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# The Basque Model of Social and Labour Inclusion

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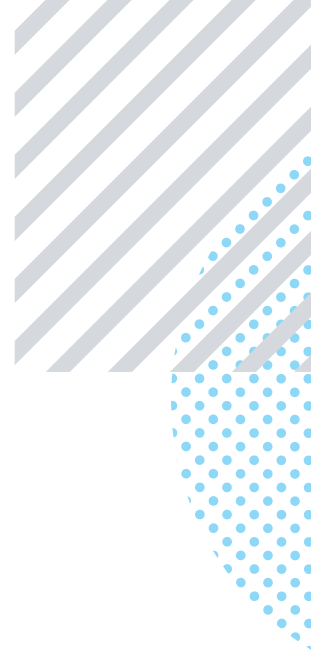


**EHLABE**

Inclusión sociolaboral de personas con discapacidad  
Euskal Herriko Lan Babestuaren Elkartea

# Contents

<b>Introduction</b> .....	04
<b>1 } Disability</b> .....	06
<b>2 } People with disabilities</b> .....	10
<b>3 } The employment of people with disabilities</b> .....	14
<b>3.1</b> Occupational service	
<b>3.2</b> Sheltered Employment Organisations (SEO)	
<b>3.3</b> The transition from SEO to regular employment	
<b>3.4</b> Supported employment	
<b>4 } Social Initiative Sheltered Employment Organisations (SISEO) and the inclusion of SEO in the Social Economy</b> .....	50
<b>4.1</b> The Social Initiative SEO and the new Law on Public Sector Contracts	
<b>4.2</b> The inclusion of SEO in the Social Economy	
<b>4.3</b> Evidence of the differential fact of the Social Initiative SEO, included in the Social Economy	
<b>5 } The Basque Model of Social and Labour Inclusion</b> .....	76
<b>5.1</b> Description and characteristics	
<b>5.2</b> The EHLABE Basque Model of Social and Labour Inclusion in light of the International Convention on the Rights of Persons with Disabilities	
<b>6 } Conclusions</b> .....	92
<b>Bibliography</b> .....	100



# Introduction

On 13 December 2006 the General Assembly of the United Nations approved the Convention on the Rights of Persons with Disabilities, which involved a commitment to an inclusive society, approaching disability from the point of view of human rights and from a social model. The treaty was conceived with two key objectives: the first, the fight against discrimination and for full inclusion; and the second, the recognition of the rights of people with disabilities.

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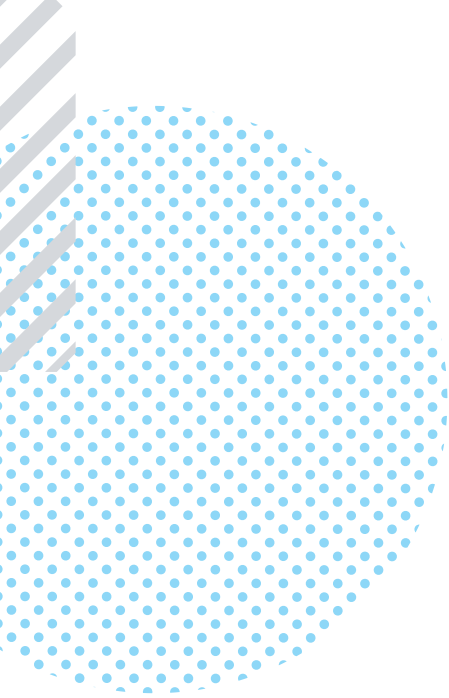
The treatment model put forward by the convention establishes that full and effective inclusion into society involves, among other things, the right of people with disabilities to work on an equal basis with others, through freely chosen work and in an inclusive, open and accessible environment. This point, which is dedicated to employment, is the focus of this study.

Employment can be considered the most efficient tool for the social inclusion of the group, and for this reason has been one of the key aims of the active policies. In addition, the different types of employment for people with disabilities and the existing measures for overcoming difficulties in this area make it an especially interesting topic.

**“Full and effective inclusion into society involves, among other things, the right of people with disabilities to work on an equal basis with others”**

The Basque Model of Social and Labour Inclusion, managed by social and public initiative organisations from the Basque Country with over 40 years of experience in the sector, has become both a national and European reference in the employment of people with disabilities.

The aim of this report is to carry out a study that analyses the employment of people with disabilities, to then focus on the characteristics of the Basque Model of Social and Labour Inclusion, a distinct model with a long history in the area that has been developed by organisations from the Basque

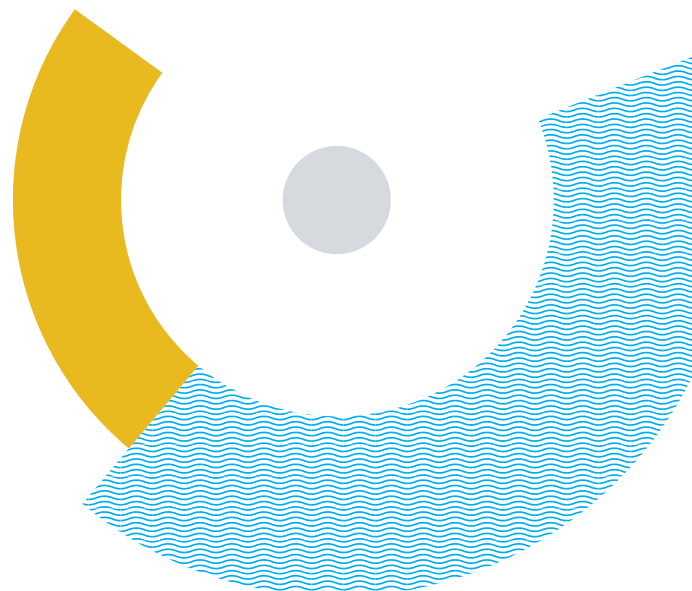


Country. We must not forget the progress for the sector made by the Convention on the Rights of Persons with Disabilities, which is why the study will conclude with the analysis of the Basque Model in light of this international convention.

The report begins by defining the preliminary concepts of disability and people with disabilities. Then, we will focus on the employment of people with disabilities, dedicating a specific section to the subject of Social Initiative Sheltered Employment Organisations and the inclusion of Sheltered Employment Organisations in the Social Economy.

Following that, we will outline the main features of the Basque Model of Social and Labour Inclusion and, we will then place this model within the context of the UN convention, focusing on article 27 which is dedicated to employment.

The study will finish with a reflection on the employment of people with disabilities, highlighting the positive elements as well as the challenges faced by organisations working for the progress of people with disabilities, to achieve equality, respect for their rights and a society that is inclusive for all people.

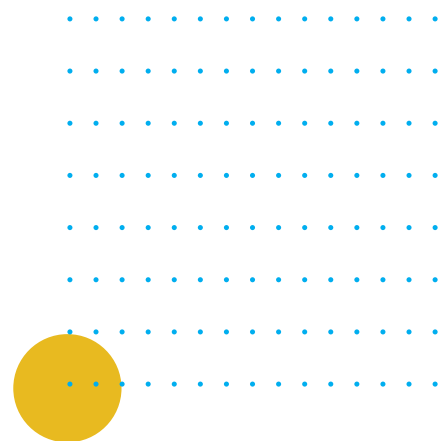






1

**Disability**



The approach to disability has evolved significantly over the course of its history, and there have been three main models that have marked the development of the treatment of disability: the abstention model<sup>1</sup>, the medical model<sup>2</sup> and the social model<sup>3</sup>.

In recent years the paternalistic and assistance-based approach that focused on people's deficiencies has been left behind, and focus has shifted to the so-called *social model*, aimed at human rights and whose aim "will not be the normalisation of the person with disabilities, but the normalisation of society, to face the needs of all people" (García Garnica, 2011, 31).

Currently, disability is defined by the General Law on the Rights of People with Disabilities and their Social Inclusion (hereinafter, LGDPCD in its Spanish initials)<sup>4</sup>, embracing the social model thereof and exceeding the medical reference of previous rulings, as the associative movement of people with disabilities has been demanding for years (De Fuentes, C., 2016, 83). Article 2.a) of this law establishes that disability "is a situation resulting from the interaction between people with presumably permanent deficiencies and any type of barrier that limits or hinders their full and effective participation in society, on an equal basis with others". The concept is based on the definition of a person with a disability of article 1 of the UN Convention on the Rights of Persons with Disabilities (hereinafter the CRPD), which states "persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others". The European Union regulation is based on this view<sup>5</sup>.

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**1** "It considered that disability had its origins in religious causes, and that people with disabilities did not have anything to contribute to society" (Toboso, M. & Arnau, M. S., 2008: 66).

**2** "It alluded to disability in terms of an illness, and it was considered that people with disabilities could have something to contribute to the community, but as long as they were normalised" (Toboso, M. & Arnau, M. S., 2008: 67). That is to say, attention focused on disability and social treatment is based on a paternalistic attitude, centred on people's deficiencies.

**3** "The causes that produce disability are not religious or scientific, but social. That is to say, the individual limitation of people with disabilities are not the cause of the problem, instead it is the limitations of society to guarantee that the needs of these people are considered within its social organisation" (Toboso, M. & Arnau, M. S., 2008: 68).

**4** Royal Legislative Decree 1/2013, of 29 November, approving the Consolidated Text of the General Law on the Rights of People with Disabilities and their Social Inclusion.

**5** Treaty on the Functioning of the European Union (arts. 10 & 19).



According to the legislator and in tune with the UN convention (art. 9, universal design), disability is the interaction of a person with a deficiency and the barriers that prevent their full and effective participation in society. Thus, focus is placed on social barriers and on the absence of sufficient and ordinary means of support to overcome these obstacles. That is to say, it being impossible for a society to prevent the existence of barriers, in the event that any do exist, to develop means of support to bypass them.

Having laid out the legal concept, we must highlight the fact that the World Health Organization in 2011 developed *the World report on disability*<sup>6</sup>, which provides a globally reaching definition of disability as the “a dynamic interaction between health conditions and contextual factors, both personal and environmental”.

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9

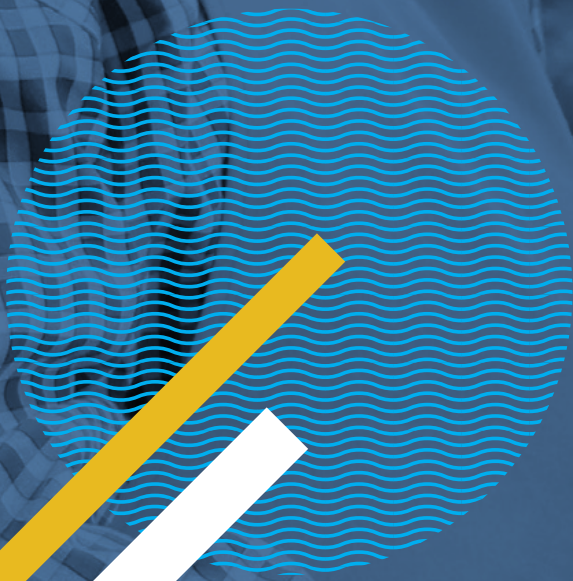
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**“Disability is the interaction  
of a person with a deficiency  
and the barriers that prevent  
their full and effective  
participation in society”**

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<sup>6</sup> Drafted by the WHO and the World Bank Group published 9 June 2011.



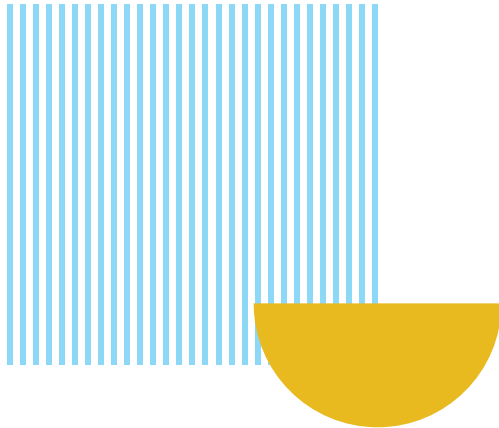


# 2



**People  
with disabilities**





“A Person with a disability” is an expression that has matured with time and, once different terms such as handicapped (previously in the LISMI<sup>7</sup>), invalid or restricted had surpassed, it became fully consolidated in the area of the rights and policies of equality and non-discrimination (Bengoetxea A., 2014: 529).

12

The Law of dependency 2006<sup>8</sup> involved a before and an after in the terminology used in Spanish law, as it stipulates that “the references in legislative texts to the handicapped and persons with a handicap will be understood as referring to persons with disabilities. Since the current law came into force, the regulatory provisions developed by Public Administrations will use the terms ‘person with a disability’ or ‘people with disabilities’ to define them”.

**“A person with a disability will be a person showing a physical, mental, intellectual or sensory deficiency, which is presumably permanent and which prevents full and effective participation in society”**

As previously mentioned, article 2.a) of the General Law on the Rights of People with Disabilities and their Social Inclusion establishes that disability is the interaction between a person with a deficiency and the barriers that prevent their full and effective participation in society.

Article 4 of the LGDPCD is responsible for defining those considered people with disabilities. The first two sections of the provision state the following: “1. People with disabilities are those who show physical, mental, intellectual or sensory deficiencies, which are presumably permanent and which, when interacting with different barriers, may prevent their full and effective participation in society on an equal basis with others. 2. In addition to what is established in the previous section, and for all intents and purposes, those with a recognised degree of disability greater than 33% will be considered to be people with a disability. Those receiving

<sup>7</sup> Law 13/1982, of 7 April on the Social Integration of People with Disabilities.

<sup>8</sup> Law 39/2006, of 14 December, on the Promotion of the Personal Autonomy and Care of Dependent Persons.

Social Security benefits with recognised benefits for permanent disability corresponding to full, absolute or severe disability, and others from passive classes receiving benefits with a recognised retirement pension or through permanent disability or incapacity to work will be considered as showing a degree of disability equal to or greater than 33%”.

Therefore, the law stipulates that any person showing a physical, mental, intellectual or sensory disability, which is presumably permanent, and which prevents their full and effective participation in society, regardless of receiving prior administrative recognition will be considered a person with a disability. It also then states that people with a recognised degree equal to or greater than 33% will also be considered as such.

As we can see, Spanish law follows what is set out in the UN convention, which does not require prior administrative recognition to have said condition and the protective legal effects for the person. The ECJ expressed the same in its Judgement of 11 April 2013<sup>9</sup>, Danmark, which stipulates that there would be a disability in the case of an illness that causes long term limitations that can prevent the full and effective participation of the person in professional life, on an equal basis with other workers. This has meant a change regarding previous legislation, as now the measures promoting full equality extend to all people with disabilities, whereas previously a difference was made between the different measures and those aimed at equal opportunity could only be enjoyed by people with an administratively recognised disability equal to or greater than 33%.

On the other hand, article 4 of the LGDPCD states that the recognition of the degree of disability must be set by the competent authority within the legally established terms.

Regarding the assessment procedure for the degree of disability, this is a process that begins at the request of the person concerned and which involves several professionals from the fields of medicine, psychology and social work. The process ends with an administrative resolution that reflects the diagnosis, the type and the degree of the disability<sup>10</sup>. The degree will be determined according to the limitations in activity and on complementary social factors.

Lastly, it must be highlighted that that group of people with disabilities with greater needs for support are those with a physical or sensory disability with a minimum degree of 65%; and those with cerebral palsy, mental or intellectual illness equal to or greater than 33% (art. 3.1 of Royal Decree 469/2006 and Royal Decree 870/2007)<sup>11</sup>.

<sup>9</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62011CJ0335:ES:HTML>

<sup>10</sup> Royal Decree 1971/1999, of 23 December, on the Procedure for the Recognition, Declaration and Qualification of the Degree of Disability.

<sup>11</sup> Legal definition in Article 3.1 of both regulations: RD 469/2006, which regulates the support units to professional activity within the framework of the personal and social adjustment services of the SEO; and RD 870/2007, which regulates the supported employment programme as a measure to promote the employment of people with disabilities in the open labour market. In addition, Moratalla, P., “The Basque Model of Social and Labour Inclusion of Persons with a Disability”, *Revista Vasca de Economía Social* (2017).





# 3



**The employment of people  
with disabilities**





Article 27 of the United Nations Convention recognises the right of people with disabilities to work on an equal basis with others and, in the same vein, the European Union also declared Directive 2000/78/CE of 27 November, with the aim of fighting against discrimination due to disability in the work place, among others.

Regarding national regulations, article 9.2 of the Spanish Constitution establishes the obligation of public authorities to “promote conditions so that the freedom and equality of an individual and the groups into which they integrate are real and effective; remove obstacles that impede or prevent their fullness and facilitate the participation of all citizens in political economic, cultural and social life”. In addition, article 49 highlights that public authorities must carry out a prevision, treatment, rehabilitation and integration policy for people with disabilities, providing them with the specific care that they require and protecting them so that they may enjoy the rights afforded to all citizens in the First Heading of the Constitution, among which is the right to work (art. 35).

The key policy that regulates the right to work of people with disabilities is Royal Legislative Decree 1/2013, approved by the LGDPCD, requiring Public Administrations to provide especially intense protection regarding employment (art. 7.3). In addition, article 13.1 speaks of the integral care aimed at people with disabilities, understood as “the processes or any other means of intervention for people with disabilities to obtain the maximum level of development and personal autonomy and, to achieve and maintain their maximum independence, physical, mental and social capacity, their inclusion and full participation in all aspects of life, as well as obtaining a suitable job.” The second section states that “the integral care programmes include”, among other things, “support for professional activity”.

We must emphasize article 35 of the ruling, which states that “people with disabilities have the right to work in conditions that guarantee the application of the principles of equal treatment and non-discrimination”. And it obliges Public Administrations to encourage employment opportunities and to promote the necessary support to obtain and maintain it, through policies whose purpose it is to increase the rate of activity and occupation and professional integration, as well as to improve the quality of employment, actively combating discrimination (art. 37). Article 39 lists several positive action techniques that help the professional inclusion of people with disabilities, as well as equal opportunities such as subsidies and allowances in Social Security, loans for hiring and adapting to jobs, etc. It also expressly mentions, in the second section, the promotion of cooperatives and other organisations in the Social Economy.



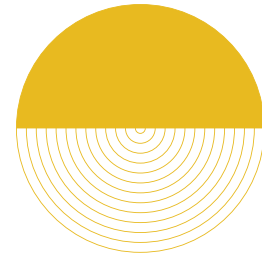


We can distinguish two types of employment through which people with disabilities can exercise their right to work: regular employment, which includes working for others (both in the private and public sectors), self-employment and collective self-employment (associated work); and employment in Sheltered Employment Organisations.

Lastly, article 52 of the LGDPCD sets out the option of occupational centres, which offer occupational therapy services in order to achieve maximum personal development and, where possible, facilitate training and preparation for access to employment. Therefore, it is not a professional relationship, but a social service.

**“People with disabilities  
have the right to work in  
conditions that guarantee the  
application of the principles  
of equal treatment and non-  
discrimination”**

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# 3.1

## **Occupational service** (according to the regulation on occupational centres)

18

The occupational service (OS) is a service whose main aim it is to achieve the maximum personal development of those participating in the programme, and wherever possible, to facilitate their training and preparation for access to employment. These are people who, because of the severity of their disability are not prepared for employment. Therefore, it is not a professional relationship, but a social service.

The occupational service can also be aimed at working people with a disability who have not received satisfactory adaptation in their professional activity and who have developed or suffered a deterioration for which occupational therapy would be recommended<sup>12</sup>.

The Basque model that promotes social and labour inclusion, in collaboration with these people, designs personal itineraries that can be blended with other services according to their needs. In this way, it facilitates the movement of people with disabilities from passive social service systems to active employment activities. In the case of the Basque Country, the experience shows the virtues of the coexistence of the occupational service and employment models in Sheltered Employment Organisations, as they offer familiar environments that transmit security, in addition to the fact that many people already link their professional surroundings with their social environment, and this is beneficial in improving their transition to employment both in SEO and Supported Employment. At this point, it is especially important to highlight that the vast majority of people with an intellectual disability who today work in a SEO come from the occupational service, that is to say, they have transitioned from OS to SEO.

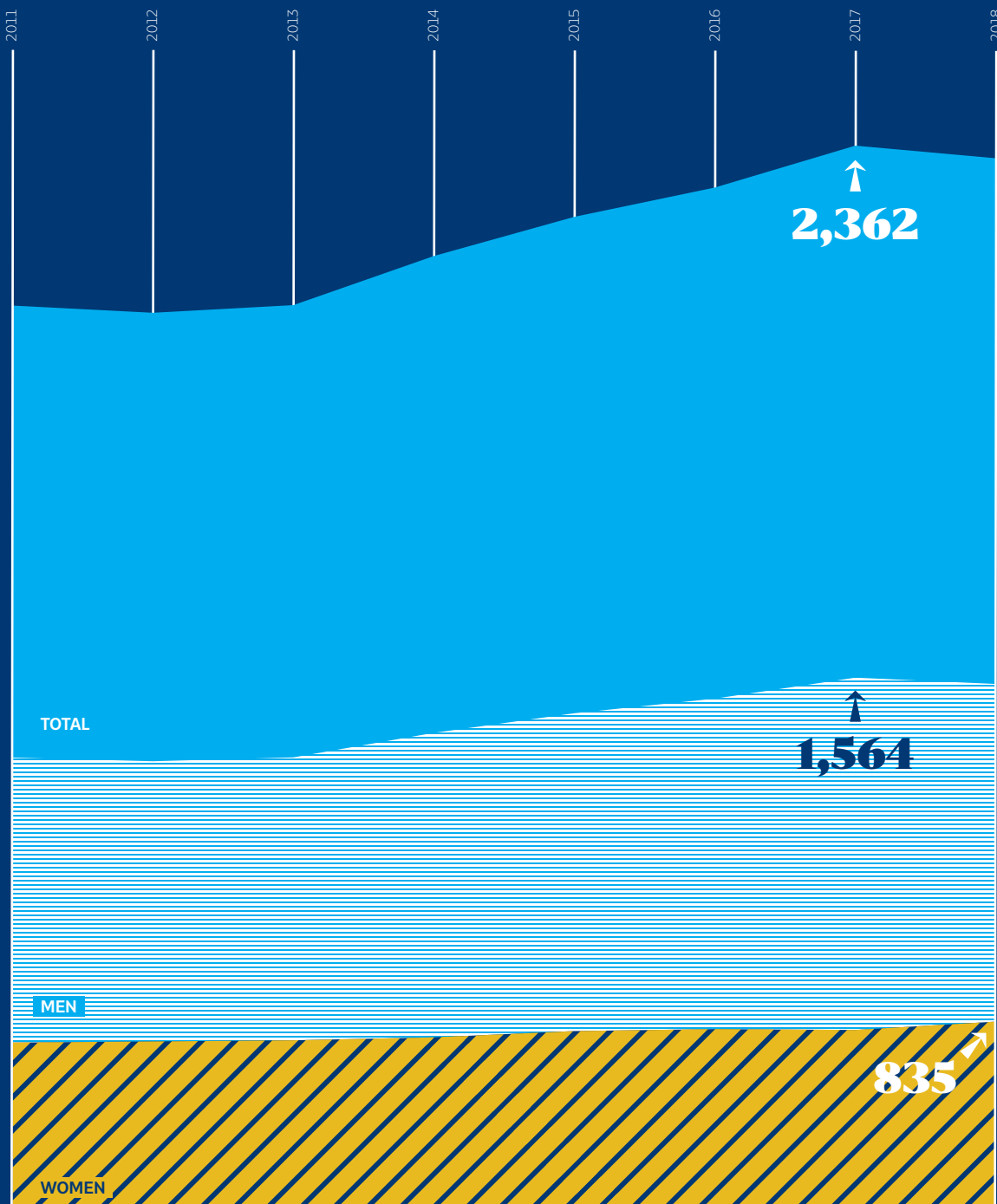
In this sense, it is important to analyse the evolution of the number of people who have received this service, as well as on which profiles the greatest efforts are focused. The principle data regarding this evolution is shown below, in the cases of people who were in an OS managed by a Social Initiative Sheltered Employment Centre (which are mainly of a transient nature) who are, incidentally, responsible

<sup>12</sup> Article 52 of the General Law on the Rights of People with Disabilities.



