Contribution to the general discussion of the OHCHR on Article 27 of the United Nations Convention on the Rights of Persons with Disabilities.

15th March 2021

# EPR is a community of service providers working with people with disabilities committed to high quality service delivery. EPR’s mission is to build the capacity of its members to provide sustainable, high quality services through mutual learning and training.

EPR and its members are committed to support competitive employment opportunities for people with disabilities and meaningful inclusion in the mainstream workforce, as set forth in international legal instruments. People with disabilities should enjoy the right to work in a labour market and work environment that is open, inclusive and accessible. Accessing the job market presents additional challenges for people with disabilities, mainly in terms of attitudinal, physical and informational barriers to equal opportunities.

This contribution includes analysis and guidance from two joint analyses and statements, as well as additional recommendations from EPR for measures to respect, protect and fulfil the human rights of persons with disabilities with regard to article 27 of the Convention.

## The Vienna Declaration

*EPR was a co-author and signatory of the Vienna Declaration (2018) and offers the Declaration’s recommendations as a contribution to the consultation. Below a substantial extract of the Declaration can be found. The full declaration can be found* [*here*](http://epr.eu/wp-content/uploads/Vienna-Declaration-EN.pdf)*.*

Introduction to the Vienna Declaration

The right of persons with disabilities to work on an equal footing is enshrined in Article 27 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The participants and the organizers of the conference „Employment for All“ in Vienna on September 27, 2018, are committed to ensuring that this right is implemented. During the conference, they discussed different ways of implementation in different European countries and the EU, and identified successful approaches. Based on the results, they propose measures to overcome structural disadvantages due to social and other barriers.

The elimination of existing legal barriers and the setting up of positive support measures are the key to unlocking employment potential and shifting the focus to the skills and competences of persons with disabilities.

The Vienna Declaration makes a stand for better opportunities for persons with disabilities in the labour market.

The situation on the labour market

Around 80 million persons with disabilities live in Europe. Their labour force participation is significantly lower than that of the total population. Among those with basic disabilities such as visual or hearing impairment, communication or intellectual disabilities, only 47.3% of the EU‘s 28 states worked in 2011. That‘s almost 20 percentage points less than people without disabilities. The largest differences were found in the Netherlands (43% to 80%) and Hungary (24% to 61%). This gives a difference of 37 percentage points between these groups. In Luxembourg, there is the smallest difference with only 2 percentage points.**2** These differences suggest that it is possible to counteract lower labour force participation through policy measures.

In addition, in some European states some persons with disabilities are not even covered by the unemployment statistics because they are considered „unfit to work“. If they are employed in sheltered workshops, they are not considered as workers and receive only small pocket money, but no wages.

In case persons with disabilities find work, they maybe often employed below their capabilities, in part-time or fixed-term contracts and they have poor career opportunities. An entrepreneurial activity is open to only a few of them. Women and young people with disabilities, people with mental health issues, people with learning difficulties and people with intellectual disabilities are discriminated on the labour market to a particularly high degree.

Legal and political framework

The EU itself and its Member States have signed and ratified the UN Convention on the Rights of Persons with Disabilities**3** (UN-CRPD). They have committed themselves to implementing the rights of persons with disabilities defined in the convention. The right of persons with disabilities to work on an equal basis with other people is defined in Article 27 of the UNCRPD. This results in the obligation for all states parties, including the EU, to identify and eliminate barriers (including legal ones) to the inclusion of persons with disabilities. Where the elimination of barriers is not sufficient to enable participation, states parties have to implement supportive measures for people with disabilities.

2) Disability Statistics, laboratory market access; Eurostat; https://ec.europa.eu/eu r ostat / statistics-explained ‚/ index.php / Disability\_statistics \_-\_ labour\_market\_access (downloaded on 07.10.2018)

3) The UN CRPD was signed and ratified by the EU and Austria. In Austria, that happened already ten years ago. https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=19 ; (downloaded on 07.10.2018)

The Convention of the International Labour Organization ILO 159 on occupational rehabilitation and on employment of persons with disabilities aims to ensure that appropriate occupational rehabilitation measures are available to all groups of persons with disabilities and employment opportunities in the regular labour market for persons with disabilities should be en­couraged.

🡪In The International Covenant on Economic, Social and Cultural Rights of the United Nations all signatories recognize the right of all people to work and on fair working conditions.

🡪In the UN Sustainable Development Goals, the signatories recognize, among other things, the right to quality education and decent work.

