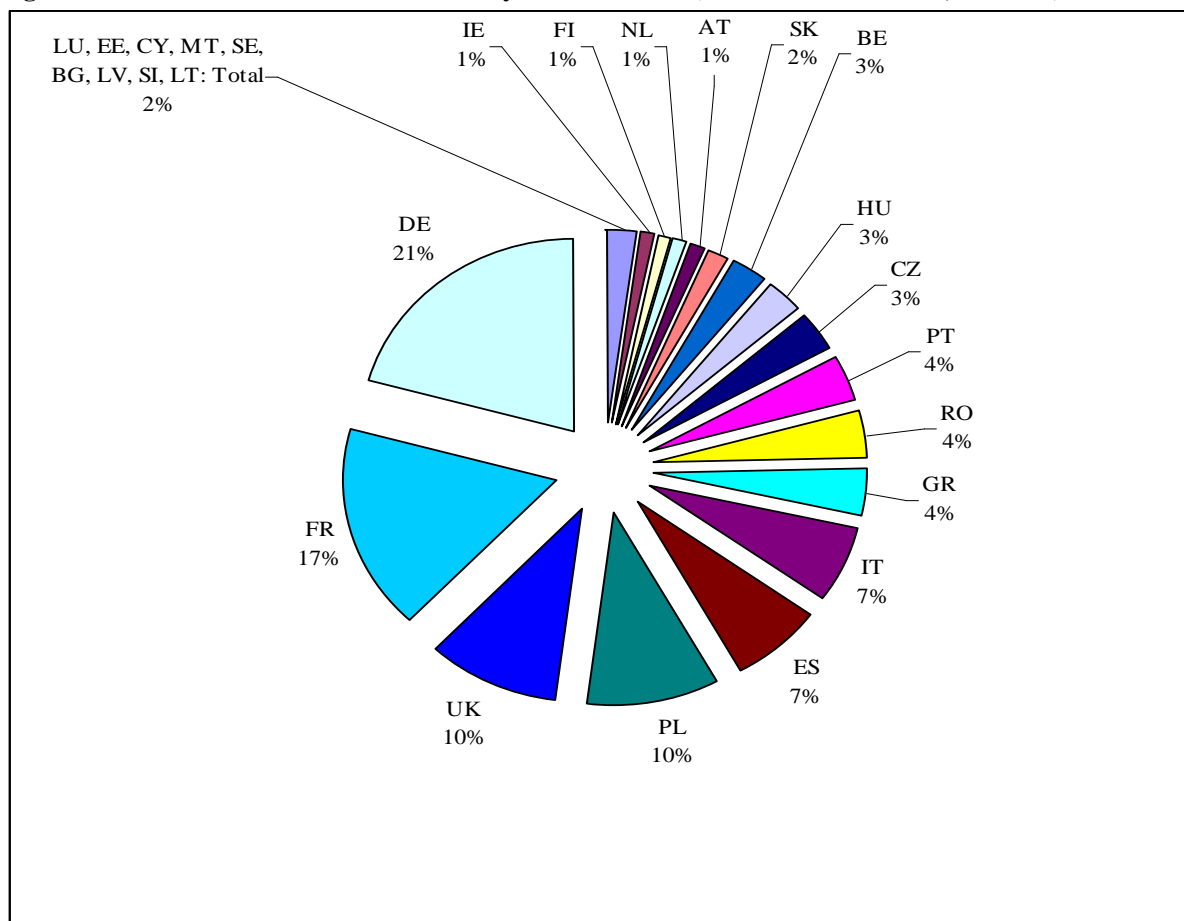
7. MAINSTREAMING VERSUS SPECIAL MEASURES

In the following, we will take into account the two ESF priorities for 2007 – 2013 which seem to be the most relevant for our discussion. These are:

- Increasing migrants' participation in employment (1.170.542.355,00 Euros), and
- Integrating disadvantaged people into employment (9.980.409.979,00 Euros).