# Evolution of the occupational service

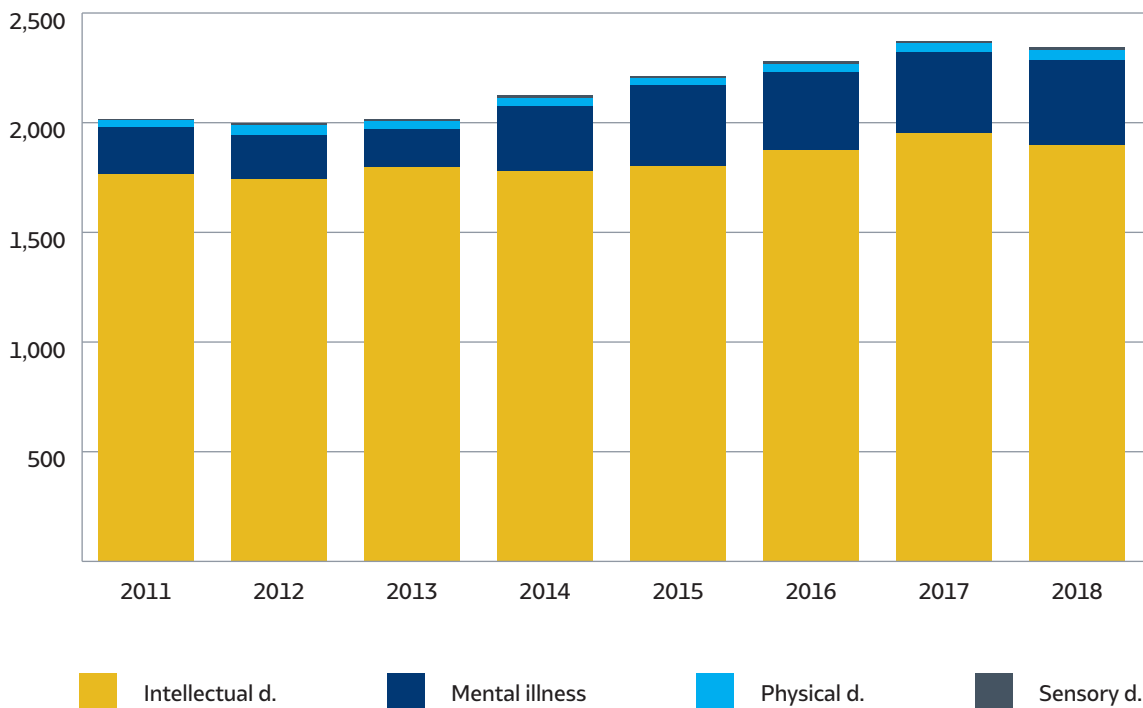
2011-2018



Source: compiled from data provided by EHLABE

Image 2

## Evolution of the occupational service according to type of disability 2011-2018



Source: compiled from data provided by EHLABE

for managing the majority of the places in the Autonomous Community of the Basque Country (around 85% of the total)<sup>13</sup>.

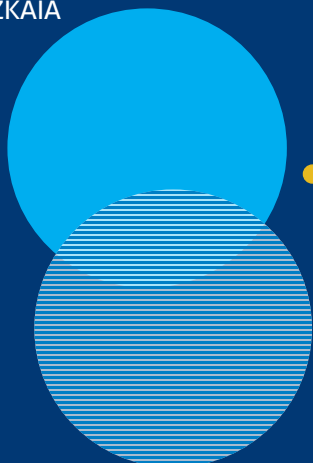
From the evolution of the occupational service, we must highlight its constant increase during recent years (except last year), placing the number of people in an OS at almost 2,400 in 2018. This figure has increased, on the one hand, thanks to the sustained (but slight) increase in women, but most of all to the greater increase in the number of men in the occupational service, which has resulted in a wider gap between the sexes for the period (66% of the places are occupied by men, whereas in 2011 they represented just 63%).

If we look at the distribution of occupational places according to type of disability, it is clear that people with an intellectual disability and, secondly, those with a mental illness occupy the majority. That is to say, precisely those groups in greatest need of support are those who mainly receive the occupational service managed from Social Initiative Sheltered Employment Organisations.

<sup>13</sup> Data from EUSTAT and EHLABE

**8,700**

BIZKAIA



**36**

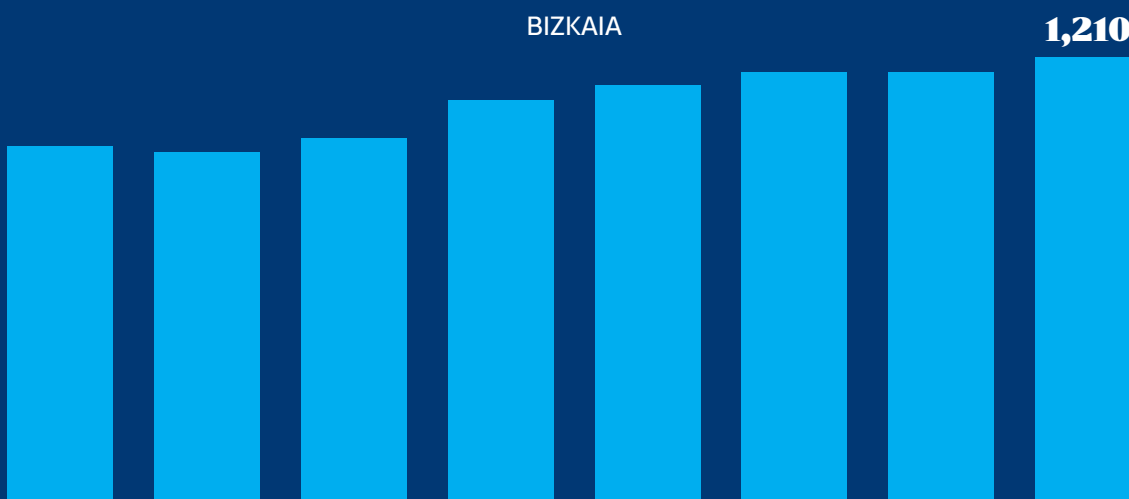
ARABA

**8,600**

GIPUZKOA

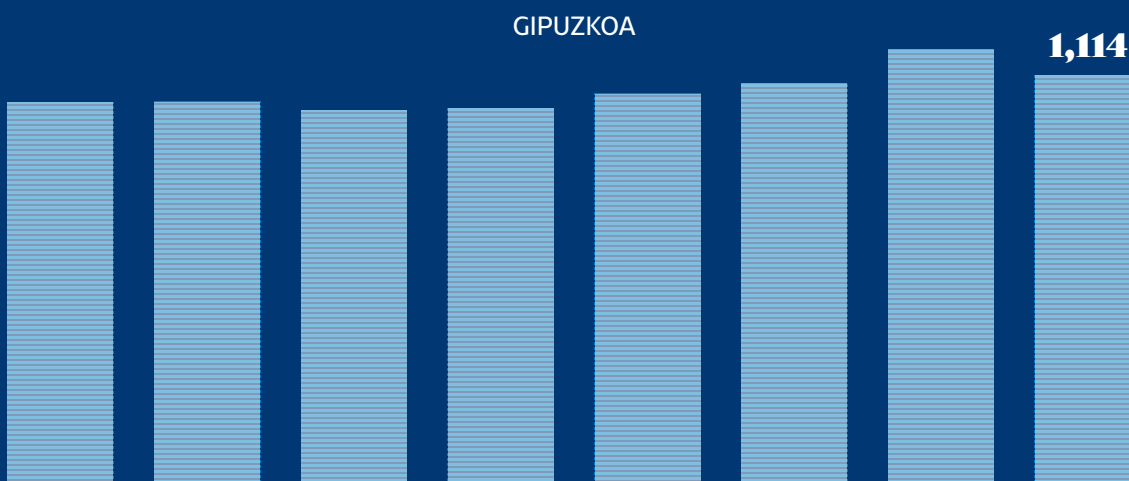
# Geographical distribution of the occupational service

2011-2018



BIZKAIA

**1,210**



GIPUZKOA

**1,114**

ARABA

**10**

2011

2012

2013

2014

2015

2016

2017

2018

Specifically, in 2018, 98% of occupational places were aimed at specific groups, whereas just 2% of the rest were distributed among people with a physical or sensory disability.

Another aspect of the occupational service to be highlighted is its geographical distribution according to historical territory. We should explain that in the case of Araba, in managing practically the entire service through public administration, the data presented here shows negligible values.

We can see the increase that the occupational service has had in the two other territories. Although in terms of the total number and the evolution of the people who receive this service Bizkaia has shown higher values, if we consider that the population of people with disabilities in Gipuzkoa is much lower, we realise the higher degree of coverage that the Social Initiative SEO offer to the group in this territory. Be that as it may, we should highlight the fact that between both territories, in 2018, people in the occupational service represent 16% more than in 2011.

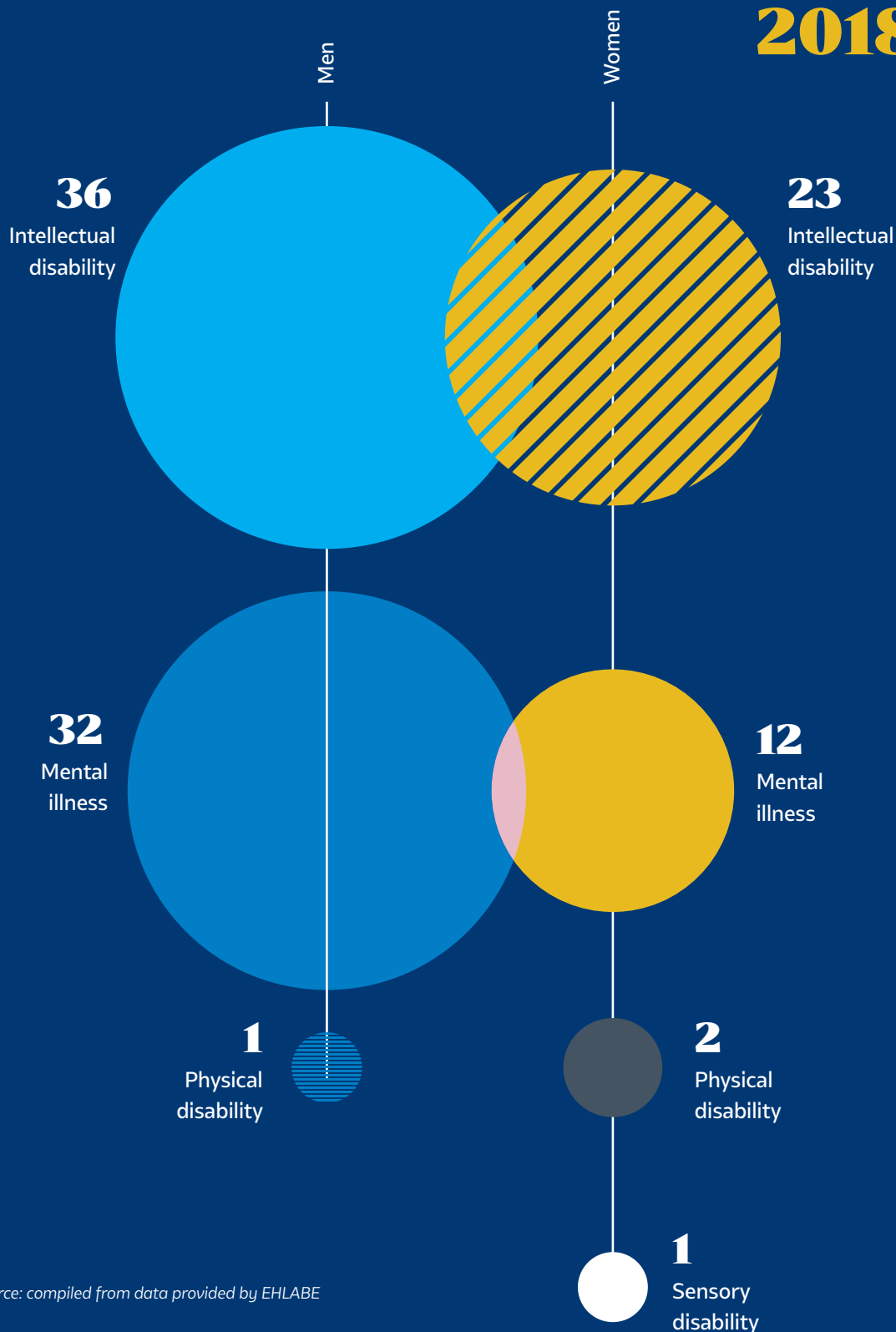
Lastly, we must consider the transition from the occupational service to employment in a SEO or to regular employment. And the reason is that the aim of the occupational therapy is to offer persons with a disability the social, professional and cultural tools, etc., that allow them to develop as people and which, in turn, prepare them for incorporation into the labour market.

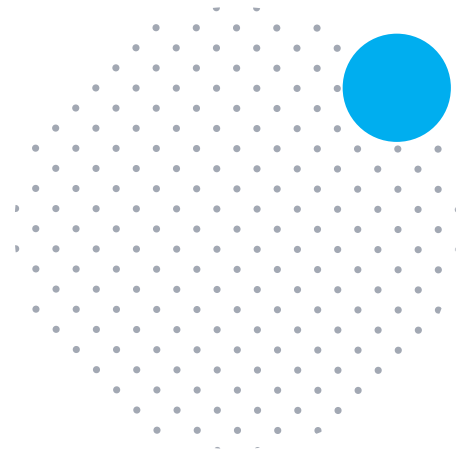
In 2018, a total of 107 people transitioned from the occupational service to employment, equivalent to 4.5% of the total number of occupational places in that year. Considering the effort required and that, for example, in Spain in two years (2012-2013), 3% of people with disabilities in an occupational centre (224 people with disabilities) transitioned to employment in a SEO (according to data from Inserta, Fundación ONCE), it was concluded that the coexistence between the occupational services and the SISEO of the Basque Model of Social and Labour Inclusion was more successful.

Another question to highlight is that those groups with greater difficulties are those who “benefit” from this transition, specifically 96% of the total. Lastly, Image 4 shows that the majority corresponds to men (64%) over women, which is not surprising as it largely responds to the significance of either sex over the total occupational places, as seen above.

# Transition from the occupational service to employment

2018





# 3.2

## Sheltered Employment Organisations

Sheltered Employment Organisations are the main facilitating instrument for access to employment for people with disabilities.

Article 43 of Royal Legislative Decree 1/2013 (LGDPCD) legally defines the SEO as the following: “Sheltered Employment Organisations are those whose main aim is to carry out productive activity in goods or services, regularly participating in market operations and whose purpose is to ensure paid employment for people with disabilities, at the same time as being a means for inclusion for the majority of these people in regular employment.” It adds that “they must provide, through support units, the personal and social adjustment services required by working people with disabilities, according to their circumstances and in accordance with the regulations.” Therefore, the purpose is to ensure productive and paid employment to people with special difficulties in employability, at the same time as enabling the transition to regular employment.

The SEO regulation was approved through Royal Decree 2273/1985, of 4 December, which regulates the fundamental aspects of these organisations, which we will analyse next.

### 3.2.1 } Structure and organisation

Sheltered Employment Organisations are companies that carry out productive activity in goods and services (in any type of activity), and who regularly compete in the market, as established by article 2 of their regulations. For this reason they will be subjected to the same rules and requirements as other companies in the sector to which they belong (art. 9).



Article 6 of the regulations establishes that any physical or legal person with legal capacity and capacity to act can constitute a SEO, as well as being able to adopt any of the legal personalities permitted by law. On the other hand, and following article 7, the qualification and inscription of the SEO as such will be required in the SEO registry created by the Public Administrations within its area of expertise. We must highlight that the Autonomous Community of the Basque Country is in the process of regulating this registry by decree.

These centres will be obliged to submit an annual report including data and information, not only descriptive and economic, but also which justifies the achievement of personal and social adjustment objectives as a consequence of the subsidies or aid received from Public Administrations (art. 13).

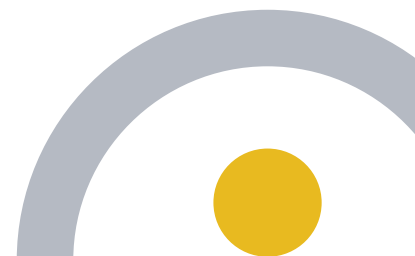
### 3.2.2 } Requirements

Article 43 of the LGDPCD establishes the two mandatory requirements that the Sheltered Employment Organisations must fulfil.

On the one hand, “The Staff of the Sheltered Employment Organisations must be comprised of the greatest number of working people with disabilities that the nature of the productive process will allow and, in any case, by 70% thereof. In this sense the staff without a disability dedicated to providing personal and social adjustment services will not be counted.” According to what is set out in this ruling, the 70% would include working people with a recognised degree of disability equal to or greater than 33%.

The provision continues, “the Sheltered Employment Organisations must provide, through support units, the personal and social adjustment services required by working people with disabilities, according to their circumstances and in accordance with the regulations. [...] Personal and social adjustment services will be understood to be those helping to overcome the barriers, obstacles or difficulties that the working people with disabilities in the Sheltered Employment Organisations encounter during the incorporation process in a job, as well as in their continuance and progression in the same. Likewise, they will include those aimed at social, cultural and sporting inclusion.”

Therefore, any initiative or company that wishes to register as a Sheltered Employment Centre must have a minimum of 70% of the staff comprising working people with a recognised degree of disability equal to or greater than 33% and, in addition, they must provide personal and social adjustment services required by the working people through support units created for such a purpose.



### 3.2.3 } Characteristics

At this point, we will now analyse the main characteristics of the SEO, studying the types, the special professional relationship and the economic aids that they receive.

#### Type of SEO

In this case, we must classify them based firstly, on public or private ownership; secondly, on whether or not they are for-profit<sup>14</sup>, and lastly and most recently, whether they are considered to be a Social Initiative or business initiative.

To begin, according to article 45 of the LGDPCD, the Sheltered Employment Organisations may be created by both public and private organisations and by companies, with the main aim of generating paid employment for people with disabilities. It adds that Public Administrations will be able to promote the creation of these organisations either directly or in collaboration with other organisations.

Secondly, article 5.b of RD 2273/1985 establishes that, “approaching the application of their possible income, the Centres will be able to be either For-profit or Not-for-profit, according to whether this will fully impact on the institution itself or if part of it is used for a purpose other than what must be covered by their owning Organisation”. The main difference is in how the profit is applied, that is to say, if the application of the profits is for social purposes or for the organisation itself, it will be considered Not-for-profit. Conversely, if these profits are destined to another end that is not for social purposes, it will be considered as being For-profit. As a consequence of this classification, the SEO have been divided into two groups: those from a social and public initiative that are Not-for-profit, and those from the private sector that are For-profit.

One last classification is based on the recent modification of article 43 of the LGDPCD, which was the consequence of the approval of the Law on Public Sector Contracts<sup>15</sup>, adding a fourth section which for the first time defines the Social Initiative SEO in our legal system. The article establishes that “organisations which, by complying with the requirements established in sections 1 and 2 of this article are advocated and participated in by more than 50%, either directly or indirectly, by one or several organisations, whether public or private, that are not-for-profit or whose social nature is not recognised in their Statutes, whether they are associations, foundations, public law corporations, social initiative cooperatives or other organisations of the Social Economy, as well as those whose ownership corresponds to trading companies in which the majority of their share capital is owned by one of the aforementioned organisations, whether directly or indirectly through the concept of a parent company regulated in article 42 of the Commercial Code, and as long as in all cases in their Statutes or in a social contract they are obliged to fully reinvest their profits in the creation of employment opportunities for people with disabilities and the continuous improvement of their competitiveness and their Social Economy activity, in any case being able to opt to reinvest it in the Sheltered Employment Centre itself or in other Social Initiative Sheltered Employment,

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<sup>14</sup> Art. 5.A of Royal Decree 2273/1985: “According to their ownership, the Sheltered Employment Organisations may be either public or private”.

<sup>15</sup> Law 9/2017, of 8 November on Public Sector Contracts.

shall be considered Sheltered Employment Organisations". This latest development signifies a very important step for the Social Initiative SEO, as it is the first time that this figure has been legally introduced.

## **The professional relationship of the people with disabilities in Sheltered Employment**

The rules that regulate the professional relationship of the people with disabilities in the Sheltered Employment Organisations are Royal Legislative Decree 1/2013 (or LGDPCD) and Royal Decree 1368/1985<sup>16</sup> which has been amended by Royal Decree 427/1999<sup>17</sup>

Currently, article 43 of the LGDPCD indicates that the professional relationship will be of a special nature, and RD 1368/1985 is the regulation that develops this relationship, submitted to a legal regime that is different to common law, and which compiles a system of labour rights and obligations that are very close to common professional relationships but with certain different features.

This legal form was incorporated years after to the Law on the Statute of Workers Rights, which signified an important step forward in employment in Sheltered Employment Organisations and consequently in improvement in employability and in the maintenance of employment for people with disabilities.

Therefore, RD 1368/1985 establishes a broad and detailed schedule of rights and obligations, which we will analyse next. Article 1 sets the scope of application of the special professional relationship, which includes the Sheltered Employment Organisations and the people with disabilities. Thus, working people without a disability of the SEO are excluded from the special professional relationship, as well as people with disabilities who provide their services in supported companies. Article 2.1 adds that, for the purposes of the RD, working people are those with a recognised degree of disability equal to or greater than 33%.

Currently there is a demand to the government, from the disabilities sector, for the review, updating and improvement of the original text, in order to adjust it to the principles of the Convention on the Rights of Persons with a Disability, maintaining the special professional relationship and basing itself on the principles of equality and non-discrimination.

The rights and obligations collected in the ruling, although containing different features, belong to the common legal framework on professional relationships. We will highlight some of them below.

<sup>16</sup> Royal Decree 1368/1985, of 17 July, which regulates the special professional relationship of people with disabilities who work in Sheltered Employment Organisations.

<sup>17</sup> Royal Decree 427/1999, of 12 March, which modifies Royal Decree 1368/1985, of 17 July, which regulates the special professional relationship of people with disabilities who work in Sheltered Employment Organisations.

Regarding the contract, it must be formalised in writing (art. 5), and this type of contracts may be entered into themselves, in accordance with the provisions of articles 6 and 7 of the ET, by persons with full capacity to act according to the provisions of the Civil Code, or those who, although having a limited capacity to act, have obtained the corresponding express or implicit authorisation from those who legally represent them.

The purpose of the contract, “should be to be productive and paid, suitable to the individual characteristics of the employee, in order to promote their personal and social adaptation and to facilitate, as the case may be, their subsequent professional integration into the open labour market” (art. 6). In addition, any type of professional contract may be used (art. 7).

One of the different features that most stands out is the possibility to enter into a low performance contract, understood to be “one in which the employee, although providing their services during a normal working day, does it with a 25% lower output than normal, as long as this has been confirmed with the corresponding multi-professional team. The reduction in the salary may not exceed the stated percentage” (art. 12).

Although this is a regulated and recognised legal category, it is a controversial subject, as it can create prejudices and presume that the professional productivity of people with disabilities is lower. While it is true that the concept may be discriminatory due to the reduced salary, it is a necessary figure for the group who find themselves between the occupational service and the Sheltered Employment Centre. This issue makes it necessary for a new development and approach to this type of contract which is not discriminatory, but which provides a solution for those people who find themselves between the two aforementioned stages.

Regarding work time, article 13 establishes the prohibition of working extra hours, apart from those necessary to prevent or repair incidents and other extraordinary damages. This provision also recognises the right to paid leave to attend medical-functional treatment or rehabilitation and to participate in guidance, training and professional re-adaptation activities.

This absolute prohibition does not exist in the case of people with disabilities who work in companies on the open labour market. As we understand it, it is an unnecessary prohibition as the key is in the freedom of the working person with a disability to decide if they need to work extra hours or not, as long as the nature of their disability allows them to do so.

Regarding a remote work contract, article 7 of RD 1368/1985 prohibits the use of this type for hiring persons with an intellectual disability. In our opinion, this is a measure that can create prejudices as it involves a non-justified restriction, and the option to carry out this type of contract must remain in the hands of both the working person and the company, above all if we consider that at the moment there are many people working *remotely*.

Lastly, we should highlight Chapter IV of RD 1368/1985, which regulates the collective rights. In these cases, it refers to the common labour law, with one exception in article 21, on negotiating agreements beyond the company’s jurisdiction. This indicates that they will be legitimised for negotiation with

associations with the same degree of representation in the corresponding sector to the one required in the common work environment by article 87 of the Statute of Workers Rights.

Ultimately, it is about guaranteeing fair working conditions, equal to those of other employees, but with the difference of being adapted to the personal situation of each one of the working people with a disability. At this point we must highlight the necessity of maintaining a special professional relationship, but it is essential to review, update and improve the original text in order to adapt it to the current changes and to the fundamental principles of the UN Convention, such as equality and non-discrimination.

## **Economic compensation to the Sheltered Employment Organisations**

Article 44 of the LGDPCD establishes that, regarding the special features that come together in the Sheltered Employment Organisations and for these to be able to perform the required social function, Public Administrations will be able to establish economic compensations with the aim of helping the viability of the SEO. The regulations contain the criteria that the organisations must satisfy to obtain these compensations: status as a public utility and indispensability and that they are not-for-profit.

29

On the other hand, the Ministerial Order of 21 February 1986 (updated with the MO of 16 October 1998) defines two different aid groups for the SEO: to generate employment and for the maintenance thereof. The same Order does not distinguish between any of the SEO, as could be the case if they were For-profit or not, among other things.

