**World Federation of the Deaf and European Union of the Deaf joint submission to the CRPD Committee on the Outline for General Comment No. 8 on Article 27.**

The World Federation of the Deaf (WFD) and the European Union of the Deaf (EUD) welcome the opportunity to provide inputs on the draft general comment on Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) prepared by the Committee on the Rights of Persons with Disabilities (CRPD Committee).

As a general remark, the WFD and the EUD would like to highlight that deaf people face a unique situation compared to other persons with disabilities due to their specific cultural and linguistic identities and their use of their own languages, their national sign languages.

While the funding and presence of professional and accredited national sign language interpreters remain the essential elements of the reasonable accommodation for deaf persons in the labour market in light of the Article 2 combined with the Article 9.2*(e)* of the Convention, the WFD and the EUD highlight that for deaf people to fully exercise their linguistic human rights to participate in and contribute to the labour market, the accessibility and inclusion of the labour market itself through national sign languages must be guaranteed. This could be realised through fostering the opportunities to participate in the labour market directly in a national sign language and ensuring that sign language working environments are provided.

Art. 9.2 *(e)* CRPD highlights the obligation of States Parties to provide professional sign language interpreters. The provision. The “professional sign language interpreters” as stated in the present provision has been interpreted by the WFD and EUD to mean sign language interpreters that are properly trained with the participation of the deaf community through their representative organisation, certified according to a neutral certification mechanism in which deaf people are represented, and are paid in accordance with their professional status[[1]](#footnote-1).

States Parties to the CRPD must ensure that deaf people have full and equal access to open, fair and inclusive labour markets. Inaccessible working environments that do not embrace diversity are not only against the legal obligations stemming from the Convention, but they also prevent further economic and sustainable growth. Indeed, securing a structural shift towards an inclusive, accessible, innovative and fair labour market as well as economic and business models is in the interest of everyone in the society, as it will strengthen economies and build more resilient societies that leave no one behind.

In light of this, States Parties must ensure that deaf people have equal opportunities when accessing the labour market on an equal basis with others, either by providing working environments that are fully accessible in a national sign language, or by providing high quality, government-funded, professional sign language interpreting services in those workplaces where a sign language is not the mainstream language. Government funding should cover sign language interpreting services in the workplace, but also cover the period before gaining employment for deaf jobseekers who are looking for opportunities.

As per their general obligations of providing reasonable accommodations to all persons with disabilities, including deaf people, State Parties and employers must ensure the provision and funding of professional and accredited national sign language interpreters. Providing this measure of reasonable accommodation must intervene in four different situations:

1. During the preparation phase, which comprises two distinct stages: (i) The stage when acquiring relevant skills to prepare for entering an open, fair and inclusive labour market; (ii) The job research phase, which includes meetings with employment agencies, training to access a specific shortage job, training to actually access the labour market.
2. During the job interview. The funding of a professional sign language interpreter to participate in a job interview should not be the burden to the job seeker requiring an professional and accredited national sign language interpreter.
3. In the workplace. Deaf workers must receive the opportunity to work and participate in the social life of the workplace in the national sign languages. Also, deaf workers must receive the opportunity to attend specific training that allows them to improve within the workplace hierarchy in the national sign languages. These opportunities can be achieved either by the provision of an accredited and professional national sign language interpreter or by the training of the staff to the national sign languages.
4. When exercising their labour and trade union rights. Deaf workers have the right to interact and claim their social and labour rights, including work-related health rights, in their national sign languages through the provision of a professional and accredited national sign language interpreter.

Additionally, the WFD and the EUD would like to remind that quality inclusive education plays a major role when ensuring the inclusion of persons with disabilities, including deaf people in an open fair and inclusive labour market. Indeed, access to inclusive sign language bilingual schools in the national sign language(s) and national written language(s) in line with Article 24 CRPD is one of the most important factors that prepares deaf persons to enter and participate in an open labour market. The necessity of such schools is also acknowledged in the [International Disability Alliance’s Inclusive Education Global Report](https://www.internationaldisabilityalliance.org/ida-inclusive-education-2020).

The inclusion of persons with disabilities, including deaf people, in a quality and inclusive education allows them to acquire the necessary knowledge and skills to access fair and inclusive labour market. The CRPD General Comment No 6 on Equality and Non-discrimination, in its point 65, recognised that “*To ensure equality and non-discrimination for deaf children in educational settings, they must be provided with sign language learning environments with deaf peers and deaf adult role models. The lack of proficiency in sign language skills of teachers of deaf children and inaccessible school environments exclude deaf children and are thus considered discriminatory*.”