The following figure presents the distribution by Member States.

Figure 5: Distribution of EU contributions by Member State (Total: 11.150.952.334,00 Euros)



Source: European Commission (ESF)

It is important to note that these funds may benefit to other disadvantaged groups of people not studied here (e.g. Roma). Also, the three groups under study (ethnic origin, disability and sexual orientation) might benefit from other programmes too. Consequently, the data have an indicative value only.

The total EU contribution for the two noted priorities amounts to 11.150.952.334,00 € for the programming period 2007-2013. This amount ought to contribute at the financing of national plans proposed by the Member States. The target population of migrants, people with a disability and non-heterosexuals aged 20-64 years amounts to 60.796.515 persons in the EU (2007).

In the following figure we compare the distribution of EU contributions and the distribution of the population of the target group by Member State. It is important to note that national approaches might affect the distribution of EU funds. Member States favouring a mainstreaming approach might favour priorities like 'Employment and training support for workers and companies', 'Improving access to employment and sustainability' or 'Modernisation of labour market institutions', instead of 'Increasing

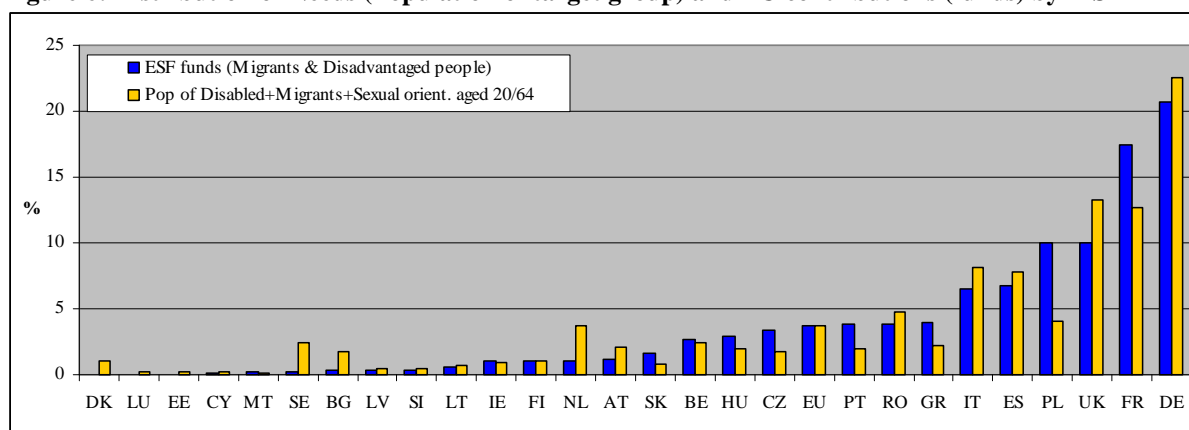
migrants' participation in employment' and 'Integrating disadvantaged people into employment'. The balance between mainstreaming and specific actions is different across Member States.

We may note that:

- the Czech Republic, Portugal, Greece and France have given a priority to actions promoting the participation of migrants and disadvantaged people into employment;
- Denmark, Sweden and the Netherlands have given little weight to the integration of disadvantaged groups on the labour market.

Often this last group of countries advances the argument that mainstreaming is preferable to specific and targeted actions. Also, these countries favour income support policies.

Figure 6: Distribution of Needs (Population of target group) and EU contributions (funds) by MS



Source: European Commission (ESF & Eurostat) and own estimations.

The question is then, do these countries do better than other Member States favouring positive discrimination, quotas, etc.

First, concerning people with disabilities, the employment gaps are particularly high in Denmark (30 percentage points), the Netherlands (20 pp) and Sweden (30 pp)³⁹. Secondly, concerning people foreign born, the employment gaps are particularly high in Denmark (20 percentage points), the Netherlands (17 pp) and Sweden (17 pp)⁴⁰. The employment gap is often bigger for young people non-EU-born.