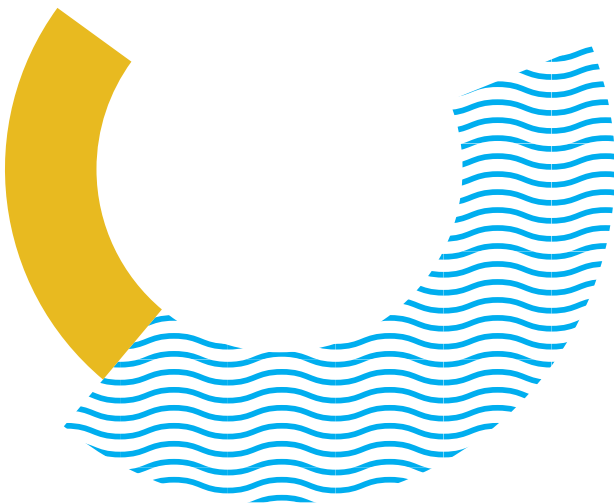
Years later RD 469/2006 on Support Units to Professional Activity was approved, which regulates a support programme for the SEO whose aim it is to improve the personal and social adjustment services that these organisations offer to working people with disabilities with greater needs for support. It is aimed at people with an intellectual disability, people with a mental illness and people with a sensory and physical disability with a disability percentage equal to or greater than 65%.

The reality of the support units is that the current regulation does not enforce their implementation into the SEO, leaving their composition up to the will of the management, and so in reality, no more than half of the organisations that count on this support system<sup>18</sup>. These services provide professional, social and essential personal support to working people a disability, which is why it would appear to be important to fully regulate these services and, in turn, establish them as a mandatory requirement for all SEO.

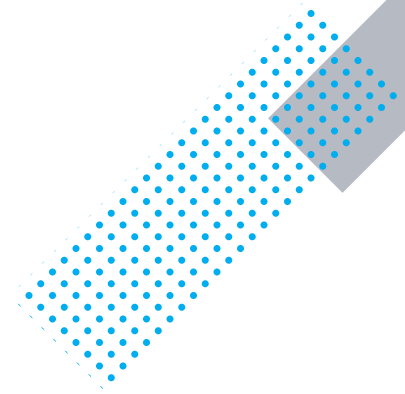
On the other hand, this same regulation speaks of the necessity to help working people with disabilities through the development of programmes for the adaptation thereof in the work place; an approach that, as we understand it, should be modified, as the adaptation should be aimed at working environments and not just at people with disabilities.

<sup>18</sup> KPMG, FEACEM & Fundación ONCE (2013). Present and future of the Sheltered Employment Organisations

All of these support programmes regulated between 1986 and 2006 remain in force today, without there being any relevant changes, that is, the SEO have been receiving the same aid for more than 30 years. In addition, the establishment of conditions has not been as significant as expected, as it has not been prioritised for social initiative organisations. Given the situation, the social initiative sector demands, on the one hand, a review and updating of the quantities and requirements, and on the other, that this sector is prioritised to the aforementioned sector and to the group with disabilities with the greatest difficulties in employment.



# 3.3



## The transition from SEO to regular employment

Before elaborating the point on regular employment, we should pay particular attention to one of the most important modifications that has arisen with the approval of the LGDPCD regarding the LISMI, which is article 37 on the purpose of active employment policies for people with disabilities, an issue that directly affects the SEO.

Firstly, we must remember that RLD 1/2013, which approves the Consolidated Text of the General Law on the Rights of People with Disabilities and their Social Inclusion is the result of a consolidation whose main aim is the regularisation, clarification and standardisation of the three previous laws<sup>19</sup>: Law 13/1982, of 7 April, on the Social Integration of the Handicapped; Law 51/2003, of 2 December, on Equal Opportunities, Non-discrimination and Universal Accessibility for People with Disabilities; Law 49/2007, of 26 December, on Infractions and Sanctions Regarding Equal Opportunities, Non-discrimination and Universal Accessibility for People with Disabilities. In addition, this task has become a reference for the normative adaptation to the International Convention on the Rights of Persons with Disabilities.

As a consequence of this task, one of the most significant modifications has been article 37 of the LISMI, on Employment Policies for People with Disabilities.

Article 37.1 of the LISMI<sup>20</sup> defines the fundamental aim of these policies indicating the following: “The fundamental aim of the employment policy for working people with disabilities will be their integration, in conditions that guarantee the application of the principle of equal treatment, in the regular employment system or, failing that, their incorporation into the productive system through the special protected work formula mentioned in article 41”. With the consolidation, this article was drafted as follows: “The

<sup>19</sup> Mandate of the second final provision of Law 26/2011, of 1 August, on the Normative Adaptation of the International Convention on the Rights of Persons with Disabilities.

<sup>20</sup> Law 13/1982, of 7 April on the Social Integration of People with Disabilities.

aim of the employment policy will be to increase the rates of activity and occupation and insertion into employment of people with disabilities, as well as to improve the quality of employment and to dignify their working conditions, actively combating their discrimination. For that purpose, the competent Public Administrations will encourage their employment opportunities and professional promotion into the labour market, and will promote the necessary support for the search for, securing, maintenance and return to employment”.

This new reading of the provision reflects in a very abstract way the main aim and values of the Sheltered Employment Organisations, which from their beginnings has been and still is to facilitate the transition to regular employment of people with disabilities, as stated by the LISMI.

The Sheltered Employment Organisations were created to promote the incorporation of people with disabilities into the open labour market, that is to say, as a transition mechanism. For this reason they have taken a central role in the social labour policies of the group, above all of those groups of people with disabilities showing more difficulties in insertion into the labour market.

The most accurate idea would be to highlight the fact that the purpose is the transition to regular employment, however without this representing an obligation, but instead a possibility for the working person to freely choose the spaces in which to carry out their activity.

In addition to this, the International Convention on the Rights of Persons with Disabilities, in article 27.1, speaks of the right to earn a living through a freely chosen job in an open, inclusive and accessible market and environment, prohibiting discrimination with respect to any form of employment and equal opportunities.

From the CRPD we therefore understand that all working people must have the right to freely choose, and in equal conditions, the working environment in which they want to carry out their professional activity, without the possibility of being discriminated against or turned away for any reason. In addition, article 35 of the Constitution and article 4 of the Statute of Workers Rights recognise the right to work and the free choice of profession or trade. On this basis, equal opportunities and non-discrimination<sup>21</sup> would involve one of the aims being the transition to regular employment, where there are more barriers for the group.

The Sheltered Employment Organisations, since their creation, have worked to make the insertion of people with disabilities into the regular employment market a reality, and to do so they manage different employability programmes through supported employment. The main aim is for people with disabilities to have the freedom, as established by the CRPD to be able to choose the environment in which they want to work. For this reason it would be important to recover and maintain the priority aims for which the SEO were created in the regulations, which is simply to encourage the insertion of people with disabilities into the open labour market.

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<sup>21</sup> The Statute of Workers Rights, general labour regulations, in article 4 suggests that one of the basic rights of workers is the free choice of trade and that no worker may be discriminated against either directly or indirectly for employment due to a disability.



Lastly, we must highlight that, despite the fact that the LGDPCD was created in order to adapt to the International Treaty, and that it was necessary to update and consolidate the previous regulations, article 37 in question, as drafted in the LISMI, it did not contravene the Convention. Therefore, it was not necessary to modify the provision as its contents covered the aims set out in the International Treaty.

The reality of the data shows that the aim of transition from employment from the SEO to regular employment is a process that requires considerable effort as, beyond the professional capacity that people with disabilities had acquired during their time in Sheltered Employment Organisations, there are several factors that hinder or limit this transition, such as internal factors including personal, organisational or cultural factors; or external factors, including the market or companies that do not adopt the transition among their aims.

In the absence of reliable data for all types of Sheltered Employment Organisations (both Social Initiative and For-profit), Table 1 shows the difficulty to which we have just referred. In the last four years, 217 people have transitioned from a job within one of the SISEO (assigned to EHLABE) to regular employment, that is to say on average, each year, almost 55 people with disabilities have been incorporated into the open labour market.

This means that, each year, around 1.10% of the total people with disabilities working in Sheltered Employment Organisations belonging to the Autonomous Community of the Basque Country make this transition.

**Table 1**

### Transition from employment in SISEO to regular employment, according to type of disability 2015-2018

YEAR	Mental disability	Physical disability	Sensory disability	TOTAL
<b>2015</b>	35	14	0	<b>49</b>
<b>2016</b>	22	14	1	<b>37</b>
<b>2017</b>	62	19	9	<b>90</b>
<b>2018</b>	32	9	0	<b>41</b>
<b>2015-2018</b>	<b>151</b>	<b>56</b>	<b>10</b>	<b>217</b>

Source: compiled from data provided by EHLABE

Even if it is true that the percentage of the transition is very small, there are certain aspects of this transition that add even more value to the work carried out by these SISEO.

On the one hand, the gap in terms of sex of the total number of people with disabilities that have completed the transition process falls within the proportions classed as fair, as 41% are women. It is necessary to highlight this figure, as it directly confronts the double discrimination suffered by women with disabilities in the labour market, even more so considering that, as stated later, the employment of men in this type of organisations (SISEO) is greater than that of women (60% over 40% employment of women).

Therefore, in relative terms, women with disabilities in Social Initiative Sheltered Employment Organisations transitioned at least in equal proportions to their male counterparts.

Another aspect worth highlighting when speaking about the employment of people with disabilities is understanding the reality of those groups showing the greatest needs for support. In this sense, regarding the transition towards the open labour market, it has been observed that the SISEO do considerable work.

Following the data collected in Image 6, we see that more than three quarters of the people who have transitioned towards regular employment belong to the group with the greatest needs for support (intellectual disability, mental illness, physical and sensory disability greater than 65%). In particular, without taking into account the variations between years, 74% of the total transitions have been made by people from this group.

This data shows the unquestionable contribution made by these organisations in generating opportunities for people with disabilities to be able to choose and access any job, and the importance assigned to the aim of the transition, even if its scope is somewhat limited.



# Distribution of the transition from SEO to regular employment according to sex

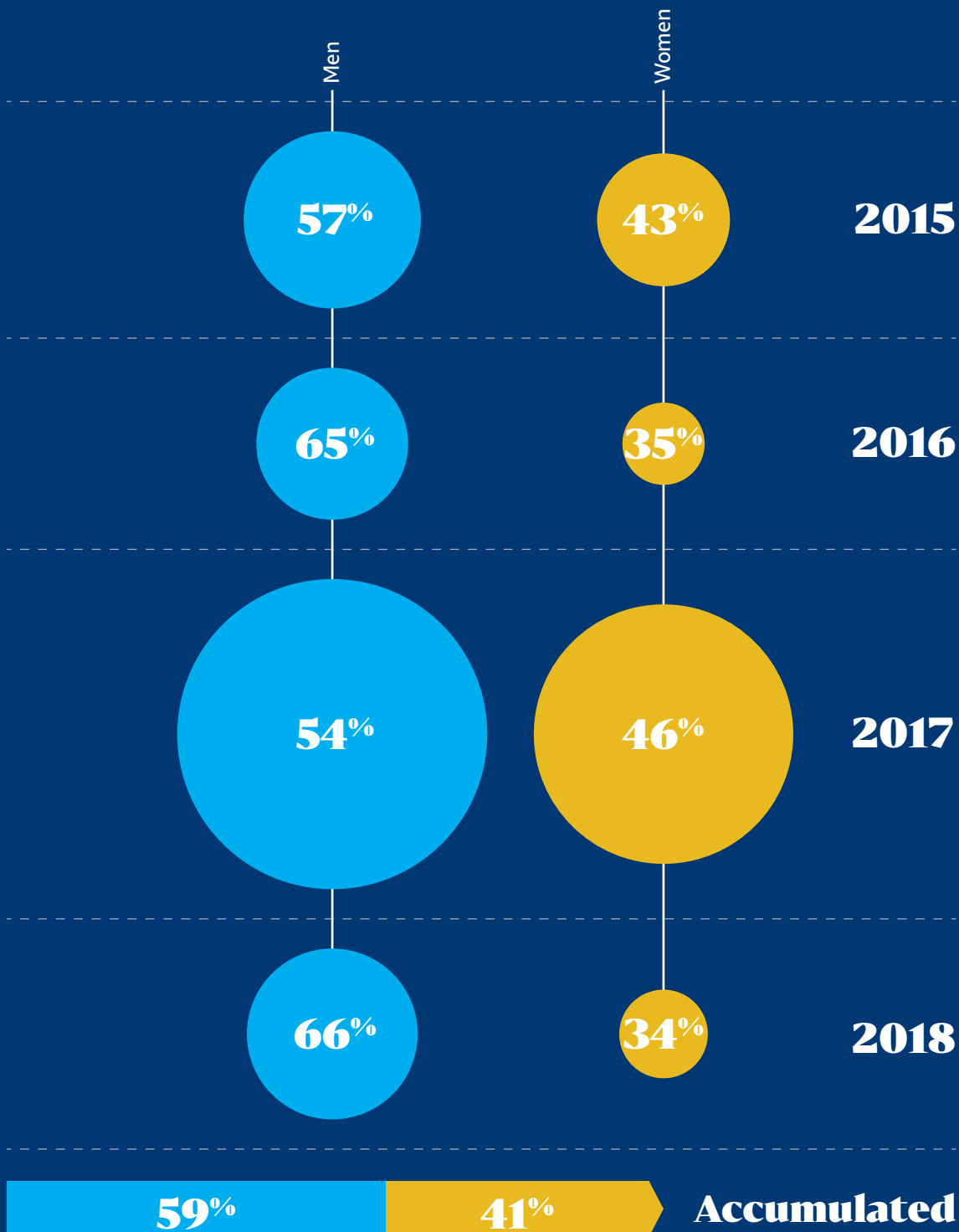
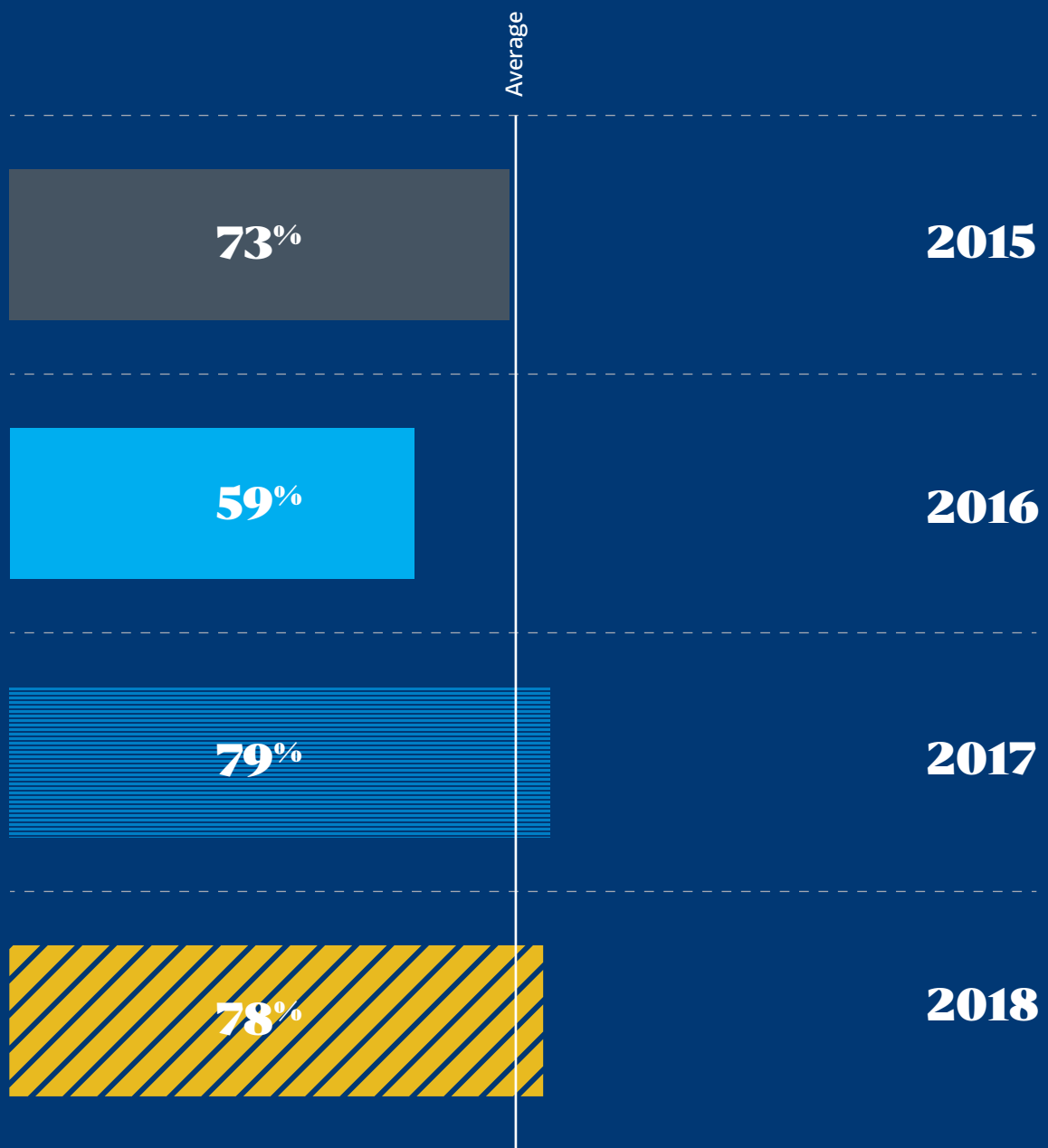


Image 6

# Significance of the group with the greatest needs in the transition to supported employment



# 3.4

## Supported employment

Supported employment is identified as being carried out by on behalf of private companies or in Public Administrations, self-employment and collective self-employment.

In 2016, approximately 64% of the total employment of people with disabilities fell within regular employment, equating to 15,608 jobs<sup>22</sup>. As we will see below, within regular employment, private employment is the most significant (around 51% of regular employment), followed by public employment and self-employment and associated employment (31% and 18% respectively).

### 3.4.1 } Private employment

Article 42 of the LGDPCD establishes a reserve quota of jobs for people with disabilities. This is so that companies whose staff exceed 50 people must hire at least 2% people with disabilities.

In exceptional cases, companies will be exempt from this obligation in any of the following circumstances:

- > There being no people with disabilities in need of employment registered for the required professional profile or, if there are, when they declare themselves not to be interested in the working conditions established for this offer.

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<sup>22</sup> Due to the lack of official statistical data for the employment of people with disabilities in the Autonomous Community of the Basque Country, the data shown regarding the number covered by each type of employment for this group has been calculated based on the distribution presented by the same people across the entire Spanish state (INE).

- When the obliged company confirms issues of a productive, organisational, technical or economic nature that may prove especially difficult for the incorporation of working people with disabilities to the staff. In this case, public employment services may demand certificates or reports from organisations other than the applying company.

In these cases one of the alternative measures regulated in Royal Decree 364/2005 must be applied<sup>23</sup>, which are the following (art. 2.1):

- Entering into a trade or civil contract with a Sheltered Employment Centre, or with a self-employed person with a disability, for the supply of raw materials, machinery, capital goods or any other type of goods necessary for the normal performance of the activity of the company opting for this measure.
- Entering into a trade or civil contract with a Sheltered Employment Centre, or with a self-employed person with a disability, for the provision of third party services and accessories to the normal activity of the company.
- Making donations and sponsorship of a monetary nature, for the performance of insertion activities and the creation of employment for people with disabilities, when the organisation benefiting from these cooperative actions is a foundation or a public utility association whose company purpose is, among others, the professional training, insertion into employment or creation of employment for people with disabilities that allows the creation of jobs for them and ultimately, their integration into the labour market.
- The constitution of a labour enclave, regulated in Royal Decree 290/2004<sup>24</sup>, regarding an arrangement between a company from the open labour market, called the *collaborating company* and a Sheltered Employment Centre in order to carry out works or services that that maintain a direct relationship with its normal activity and for whose performance a group of working people with disabilities from the Sheltered Employment Centre temporarily move to a work centre of the collaborating company. The management and organisation of the work at the enclave will correspond to the Sheltered Employment Centre (art. 1.3).

One of the main aims of the labour enclaves is to encourage the transition of people with disabilities from the SEO to regular employment. In addition, it allows companies supporting the enclave to understand the capacities and aptitudes of the working people with disabilities, for their subsequent incorporation into the staff (art. 2). Article 6 establishes that at least 60% of people working in the enclave must show special difficulties in accessing the open labour market.

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<sup>23</sup> Royal Decree 364/2005, of 8 April, which regulates the exceptional alternative compliance of the reserve quota in favour of workers with disabilities.

<sup>24</sup> Royal Decree 290/2004, of 20 February, which regulates the labour enclaves as a measure to promote employment for people with disabilities.

On the other hand, there are different promotion measures aimed at companies. Law 43/2006<sup>25</sup>, article 2.2 articulates several incentives to hire, both indefinitely and on a temporary basis, in the form of direct subsidies, Social Security allowances or corporate tax deductions.

With all of this, in the Autonomous Community of the Basque Country, based on INE data, some 8,000 people with disabilities work on behalf of someone else in the regular private market, equating to 33% of the total employed people with disabilities. By way of comparison, we should point out that employment in the SEO is greater than this figure (36%), revealing the importance that these organisations still have for the employability and social labour insertion of people with disabilities, despite the fact that the aim of the current legislation is set towards regular employment.

### 3.4.2 } Public employment

Referring to public regular employment, we must highlight the fact that article 59 of the EBEP<sup>26</sup>, which focuses on two important points regarding people with disabilities.

The first, when it establishes that “a quota of no less than 7% of the vacancies to be covered among people with disabilities will be reserved, as long as they pass the selective processes and register their disability and compatibility to perform the tasks in order to gradually reach the 2% of the effective totals in each Public Administration”. It also adds that at least 2% of the places offered must be covered by people registering an intellectual disability, and the rest of the places by people registering any other type of disability.

The second, when it points out that “the necessary measures to establish the reasonable adjustments for times and means in the selective process and, once this process has been passed, the adaptations in the job for the needs of the people with disabilities must be adopted.”

In the Basque scope, the additional seventh provision of Law 6/1989, of 6 July, on the Basque Public Service, reserves a minimum quota of 3% in Basque Public Administrations. This regulation is obsolete, as it falls within the Basic State Law of 2015 and, consequently, a minimum of 7% must be respected

<sup>25</sup> Law 43/2006, of 29 December, for the Improvement of Growth and Employment.

<sup>26</sup> Royal Legislative Decree 5/2015, of 30 October, which approves the consolidated Text of the Law on the Basic Statute of Public Employment.

in Basque Administrations. We must therefore point out that, the Public Employment Offer in the Autonomous Community of the Basque Country must reserve a minimum quota of 7%<sup>27</sup>.

Regarding the data of the Autonomous Community of the Basque Country in 2016, almost 5,000 people with disabilities were calculated to be in public employment, that is to say, almost 20% of the total people with disabilities in employment in the territory. Therefore, we can deduce that the materialisation of the contents of the aforementioned decrees and provisions are slowly moving forward, which is reflected in the relatively low significance of these jobs.

### 3.4.3 } Self-employment

Self-employment is covered by article 47 of the LGDPCD, which regulates the Public Authorities that adopt policies that promote the self-employment of people with disabilities, aimed at establishing and developing economic and professional initiatives on their own, or through Social Economy organisations.

In this case, we are facing a complicated reality, as setting out on the path to self-employment is not easy, as shown by the low demand for it from this group.

Across the whole of Spain, self-employment represents just 11% of the total employment of people with disabilities. This group also distinguishes between people with disabilities who employ other people (that is to say, businessmen and women) and people with disabilities who work for themselves without employing anyone (that is to say, self-employed in the strictest sense). For this case, self-employment is reduced to 7% of the total employment of people with disabilities.

With these references, the self-employment of people with disabilities in the Basque Country is around 2,600 people, of which more than 800 would be businessmen and women with at least one employed person.

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<sup>27</sup> Resolution 103/2018, of 5 February, which approves the general bases for governing the selective processes to acquire the fixed statutory link at Osakidetza announced in 2016 and 2017, in Annex I, point 1.3: "7% of the postings offered in each process (open call and internal promotion) are reserved to be covered by people with a degree of disability equal to or greater than 33%, as long as they pass the tests and register their indicated degree of disability and their compatibility to perform the corresponding tasks. The minimum reservation of 7% will be carried out so that at least 2% of the places offered must be covered by people registering an intellectual disability, and the rest of the places offered are for people registering any other type of disability. The calculation of reserved postings to be covered by people with disabilities will take into account the total postings announced for each one of the professional categories subject to the call, including the reservation of one posting for every fourteen offered. Assuming that the positions offered in the category do not reach fourteen, the reservation percentage will be adjusted according to the professional group. In order to fulfil the 2% reserve quota for people registering an intellectual disability, this reserve quota can be included in certain categories. In any case, the 7% reservation will be respected both in the call for internal promotion and the open call".



### 3.4.4 } Associated employment

Associated or collective self-employment is performed in cooperatives or labour companies, a formula that has been little-used until now, but which is being bet on more frequently.