🡪With the European Pillar of Social Rights, the member states of the EU have adopted 20 principles, which are divided into 3 categories: equal opportuni­ties and labour market access, fair working conditions, and social protection and social inclusion.

🡪The European Disability Strategy aims on empowering people with disabilities so that they can enjoy their full rights and benefit fully from partici­pating in society and in the European economy, notably through the Single market.

🡪The European Employment Equality Directive established a general framework for equal treatment in employment and occupation and had to be implemented in national laws of the member states.

European and national ways of implementation

The EU and most of its member states are actively engaged in the realization of these rights. They have decided on strategies and action plans whose effectiveness differs to a great extent.

The hosting organizations of the conference *“Employment for All - Strategies for the Implementation of the Convention on the Rights of Persons with Disabilities“* are aware of the significant challenges. Implementation is hampered in particular by the fact that persons with disabilities are structurally disadvantaged in the labour market due to social barriers. In addition, the economic and financial crisis that have been impacting Europe since 2008 has led to the introduction of austerity measures that significantly affect the lives of persons with disabilities. This has further aggravated the often-precarious situation of persons with disabilities even before the onset of the recession and pushed back positive achievements that had been made before.

Today, many of the EU member states are once again experiencing an economic upturn. However, the positive effects on the employment situation of persons with disabilities are not to the same extent as for persons without disabilities. In the context of the UNCRPD this is not acceptable. This situation, which exposes people with disabilities to chronic exclusion, needs to be tackled with comprehensive measures.

Recommendations

***General recommendations***

Article 27 of the UN CRPD deals with employment in an inclusive labour market

🡪We therefore call upon those responsible at all levels, the EU, the states and the regions, to open the way for inclusion in the labour market. Set good examples and employ – within your area of responsibility - persons with disabilities (in Parliaments, Ministries, state agencies, offices, companies, etc.).

Social prejudice often prevents persons with disabilities from being considered as employees at all.

🡪We therefore call for investing in raising awareness. Public campaigns in TV and print media as well as social media can do much to reduce prejudice and focus on the skills and knowledge of persons with disabilities.

According to Article 4 of the UNCRPD, the development of all policies and measures affecting persons with disabilities must be made in close cooperation with self-advocacy organizations of persons with disabilities.

🡪We therefore call upon stakeholders at all levels to develop and implement their labour market inclusion policies and measures in close cooperation with persons with disabilities and their representative organizations.**4**

People with disabilities are currently significantly disadvantaged in the labour market in almost all European countries. As long as this is so, special measures must be put in place for them, in parallel with disability mainstreaming approaches, so that these disadvantages are compensated.

🡪Therefore, stakeholders at all levels call for not only labour market po­licies that mainstream disability, but also specific labour market goals for persons with disabilities. Compensating measures should be offered to offset their disadvantages in the labour market.

4) Co-producing employment initiatives for young persons with disabilities and mental health problems; EASPD; https://www.easpd.eu/sites/default/files/sites/default/files/PressReleases/event\_report-\_coproducing\_employment\_initiatives\_for\_young\_persons\_with\_disabilities\_and\_mental\_health\_problems.pdf (downloaded on 07.10.2018)

***Recommendations for the European Institutions***

In the Europe 2020 Strategy as a labour market policy objective, the EU has set a general employment rate of 75% for people between 20 and 64 years of age for member states. However, as mentioned above in all Member States the labour market participation of persons with disabilities is significantly lower.

🡪We therefore call on the European Union to make greater efforts to ensure member states take action to reach its targets for persons with disabilities in the future, until they reach the overall employment rate.

The actions of the EU 2020 strategy are coordinated in a process defined by the European Commission: the European Semester. The European Semester is an annual process that allows the European Commission to review national budgets and reforms at an early stage and submit proposals to Member States for improvement.

**We call on the European Union,**

🡪to include labour market policy objectives for persons with disabilities for all EU Member States, following harmonization of definitions in the regular coordination system of the European Semester to steer reform and innovation in order to achieve the objectives of the EU strategy.

🡪to tie the budget of the European Structural Funds to the quality criteria of the UNCRPD and to promote only measures that promote employment on the regular labour market and/or in social economy enterprises.

***Recommendations for National Policies and Authorities***

🡪to provide inclusive framework conditions for people with disabilities of all ages. In particular, the education and training system must be designed in an inclusive way.

🡪to invest more in inclusive education at all levels as a precondition for employment. to provide access to employment for all by eliminating legal or financial barriers, such as categorising people as ”unfit to work”, for (young) disabled persons. The path to the working world must be open to all people.

🡪to adapt the definitions of disability in all relevant national laws to the concept of the human rights disability definition.