Women with disabilities or foreign-born women experience generally greater employment rate gaps.

A review of the ESF operational programmes indicate that:

- In Denmark, there are no specific measures. Proposed actions to improve labour participation of disabled and ethnic minorities are included in the ESF priority areas "Employment and training support for workers and companies". The proposed measures are interesting as they might have an impact on recruitment practices.
- In the Netherlands, the aim is to increase the labour supply of 'partially occupationally disabled'. This measure focuses mainly on men and might have an indirect discrimination impact on women. In fact, the share of women among occupationally disabled is relatively

³⁹ Eurostat (LFS Ad hoc module and SILC 2004).

⁴⁰ Employment in Europe 2008.

small. Concerning other proposed measures, they might benefit mainly to older people (55+) with health problems. These last measures might create confusion between the priorities concerning active ageing and employment of disadvantaged groups. Finally, the proposed actions do not put enough stress on foreign-born youth which experience a high employment gap.

- In Sweden, there are no specific measures. The ESF Operational Programmes focus on two priorities: 'Skills supply' and 'Increased labour supply'. The second priority centres on people outside of the labour market, with a focus on young, immigrants and those on long-term sickness leave. The proposed measures promote mainly education and training. Both priorities and the proposed actions assume that there is no discrimination on the labour market or that it is insignificant. They assume that the observed differences between natives and foreign-born people are mainly the result of different educational endowments.

Consequently, we may advance that there is a need to keep a better balance between "mainstreaming" and specific programmes in these countries.

8. EMPLOYMENT PROTECTION LEGISLATION

We may distinguish between:

- Anti-discrimination legislation, and
- Compulsory obligation (Quota) schemes.

Quantitative evaluations of the anti-discrimination EU Directives are scarce, although available data provide sufficient base for a first evaluation. However, this evaluation might be of limited scope as several Member States have adopted the EU Directives only recently. The data collected through the European Survey of Income and Living Conditions (SILC) may be used at this end.

G. R. Arabsheibani et al. (2006) compare the situation of homosexual and heterosexual couples before and after the legislation was introduced in the UK. They study the period between 2001 and 2005 (35 months before the law came in and 21 months after). They find no significant change in the wage and employment differentials of homosexual couples relative to heterosexual ones. They conclude that on this basis it would seem that the law had little effect on observable outcomes. Critics may advance that the periods might be affected by other changes and that the post adoption period might be too short. Changes might require time before to show up. This is notably true for wages as they are bound by past contracts. However, the methodology is clear and intuitive.

A similar study concerns the UK Disability Discrimination Act (DDA). The DDA was passed in 1995 and came into power in December 1996. D. Bell and A. Heitmueller (2005)⁴¹ argue that the DDA has had no impact on the employment rate of disabled people or possibly worsened it. They advance as possible reasons for this low take-up of financial support, low levels of general awareness about the Act among disabled people and employers, and limited knowledge about the true costs of required adjustments. The authors although they are aware of cyclical fluctuations, they do not isolate the impact of the business cycle in their estimations. A quick look of the business cycle in the UK reveals that the year 1995 is the highest of the period 1990 to 2000⁴². The post DDA dummy used by the authors in their estimations might simply capture the downturn of the business cycle. The authors are aware of these limitations and they cite Kruse and Schur (2003)⁴³ who find that disabled workers are more exposed to labour market downturns. Conversely, their employment rates may grow relatively quickly during upturns.

In the US, a high number of quantitative studies have attempted to evaluate the employment impact of the Americans with Disabilities Act of 1990 ("ADA"). The Act bans discrimination against the disabled in wage determination, hiring, firing, advancement, job training and requires employers to offer a workplace reasonably adapted to the needs of employees with a disability. The ADA covers employers with 15 or more employees, including state and local governments. The first studies were indicating an adverse impact of ADA to the employment of people with disabilities. However, latter studies took into account economic trends on the labour market and found little evidence of adverse effects. In fact, the adverse effects noted in early studies had started before the ADA's passage⁴⁴.