In this case, the company holds the legal form of a cooperative or labour-owned company and, consequently, working people with disabilities would have the option to be partners in their own organisation, shareholders and have a vote in the company's decision-making. Associated employment promotes the participation of people with disabilities in the organisation in which they are owners<sup>28</sup>.

### 3.4.5 } Positive action measures

Given the difficulties for people with disabilities to be able to access the open labour market, several positive action measures have been developed, which we will now analyse.

#### Specific register in public employment services

Article 38.2 of the LGDPCD sets out the drafting of a specific register of people with disabilities seeking employment through public employment services, a formula that aims to improve and facilitate the promotion of employment for this group.

#### Adaptation to the job

Both in private and public employment, within regular employment, there is an obligation to adopt the appropriate measures to adapt to the job as well as regarding the accessibility of the company, according to the needs of each specific situation, in order to allow people with disabilities to access employment, carry out their work, progress professionally and to access training, as stated in article 40 of the LGDPCD.

On the other hand, it adds that this obligation will be excluded when it involves an excessive burden on the company. In order to assess this fact we must take into account whether it can be offset through public measures, aid or subsidies for people with disabilities, as well as the financial costs and other costs implied by the measures, and the size and total volume of business of the organisation or company.

<sup>28</sup> In the case of the Basque Country, we should point out that the company KL Katealegaia, which is a limited labour-owned company and a Sheltered Employment Centre at the same time. Around 95% of the staff comprise people with disabilities who own 70% of the company's capital.

In this sense, we should mention Royal Decree 2271/2004, of 3 December, which regulates access to public employment and the provision of jobs to people with disabilities, which in article 10 establishes the obligation to adapt public service jobs.

## **Breach of the right to equal opportunities**

It is worth highlighting article 63 of the LGDPCD, which considers that the right to equal opportunities of people with disabilities is breached when there are, for this reason, direct or indirect discrimination, discrimination through association, harassment, failure to comply with the demands of accessibility and to carry out reasonable adjustments, as well as non-compliance with the legally established positive action measures.

## **Employment with support**

The occupational integration measures for people with disabilities in the regular employment system includes a formula for transition through the supported employment system<sup>29</sup>, aimed at people with disabilities with special difficulties in labour inclusion and whose aim it is to facilitate the social and occupational adaptation of these people in open labour market employment, in similar conditions to other working people carrying out similar jobs. This is carried out through guidance and monitoring actions on the job, outreach efforts between employee and employer, and follow-up and assessment of the insertion process on the job, among others (art. 41, LGDPCD).

Organisations promoting employment projects with support include Sheltered Employment Organisations<sup>30</sup>, companies in the open labour market and associations, foundations and other not-for-profit organisations, as long as they fulfil the requirements established in its regulations.

People with a minimum physical or sensory degree of disability of 65% and those with cerebral palsy, a mental illness or intellectual disability equal to or greater than 33% are considered to be people with disabilities with special difficulties in employability (art. 3.1)

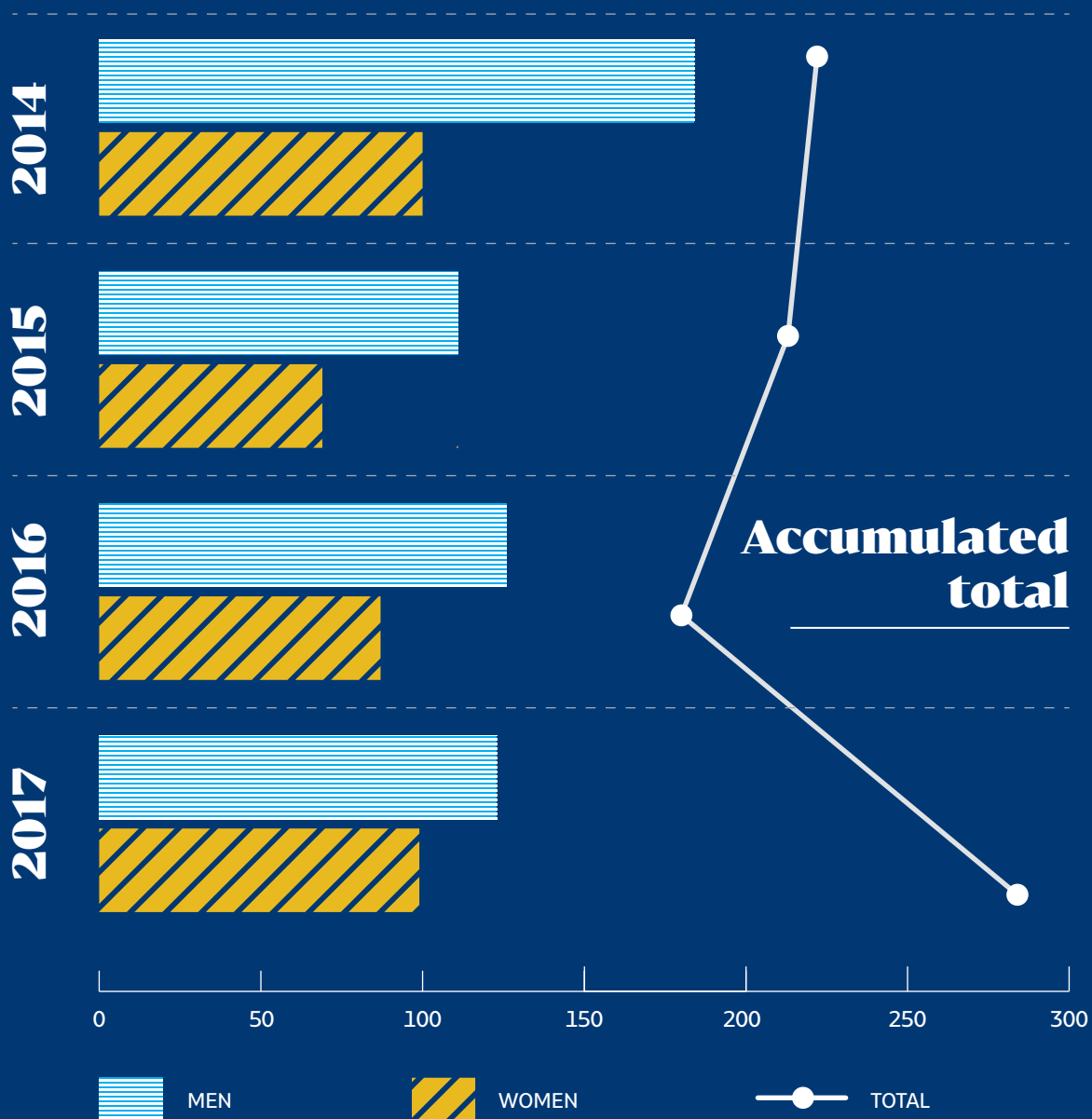
The evolution of supported employment did not suffer any great fluctuations in 2014-2017, as it started at a considerably high level, and the 40% fall in 2015 compared to the previous year is due to the fluctuations in insertions to which the supported employment methodology has been applied, presenting a gradual increase in this category during the following two years.

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<sup>29</sup> Supported employment is regulated by Royal Decree 8702007, of 2 July, which regulates the supported employment programme as a measure for the promotion of employment for people with disabilities into the open labour market.

<sup>30</sup> We have mentioned supported employment in the SEO in the section on Sheltered Employment Organisations (RD 469/2006 on Support Units).

# Evolution from supported employment in SISEO according to sex in the Autonomous Community of the Basque Country 2014-2017



Source: compiled from data provided by EHLABE and Foro EcA<sup>31</sup>

<sup>31</sup> The Foro EcA is an initiative in which 12 organisations that work with different disability groups participate and which, under the coordination of EHLABE, is carried out in the different historical territories of the Autonomous Community of the Basque Country.

In any case, we should point out that, during these four years, a total of 899 jobs with support were calculated, a significant figure. It is also worth mentioning the special care that women have had in recent years. And, while it is true that in 2014, 65% of people benefiting from this type of aid were men, the evolution of supported employment of women since then has shown better progress compared to that shown by supported employment of men and, in that sense, there has been a clear trend towards the convergence of the two sexes (in 2017, 45% of supported employment went to women).

Where there has been no great change has been in the geographic distribution of supported employment, as shown in image 8. Bizkaia continues to be the territory where most supported employment is focused, although it has lost some significance in the four years analysed compared to Araba and Gipuzkoa.

In this sense, we see that 45% of the supported employment accumulated during these four years has been carried out in Bizkaia; 31% in Gipuzkoa and the remaining 24% in Araba.

If we focus on the specific groups to which supported employment has been directed, we realise the centrality acquired by people with disabilities with the greatest needs in the Sheltered Employment Organisations that carry out these actions.

When we look at Images 10 and 11, we realise that the majority (61% last year) of people receiving the supported employment programme correspond to groups with greater needs (intellectual disability, mental illness and autism spectrum disorders).

Employment with support accumulated during the four years shows similar data. Some 67% of supported employment has been carried out with groups with greater needs, whereas, in recent years, people with a sensory disability and those with a physical disability have gained greater significance.

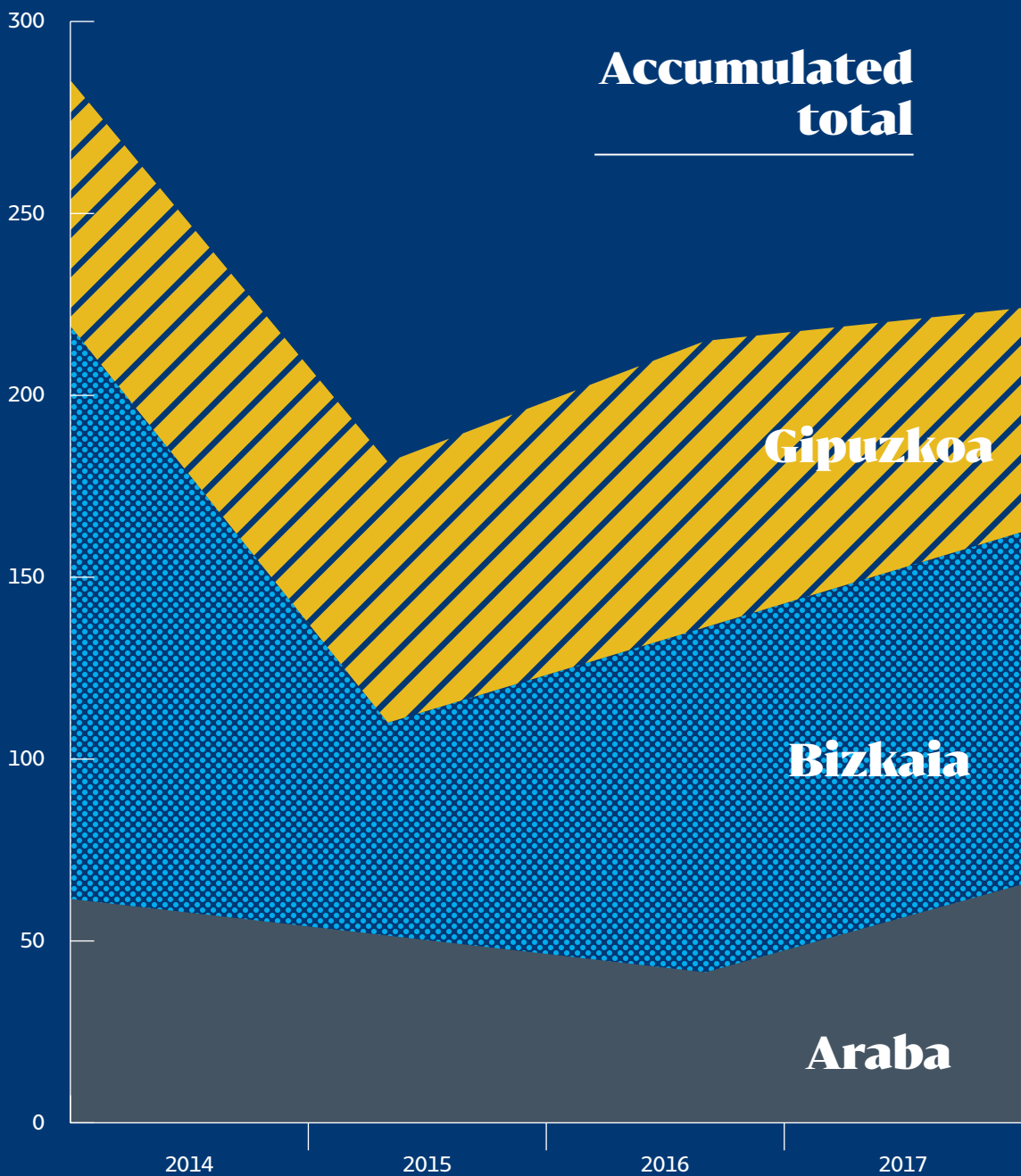




Image 8

# Evolution of supported employment according to historical territory

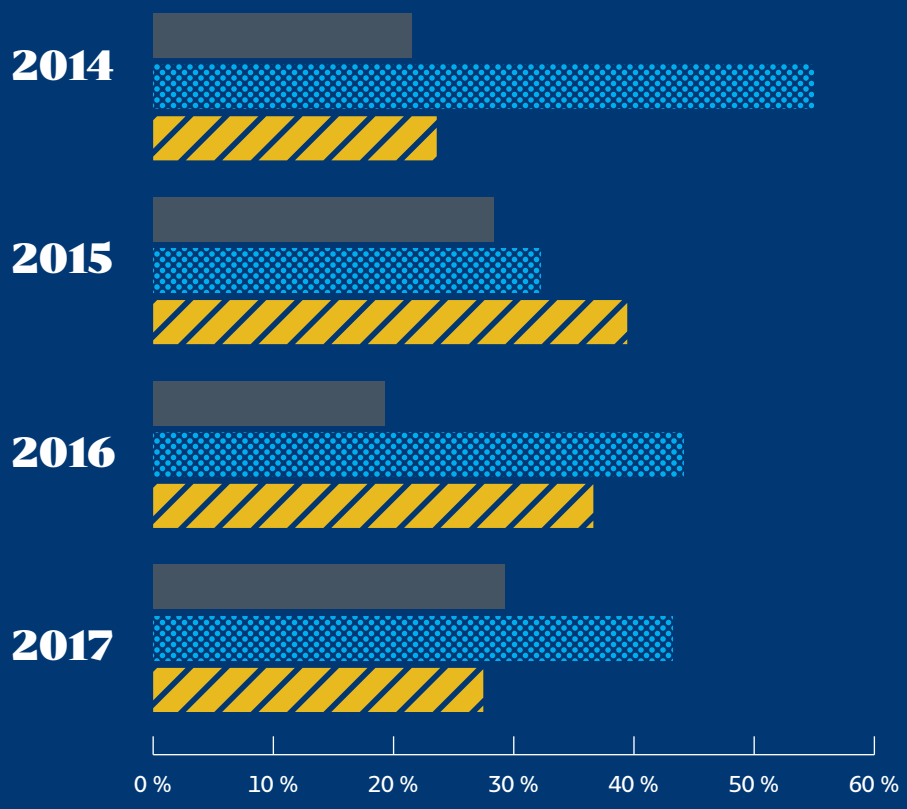
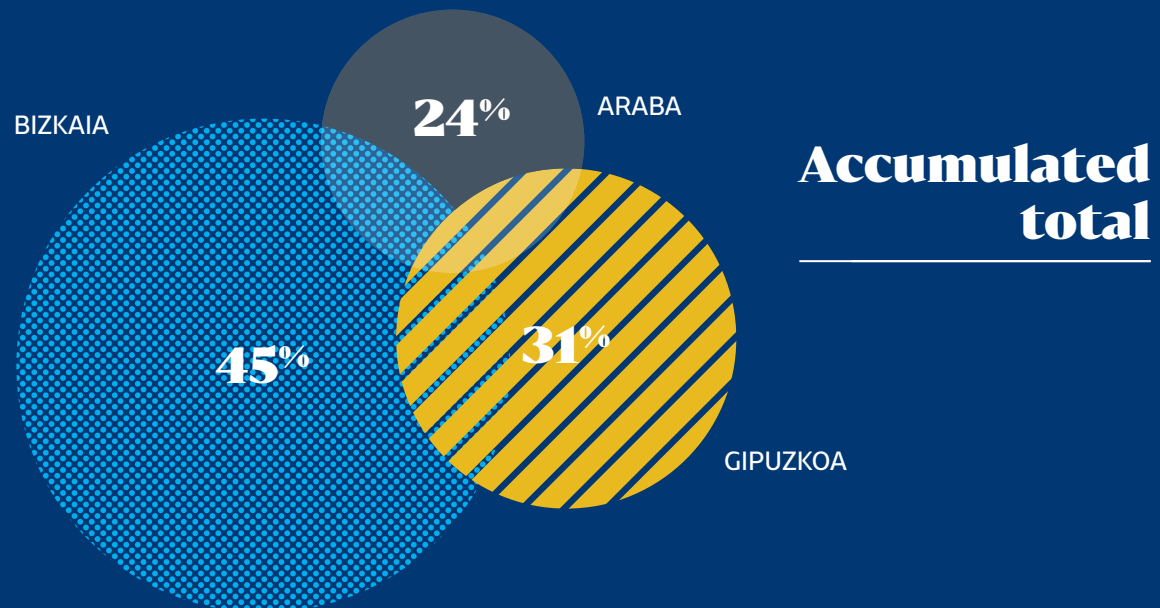
2014-2017



Source: compiled from data provided by EHLABE and Foro EcA

# Geographical distribution of supported employment

Accumulated 2014-2017

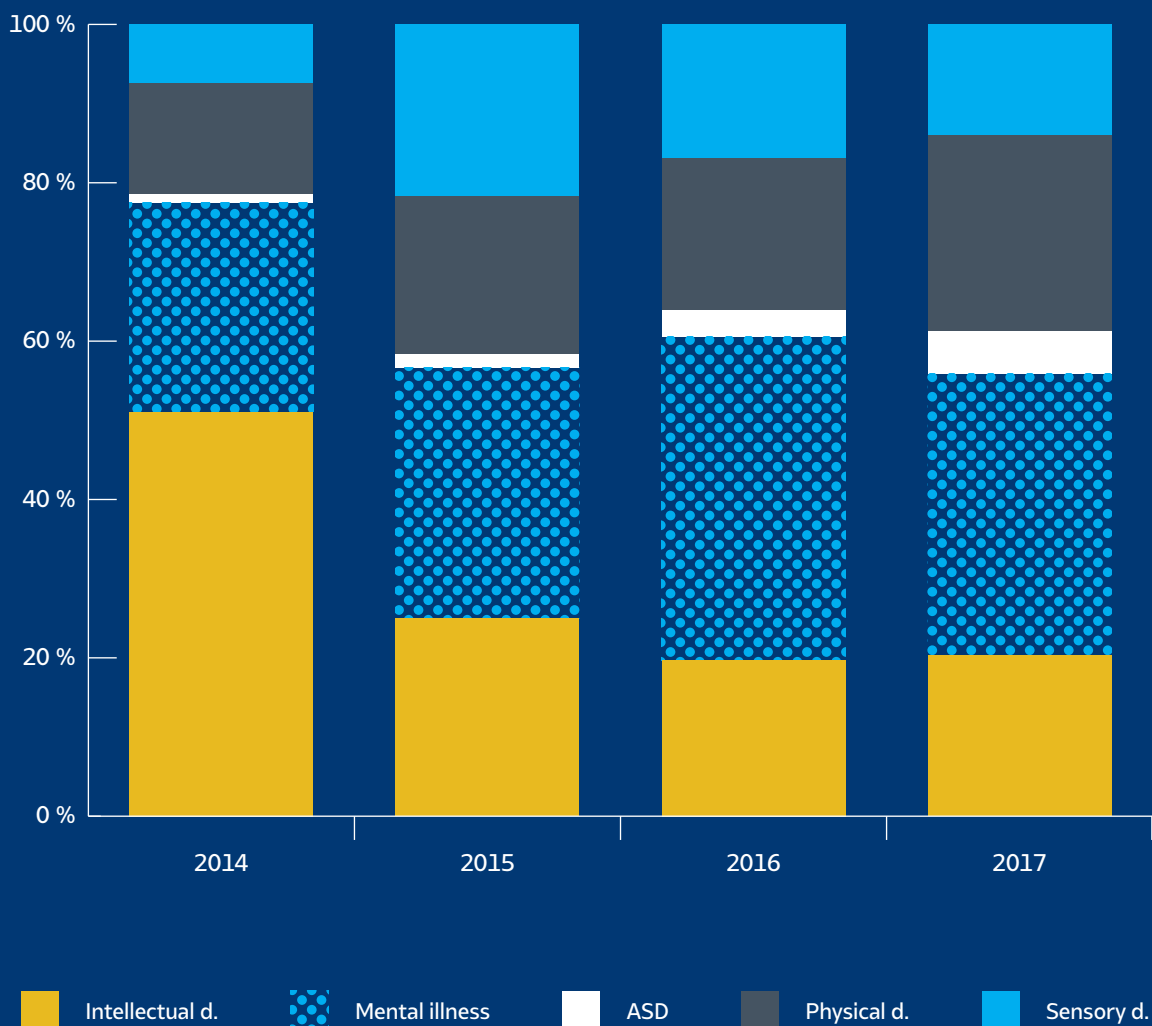


Source: compiled from data provided by EHLABE and Foro EcA

Image 10

# Evolution of supported employment according to type of disability

2014-2017

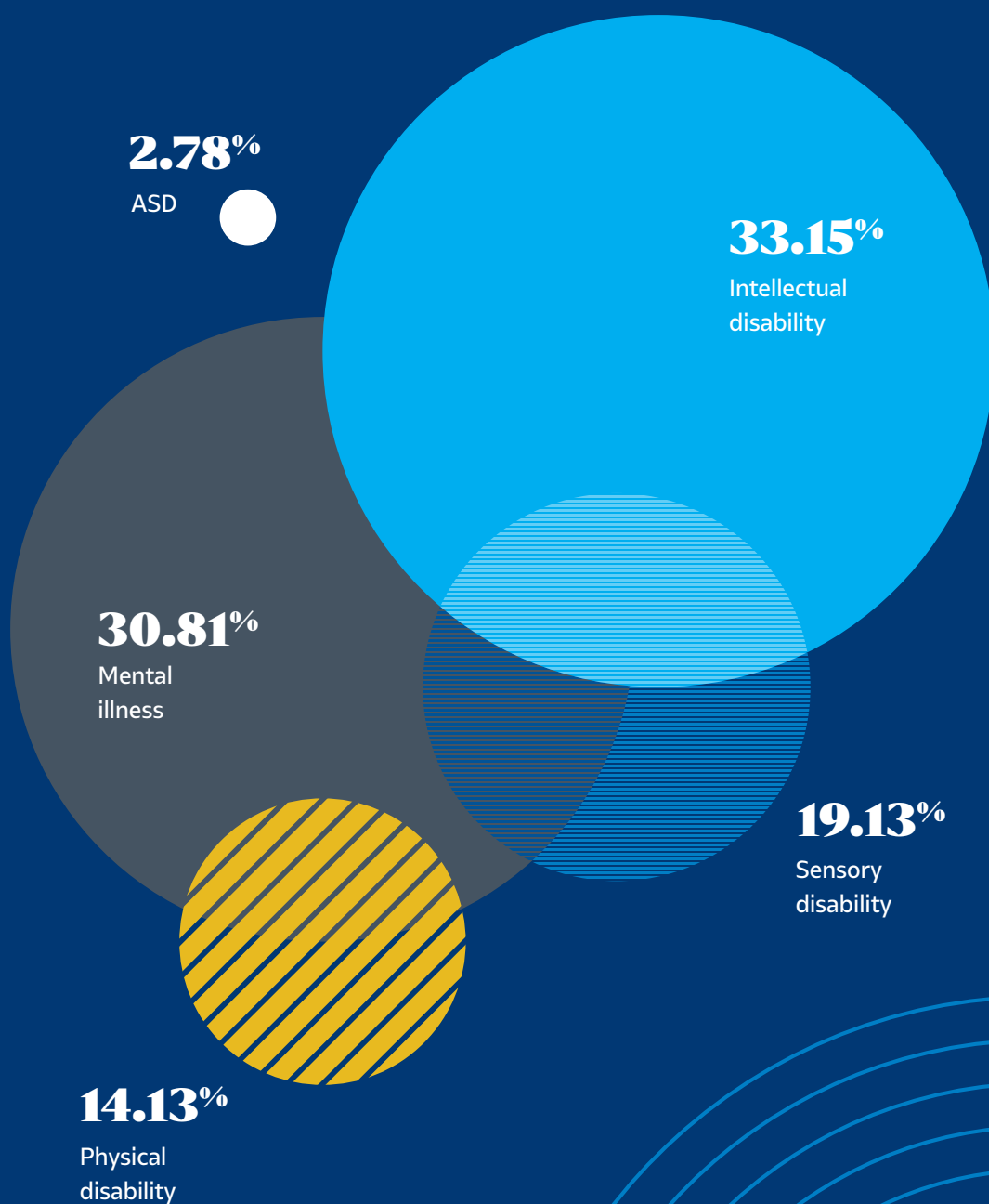


Source: compiled from data provided by EHLABE and Foro EcA



# Employment with support according to type of disability

Accumulated 2014-2017







# 4

**Social Initiative Sheltered  
Employment Organisations  
(SISEO) and the inclusion of SEO  
in the Social Economy**



# 4.1

## **The Social Initiative SEO and the new Law on Public Sector Contracts**

Law 9/2017, of 8 November, on Public Sector Contracts (hereinafter LCSP), which implements the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of 26 February 2014 recently entered into force.