🡪to provide data on persons with disabilities as a basis to develop and review policies and action plans.

🡪to financially support and promote the Supported Employment model, taking into account the identifying features and values as defined by the European Union of Supported Employment and provide them according to needs.

🡪to align disability policies at all levels (national, regional and local) on the creation of an inclusive society and to commit the responsible authorities to common objectives.

🡪to develop a comprehensive (for all ages and all areas of life), long-term strategy for an inclusive labour market and to provide the necessary resources and milestones as well as clear responsibilities.

🡪to grant persons with disabilities a legal right to all supporting measures.

🡪to ensure access for all supportive measures for persons with disabilities looking for work with an integrated approach.

🡪to accelerate the implementation of the European Qualifications Frame­work EQF into national qualification systems. The EQF covers competen­cies and qualifications, even though formal qualifications have not yet been achieved.

🡪to create a supporting framework for social-economy enterprises, as they solve regional problems and create work for disadvantaged people in the labour market.

***Recommendations for service providers***

**We call on providers of social services for persons with disabilities,**

🡪to further develop their existing services so that people with disabilities have the opportunity to work in the general labour market. In any case, employment must lead to full insurance in the social security system and be remunerated in accordance with national agreements (such as collective or other agreements).

🡪to develop and provide these offers in coproduction with all stakehol­ders, in particular including people with disabilities, employers and relevant authorities.

🡪to invest in networking and cooperation with employers and the business world.

🡪to develop a positive ‘abilities’ discourse instead of focussing on the disability of people.

## Inclusive Labour Market Alliance Joint Statement

*EPR is an active member of the informal Inclusive Labour Market Alliance and offers the Joint Statement recommendations (2020) as a contribution to the consultation. The full Statement can be found* [*here*](https://www.epr.eu/publications/employment-of-people-with-disabilities-joint-message/)*.*

#### 

#### Our Vision of Inclusive Market & Decent Work

An inclusive labour market requires a reversal of traditional assumptions that simply equates disability with an inability to work. Rather, future policy should be based on an assumption that all human beings have a capacity to engage in economic activity with the right kind of personalised supports for the workers and their employer. Indeed, the focus should shift from the disabilities to the abilities of the person concerned. An inclusive labour market requires a renewed emphasis on personalised supports and tailored measures to ensure that individuals have the necessary means to learn job roles and develop a career. This is already legally required in the EU Framework Directive that requires ‘reasonable accommodation’ to enable a worker with a disability to perform his/her job-related tasks. It also requires:

• a focus on career progression and development instead of an assumption that workers with disabilities will remain rooted in one job throughout their career.

• important supporting measures such as an adequate and accessible transport system to ensure mobility to work.

• an inclusive education and training programme that prepares workers with disabilities for an inclusive labour market.

• a close study of, and elimination of, known and hidden poverty traps in social protection systems that sometimes hinder access to work

• a clear understanding that disability often entails extra costs and that these costs must continue to be met to enable meaningful access to the right to work.

• an understanding that disabled people are not a homogeneous group, therefore different measures will be required to meet individual needs. Considerations should be made for people at risk of double discrimination, such as women with a disability.

Decent work entails a fair and liveable wage. It entails fair and just working conditions and the adjustment of health & safety measures to optimise work opportunities and not create additional barriers to work. It entails increased interest on the part of trade unions in the working conditions of employees with disabilities.

#### New Opportunities and New Dangers in The Transformation of Work

The transformation of work in the 21st century offers many challenges for all workers and requires an appropriate policy response. We urge that the many reflections on the policy challenges now taking place should explicitly include the support needs of all workers. Further, the introduction of new technologies and methods of work may reveal new opportunities for workers with disabilities which should be proactively identified, and measures put in place to optimise them.

Toward New EU Additionality

The EU has a role to play in ensuring economic and social inclusion especially in times of massive economic transformation. We call on the EU to

▪ Incentivize innovation in building an inclusive labour market,

▪ Boost the generation of opportunities for people with more support needs in the mainstream labour market

▪ Support employers, and especially small and medium sized employers, to encourage the co-production of policies based on the active involvement of persons with support needs,

▪ Stimulate the growth of knowledge, research and data all aimed to enhancing employment options,

▪ Work with member states to foster the re-engineering of social protection systems to genuinely protect all workers as well as open new opportunities,

▪ Support the creation of a facilitating ecosystem for support services with sustainable funding, stable legal frameworks and structural involvement of all stakeholders at both EU and national level.