Ultimately, the WFD and the EUD would like to caution the CRPD Committee against the use of signing avatars as means of replacement of professional and accredited national sign language interpreters. The signing avatar is a 3D technology with a virtual character using sign language. However, it often operates with word-for-word translation, which does not take into account the local context or the cultural norms of different sign languages. Sign languages are full languages with their own complex structures that are distinct from spoken languages. While the technology has progressed and offers real potential for wider use of signing avatars, these computerised products do not surpass the natural quality and skills provided by human interpreters and translators[[2]](#footnote-2).

In regard to the developments made in the present submission, the WFD and the EUD would like to provide the following amendments in the General Comment Outline in bold in the text:

**1.**      **Introduction:**

“*For example, there are legislation obliging employers to require that only candidates with disabilities undergo medical clearance; or that restrict access to certain jobs to persons with disabilities with specific types of impairments; discrimination during recruitment processes* ***and during the job search process*** *which are often inaccessible to persons with disabilities, including risks resulting from Artificial Intelligence recruitment software and biased algorithms, as well as inaccessibility of websites encountered in online recruitment processes; and dismissals on the basis of disability, in particular in situations where people acquire an impairment while at work.*

**2.**  **Normative content**

**ii. Interpretation of Article 27.1 (a): Discrimination in the workplace, including workplace segregation**

“*The references to the prohibition of discrimination in article 27.1 (a) are broadly providing a non-exhaustive list of work-related situations which refers to all types of labour markets, and require employers to guarantee to persons with disabilities access to any opportunities, including* ***quality and sustainable jobs****, technical and vocational education and training provided to employees, on an equal basis with others as well as the provision of reasonable accommodation.*“

**iii.**   **Interpretation of Article 27 (b): The right to equal remuneration for work of equal value**

*“The main causes for the wage gap seem to be linked to:*

*-   Overrepresentation of persons with disabilities in low-paid jobs;*

***-   Underrepresentation of persons with disabilities in high-paid, quality and sustainable jobs with high-responsibility and/or managerial position;***

*-   Persons with disabilities**working**in segregated employment such as sheltered workshops,* ***which do not ensure adequate working conditions or labour-related rights for persons with disabilities, nor pathways to the open quality and inclusive labour market,*** *often receiving wages that are under the minimum wage or not getting a fair wage;*

*-   Legislation allowing persons with disabilities to be paid less than the national minimum wage;*

*-   Limited awareness and knowledge by employers (public, private and non-governmental organizations) on the capabilities and value persons with disabilities;*

***-   Lack of research which would explore the potential of persons with disabilities as a currently inactive work force which, once enabled, would significantly benefit economic and sustainable growth.***

**v.**        **Interpretation of Article 27 (b) part III: Measures to eliminate discriminatory attitudes and harassment, particularly against women, migrants and refugees with disabilities**

**C. Protection from intersectional discrimination**

***“The Committee recognises that a number of  persons with disabilities including deaf people face additional intersectional and multiple discrimination when accessing an open, fair and inclusive labour market and face further marginalisation.***

***Women and girls with disabilities, elderly with disabilities, persons with disabilities living in rural areas, LGBTQIA+ with disabilities, persons with disabilities at risk of poverty and social exclusion, refugees and asylum seekers with disabilities, persons with disabilities from ethnic, linguistic, cultural and religious minorities; and persons with multiple disabilities should be protected from additional intersectional and multiple discrimination when accessing an open labour market.***

***States Parties to the Convention should take into account the additional discrimination and marginalisation faced by persons with disabilities with intersectional identities when adopting disability-inclusive employment policies, legislation and programs, including affirmative actions policies and specific anti-discrimination legislation, to progressively reduce and erase the inequalities faced by persons with disabilities with intersectional identities to access an open, fair and inclusive labour market on an equal basis with others. “***

**iv.**       **Interpretation of Article 27 (c): Labour and trade union rights on an equal basis with others**

“*In this sense, States should repeal any legal or regulatory provision that restricts the right of freedom of association to form trade unions or workers’ associations based on disability, including on deprivation of legal capacity, and promote the inclusion of persons with disabilities in trade unions and workers’ associations.* ***Reasonable accommodation measures must also enable deaf people to exercise their trade union and labour rights in the national sign language(s) on an equal basis with others.*** “