With these directives, the European Union has concluded a process of review and modernisation of the regulations on public procurement, which helps increase efficiency in public spending and in particular facilitates the participation of small and medium-sized enterprises (SMEs) in public procurement, as well as allowing public authorities to use the procurement in support of common social aims.

The legal system of public procurement established in this law aims to clarify the current regulations in the interest of greater legal security, and aims for public procurement to be used as an instrument for implementing both European and national policies on society, the environment, innovation and development, the promotion of SMEs and the defence of competition. All of these questions constitute real aims of the law, at all times pursuing efficiency in public spending and respecting the principles of equal treatment, non-discrimination, transparency, proportionality and integrity.

This new law, together with previously mentioned directives have been furthering and broadening the legal cover given to public procurement reserved for Sheltered Employment Organisations and insertion companies, obliging Public Administrations to set minimum reserve percentages.

The regulation of the LCSP has signified a step forward for the Sheltered Employment Organisations, as it includes very important provisions, which we will analyse next.

One of the most important developments is the modification introduced by the fourteenth final provision of the LCSP to the LGDPCD, which adds a fourth section to article 43, which introduces and defines for the first time in our legal system the figure of the Social Initiative SEO. The provision establishes that “centres that by complying with the requirements established in sections 1 and 2 of this article are advocated and participated in by more than 50%, either directly or indirectly, by one or several organisations, whether public or private, that are not-for-profit or whose social nature is not recognised in their Statutes, whether associations, foundations, public law corporations, Social Initiative cooperatives or other organisations of the Social Economy, as well as those whose ownership corresponds to trading companies in which the majority of their share capital is owned by one of the aforementioned organisations, whether directly or indirectly through the concept of a parent company regulated in article 42 of the Commercial Code, and as long as in all cases in their Statutes or in a social contract they are obliged to fully reinvest their profits in the creation of employment opportunities for people with disabilities and the continuous improvement of their competitiveness and their Social Economy activity, in any case being able to opt to reinvest them in the Sheltered Employment itself or in other Social Initiative Sheltered Employment, shall be considered Sheltered Employment Organisations”. This article signified an important change, as it is the first ruling stating what the Social Initiative Sheltered Employment would be, and highlights their not-for-profit nature or having their social nature recognised in their Statutes.

On the other hand, the fourth additional provision establishes that, through the agreement of the Council of Ministers or of the competent authority of the autonomous communities and of the local organisations, minimum reserve percentages for the right to participate in procurement procedures for certain contracts, or for certain batches thereof will be set for certain Social Initiative Sheltered Employment and to insertion companies.

The reserve agreement must be adopted within a maximum period of one year from the entry into force of this LCSP. If this period is passed the agreement will not be adopted, the state public sector procurement authorities should apply the minimum reserve percentage of 7% that will increase to 10% four years after the entry into force of this law.

On the other hand, referring to accessibility and design for all people, article 126.3 of the ruling, on technical specifications, states that, for all procurement aimed to be used by physical persons, whether by the general public or the staff of the procuring Public Administration, the technical specifications will be drafted, except in duly justified cases, so that they take into consideration the Convention of the Rights of Persons with a Disability, as well as the criteria for universal accessibility and universal design or design for all people.

The additional eighteenth provision also refers to universal accessibility and universal design or for all people, criteria that must be taken into consideration when determining the acceptable means of communication, the design of the instrumental elements and the implementation of the procedural steps.

Article 129 establishes that the procuring authority will be able to point out in the document the organisation or organisations from which the candidates or tenders can obtain the relevant information on the relative obligations, among others, of the social labour insertion of people with disabilities and the obligation to hire a specific number or percentage of people with disabilities.

Regarding the subrogation of people with disabilities, article 130.2 of the LCSP states that, when the company carrying out the provision which is the subject of the contract to be awarded is a Sheltered Employment Centre, the awarding company will be obliged to subrogate itself as an employer of all people with disabilities carrying out their activity under said contract.

On the other hand, the ruling overcomes the outdated concept of the lowest bid when awarding public contracts and is replaced by the best value for money relationship. Article 145 of the ruling sets the requirements and criteria to award the contract, which will be economic and qualitative. The qualitative criteria can include social aspects, which may be:

- Accessibility and universal design or for all people.
- Promoting the social integration of people with disabilities.
- The social labour insertion of people with disabilities.
- Subcontracting with Sheltered Employment Organisations.

Regarding the execution of the contract, article 202 of the LCSP allows the procuring bodies to establish special social conditions in relation to the execution of the contract, among others, as long as they are linked to the purpose of the contract, are not directly or indirectly discriminatory, are compatible with European Law and that they are indicated in the tender announcement and in the documents.

This law signifies an important step for the Social Initiative SEO, as it defines them for the first time and establishes the characteristics they must have. In addition, it obliges Public Administrations to procure through contracts reserved at a percentage that will increase over the years in favour of this type of organisation. That is to say, that in case of non-compliance, fulfilment of the minimums may be required.

In terms of Basque regulations, one of the demands made by the sector to legislators is to approve regulations that recognise and distinguish Social Initiative Sheltered Employment and Not-for-profit Centres from the rest, as it does with Social Initiative and public interest cooperatives<sup>32</sup>. This case is simply an example to support the demand for Social Initiative Sheltered Employment Organisations, that is to say, the need for regulations and a recognition that allows a distinction of the Social Initiative and Not-for-profit SEO to be made from the rest, both because of the work they carry out in our society and because of the principles and values that they pursue and work on each day.



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<sup>32</sup> Decree 61/2000, of 4 April, which regulates Social Initiative Cooperatives; Decree 64/1999, of 2 February, which approves the regulation on the procedure and requirements relating to public interest cooperative companies.



# 4.2

## The inclusion of SEO in the Social Economy

56

Law 5/2011, of 29 March, on the Social Economy, in article 5 expressly includes<sup>33</sup> Sheltered Employment Organisations among the organisations that form part of the Social Economy sector, which is defined in 2 as follows: “a set of economic and business activities carried out in the private sector by organisations that, in accordance with the principles stated in article 4, pursue either the collective interest of their members, or the general economic or social interest, or both.” Article 4 established the guiding principles of the Social Economy: “A) Prominence of people and the social purpose of the capital, which focuses on autonomous and transparent, democratic and participative management, which leads to prioritising decision-making more according to the people and their contributions to the work and services provided to the organisation or according to the social purpose, than in relation to their social capital. B) Application of the results obtained from the economic activity mainly according to the work contributes and the service or activity carried out by the partners or by their members and, as the case may be, towards the social purpose of the organisation. C) Promotion of internal solidarity and with a society that favours commitment to local development, equal opportunities between men and women, social cohesion, the insertion of people at risk of social exclusion, the generation of stable and quality employment, a personal, family and life balance, as well as sustainability. D) Independence in terms of public authorities.”

The Law would seem to recognise all Sheltered Employment Organisations as full members of the Social Economy, although they must always observe the aforementioned guiding principles of the Social Economy. The reality shows us that employment in SEO is very diverse, and there are very diverse models that coexist within the State with aims, interests and purposes that on many occasions can contradict the

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<sup>33</sup> Article 5: “Cooperatives, mutual societies, foundations and associations that carry out economic activity, labour-owned companies, insertion companies, Sheltered Employment Organisations, fishermen’s organisations, agricultural processing companies, and individual organisations created by specific regulations governed by the principles established in the previous article all form part of the Social Economy”.



principles of the Social Economy. EHLABE carried out a small approach of this diversity<sup>34</sup>, configuring up to four different groups of SEO present in the State:

- Social Initiative Sheltered Employment Organisations. These are promoted by social organisations and the third sector and their aim is to generate employment for people with disabilities through employment in SEO, especially for the group with the greatest needs for support.
- Sheltered Employment Organisations promoted by individual business people (SMEs), creating jobs for persons with a disability.
- Sheltered Employment Organisations promoted by large corporate organisations fulfilling the obligation established in article 42 of RLD 1/2013 on hiring people with disabilities, and which implement the SEO with activities that are different to their main activity, which generate employment for people with disabilities.
- Sheltered Employment Organisations promoted by large corporate organisations, which in many cases do not fulfil the obligation of hiring people with disabilities, but which promote the SEO with aims that contradict the principles of equal opportunities and non-discrimination: that is to say, they do not fulfil 2% of the reservation for people with disabilities and use alternative measures through the SEO, which has the same activity as the promoting company, offering lower salaries and without providing the necessary adjustments, among other things.

The Social Initiative Sheltered Employment and Not-For-Profit Organisations are those which are promoted and which receive more than 50% participation from one or several organisations, either public or private, which are not-for-profit or which are recognised as being social in nature in their statutes. In addition, they must reinvest profits into the social purpose of the organisation and generate jobs, especially for the group with disabilities with the greatest difficulties.

Therefore, the Social Initiative and Not-for-profit SEO are the only ones in sheltered employment which identify with the fundamental principles and aims of the Social Economy. So much so that they can be linked to the guiding principles of the Social Economy with the management and operation carried out in the SISEO, as we will see next.

As we have mentioned on several occasions, the SISEO reinvest the profits into the same organisation and into the social purpose thereof, for example, improvements to the job, installations or the creation of new jobs, to which the employees would benefit most. This clearly shows that in these organisations both people and a social purpose for the capital take precedence, thus complying with the principles stated in rt. 4 of the Law on the Social Economy.

One of the aims of the SISEO, and for which they have worked so much towards, is to promote the participation of working people, involving them in the management and organisation of the organisation.

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<sup>34</sup> Moratalla, P. (2016): "Sheltered Employment Organisations", CIRIEC-España. *Revista Jurídica de Economía Social y cooperativa*.

In addition, they are organisations that are deeply rooted in the territory, with no risk of relocation and whose aims respond to the needs of the society in which they operate.

According to the data, the Social Economy sector has managed not just to maintain, but also to generate quality employment in recent years, managing to exceed 80,000 jobs in 2017. The positive data is the result of the fact that they have prioritised employment and the commitment to people above results and profit. And since 2008, employment in the Social Economy has increased by 8%, in strong contrast to the evolution of employment in the Basque economy in general, which is 6.5% lower than at the start of the crisis (OVES/GEEB).

We must state that there is a possibility that the SISEO have a double Social Economy character, and this happens in the case of organisations grouped under EHLABE<sup>35</sup>, which, as well as belonging to the Social Economy by being a SISEO, are legally foundations, labour-owned companies or associations, among others.

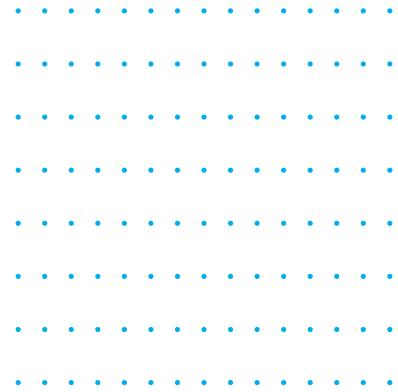
For all of these reasons, the Social Initiative Sheltered Employment Organisations have become a necessary instrument in our society as they carry out a fundamental role in generating professional opportunities for groups with the greatest difficulties in employment, promoting equal opportunities and non-discrimination and, as a consequence, a more cohesive and equal society.

Despite the fact that employment in Sheltered Employment Organisations is very diverse, the Spanish legal system does not distinguish between the different types, and so all of them receive the same treatment, especially in terms of public aid.

Law 5/2011 of the Social Economy does not refer to the different SEO either, although many of them are a long way from the principles that guide the Social Economy. Taking into account the analysis performed, we can consider that only the Social Initiative Sheltered Employment Organisations comply with the majority of these principles. For this reason a review and update of the ruling on the Social Economy has been proposed, to adapt article 5, which exclusively lists the Social Initiative SEO.

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<sup>35</sup> KL Katealegaia, S.L.L., Lantegi Batuak, foundation; Rafaela María, asociaation.



# 4.3

## **Evidence of the differential fact of the Social Initiative SEO, included in the Social Economy**

Although we have already commented on some of the data on the employment of people with disabilities throughout the report, we should present more general data before furthering the specific characterisation of employment in SISEO, which reveals that these organisations shape a clearly different experience compared to the other Sheltered Employment Organisations.

We will begin to contrast the global situation of people with disabilities in Spain and in the Autonomous Community of the Basque Country, to then contextualise the reality of the Basque SISEO.

On the one hand, the activity rate of people with disabilities in the Autonomous Community of the Basque Country was around 35% in 2017, largely due to the change in methodology and obtaining the data<sup>36</sup>. In 2016, the rate was 38.9%, whereas the Spanish average was 35%. Although this rate is almost four percentage points greater than the State average, we must take into account that the rate for people without a disability was 77.9% in the same year (77.7% for the Spanish average). Thus, it is evident that there is still a long way to go to minimally standardise the social labour reality of people with disabilities in our territory, taking further into account that in 2008 the activity rate of the group was 36.2%.

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<sup>36</sup> Due to the change carried out in the sampling.

Map 1

# Unemployment rate in Spain

## 2017





In the case of the unemployment rate, we also see a notably better situation for people with disabilities in the Basque Country compared to the rest of Spain. However if we again compare the data within the Autonomous Community of the Basque Country, we notice that the situation is worse than that of their fellow citizens. In this sense, it is alarming that the general unemployment rate is decreasing (although very slowly) among people without a disability year after year, however in the case of people with disabilities there are sharp fluctuations, without falling below the 15% unemployment rate.

Before beginning to analyse the differences between the SEO and the SISEO, we should see how the situation of people with disabilities is much more fragile than that of the rest of society. Thus, image 12 shows the evolution that the AROPE indicator<sup>37</sup> has had on the Spanish state, distinguishing between the group of people with disabilities and those without disabilities. The difference between both groups is notable and reaffirms that idea that people with disabilities bear a much greater risk of poverty or social exclusion than the rest of the population.

The data is alarming, one in every three people with disabilities in 2017 was in a situation of poverty or social exclusion in Spain, the same as at the beginning of the financial crisis in 2008. In this sense, we must point out that, whereas the rate fluctuates in the case of the total population according to the economic cycle, in the case of people with disabilities, no relationship with the same was seen and the same values are maintained. We can therefore point out that, as stated in the EAPN-España report, this difference is explained “on the one hand (by) the great difficulty people with disabilities have in accessing the labour market and, on the other (by) the added extra costs of having a disability when resolving daily problems, both in terms of time (everything is slower) and in the economic capacity to have adapted instruments or personal aid”.

Unfortunately, there is no data for the Autonomous Community of the Basque Country since in its statistical tables on poverty and social exclusion and in its latest report “Survey on Poverty and Social Inequalities. EPDS-2016”, it does not provide the information for the group of people with disabilities, where it establishes that the AROPE indicator is at 20.6%. That is to say, one in every five people in Araba, Bizkaia and Gipuzkoa are at risk of poverty or social exclusion.

Taking into account that the rates of activity, employment and unemployment presented by the group in the Autonomous Community of the Basque Country are, just as in the Spanish State, worse than those of the general population, we can deduce that in our territory the population of people with disabilities in a situation of poverty or social exclusion will be greater than the global average.

Given the general situation of the group of people with disabilities in Araba, Bizkaia and Gipuzkoa compares with the Spanish national average, we will now focus on the most outstanding differences between the SISEO and the Not-for-profit SEO.

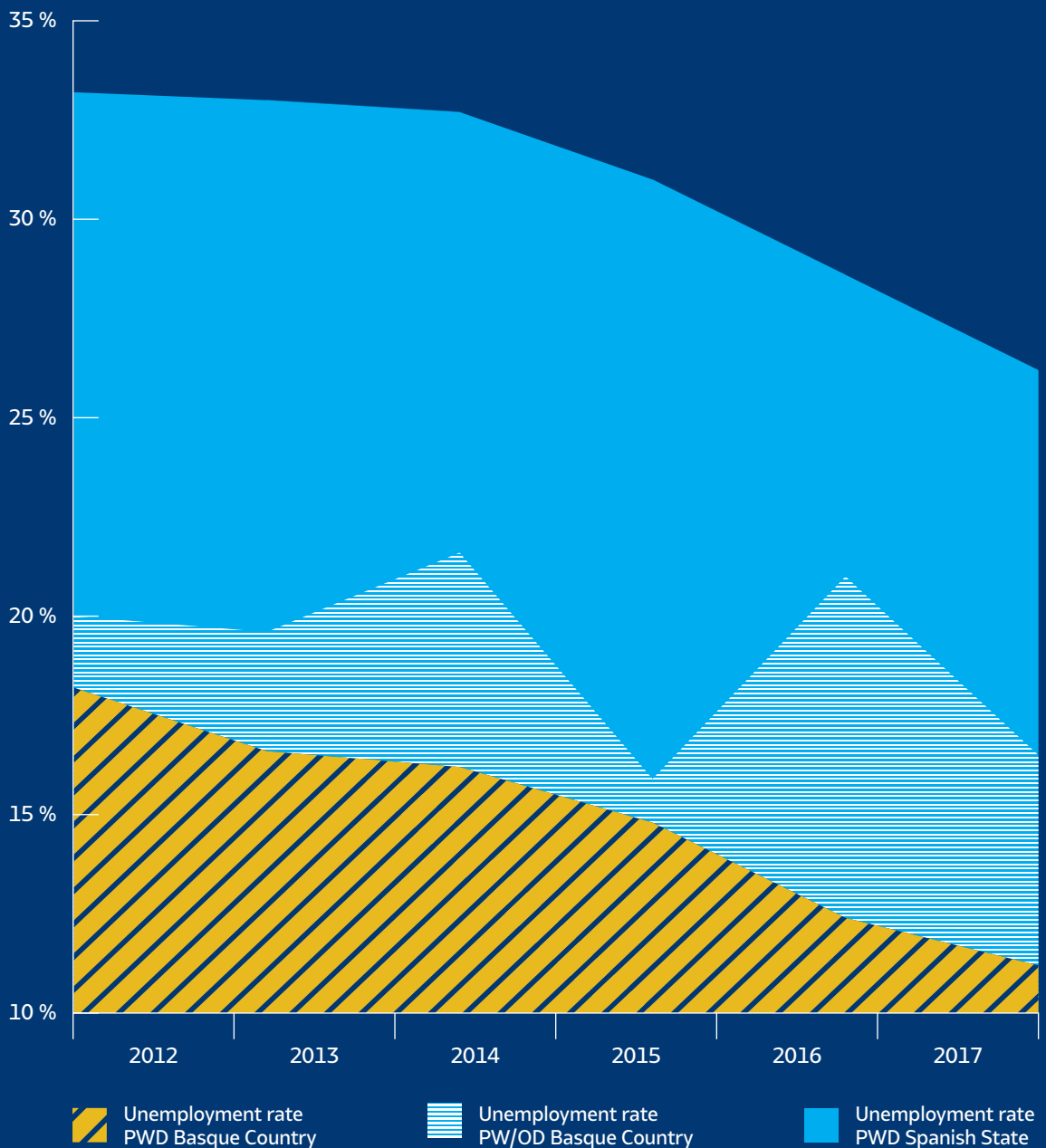


<sup>37</sup> The AROPE indicator is an indicator introduced by the European Union that measures the risk of poverty and social exclusion. This indicator considers the risk of poverty (60% of the average), low work intensity and difficulty in accessing certain basic goods or services.

Image 12

# Evolution of the unemployment rate according to group

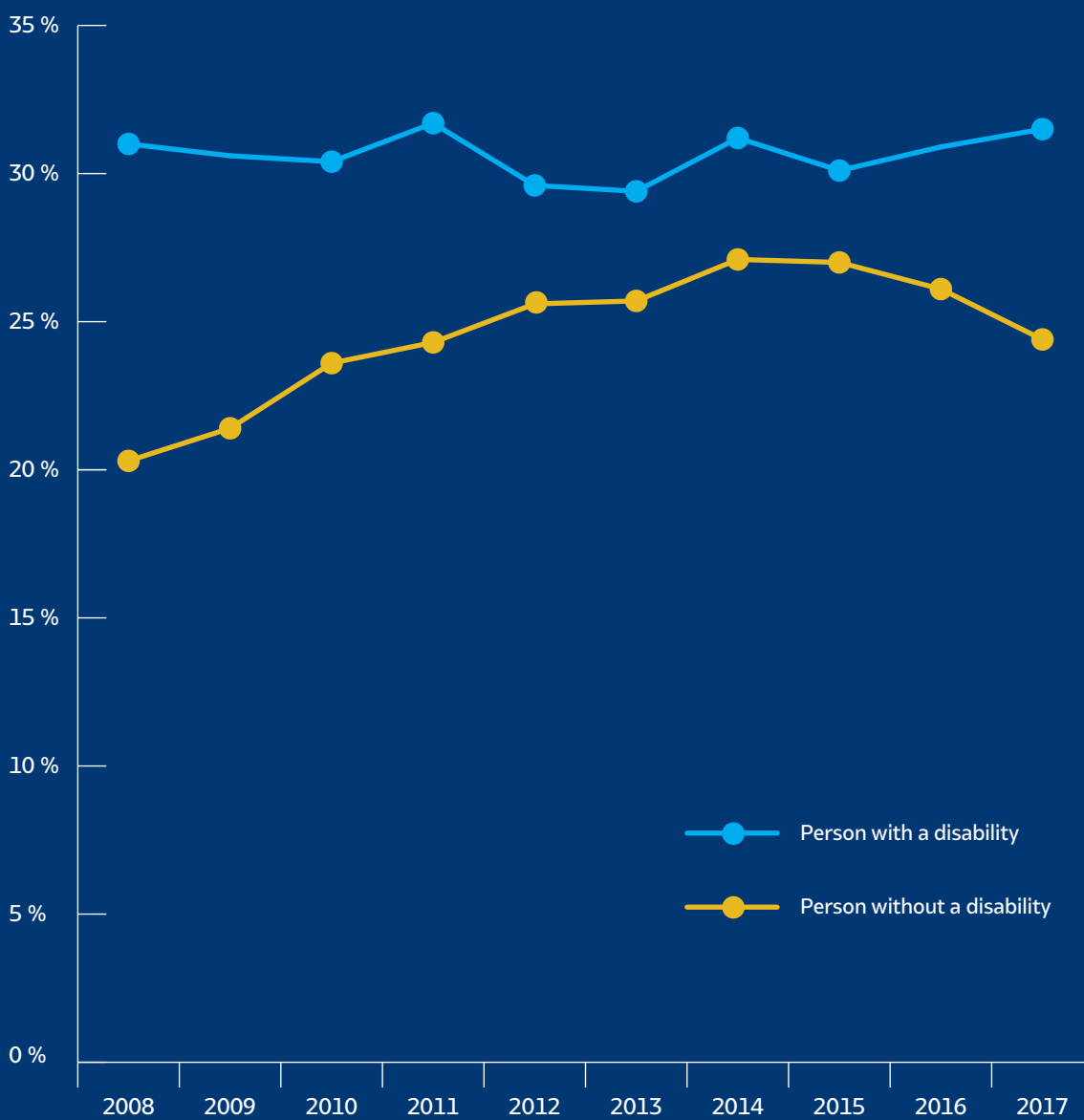
2012-2017



Source: compiled from data provided by the INE

# Evolution of the AROPE rate according to disability

2008-2017



**Table 2**

## Employment of people with a disability in the SEO 2017

YEAR	SISEO	Other SEO	Total
<b>2017</b>	87.6%	12.4 %	<b>8,896</b>

*Source: compiled from data provided by Lanbide and EHLABE*

Even though the information available regarding the total SEO in general (and the For-profit SEO in particular) it is very limited. It is clear that the majority of people with disabilities in the Autonomous Community of the Basque Country employed in SEO are in a Social Initiative SEO. In 2017 almost 9,000 people with disabilities were calculated in total in Sheltered Employment Organisations, of which almost 88% were employed in a Social Initiative SEO and the rest in other types.

The first characteristic of employment in the SEO in the Basque Country therefore consists of the great quantitative significance of the SISEO on the working environment of people with disabilities.

Image 14 shows the evolution that the employment of people with disabilities in SEO has had in recent years, making the difference according to type of organisation. On the one hand it proves the greater significance that the SISEO have had on total employment since the start of the period, as it is even greater in 2010 (86%). On the other hand, we see that the evolution of employment shows different levels as employment in the For-profit SEO suffers significant changes from one year to the next, whereas in the Social Initiative SEO the fluctuation is more moderate.