Evaluations of the quota schemes are scarce. They cover Germany and Austria. R. Lalive et al. (2008)⁴⁵ analyze the quota scheme in Austria. The quota aims to promote employment for severely disabled workers and obliges firms to hire at least one disabled individual as soon as they pass a threshold firm-size of 25 non-disabled employees. Firms that do not comply with this obligation are

⁴¹ David Bell and Axel Heitmueller: "The Disability Discrimination Act in the UK: Helping or Hindering Employment Amongst the Disabled?"; IZA Bonn, Discussion Paper No. 1476; January 2005

⁴² Michael Artis: Analysis of European and UK business cycles and shocks ; EMU study , HM Treasury, 2003

⁴³ Kruse, D., Schur, L. (2003). Employment of People with Disabilities Following the ADA. *Industrial Relations*, 42(1): 31-66.

⁴⁴ John J. Donohue, Michael Stein, Sascha Becker, Christopher L. Griffin Jr.: "Assessing Post-ADA Employment: Some Econometric Evidence and Policy Considerations;" Yale Law & Economics Research Paper No. 358 October 10, 2008.

⁴⁵ Rafael Lalive, Jean-Philippe Wuellrich, Josef Zweimüller : « Do Financial Incentives for Firms Promote Employment of Disabled Workers? A Regression Discontinuity Approach»; October 3, 2008

subject to a flat-rate tax of about 200 Euros per month for each place not filled. The authors find that the quota does promote the employment of severely disabled workers in firms located above the quota threshold as compared to firms just below the quota threshold. In terms of industry, the employment gain tends to be concentrated in capital intensive manufacturing rather than labour intensive sectors such as services, tourism or construction. They also find that quota boost employment primarily among former employees of the firm.

Concerning the employment of migrants, it is interesting to note that in the past few years, a consensus has grown in Belgium (Flanders) that employment equity and diversity policy should not be based purely on awareness-raising, and therefore have an optional character, but that clear objectives should also be set and monitored.

9. CONCLUSIONS

The total number of people covered by the Directives on ethnic origin, disability and sexual orientation amount to 22% of adults aged 16 to 64 years in the EU. Foreign-born represent 10%, people with disabilities 8,5% and homosexuals 3,5%. The main differences across countries stem from different rates of foreign-born people and in a lesser extent by the prevalence of disability.

Discrimination on the labour market may take the form notably of lower wages or lower employment rates for the disadvantaged groups.

The analysis of foreign-born workers' wages provides mixed results. Once we adjust data in order to take into account of differences in endowments and job characteristics, we find that the wage gap persist in a certain number of countries but is eliminated in others. Generally, women appear to be more vulnerable even after adjustment for educational and other endowments. Concerning origin, workers born in another European country seem less discriminated compared to people born outside Europe.

Concerning qualifications, we may note that migrants are strongly overrepresented in elementary occupations (notably migrant women).

Education appears to be a dominant factor in explaining wage differentials. The evolution of wages by age group indicates that hourly wages of natives and foreign-born workers have similar paths. However, in certain countries the wage gap increases with age. This militates against the argument that the wage gap is due to problems related to the transferability of education and skills. Furthermore, several people foreign-born have been educated in the country of residence. Consequently, educational differences between sending and receiving countries may not explain this evolution of wages.

Concerning people with disabilities, when we control for education, occupational characteristics, health and other factors the wage gap amounts to 10%. This difference could be attributable to discrimination.

Concerning sexual orientation, several studies find that gay men gain less than comparable heterosexual men while lesbian women are paid more than comparable heterosexual women. This result holds even if we control for age, education, race, health, occupation or industrial affiliation.

The employment rate gap appears to be another form of discrimination.

The situation of migrants varies across Member States. We may note the existence of two groups of Member States.

