# Comments on the outline for a General Comment on the right of persons with disabilities to work and employment (Article 27 of the Convention on the Rights of Persons with Disabilities)

## Submission of the Czech Public Defender of Rights

The Czech Public Defender of Rights welcomes this opportunity to submit comments on the outline for a General Comment, that will surely provide valuable guidance to State Parties in the implementation of their obligations under the Convention.

We attach below a few points that we think should be included in the methodological guidance of the General Comment and may be the subject of further discussions:

## 2. iii. The right to equal remuneration for work of equal value

**What is the boundary between activation, social rehabilitation and work on trial?**

For example, clients of residential social service perform same activity in one workshop, but some clients are rewarded for it and for some is this activity considered therapy or activation.

**What is the opinion of the Committee on rewarding clients for work in the form of benefits, motivational rewards or remuneration in kind?**

For example, clients of residential social services who help with cleaning are rewarded with the opportunity to participate in an event (party etc.)

## 2. iv. Applying health and safety considerations in a non-discriminatory way

**Formal requirements for must not be an obstacle to the exercise of the profession.**

For example, situations where general medical fitness requirements exclude people with hearing impairments, regardless of their job classification (administrative position of members of the fire brigade).

**2. vii Access to inclusive education and inclusive vocational training**

Support centre for students with specific needs at the universities, special education centres and educational and psychological counselling centres should be also able to support students with specific needs to be more competitive in the open job market.

Public sector employers could and should be providers of internships and traineeships for people with disabilities.

**2. viii. Self-employment, microfinance, business development services**

If a job seeker has been unsuccessful in the labor market for a long time, he is unable to find employment, or just wants to work on his/her own, the state (e.g. Labor Office) should provide him with the necessary and comprehensible information about the possibility of starting business as a natural person.

**2 ix. Employment of persons with disabilities in the public sector**

According to the research on the employment of people with disabilities in the public sector in Czech Republic, that we completed this year, we conclude following:

* in terms of physical mobility, public sector buildings are more accessible from the point of view of citizens – visitors, but not for employees
* people with visual, hearing or learning disabilities are employed minimally in the public sector
* public sector employers have only little experience in providing reasonable accommodations - they have experience mainly with employees with mild disabilities who do not need them
* payment to the state budget as a substitute for fulfilling the quota for employment of people with disabilities does not play a sanction role in the public sector - it is merely a transfer between individual chapters of the state budget, the incentive effect is completely lost and other rules should be set for the public sector - e.g. abolition of quota fulfillment alternatives
* the public sector is an attractive employer for people with disabilities.

The employment of people with disabilities in the public sector in the Czech Republic is also complicated by the so-called systematization of job positions. Systematization - strictly defined number of job positions – forces public sector employers to prefer only high-performing employees for the small number of available job positions. The pressure for high work performance and low job flexibility thus significantly reduces the accessibility of the public sector as an employer for employees with disabilities.

States should provide public sector employers with the necessary methodological guidance on the employment of people with disabilities and strictly require the fulfilment of quotas in the right way.

**2 x. Affirmative action programs and special attention to persons with disabilities who are particularly excluded from the labour market**

In the Czech Republic, we have encountered the problem that public sector employers cannot apply for active employment policy contributions. This ultimately means that they do not have the possibility to apply, for example, for a contribution to create a job for a person with a disability or to cover the operating costs associated with his or her employment (e.g. reasonable accommodations).

How to deal with the problem when employers fill quotas by employing people with disabilities with “need of low levels of support” and people with “need of higher levels of support” are left unemployed? How to motivate employers (e.g. by affirmative action programs?) to use reasonable accommodations and employ people with high support requirements, and not looking for employees who do not need them?

**3. b) II. Provision of reasonable accommodation**

We agree that reasonable accommodations, such as e.g. reduced working hours or reduced amount of work with full wage should not be established for all employees with disabilities, but individually and at the request of the employee.

The topic of reasonable accommodation in the form of reduced amount of work while maintaining wages is in the Czech Republic so far, a neglected topic and there are more questions than answers around it. We would welcome some guidance in this matter.

There are also uncertainties surrounding the financing of some reasonable accommodations, such as e.g. sign language interpretation or personal assistance, and the concurrence of job assistance and personal assistance in the workplace (including personal and job assistance during telework).

Another problem we encounter in Czech Republic is different terminology across legislation. For example, the Employment Act links disability to the granting of invalidity, and this is also related to the possible granting of active employment policy contributions or the right to occupational rehabilitation. Active employment policy instruments and contributions are granted to "people with disabilities" or their employers in the sense of the Employment Act, but to reasonable accommodations are entitled all employees with disabilities in the sense of the social model of disability under the Convention and the Anti-Discrimination Act.

Thus, there may be situations where an employee with a disability requests reasonable accommodation, the employer is obliged to provide it, but does not reach for state contributions, because this employee is not a person with a disability under the Employment Act.

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