This points to several factors such as the level of employment in For-profit SEO is lower, a consequence of which is that smaller increases or decreases have a relatively greater significance in the case of the SISEO, which are based on much greater absolute values. Another, more important factor as we understand it, may be that, whereas at this positive/negative juncture the For-profit SEO the numbers of people with disabilities on their staff with increase and decrease great volatility, the Social Initiative SEO are shown to be more cautious and commit to a more stable and reliable increase in employment, also avoiding the destruction of jobs.

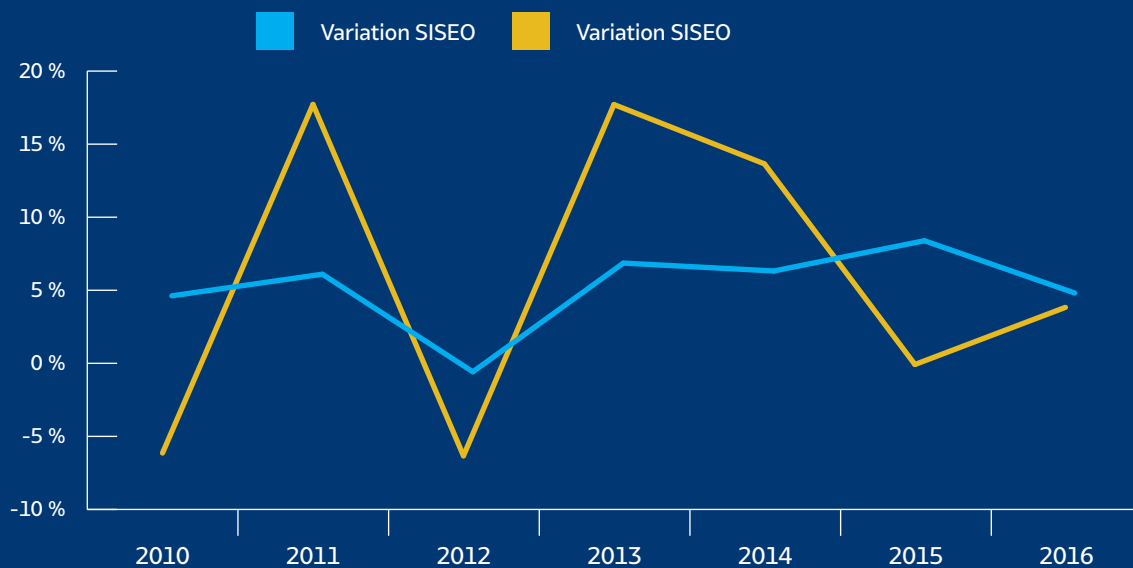
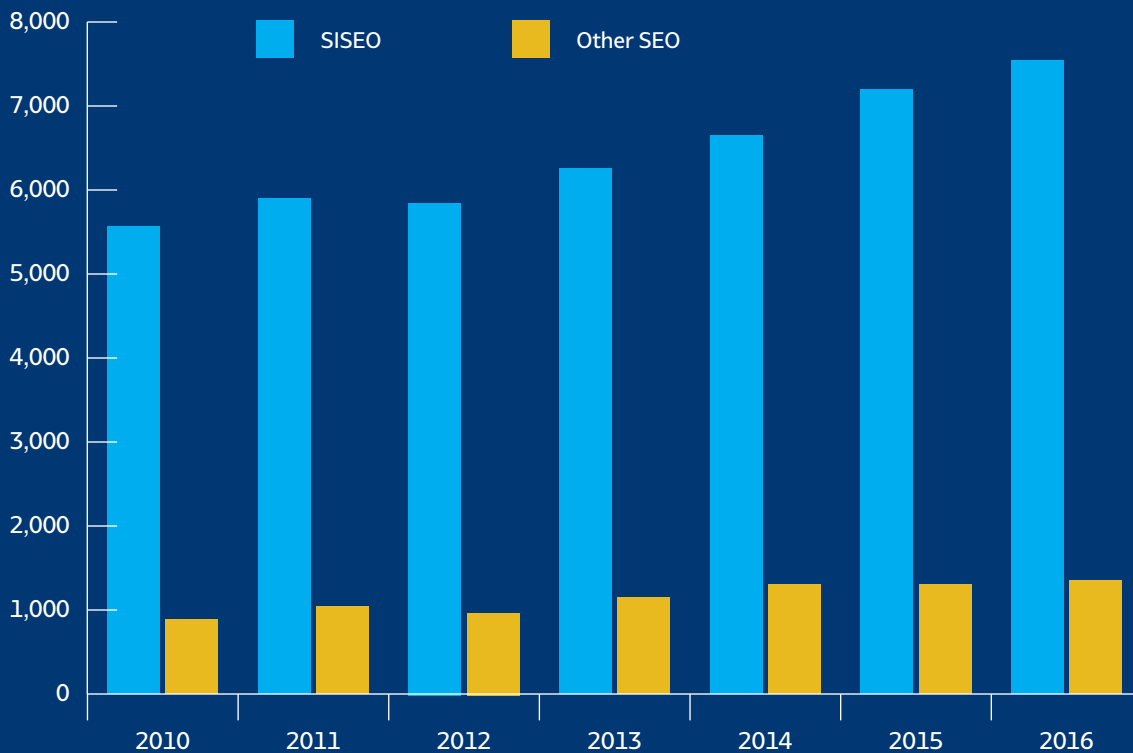
Another difference between the employment of people with disabilities according to the type of SEO is shown in Image 16. It represents the evolution that the employment of women has had on the total employment of the total SEO and in the Social Initiative in particular. As we can see, 2010 began with the same situation, as the employment of women showed in both cases less than 40% of the total employment of people with disabilities. However whereas in the case of the total SEO the trend has been a decrease in the representation of women, the evolution of the relative significance of women in the





# Evolution of employment of PWD in the SEO

2010-2016



# Significance of people with a disability in employment according to type of SEO

15%

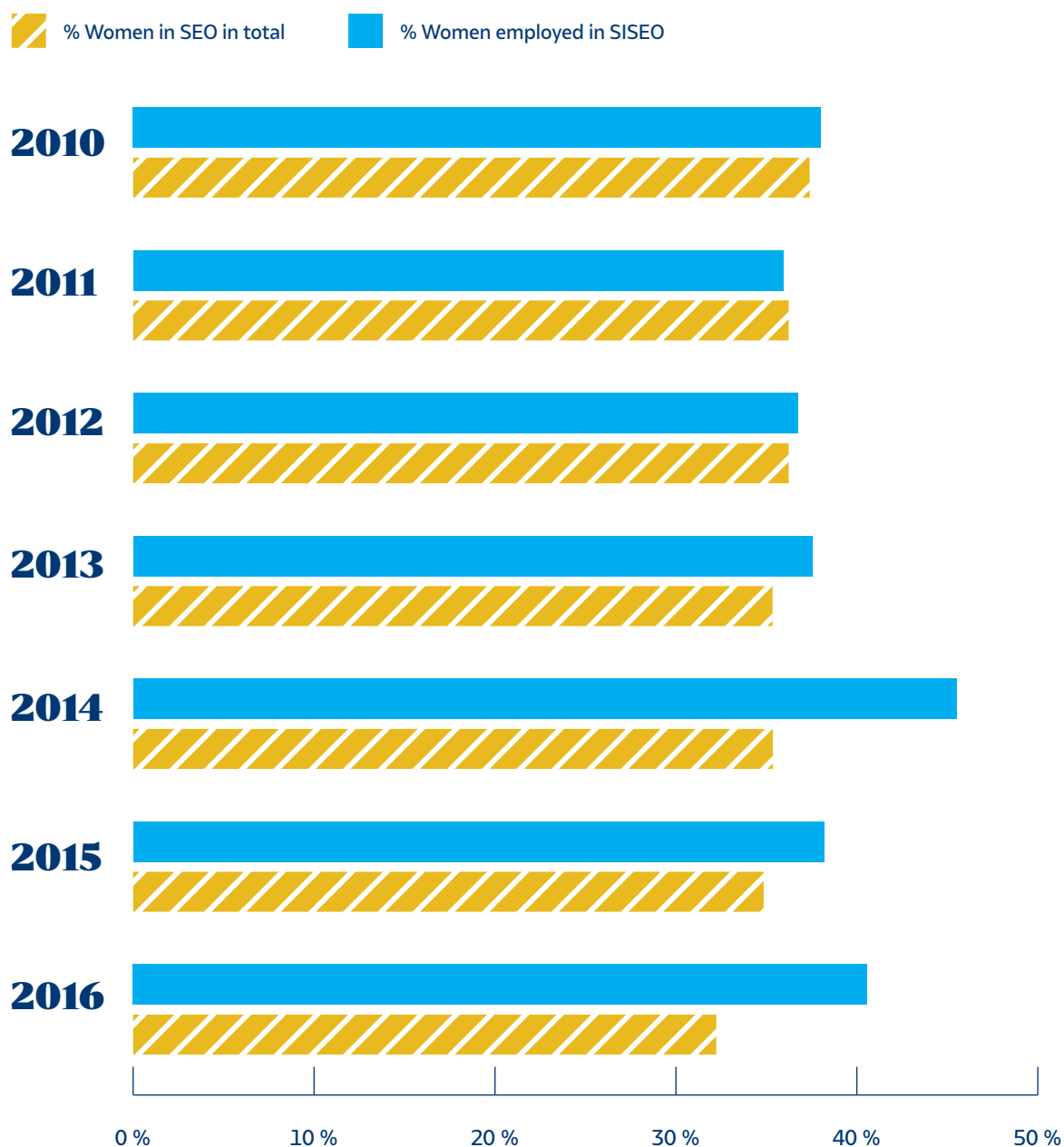
Other SEO

85%

SISEO

# Evolution of the significance of the employment of women with a disability in the SEO

2010-2016



Source: compiled from data provided by EUSTAT and EHLABE

SISEO has increased considerably, and we therefore see a difference of 8 percentage points. This means that, considering the For-profit SEO, the significance of the employment of women with disabilities in total is lower than 32%.

On the other hand, the following table and the two images show how the employment of people with disabilities in the SISEO is distributed according to type of disability. Unfortunately, we do not have the precise data relating to the For-profit SEO to be able to compare the type of group that they mainly employ, although according to the evidence available, they normally focus on people with disabilities with a physical disability and of a lesser degree. In any case, in an approximation through the subsidies granted by Lanbide for 2018, would place the group with the greatest needs in the SEO not from a Social Initiative from the Autonomous Community of the Basque Country at around 17%<sup>38</sup>.

In contrast, in the case of the SISEO, 56% of the employment of people with disabilities corresponds to the groups with the greatest needs for support (people with an intellectual disability and mental illness), whereas the set of groups with physical and sensory disabilities brings together the remaining 44%. We should remember that part of this latter group also shows greater needs for support (those people with a physical or sensory disability to a degree greater the 65%).

Therefore, the differences between some SEO and others are negligible.

Regarding the evolution, it is worth noting the significant decrease suffered by the group in 2012, pulled down the employment total considerably that year. This was the only year in which the total employment of people with disabilities decreased.

In contrast, we can see high levels of increase in the employment of people with a mental illness (above 10% per year), apart from in 2016, where the increase stagnated, however it continues to show positive results. Regarding these growth rates we also find the group with physical and sensory disabilities. The employment of this group of people with an intellectual disability shows a small decrease in 2017, which does not affect the good dynamics generally shown by the total employment of people with disabilities.

Next, we will show data on the creation of new jobs in the Social Initiative SEO of the Autonomous Community of the Basque Country. We should point out that in 2017 a total of 222 new contracts were created in these organisations, corresponding to people with disabilities. Image 19 shows both the group and the sex to which the people signing these new contracts belong.

In total, women represent 45% of the new contracts, above all from groups with a hearing, physical and, to a lesser extent, intellectual disability and mental illness. In the new contracts, men make up the majority in groups with an intellectual disability and mental illness, precisely the groups that have created the greatest number of new jobs, together with the group with hearing disabilities.

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<sup>38</sup> Resolution of 25 June 2018, of the Director General of Lanbide- Servicio Vasco de Empleo, which decides the call for aid to the Support Units for the Professional Activity of the Sheltered Employment Organisations in the Autonomous Community of the Basque Country in 2018. Percentages of the subsidy received by the SEO and SISEO have been applied to the number or people with disabilities on the staff.

Table 3

### Employment of the SISEO in the Autonomous Community of the Basque Country, according to type of disability 2010-2018

Type of disability	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>Persons with a mental disability</b>	2,981	3,048	2,982	3,127	3,274	3,535	3,752	3,925	4,033
Mental illness	750	827	932	1,032	1,167	1,382	1,398	1,614	1,716
Intellectual disability	2,231	2,221	2,050	2,095	2,107	2,153	2,354	2,311	2,317
<b>Persons with a physical and sensory disability</b>	2,586	2,853	2,978	3,130	3,372	3,662	3,784	3,868	3,933
<b>Total persons with a disability</b>	5,567	5,901	5,861	6,257	6,646	7,197	7,536	7,793	7,966
<b>Persons without a disability</b>	1,079	957	925	974	1,100	1,217	1,316	1,624	1,664
<b>% of persons with a disability in SEO staff</b>	<b>83 %</b>	<b>87 %</b>	<b>86 %</b>	<b>86 %</b>	<b>85 %</b>	<b>90 %</b>	<b>85 %</b>	<b>83 %</b>	<b>83 %</b>

Source: compiled from data provided by EHLABE

We should point out that, following the tone of the employment structure of the SISEO according to the type of group, the majority (61%) of new jobs created have been for the groups with the greatest needs (not including people with a physical disability greater than 65%), where people with a mental illness (35% of the total jobs created) and with an intellectual disability (20% of the total) stand out.

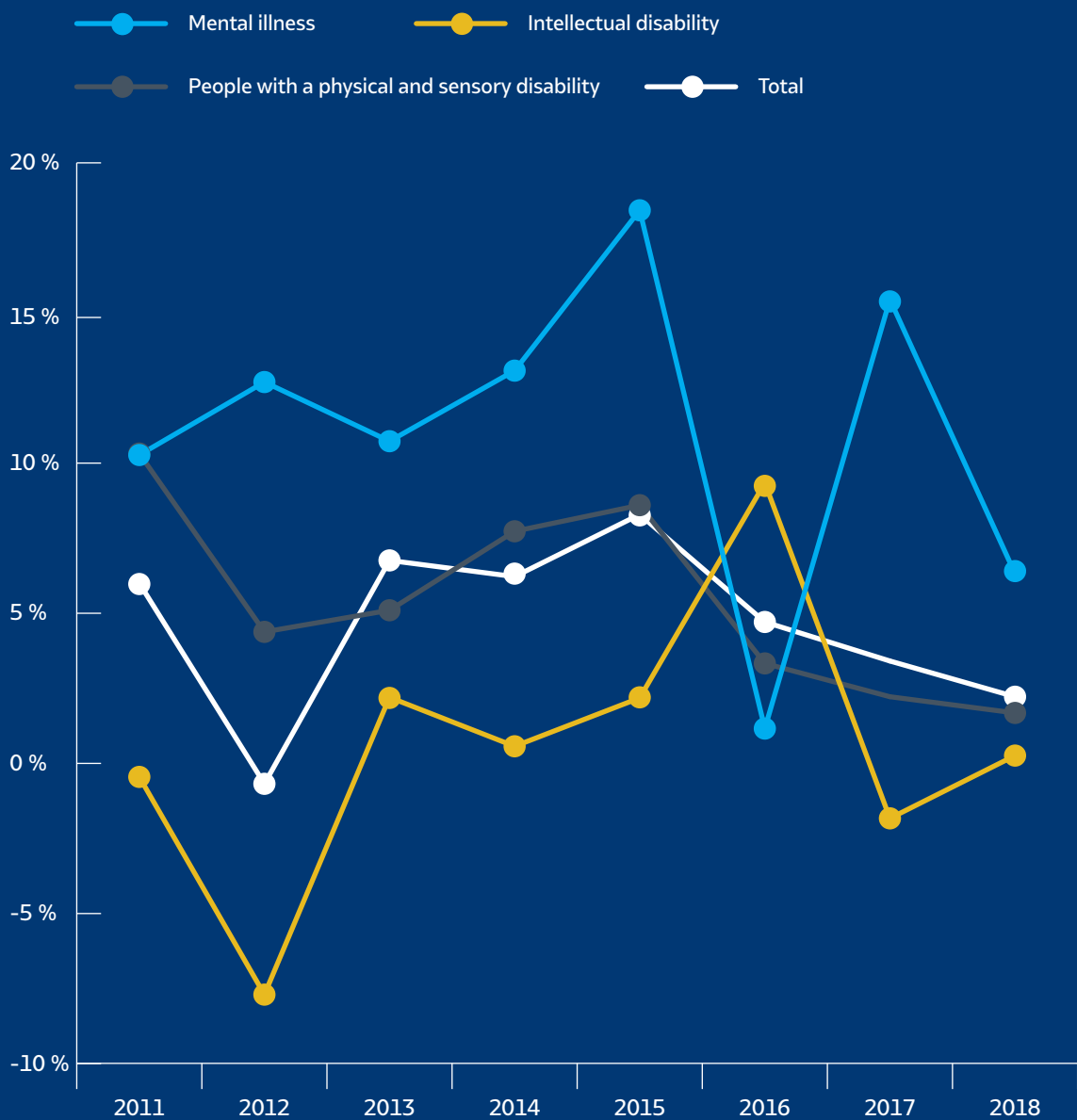
Another interesting factor is the type of contract created, which can serve as an idea of the quality of these new jobs. Thus, 40% of the jobs created have been long-term (indefinite + development), whereas 26% corresponded to temporary jobs greater than or equal to 6 months and the remaining 34% to temporary contracts of less than 6 months. That is to say, for each job of less than 6 months, 1.2 long-term contracts have been created.



Image 17

# Year-on-year variation of employment in SISEO according to type of disability

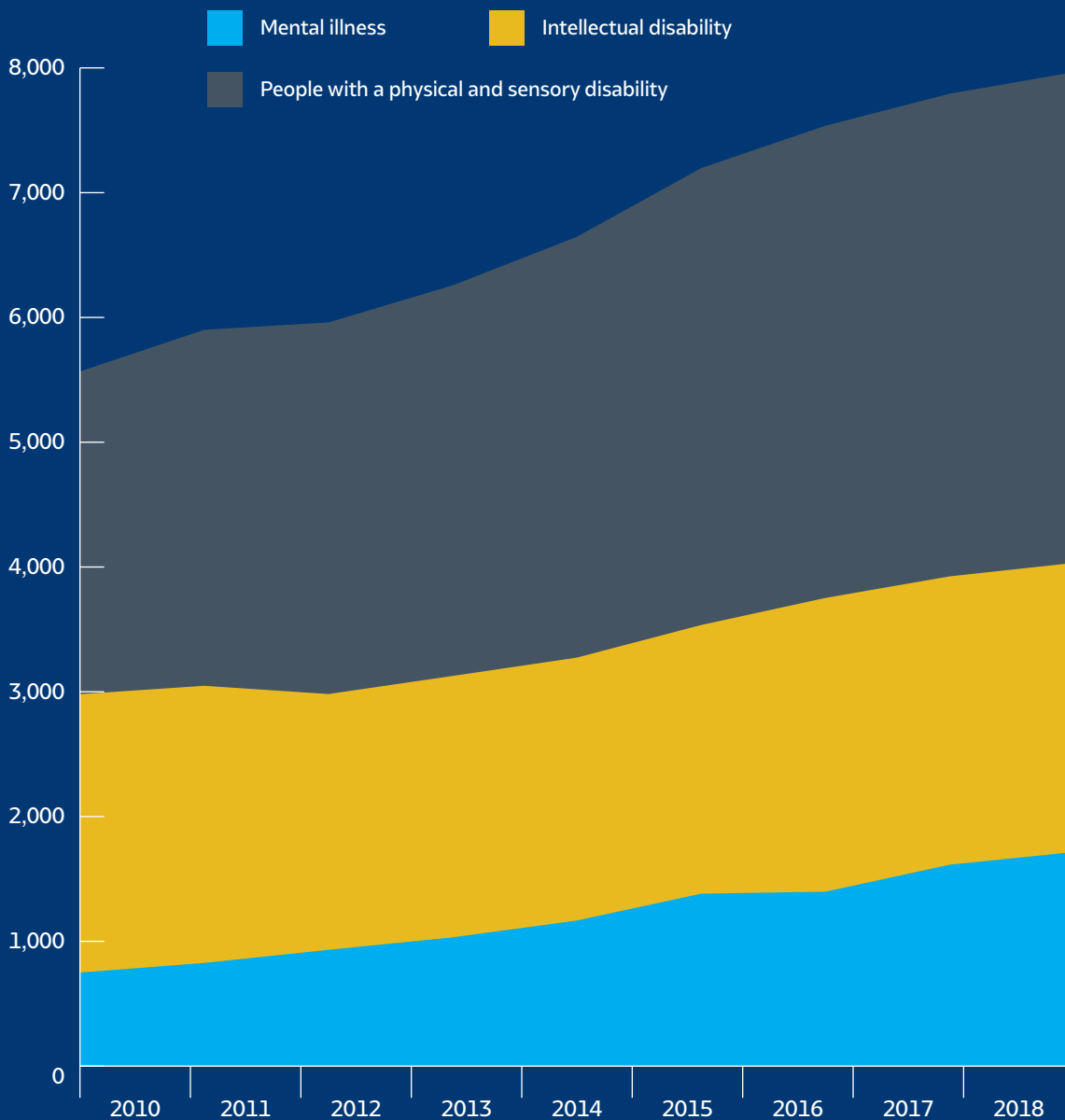
2011-2018



Source: compiled from data provided by EHLABE

# Evolution of the distribution of employment according to type of disability in the SISEO

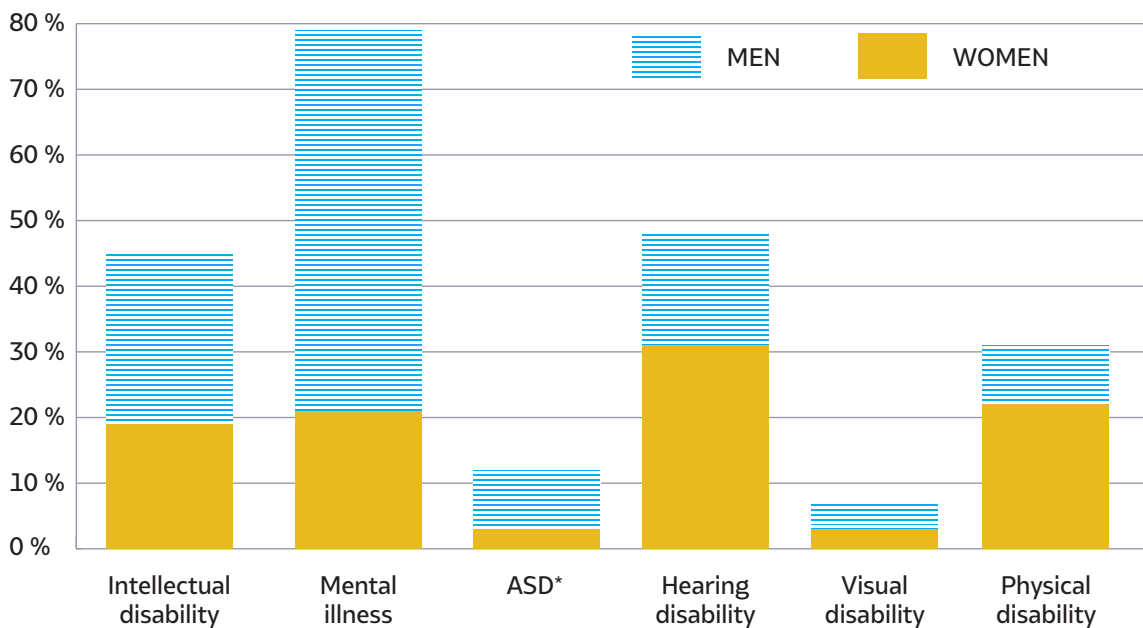
2010-2018



Source: compiled from data provided by EHLABE

Image 19

### Creation of employment in SISEO according to type of disability and sex 2017



\*ASD: Autism spectrum disorders  
 Source: compiled from data provided by Foro Eca

Last, but not least, we are showing a comparison of the average salaries of a person with a disability in the Autonomous Community of the Basque Country, a person working (with no distinction between a person with or without a disability) in the SISEO<sup>39</sup> and a person with a disability in the same territory.

We see that the difference between the average salary of a person with a disability in a SEO (with no distinction between Social Initiative and For-profit SEO) with that of a person without a disability, is almost €5,000 gross per year in the Autonomous Community of the Basque Country.