In the first group of countries covering the old immigration countries, the employment rates of the non-EU-born are significantly below those of the national averages. Even if we adjust for differences in education and socio-economic characteristics (age, experience, education, qualifications, marital status, health, etc.), the employment gap remains significant for men born outside the EU and all foreign-born women. In the second group, we find new immigration countries where the employment rate of foreign born is high due to restrictions in family reunification and selection.

The low employment rate of people with disabilities has been reported by several surveys. In terms of the Lisbon objectives, people with a disability ought to be the priority group.

The results concerning gays indicate a rather small employment gap while they provide an advantage for lesbian women. These results remain valid even if we control for differences in age, education, race and other characteristics.

The impact of the current financial crisis varies across target groups and depends on the specific characteristics of each group (holders of temporary contracts, etc.). New forms of discrimination based notably on ethnic origin might appear during firings. Foreign-born with part-time contracts in the service sector might resist better than full time workers in the manufacturing sector. However, they face a higher risk of poverty.

The European Social Fund (ESF) has established clear specific and measurable priorities for migrants. However, people with disabilities in the ESF priorities are less visible and consequently more difficult to evaluate. We may observe that the EU has realised a change in its policy concerning disadvantaged groups. In the past, people with disabilities were the most visible disadvantaged group in the ESF programmes. Currently, this place is held by migrants.

The comparison of national programmes funded by the ESF indicates that we need a better balance between mainstreaming and specific actions in certain Member States. Although mainstreaming has certain advantages in theory, available quantitative evaluations find that specific measures in favour of the disadvantaged groups have a positive impact on employment.

The quantitative evaluations of the anti-discrimination EU Directives are scarce. Published evaluations concern mainly the UK where accessibility of data is easier compared to other Member States, notably for the LFS and the SILC surveys. This raises the question of access to information and data in the Member States.

References

Age of migration: <http://www.age-of-migration.com/na/casestudies/10.3.pdf>

Aldashev, Alisher; Gernandt, Johannes and Thomsen, Stephan Lothar: The Immigrant Wage Gap in Germany, ZEW - Centre for European Economic Research Discussion Paper No. 08-089, 2008

Arabsheibani, G. Reza; Marin, Alan and Wadsworth, Jonathan: "Gays' Pay in the UK", Research Paper 2002-1; School of Management and Business, University of Wales, UK.

Arabsheibani, G. Reza; Marin, Alan and Wadsworth, Jonathan: Gay pay in the UK; Centre Piece Summer 2006.

Artis, Michael: Analysis of European and UK business cycles and shocks; EMU study, HM Treasury, 2003

Bell, David and Heitmueller, Axel: "The Disability Discrimination Act in the UK: Helping or Hindering Employment Amongst the Disabled?"; IZA Bonn, Discussion Paper No. 1476; January 2005

Berga, Nathan and Lien, Donald: "Same-sex sexual behaviour: US frequency estimates from survey data with simultaneous misreporting and non-response"; *Applied Economics*, 2006, 38, 1–13.

Blandford, John M.: The Nexus of Sexual Orientation and Gender in the Determination of Earnings; *Industrial & Labor Relations Review*, Volume 56, Issue 4 2003.

Brodmann, Stefanie "The Economic Performance of Immigrants: A Longitudinal Analysis of Earnings Mobility in Denmark and Germany" Pompeu Fabra University, Barcelona, Spain, 2006.

Calandrino, Michele: SEXUAL ORIENTATION DISCRIMINATION IN THE UK LABOUR MARKET; UNIVERSITY OF OXFORD, St. Antony's College, 1999

Carlsson, Magnus and Rooth, Dan-Olof: "Evidence of Ethnic Discrimination in the Swedish Labor Market Using Experimental Data"; Discussion Papers Series, IZA DP No. 2281; Institute for the Study of Labor, 2006.

CBS: <http://www.cbs.nl/nl-NL/menu/themas/bevolking/nieuws/default.htm>

Chiswick, Barry R. (1978): "The effect of Americanization on the earnings of foreignborn men", *Journal of Political Economy*, 86(5):897-921.