For our part, Service Providers pledge to support all policy moves by the European Union and its institutions that promote these aims.

In our own networks we shall work with our members in the direction and to develop new approaches and business models that promote co-production and respond to the individual needs of the people they support. The steps that we take will contribute to the achievement of the goals of the UN SDGs and the UN CRPD in our common European home. We therefore also encourage all stakeholders to follow the recommendations of the Vienna Declaration.

It is particularly crucial that these recommendations are taken into account even in times of economic instability, to ensure no workers are left behind or disproportionately impacted.

The interests of people with support needs and these recommendations must therefore be taken into account in any economic stimulus measures and policy decisions related to the current COVID-19 crisis.

## Additional guidance from EPR for measures to respect, protect and fulfil the human rights of persons with disabilities with regard to article 27 of the Convention

• Promoting the availability of tailor-made support services in the early stage of unemployment, after the acquisition of a disability, injury or illness, at an “early intervention” stage and also during employment, supporting the employee and employers, to improve job retention.

• Ensuring people with disabilities can access labour guidance from persons that understand disability and the importance of tackling environmental and social barriers that people with disability face (e.g. social model of disability).

• Ensuring adequate benefits compensate people with disabilities who cannot work full time.

• Creating inclusive labour markets through effective employment programmes in partnership with employers. Networks of employers active in promoting diversity and employing a diverse workforce, particularly at local level, can encourage and support new employers to decide to take on people with disabilities

• Reasonable accommodation as a concept must be promoted and it is important to engage service providers who have experience of partnerships with employers for integrating PWD in the workplace, to share good practice and dispel stigma. Funding must be available for workplace adjustments and reasonable accommodation. It is important that employers understand their obligations in this area but also that they are aware of what funding and services are available for them to support employees with disabilities.

• As the European Commission stated in the Roadmap for the Disability Rights Strategy “*Assistive technologies remain expensive and internal market opportunities are underused”*. Initiatives that facilitate the accessibility of AT solutions, in collaboration with AT developers and support service providers should be promoted.

• Ensuring programmes that support mental health and well-being for healthy working environments are in place. Stress levels in working environments have increased yet there is often insufficient support or understanding of psychosocial health risks.

• Social enterprise, particularly work integrating social enterprises, should be supported and good practices shared, including in terms of inclusive work environments, training and career development and transitions to the mainstream labour market and helping them to adapt to changing demands and new opportunities, such as the Green Deal.

•Take into account the specific challenges and needs of women and girls with disabilities in all initiatives, including those addressing education and the labour market. They experience specific challenges in these areas and women with disabilities experience higher unemployment levels than men

• Studies and policy analysis have demonstrated that vocational training, vocational rehabilitation services and on the job support, are in most cases an indispensable condition to bridge the gap to the labour market for people with disabilities. Therefore it is important that these services keep being promoted.

• To ensure skills and VET meet the needs of the labour market good partnerships between employers and providers and regulators of education are essential. Often needs are regional/local so local partnerships or skills analyses are particularly important.

• Individual person-centred learning pathways are necessary for successful training and education outcomes.

• Training programmes must support the development of digital, soft and transversal skills.

• Access to support services for young people with disabilities in mainstream secondary education must be ensured; specialist VET providers can support access to mainstream education education and training.

• Support for people in the transition from education to employment is particularly important.

• Promote evidence-based practices that support people with a disability in the open labour market, such as Supported Employment, IPS, Disability Management. The job coaches that work with employees must have sufficient support themselves.

• Customised employment, sometimes using "job carving" to create positions for people with higher levels of disabilities, can be very successful as a tool for sustainable mainstream labour market integration.

• High standards in apprenticeships and other work-based learning programmes must be ensured to provide good quality learning experience and outcomes.

• Regulators should act to ensure vocational rehabilitation and other support services are provided to a high quality. One way is to require the achievement of certain standards of quality or implementation of a quality system, such as the European Quality in Social Services (EQUASS).

• Understanding the social model of disability can help change opinions on disability and in turn improve possibilities of people with disabilities to be accepted in mainstream work environments: the environment and society can be disabling and where this is the case, must be tackled.

• Raise awareness of the business case for diversity and promote diversity training

• Raise awareness of and propose actions to address potential negative impacts of AI on employment of people with a disability including recruitment; address ethical dimension of AI



With financial support from the European Union, from the EU Programme for Employment and Social Innovation (EaSI). The information contained in this publication does not necessarily reflect the position or opinion of the European Commission. **For further information please consult:** [*http://ec.europa.eu/social/easi*](http://ec.europa.eu/social/easi)