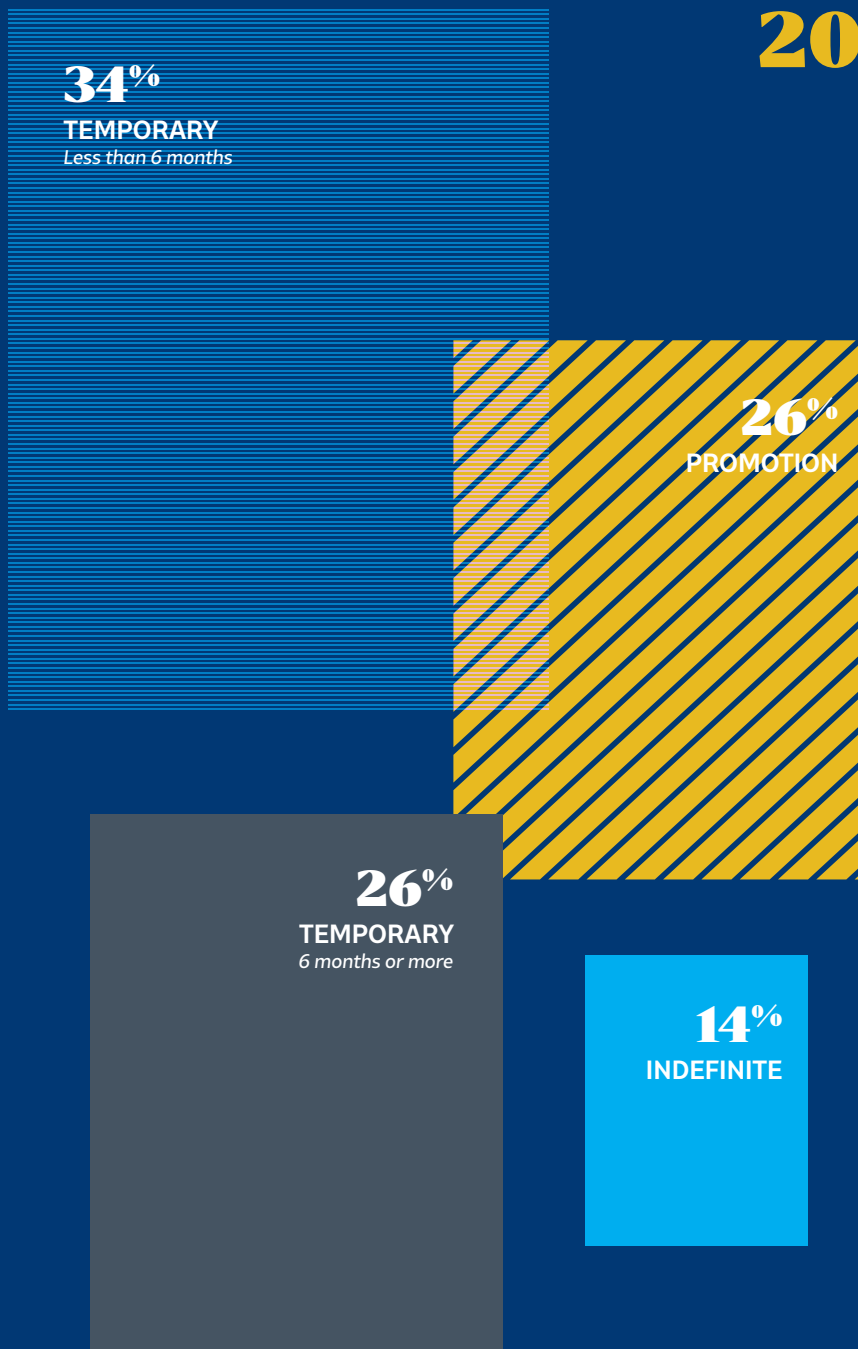
In the case of people working in the SISEO, the difference is less than (€1,500 per year), but there is no distinction between what a working person with (usually in low responsibility jobs, and therefore pay is also lower) and without a disability (usually in higher responsibility jobs) earn.

<sup>39</sup> As there is no disaggregated data on the average salary of a person with a disability in the SISEO of the Autonomous Community of the Basque Country.



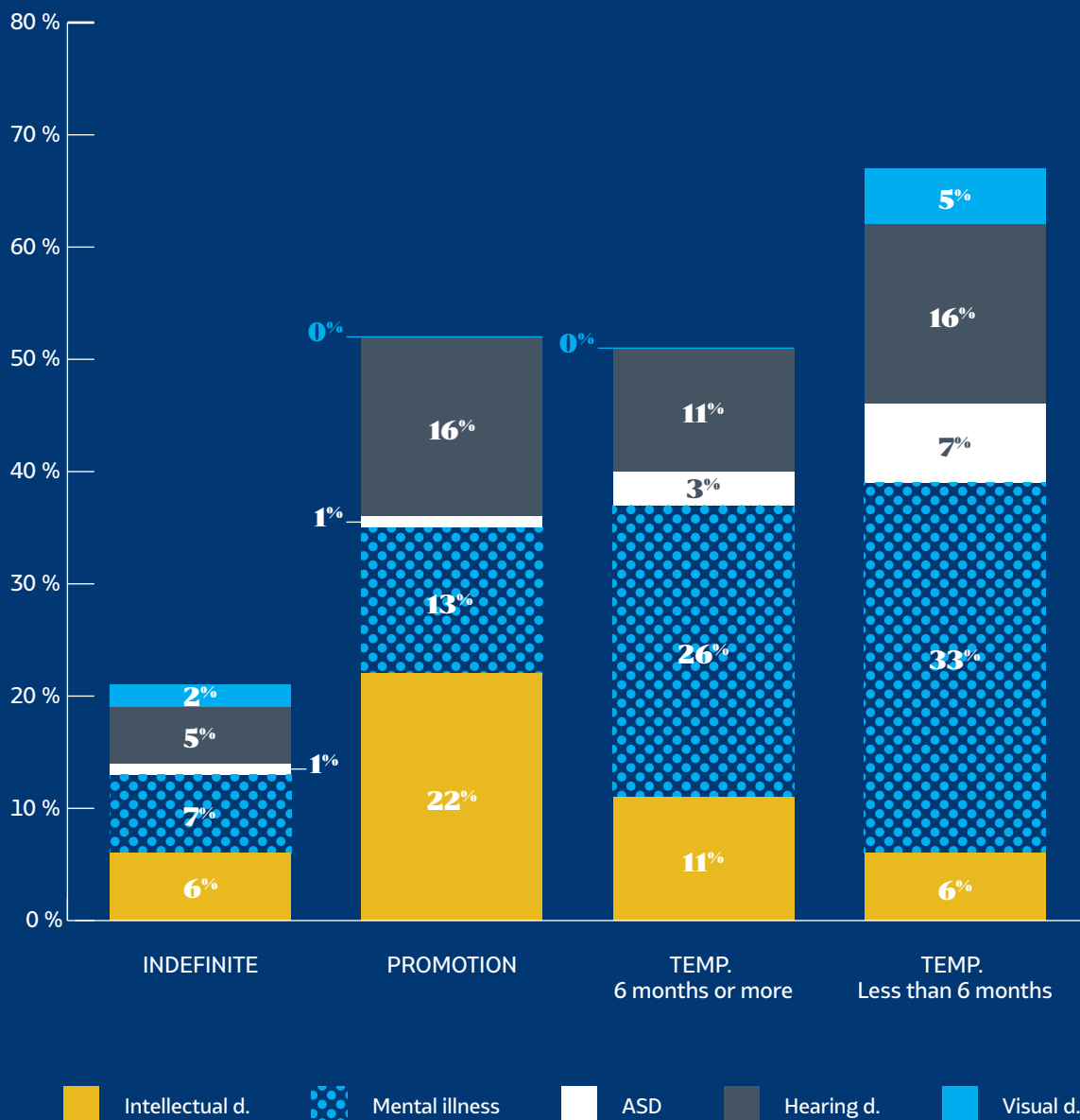
# Distribution of employment created in SISEO according to type of contract

2017



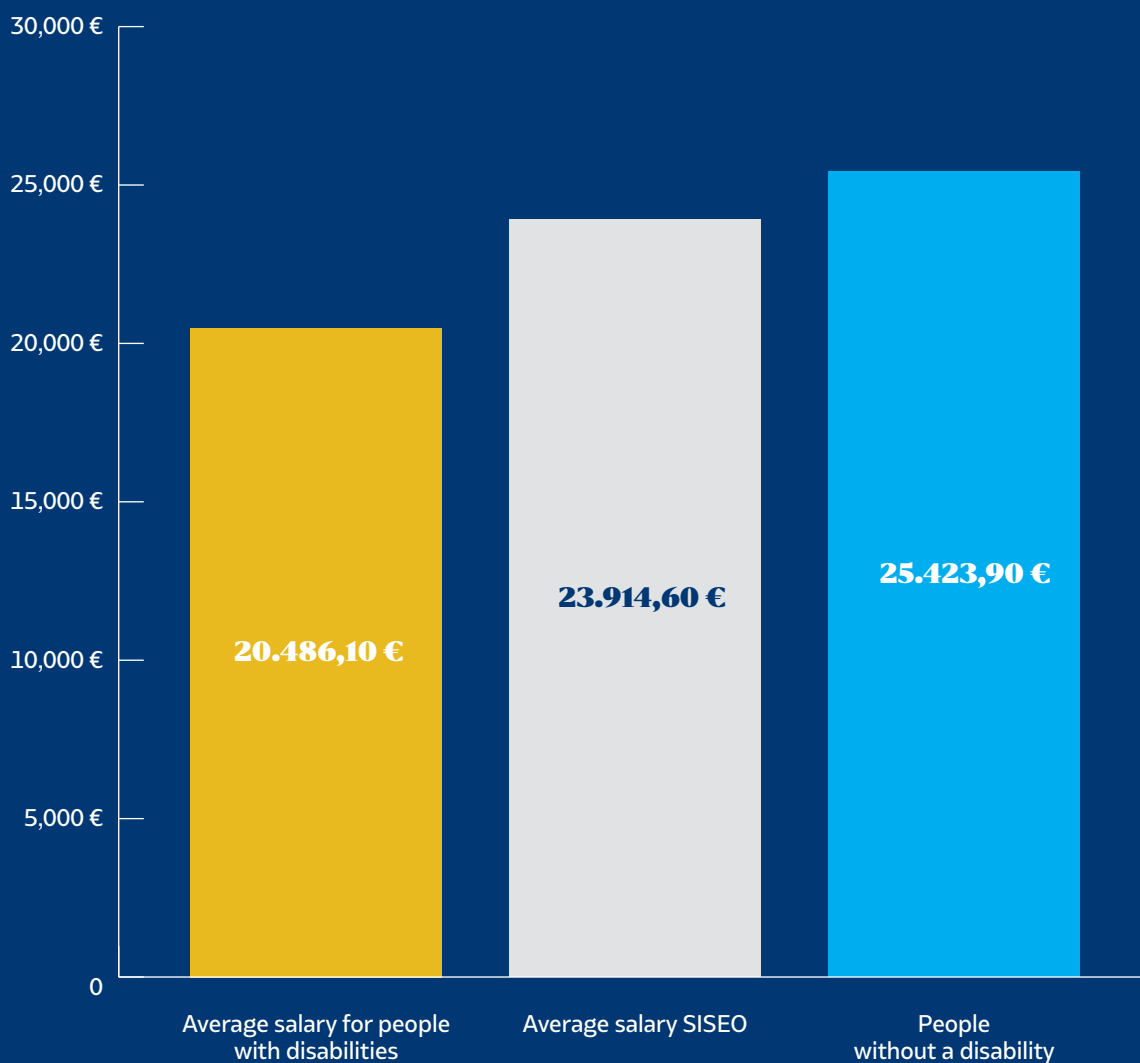
# Employment created in SISEO according to type of disability and contract

## 2017



# Comparison of average salaries in SEO and SISEO and persons without a disability

**2016**







5

**The Basque Model  
of Social and Labour Inclusion**



# 5.1

## Description and characteristics

EHLABE (Euskal Herriko Lan Babestuaren Elkartea) is the Basque association of not-for-profit organisations that promotes the social labour inclusion of people with disabilities. It was created in 1987, and over the last 30 years has managed to group together in association almost all Social Initiative and Public Sheltered Employment Organisations operating in the Autonomous Community of the Basque Country. Taking these figures into account, it concentrates 95% of all employment initiatives in the Autonomous Community of the Basque Country, made up of 14 organisations, more than 100 employment organisations and more than 10,000 people with disabilities employed, occupied or participating in employability services.

All members have a common fundamental aim, which is to generate quality employment for people with disabilities, prioritising those with more need for support, that is to say, the value of employment as a means of inclusion. In addition, and despite the fact that they adopt different legal forms (foundations, trading companies, labour-owned companies, etc.), all of them share each of the guiding principles of the Social Economy.

The Basque Model of Social and Labour Inclusion of people with disabilities has become a European reference, both in terms of employment of people with disabilities and in the Social Economy sector. It is a model focused on people's abilities and their development, generating employment opportunities in professional and competitive environments. In addition, the entire professional itinerary is carried out with an inclusive approach, prioritising people with the greatest need for support. One of the main aims of EHLABE, since its creation, has been, and still is, to promote insertion of the group into the open labour market through supported employment, and thus, to manage personal itineraries adapted to the needs of each person.

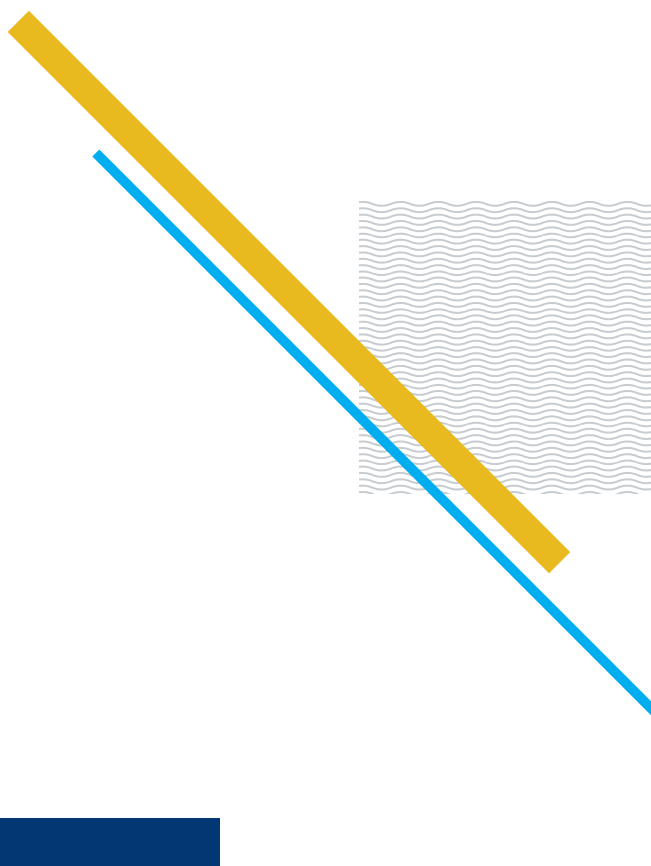
Next, we will analyse the main features of the model in more detail (Moratalla, P., 2017: 136):

- They manage different programmes aimed at the employability of people with disabilities, and have full labour insertion itineraries (professional guidance, training, labour intermediation, etc.). In addition, they collaborate closely with different Public Administrations, the associative network, companies and the people themselves.
- The personal itineraries are designed with an inclusive approach that is adapted to the needs and wishes of each person. This way, it facilitates the step the active employment policies.
- For this reason it is considered a flexible and innovative model that seeks to empower people's abilities.
- The EHLABE SEO work towards inclusive, open and accessible employment in equal conditions. Therefore, it has different employability services focused on each person with a disability, and especially on those with the greatest difficulty. The aim of these services is for the people themselves to be able to earn a living through a freely chosen job. Therefore, it is a model focused on people.
- They work each day for excellence in the management of different types of business activities in competitive and professional environments and have generated thousands of jobs for people with disabilities in different sectors. They have shown the ability of people with disabilities to carry out different jobs.
- Lastly, we must point out the networking and coordination of the SISEO and the competent Public Administrations and the different public, economic and social agents.

At this point, we must highlight some of the most important points of the SISEO within EHLABE:

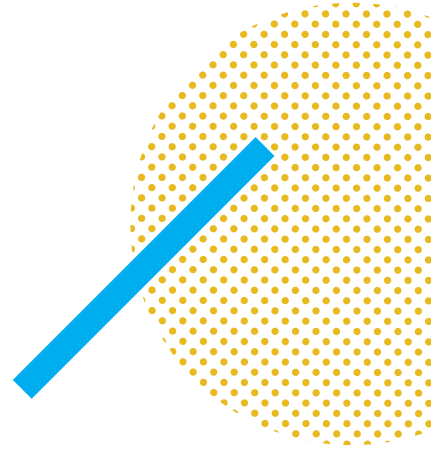
- The value of employment as a means of social inclusion for people with disabilities. In this way, it has become the most important tool in the processes of full inclusion into society.
- The operation of the management, offering different employability services for people with disabilities, with different employment opportunities in different sectors.
- The involvement of people with disabilities in the organisation and management of itineraries, prioritising the people with the greatest needs for support.
- The strong entrepreneurial culture of Basque society, including the innovative practices implemented in activities and services and in their adaptation.
- Coordination with different public, economic and social agents and with Public Administrations.

- Networking with different agents.
- Stability in public aid and subsidies.
- Thanks to the high percentage of self-funding and reinvestment of surpluses they have achieved a sustainability and financial strength that has allowed new initiatives to be implemented.
- A solid associative base grouped under EHLABE and deep-rooted in the territory.





# 5.2



## **The EHLABE Basque Model of Social and Labour Inclusion in light of the International Convention on the Rights of Persons with Disabilities**

On 13 December 2006, the United Nations General Assembly approved the International Convention on the Rights of Persons with Disabilities and its Optional Protocol, which were opened to signing on 30 March 2007. The Convention received 82 signatures and the Optional Protocol received 44, as a ratification of the convention. Never before had a treaty of the United Nations reached such a high number of signatories on the opening day of its signing. It entered into force in Spain on 03 May 2008.

It was the first treaty on human rights of the 21st century and the first Convention on human rights opened to signing by regional integration organisations, which signified a change in approach regarding people with disabilities.

The convention was conceived as a human rights instrument with the explicit dimension of social development and an inclusive society. It adopted a broad classification of people with disabilities and reaffirmed the fact that all people, regardless of their disability, must be able to enjoy all human rights and fundamental freedoms. It clarifies and specifies how all categories of rights should be applied to people with disabilities, and indicated in which spheres it is necessary to introduce adaptations for people with disabilities to be able to effectively exercise their rights, and the spheres in which these rights have been breached and in which the protection of these rights must be reinforced.

The CDPD was created with the purpose of “promoting, protecting and ensuring the full enjoyment of all human rights and fundamental freedoms by people with disabilities in equal conditions” (art. 1). Thus, it presents a new approach that is linked to inclusion, which obliges disability to be addressed from the social model<sup>40</sup> and from the human rights approach. That is to say, the social model before a medical model<sup>41</sup>, and considering questions of disability as a human rights issue.

It signifies a great change in the treatment of disability that requires awareness and education. It is necessary to approach this change from the point of view of policies and laws arising from participation in civil society and which represents this part of the population, becoming a key player in public action on the subject. Therefore, article 8 of the convention highlights the fact that “the participating States undertake to adopt immediate, effective and relevant measures to:

- a. Educating society, even on a family level, to raise awareness about people with disabilities and to encourage the respect of the rights and dignity of these people;
- b. Fighting against stereotypes, prejudices and harmful practices towards people with disabilities, including those based on gender or age, in all aspects of life.
- c. Promoting awareness regarding the capabilities and contributions of people with disabilities”.

In addition, it establishes that the participating States will adopt the necessary measures to facilitate the full enjoyment of the rights of people with disabilities and their full inclusion and participation, without restrictions, in the community (art. 19).

On the other hand, we should point out article 3, which establishes the principles upon which the CDPD model should be constructed: “a) Inherent respect for dignity, individual autonomy, including the freedom to make one’s own decisions and the independence of people; b) Non-discrimination; c) Full and effective participation and inclusion in society; d) Respect for difference and acceptance of people with disabilities as part of the human diversity and condition; e) Equal opportunities; f) Accessibility; g) Equality among men and women; h) Respect for the evolution of the skills of children with disabilities and of their right to preserve their identity.”

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<sup>40</sup> The social model considers disability as a situation deriving from society’s limitation in ensuring that the needs of persons with a disability are taken into account within its organisation, and the aim will be the “normalisation” of the society in order to face everyone’s needs. Toboso, M. & Arnau, M. S., “La discapacidad dentro del enfoque de capacidades y funcionamientos de Amartya Sen”, *Revista Iberoamericana Filosofía, Política y Humanidades*.

<sup>41</sup> The medical model focuses on disability in terms of “illness”, and the aim is the “normalisation” of people with disabilities.

As a consequence of the mandate of the Convention and the new framework on the treatment of disability, the participating States were obliged to adapt legislation on the issue. In the case of Spain, several laws<sup>42</sup> were repealed by Law 26/2011, of 1 August, whose second final provision summons the legislator to make a consolidation. As a result of this work, Royal Legislative Decree 1/2013, of 29 November, which approves the Consolidated Text of the General Law on the Rights of People with Disabilities and their Social Inclusion was published, a ruling that currently legally defines and regulates Sheltered Employment Organisations.

The subject of the work is stated in article 27 of the International Convention on the Rights of Persons with Disabilities which establishes the following:

**“1. The participating States recognise the right of people with disabilities to work, on an equal basis with others, including the right to the opportunity to earn a living through a freely chosen or accepted job in a labour market and environment that are open, inclusive and accessible to people with disabilities. The participating States will safeguard and promote the exercising of the right to work, including for people who acquire a disability during employment, adopting the relevant measures, including the passing of legislation, including:**

- a) Prohibiting discrimination of disability regarding all issues relating to any form of employment, including recruitment, hiring and employment, continuity of employment, professional promotion and safe and healthy working conditions;
- b) Protecting the rights of people with disabilities, on an equal basis with others, in fair and favourable working conditions, and in particular equal opportunities in equal payment salaries, safe and healthy working conditions, including protection against harassment, and compensation for damages suffered;
- c) Ensuring that people with disabilities can exercise their working and union rights on an equal basis with others;
- d) Allowing people with disabilities to have effective access to general technical and vocational guidance programmes, placement services and professional and continuous training;
- e) Encouraging employment opportunities and the professional promotion of people with disabilities in the labour market, and supporting them in their search, achievement and maintenance of employment and return to the same.
- f) Promoting business opportunities, self-employment opportunities, opportunities in the building of cooperatives and the starting-up of small businesses;

<sup>42</sup> LISMI (Law 13/1982, of 7 April, on the Social Integration of the People with Disabilities); LIONDAU (Law 51/2003, of 2 December, on Equal Opportunities, Non-discrimination and Universal Accessibility for People with Disabilities), and Law 49/2007, of 26 December, in Infractions and Sanctions Regarding Equal Opportunities, Non-discrimination and Universal Accessibility for People with Disabilities.

- g) Employing people with disabilities in the public sector;
- h) Promoting the employment of people with disabilities in the private sector through relevant policies and measures, which may include positive action programmes, incentives and other measures;
- i) Ensuring that reasonable adjustments are made for people with disabilities in the work place;
- j) Promoting the professional experience of people with disabilities in the open labour market;
- k) Promoting vocational and professional rehabilitation, employment maintenance and reincorporation into employment programmes aimed at people with disabilities.

2. The participating States will ensure that people with disabilities are not submitted to slavery or servitude and that they are protected, on an equal basis with others, against forced and obligatory work”.

To be able to analyse the demands of article 27, on the rights of workers, it is necessary to take into account the treatment of disability model presented by the CDPD. As previously mentioned, this is a social model in which the difficulties of people with disabilities in accessing employment are the result of the interaction between their characteristics and the barriers that exist in society in general and more specifically in employment.

The convention commits to an inclusive society that is capable of eliminating all types of barriers, so that people can participate fully and effectively in all aspects of life. In addition, it highlights the idea of accessibility, for which we must develop support measures to help overcome all existing obstacles. Article 9 speaks of “universal design or design for all people” that will allow society to become accessible for all people from the start, without the need to adapt.

Article 27 of the convention establishes that people with disabilities have the right to work and to earn a living on an equal basis with others, through a freely chosen job, and points out that countries must adopt the necessary measures to prohibit discrimination in employment related issues (27.1.a), and must protect the rights of people with disabilities and, in particular, equal opportunities and safe and health working conditions (27.1.b). In addition, it highlights the effective exercise of their professional and union rights (27.1.c) and effective access to guidance and training programmes (27.1.d).

On the other hand, they must encourage employment opportunities and the professional promotion of people with disabilities in the labour market (27.1.e) and promote the employment of people with disabilities in the different types of employment: self-employment, employment on behalf of someone and public or private (27.1.f). Regarding this, sections 27.1.g) and h) establish the obligation to employ people with disabilities in the public sector and establish different policies and measures to promote employment in the private sector.