**vii. Interpretation of Article 27 (d) and (j): Access to inclusive education and vocational training:**

“*Learners with disabilities must receive the support to ensure the effective transition from learning at school to vocational and tertiary education, and, finally, to work. Inclusive education****, comprising inclusive bilingual schools in the national sign language(s) and national written language(s),*** *and inclusive vocation training should aim to develop learners’* ***skills****, capacities and confidence and provide learners with reasonable accommodation and ensure equality regarding their assessment and examination procedures[BA2]* ***in their preferred languages of education, including the national sign language(s)****. Certification of learners’ capacities and attainments on an equal basis with others should also be ensured.”*

*“In this sense, mainstream services that exist to help job seekers to find employment should be inclusive of job seekers with disabilities* ***and should provide reasonable accommodation for job seekers with disabilities, such as professional and accredited national sign language interpreters or should be directly available in the national sign language(s)****. Of particular relevance are technical vocational education and training (TVET) services which should also include participation in workplace based learning schemes, including apprenticeship and internships schemes.”*

***On particular importance, TVET services trainers should be familiarised with the requirements of persons with disabilities, including different types of reasonable accommodations. When working with deaf people, TVET services trainers should either be fluent in the national sign language(s) or ensure the provision of professional and accredited national sign language interpreters.***

*“Equally important is to ensure that (public and private) mainstream employment services are inclusive of persons with disabilities* ***and provide the required reasonable accommodation measures****. When disability-targeted employment services exist, these should be connected to the mainstream employment services for mutual referral*

**viii.**        **Interpretation of Article 27 (f): Self-employment, microfinance, business development services**

*In practical terms, the business development and other similar services provided by public authorities (or subcontracted to private organizations), which support self-employment and entrepreneurship should be inclusive of* ***and fully accessible to*** *persons with disabilities. This would mean, among others, ensuring the accessibility of materials, information, courses, financing tools, including microfinance, as well as the provision of reasonable accommodation, when needed in a particular case.* ***For deaf entrepreneurs it is essential to ensure the creation of fully signing working environments that would be fully accessible. Successful deaf entrepreneurs can also become important deaf role models and contribute to diversifying the business leadership and foster their peers to undertake entrepreneurship initiatives.******This will contribute to the diversification of the entrepreneurship landscape, in addition to reducing negative stereotypes and stigma towards persons with disabilities, including deaf people.***

**3.**      **States parties’ obligations**

**II. Provision of reasonable accommodation**

‘*As already recognized by the Committee, an ex nunc duty, reasonable accommodation must be provided from the moment that a person with a disability requires access to non-accessible situations or environments, or wants to exercise his or her rights. Moreover, the Committee recognized that reasonable accommodation must be negotiated with the applicant(s) and that the obligation to provide reasonable accommodation is an individualized reactive duty that is applicable from the moment a request for accommodation is received.*

*Additional measures should be put in place to ensure that the provision of reasonable accommodation is effectively implemented. Two measures seem of particular relevance:*

-        *The provision of funding to cover, totally or partially, costs related to reasonable accommodation. This will limit the possibility for organizations, especially those that are small, to claim that the accommodation imposes a disproportionate or undue burden with regards to individual supports.*

-        *The provision of technical assistance to all relevant stakeholders and in particular to employers and persons with disabilities on the concept of reasonable accommodation, including examples of accommodations in different stages of employment (recruitment process****and during the job search phase****, on boarding, career development), the process that should be followed to take a decision on the accommodation,  the application of the disproportionate or undue burden test, how to document it, protecting confidentiality and privacy, the need for disclosure, among others. This type of assistance could take the form of codes of good practices.”*

*-Improving the higher learning institutions curriculum to have a sign language unit to prepare both employers and workers for an inclusive workplace.*

*The provision of special funds for technologies like VRS to support the concept of reasonable accommodations when necessary especially during disasters.*

*-To support the National Association of the Deaf to enact and implement Sign Language policies .*

*“The Committee invites interested parties to provide written inputs on such topics, including on obligations subject to progressive realization, non-retrogressive measures and minimum core obligations under Article 27 of the Convention.*

***As per their general obligations of providing reasonable accommodations to all persons with disabilities, including deaf people, State Parties and employers must ensure the provision and funding of professional and accredited national sign language interpreters. Providing this measure of reasonable accommodation must intervene in four different situations:***

***a)***  ***During the preparation phase, which comprises two distinct stages: (i) The stage when acquiring relevant skills to prepare for entering an open, fair and inclusive labour market. (ii). The job research phase, which includes meetings with employment agencies, training to access a specific shortage job, training to actually access the labour market.***