Donohue, John J.; Stein, Michael; Becker, Sascha and Griffin Jr., Christopher L.: "Assessing Post-ADA Employment: Some Econometric Evidence and Policy Considerations;" Yale Law & Economics Research Paper No. 358 October 10, 2008.

Drydakis, Nick and Vlassisa, Minas: "Ethnic Discrimination in the Greek Labour Market: Occupational Access, Insurance Coverage, and Wage Offers" , University of Crete, 2007.

Elliott, Robert J. R. and Lindley, Joanne K.: "Immigrant Wage Differentials, Ethnicity and Occupational Clustering". Sheffield Economic Research Paper Series, University of Sheffield, May 2006.

European Commission: "Men and Women with disabilities in the EU: Statistical analysis of the LFS Ad hoc module and the EU-SILC": study financed by DG Employment, Social Affairs and Equal opportunities carried out by APPLICA & CESEP & ALPHAMETRICS, Final report 2007

http://ec.europa.eu/employment_social/index/lfs_silc_analysis_on_disabilities_en.pdf

European Commission: "Final Report: Exploring the synergy between promoting active participation in work and in society and social, health and long-term care strategies" Invitation to tender N° 2006/030 (2006 / S 123-130484), Contract reference VC/2006/0340; CESEP-BBJ-CREPP, February 2007.

http://ec.europa.eu/employment_social/spsi/docs/social_protection/final_report_en.pdf

European Commission: "Final report: Study of Compilation of Disability Data from the Administrative Registers of the Member States". Study financed by DG EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES (Contract NO VC/2006/0229); APPLICA & CESEP & EUROPEAN CENTRE, November 2007. http://ec.europa.eu/employment_social/index/comp_disb_final_en.pdf

European Commission: “Employment in Europe 2008”; European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, Unit D.1, October 2008.

European Commission: COMMISSION OF THE EUROPEAN COMMUNITIES: COM(2007) 803 final, PART V COMMUNICATION FROM THE COMMISSION TO THE SPRING EUROPEAN COUNCIL INTEGRATED GUIDELINES FOR GROWTH AND JOBS (2008-2010) including a COMMISSION RECOMMENDATION on the broad guidelines for the economic policies of the Member States and the Community (under Article 99 of the EC Treaty) and a Proposal for a COUNCIL DECISION on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty).

European Communities: COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

European Communities: COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

European Communities: Official Journal of the European Communities L 180/22 of 19.7.2000

European Communities: Official Journal of the European Communities L 303/16 of 2.12.2000.

European Communities: REGULATION (EC) No 1081/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999.

Incomes Data Services Ltd: “The impact of economic recession on pay increases and the low paid”; A research report by Incomes Data Services for the Low Pay Commission, London March 2006.

INSEE: Les immigrés en France, Fiche technique, édition 2005.

Klawitter, Mariëka M.: “The Determinants of Earnings for Women in Same-Sex and Different-Sex Couples”; Paper prepared for presentation at Allied Social Science Associations meetings, Chicago, January 1998.

Kruse, D., Schur, L. (2003). Employment of People with Disabilities Following the ADA. *Industrial Relations*, 42(1): 31-66.

Lalive, Rafael; Wuellrich, Jean-Philippe and Zweimüller, Josef : « Do Financial Incentives for Firms Promote Employment of Disabled Workers? A Regression Discontinuity Approach”; October 3, 2008

Lester, Ashley: “Labour Demand and the Economic Cycle”; *Reserve Bank of Australia Bulletin*, February 1999

Pouget, Julien: The French Structure of Earnings Survey 2002, INSEE, 2005

Weichselbaumer, Doris: Sexual Orientation Discrimination in Hiring ; Linz Economics Working Paper No. 00-21; University of Linz - Department of Economics; Institute for the Study of Labor (IZA); October 2001