Lastly, sections 27.1. i) j) and k) establish the obligation to make the necessary reasonable adjustments, promote the gaining of work experience in the open labour market as well as vocational and professional rehabilitation programmes. The second part of the provision obliges the participating States to ensure that people with disabilities are not submitted to slavery or servitude.

Article 27 establishes obligations and important tools for achieving the aim of eradicating discrimination and ensuring the full exercising of the rights of people with disabilities on an equal basis with others.

Next, we will attempt to analyse to what point the Basque Model of Social and Labour Inclusion is aligned to article 27 of the convention. By doing this, we will identify the relationship that exists between the two models.

To begin, we must point out the Basque Model on which this study is based is managed by the Social Initiative SEO in the Basque Country, which work towards the right for inclusive, open and accessible employment on an equal basis with others.

Article 27 highlights the right to have a freely chosen job, which can be carried out in an open, inclusive and non-discriminatory working environment.

Firstly, we will analyse the open, inclusive and non-discriminatory working environment referred to in the UN treaty. Then, in a more general analysis, we will compare this environment with the Basque Model of Social and Labour Inclusion managed by the EHLABE SISEO in the Autonomous Community of the Basque country.

An **open working** environment means that no person can be excluded from it for any reason. This includes eliminating discrimination and the existing barriers and adapting the working environments.

People with disabilities find themselves in certain situations with barriers that prevent their access to the labour market on an equal basis with others. As mentioned previously, and in accordance with the convention, the barriers and obstacles that they come across in daily life are the result of it being impossible for a society to prevent these barriers from existing. That is to say, it is society that must adapt and redesign itself to be accessible and inclusive for all people on an equal basis.

Physical barriers are not the only ones that must this group must face. There are behavioural barriers that create stereotypes and negative prejudices, which in the case of people with disabilities in the working world, excludes them without just cause.

For the **labour market to be inclusive**, it is necessary for the model of a society to be inclusive. In order for this transformation to take place, it is essential for people with disabilities to participate in the development of measures relating to their rights. Thus, the first step will be taken towards their inclusion in society and consequently into the labour market.

Inclusion into the labour market begins the adoption of active employment policies by the State, as well as effective measures by employers, in order to guarantee access to employment for people with disabilities on an equal basis with others. These measures will allow them to perform their job freely, to progress, participate in activities and training programmes, etc.

Referring to **the non-discriminatory environment**, we must highlight article 5 of the CDPD, which establishes that participating States will prohibit all discrimination due to disability and will guarantee all people with disabilities equal and effective legal protection against discrimination for any reason. In addition article 27.1.a) expressly prohibits discrimination due to disability regarding all issues relating to any form of employment. An inclusive and open labour market cannot be discriminatory, and so employment in the private sector must be promoted through the relevant policies and measures, and on the other hand, Public Administrations should establish active employment policies that encourage the hiring and creation of jobs among the group.

The EHLABE organisations and the Social and Labour Inclusion Model that they manage share with the UN treaty the clear aim of promoting the right to a working environment and inclusive, open and accessible employment on an equal basis. Therefore, the EHLABE organisations manage different employability services and programmes, which we will analyse next.

These are different services focusing on the improvement of employability (specialised professional guidance, labour intermediation and all types of training adapted to people with disabilities) with the ultimate aim for the people themselves to be able to decide their itinerary and to earn a living through a freely chosen job. It is an innovative model that seeks to empower people's capabilities and facilitates the step up and promotion of the group to active employment policies and, as an ultimate aim, to the open labour market. Thanks to these services and programmes, there are different employment opportunities and an improvement in the employability processes.

This is an **inclusive model**, that focuses on the person and their development and which jointly supports and facilitates the transition through different employment channels, encouraging the improvement of employability processes and, as a result, social and labour inclusion processes, especially for people with the greatest needs for support.

In addition, since their beginning, they have managed different business activities in **highly competitive and professional environments**, generating thousands of jobs for the group in almost all sectors, demonstrating the capabilities of people with disabilities to carry out a multitude of jobs in **different sectors** of the labour market. Therefore they allow people with disabilities to gain work experience to facilitate the transition to the open labour market.

One of the most important features of the Basque model is **coordinated work and networking** with different public, social and economic agents, including Public Administrations<sup>43</sup>, the third sector in the Basque Country, traditional social agents, universities, social services, mental health centres and disability

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<sup>43</sup> Basque Government, Provincial Councils, Basque Employment Service, INEM.

organisations, etc. The different social labour itineraries for each person are managed with the support of all of these agents.

For all of these reasons the SISEO grouped under EHLABE have managed to create a suitable environment for the professional development of people with disabilities, which is demonstrated by the data. An accessible, inclusive and open environment in which people can freely decide on the job with which they want to earn a living.

Secondly, once the professional model defended by the convention has been analysed, we will further analyse the measures proposed by article 27, from the point of view of the Basque Model of Social and Labour Inclusion, to safeguard and promote the exercise of the right to work of people with disabilities.

- > **Points a), b) and c) of article 27.1 highlight the measures for prohibiting discrimination, protecting the rights of people with disabilities on an equal basis with others, and ensuring the union rights of the group.**

Regarding prohibiting discrimination and protecting equal rights, the EHLABE organisations, within the management of social labour itineraries and as a collaborating agent of Lanbide, manage different employability services (guidance, training, etc.) for people with disabilities. These services stand out for being specialised and adapted (adapted materials in training, sign language, readability, accessible and adapted infrastructures, capillarity of services in the entire district, etc.), which means that people with disabilities can access employability services and employment channels on an equal basis with others. This way, not only does they not discriminate, but positive discrimination measures are adopted.

Regarding union rights, almost all of the SISEO of the group have their own collective conventions (and in some cases sectoral conventions) and have a strong union representation, which guarantees the union defence of the group.

- > **Point d) refers to access to professional guidance and training programmes.**

As mentioned before, in the model managed by the EHLABE organisations, the importance of the guidance and training services is key. In the case of guidance, the specialised Guidance Units are the point of entry for the itineraries for people with disabilities and represent support throughout the entire social labour itinerary of the person. They offer specialised guidance that includes not only the common guidance services but the entire work that the EHLABE organisations carry out in a network with other relevant agents (mental health centres, social services, families, disability organisations) that help in the guidance process.

The same occurs in the case of training. That is to say, it seeks to offer specialised, adapted and qualified training that helps to improve employability and in obtaining quality employment. We are referring to continuous training, training for employment and in recent years, the development of dual training, adaptation of professional certifications and accreditation of experience, etc.;

all of this in collaboration with the training centres and Lanbide. The experience of the group in this field is very important since for more than 30 years they have been dedicated to all types of specialised professional training and guidance processes, with public-private collaboration, especially with Lanbide.

➤ **In relation to the above, point e) focuses on employment opportunities in the labour market and on support in the search for, achievement and maintenance of employment.**

In line with what has previously been mentioned, and focusing on professional promotion, obtaining and maintenance, with the constant support of the Professional Guidance Units and in coordination with each one of the employability services and employment channels (OS, SEO and RE), the Basque model is simply the accompaniment of people with disabilities in their social labour itinerary. In the case of these organisations, the coordination and close work among all areas of the aforementioned model helps and facilitates opportunities for transition and improvement in coordination with the individual. In this sense, the so-called *mixed model* (OS & SEO together) fundamentally provides very high transition percentages from OS to SEO.

In addition, under the coordination of the supported employment units, there are also some very positive transition percentages from SEO to regular employment.

In the case of people who, for whatever circumstances, do not want to or cannot access regular employment, are not offered individual support for the maintenance/promotion of the place in the SEO.

These itineraries have the support and collaboration of the different agents related to the sector, thanks to which they obtain positive results for the group.

➤ **Point f) concerns self-employment opportunities, opportunities in the building of cooperatives and the starting-up of small businesses;**

At this point we must highlight the participation of people with disabilities both in the management and decision-making of the organisations and companies; a key point in promoting entrepreneurship and the starting-up of small companies, both for third parties and collective or associated self-employment.

The EHLABE organisations, as part of the Social Economy, have a strong participative culture, and so they encourage the active participation of people with disabilities within the organisation. On the other hand, the training programmes are aimed at inserting the group into the regular environment, within which they will be able to choose the type of job they wish to carry out, such as self-employment or associated employment, among others.



A clear example of this type of employment is KL Katealegaia<sup>44</sup>, a labour-owned company belonging to EHLABE, with a long trajectory in social labour insertion of people with disabilities. So much so that 95% of the staff are people from this group. It has a double Social Economy character, since as well as being a SEO, 70% of shares are owned by people with disabilities.

**> Points g) and h) of the provision underline the importance of promoting employment both in the public and private sectors.**

At this point, we should highlight several ideas directly related to what has been mentioned above.

Technical supported employment units are those which, within the organisations grouped under EHLABE, are responsible for promoting and encouraging the transition of people with disabilities to regular companies, both public and private. Always with the support of other areas that make up the part of the Model (guidance, training, SEO, OS).

As we have already commented, the ultimate aim is the transition to regular employment, always taking into account the needs, opinion, expectations and capabilities of the people themselves. To help in this process, and especially for people with disabilities with the greatest needs for support, the fundamental tool of the supported employment methodology is used. In addition, in times of crisis and massive destruction of employment, for people with disabilities in private employment, the EHLABE SISEO have become a “refuge” for people expelled from the open labour market.

On the other hand, in recent years there has been work done in collaboration with the Basque Public Administrations to improve the access of people with an intellectual disability to public employment, cooperating with the Basque Government in improving regulations, supporting different specific public employment processes in collaboration with the disability organisations (FEVAS in particular), and in promoting new processes. The area of public employment is a very important channel for social labour inclusion, and one in which the Autonomous Community of the Basque Country is far behind in comparison to other Autonomous Communities, although in recent years it has been given a strong impetus. In this case, we are facing one of the most significant challenges of the Model, which is to have a greater presence in the public sector.

**> It is necessary to support making the reasonable adjustments, as highlighted by point i).**

It is one of the bases of the Model, and the SEO are obliged by regulation to offer people with disabilities personal and social adjustments. In the case of EHLABE, these adjustments are understood to be an individual and specific process adapted to each person. In this sense,

<sup>44</sup> A not-for-profit, labour-owned, mainly industrial company whose aim is to create quality employment in the sector for people and in risk of social labour exclusion.

innovate actions and practices have historically been introduced and implemented to help to improve the further training and capabilities of each person, with the aim of reducing the gap between the demands of the job and the person's capabilities. As we have already commented on in previous sections, we can highlight several actions:

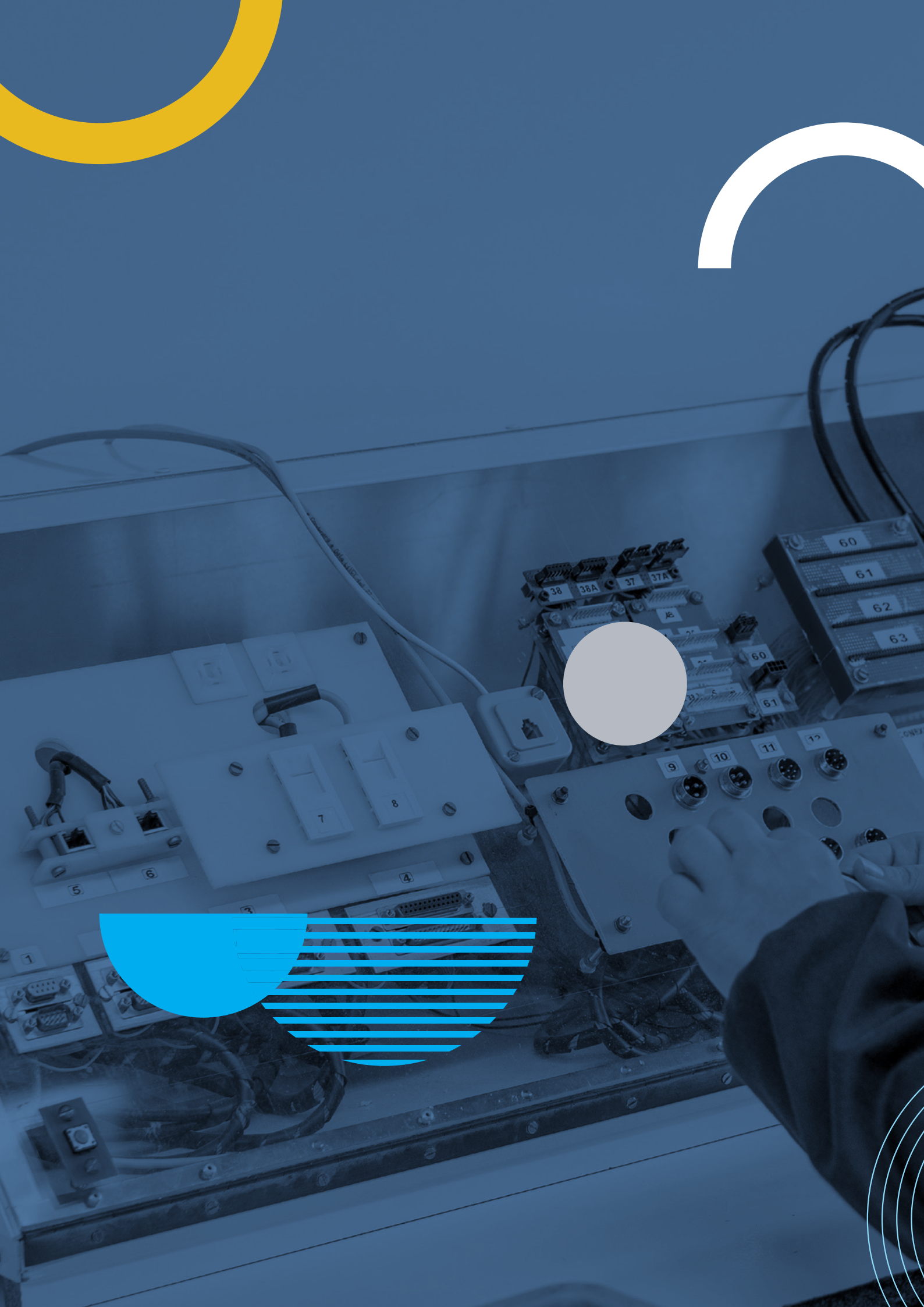
- Development of dual training, design of professional certification systems adapted to people with an intellectual disability and mental illness, and on-the-job training, etc.
- Programmes that encourage the versatility of people with disabilities in different jobs, sectors and activities.
- Promotion of adaptation and suitability systems within the management models of the organisations in order to promote employability and the maintenance of jobs, especially in people with disabilities in processes of premature ageing and decline.
- Services within the organisations responsible for transforming demanding jobs so that people with greater needs of support can access them.

➤ **To finish, points j) and k) of article 27.1 of the convention establish that gaining work experience as well as vocational and professional rehabilitation programmes should be promoted.**

As we have already mentioned, the organisations grouped under EHLABE work in different sectors and categories, for people with disabilities to gain experience in different professional fields. In addition, the support and the guidance and training programmes make it possible, where necessary, to maintain employment and to be reincorporated into work.

The analysis of each of the points of article 27 shows that the Basque Model of Social and Labour Inclusion is a clear example of the working environment defended by the international treaty of the UN. Thanks to the work of all of the Social Initiative Sheltered Employment Organisations of the association, they have managed to build a suitable environment (accessible, open and inclusive) for people with disabilities, where they can freely carry out the job they chose on an equal basis with others and through which they can access, should they wish, the open labour market.





A person with glasses is working on a network switch. The image has a blue overlay. There are decorative elements: a white arc in the top left, a yellow circle in the top right, a white diagonal line, a yellow horizontal bar under the number 6, a blue arc in the bottom right, and a white concentric circle pattern in the bottom left. The text '6' is large and white, and 'Conclusions' is in white below it. The background shows a network switch with the word 'CABLEADO' visible on a panel.

# 6

## Conclusions



During the study, we have been able to confirm the importance of employment for the real social inclusion of people with disabilities. We cannot forget that it is a universal right, which provides people with inclusion, integration and autonomy. In addition to helping to give the group more visibility, it is a way of educating society in general.

In the case of the Basque Country, employment has been a fundamental tool in the inclusion of people with disabilities, and has worked for employment to be dignified and of quality. Furthermore, it has shown itself to be an employment that generates its own resources and relieves society of expenses.

This commitment to dignified employment fits perfectly within the notion of decent or dignified work coined by the International Labor Organization (ILO). In the words of the ILO, “decent work synthesises the aspirations of people during their working life. It means an opportunity to access productive employment that generates a fair income, safety in the workplace and social protection for families, better personal development and social integration perspectives, the freedom for individuals to express their opinions, to organise themselves and participate in the decisions that affect their lives, and equal opportunities and treatment for everyone, both for men and women”.

**“The daily work of the organisations grouped under EHLABE has turned the Basque Model of Social and Labour Inclusion into a benchmark on both a national and European level”**

The daily work of the organisations grouped under EHLABE has turned the Basque Model of Social and Labour Inclusion into a reference on both a national and European level, and there have been several factors contributing to its success. In this sense, we have seen how the SISEO contribute directly and significantly to the inclusion of people with disabilities and, in addition, how they present features that distinguish them from the other SEO (For-profit). This is embodied above all in the specific actions and services that they carry out (such as employability services), but also in the greater care

and effort that they dedicate to improving the situation of the groups with the greatest needs, and which start from a clear disadvantage even regarding other groups within the group of people with disabilities.



We believe that this benchmark category, even on a European level, allows the Basque Model of Social and Labour Inclusion to accredit the European good practices category, which deserves to be made public on a continental level.

Thus, by choosing the Basque Model of Social and Labour Inclusion as a national reference, and by respecting the regulatory responsibilities regarding State affairs, we believe that future regulatory modifications must include input from EHLABE, as a representative of this model.

In any case, there are several challenges facing the future of the SISEO, since there is still a long way to go to achieving more and better employment for people with disabilities, especially for people with the greatest need for support. For these reasons it is interesting to take up these points, in the form of successes and challenges, at the final conclusions of the study.



## Success factors of the Basque Model

The Basque Model of Social and Labour Inclusion is a reference regarding the generation of employment for people with disabilities. The organisations grouped under EHLABE have been working for employment for the group for more than 40 years, following a path that hasn't always been easy but which, as a result of the work carried out, has managed to become a European reference.

One of the most important points that we must point out is the working environment that they have built over the years, which is directly related to the model defended in article 27 of the international treaty. An environment in which people with disabilities can freely choose the work they want to do.

From the analysis carried out, we can highlight several factors that have been key in the good position of the model:

- From the beginning, they understand that the employability and performance of a work activity is the most effective tool for the full social inclusion of people in society.
- They commit to involving people with disabilities in the organisation and management of the organisations, prioritising the people with the greatest needs for support<sup>45</sup>.
- They have always worked towards a highly professionalised management, in competitive surroundings and with a presence in almost all activity sectors. In addition, they have progressed in the application of innovative practices in employability processes. In this way, they have managed to generate employment and different work opportunities.
- The coordinated work and networking with different public, social and economic agents has been key in reaching the results obtained, including different levels of Public Administrations, universities, the social third sector in the Basque Country, associations and families, among others.
- Funding is another one of the highlighted elements. The organisations have had a stable public funding framework of the different employability programmes for people with disabilities. Funding that, in the case of the Basque Country, has come from all levels of Public Administration. In addition, the professionalised management carried out by the organisations has made it possible for the SISEO to be sustainable and financially solid.

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<sup>45</sup> People with a minimum physical or sensory degree of disability of 65% and those with cerebral palsy, a mental illness or intellectual disability equal to or greater than 33%.



## Challenges of the sector

As we have seen throughout the study, the Basque Country and the Basque Model are at the forefront of the State in terms of generating employment for people with disabilities, and one of the reasons is the work carried out in conjunction with the different Public Administrations. Despite this, the work situation of the group continues to be unequalled compared to the rest of the population (employment rate, activity rate).

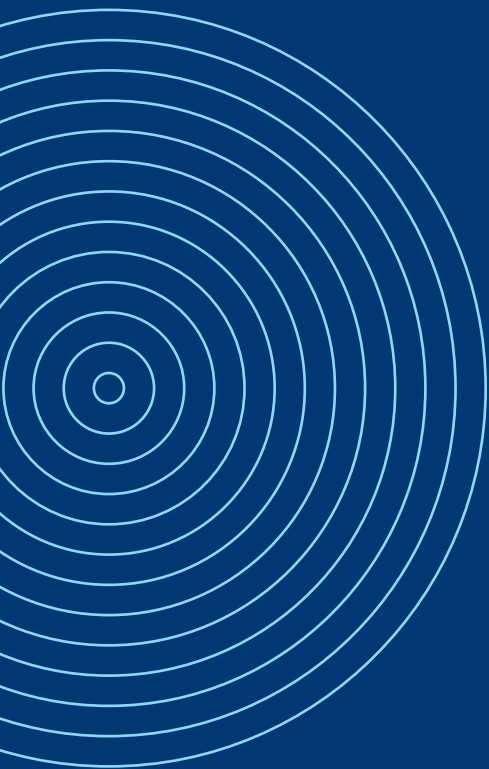
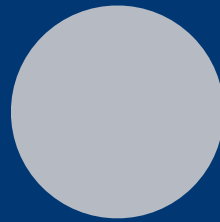
For this reason, it is necessary to work to continue to generate better quality employment in the future for persons with a disability, a fundamental focus for their social inclusion. This, the Social Initiative Sheltered Employment Organisations have several challenges ahead:

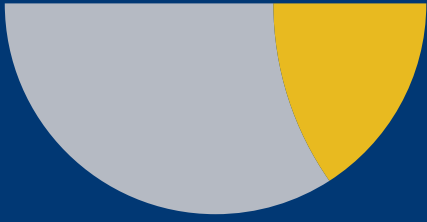
- In relation to article 27 of the Convention on the Rights of Persons with a Disability, one of the most important challenges faced is continuing to promote more accessible, open and inclusive employment, prioritising those with the greatest needs for support.
- To continue working to provide support, such as training, supported employment and professional guidance, in order to improve access to employment and the group's transition to the open labour market that, as we have been able to verify, is the key aim of the SEO.
- To gradually increase to average salary of all groups of people with disabilities until it is level with the average salary for a person without a disability, to guarantee the full economic autonomy of people with disabilities that allows them to lead the most dignified life possible. Similarly, they must ensure the generation of greater added value, and maintain a stable collective business model with unions.
- To work to create innovative practices that generate better and new employment opportunities.
- Regarding training, it is important to reduce the gap that exists between mandatory education and professional training in general. In this sense, steps must be taken in the development of support and adaptations for a real inclusion of people with disabilities within normalised spaces and especially in dual training.
- One of the keys to improving access to employment for the group is to progress in certifiable training and in training and learning in life.
- Working and improving the access of people with disabilities to university is another one of the great challenges in terms of education.

- From the point of view of private companies, one of the most important challenges is improving the employment rate and greater regulatory compliance in the mandatory hiring of people with disabilities, a fact that would impact positively on the transition to regular environment companies. At this point, we should highlight the balance between people's capabilities and the specific needs of the companies. At this point, it would be essential to continue to strengthen the supported employment methodology within companies.
- To promote entrepreneurship among people with disabilities, so that they can start up their own companies.
- There are several important challenges within the field of Public Administrations. On the one hand, achieving equal opportunities for the group in accessing public employment, especially for people with the greatest needs for support. In this sense, it is very important to involve Public Administrations and the collaboration between the public and private sectors.
- On the other hand, a greater control by the Administrations regarding compliance with the mandatory hiring of people with disabilities both in private companies and in Public Administration. In addition, we should insist more on the application of social clauses in public procurement.
- Furthermore, it is necessary to promote representative figures of the group within Public Administrations and Institutions.
- In terms of the current regulations, it is very important to improve and update some of the current rulings relating to the employment of people with disabilities such as, for example, on issues relating to alternative measures, fulfilment of 2% or labour enclaves, among others.
- Regarding the Social Economy sector, only the Social Initiative SEO fulfil the characteristics and principles that inspire this model, and so it would be necessary to make the relevant modifications to the Social Economy Law.
- The changes to the Law on Public Sector Contracts regarding the reserved contracts must become a priority tool for the generation of quality employment for people with disabilities, which helps to mitigate the inequality in the macro employment rates of the group.
- On the other hand, taking into account the ageing and/or deterioration processes among the group of people with disabilities, it is necessary to consolidate the model to promote active ageing and quality of life in employment. Thus, it will be of vital importance to collaborate between the different agents, such as families, Administrations, the third sector, etc.
- In terms of equality between men and women, the double discrimination suffered by women with a disability is a reality. In order to confront this situation and to improve the quality of employment and work occupation, it is very important to promote visibility, awareness and empowering actions, as well as encouraging actions of positive discrimination that help to reduce the disadvantaged situation in which they live.

- Lastly, we must not forget the development of employment thanks to advances in technology, robotics, etc. We are approaching a scenario in which technology has an evermore important role, leaving many activities that until now were performed by people, obsolete. In light of this situation, it is necessary to work and to take measures to adapt to new changes in the future and for them to help to improve the employment of people with disabilities.







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