***b)***     ***During the job interview. The funding of a professional sign language interpreter to pass a job interview should not be the burden to the job seeker requiring an professional and accredited national sign language interpreter.***

***c)***      ***In the workplace. deaf workers must receive the opportunity to work and participate in the social life of the workplace in the national sign languages. Also, deaf workers must receive the opportunity to attend specific trainings that allow them to improve within the workplace hierarchy in the national sign languages. These opportunities can be achieved either by the provision of an accredited and professional national sign language interpreter or by the training of the staff to learn the national sign languages.***

***d)***  ***In exercising their labour and trade union rights. deaf workers have the right to interact and claim their social, and labour rights, including work-related health rights, in their national sign languages through the provision of professional and accredited national sign language interpreters.***

**3.I - Particular obligations within the context of article**

“*There are several examples of assistive technologies that contribute to the inclusion of persons with disabilities and have a possible impact on their employment. What States parties need to ensure is the availability, transparency and affordability of these technologies. State Parties should also encourage research and development in the field of accessible technological environment in line with the Convention (article 4.1 f-g). This is a particular challenge in the context of developing countries .* ***However, in the case of deaf people and other sign language users, the recent technological developments have bent the direction of favouring signing avatars in lieu of professional and accredited national sign language interpreters, leaving out deaf people and other sign languages users to quality information and interactions in the labour market. Signing avatars should not replace the provision and funding of professional accredited national sign language interpreters.****”*

***“The Committee recommends State Parties to commit to providing incentives, including tax waivers, for technologies that are contributing to the inclusion of persons with disabilities, including deaf people, in an open, fair and inclusive labour market.”***

4.  **Relationship with other provisions of the CRPD**

“***Quality and inclusive education in line with the Article 24 of the Convention, including inclusive bilingual schools in the national sign languages and national written languages, play a crucial role in ensuring the inclusion of persons with disabilities, including deaf people, in an open, fair and inclusive labour market. Such quality and inclusive education is one of the most important factors for persons with disabilities, including deaf people, to best acquire the necessary and required knowledge and skills to enter and participate in an open, fair and inclusive labour market.”***

**5.   Implementation at national level**

***“In order to monitor the levels of employment of persons with disabilities, including deaf people, figures play an essential role. Particularly, data disaggregated by disability type, as well as other grounds, to identify employment gaps and unused work force must be collected at national level, as per Article 31 of the Convention.***

***The robust, reliable and disaggregated data by disability type is necessary for putting in place targeted policies ensuring the full inclusion of persons with disabilities, including deaf people in an open, fair and inclusive labour market.***

***Additionally, data disaggregated by disability type will allow to monitor whether existing reasonable accommodation measures are sufficient and are satisfactory for persons with disabilities, including deaf people. Existing tools for the collection of disaggregated data by disability type, such as the Washington Group on Disability Statistics Question Sets should be used.”***

***“Moreover, many of the barriers that persons with disabilities, including deaf people, face to access an open, fair and inclusive labour market continue to be based on stereotypes and stigma. In light of this, comprehensive awareness raising campaigns to promote a positive image about the potential that persons with disabilities, including deaf people, bring to the labour market must be developed and widely disseminated. These awareness raising campaigns should be designed with meaningful consultations of persons with disabilities through their representative organisations, in line with 4.3 of the Convention. “***

If you have any questions or queries, do not hesitate to contact the WFD Human Rights Officer, Mr Alexandre Bloxs at alexandre.bloxs@wfdeaf.org and the EUD Policy Officer, Ms Martyna Balciunaite at martyna.balciunaite@eud.eu.

Yours sincerely,

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1. World Federation of the Deaf (WFD) and World Association of Sign Language Interpreters (WASLI) Submission related to the Draft General Comment No. 2 on article 9, published on 20 February 2014 and available on:<https://wfdeaf.org/news/resources/joint-submission-with-the-wasli-on-the-draft-general-comment-no-2-on-article-9-20-february-2014/> [↑](#footnote-ref-1)
2. World Federation of the Deaf (WFD) and World Association of Sign Language Interpreters (WASLI) Submission related to the Draft General Comment No. 2 on article 9, published on 20 February 2014 and available on:<https://wfdeaf.org/news/resources/joint-submission-with-the-wasli-on-the-draft-general-comment-no-2-on-article-9-20-february-2014/> [↑](#footnote-ref-2)