

Input to the General Comment on CRPD Article 27

European Disability Forum Position Paper

By Haydn Hammersley | March 2021

**The Right to Work and Employment for Persons with Disabilities**

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# Introduction

### The European Disability Forum

The European Disability Forum is an independent NGO that represents the interests of 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

## Executive Summary

This Position Paper has been drawn up in response to a call for input by the United Nations Committee on the Rights of Persons with Disabilities. It expresses what the European Disability Forum would like to see clarified in a future General Comment relating to Article 27 of the Convention on the Rights of Persons with Disabilities, covering work and employment.

The Position Paper’s content has been guided by the work of EDF’s Social Policy and Inclusion Committee and Youth Committee.

## The full list of recommendations for the content of the new General Comment on Article 27 – Work and Employment

### On fair wages and reasonable working conditions

**(Relating to Article 27 point 1b and point 2)**

Workers with disabilities, no matter where they are employed, should be guaranteed the status of “employee”, and thus entitled to all the rights attached to this status in their country. This means a guarantee of minimum wage in countries where this exists, or a wage equivalent to that generally received in their sector of work in countries without laws on minimum wage. It also means entitlement to paid annual leave, sick leave, educational leave, unemployment benefits and all other social protection mechanisms, as well as the right to exercise trade union rights, again in line with the national norm. Workers in sheltered working conditions (see below for definition) should not be exempt from this.

### On reasonable accommodation

**(Relating to Article 27 point 1.i)**

The provision of reasonable accommodation should be driven by the requirements of the person with disabilities and not the preferences of the employer. Reasonable accommodation should comprise options for flexible working arrangements, as well as support or adjustments to the workplace in line with the person’s needs. This could include things such as (although not exclusively): physically accessible working spaces (including toilets, canteens, elevators etc.), the provision of assistive devices or technology needed to work, sign language interpretation when required, and work material in accessible formats such as Braille or easy-to-read language. Support should also be given for the provision of workplace assistance, mentoring and coaching if the employee with disabilities requires this. Furthermore, it should take into consideration the need for some employees to work in closed office spaces as opposed to open-plan settings because of sensory issues.

States Parties to the Convention should foresee financial support in the form of grants to help businesses make necessary adjustments to the workplace and/or purchase assistive devices and technology or employ support workers/interpreters/personal assistants when needed. It is particularly important to support small and medium-sized enterprises in covering any costs incurred. National employment legislation should also oblige large companies and public sector employers to foresee a budget specifically for reasonable accommodation and accessibility. States Parties should also invest in training and awareness-raising of employers and persons with disabilities on what is meant by reasonable accommodation, accessibility and inclusion in the workplace.

### On flexible working conditions

**(Relating to Article 27 point 1.i)**

Employers should be encouraged to be flexible with working arrangements for employees with disabilities to facilitate entry into an inclusive labour market and reduce barriers. This flexibility should be at the request of the employee and not imposed upon them. For example, an employee might request to work remotely. However remote/online working should never be imposed on an employee with disabilities as an alternative to making the workplace accessible.

### On labour and trade union rights

**(Relating to Article 27 Point 1.c)**

It is essential that States Parties guarantee the right to collective bargaining and affiliation with Trade Unions for persons with disabilities. This entails not only the right to be involved in the process, but also the obligation for Trade Unions to be accessible to workers with disabilities and organisations of persons with disabilities. This in turn will require, when needed, facilitating accessible communication with the assistance of sign language interpreters, Braille and/or information in easy-to-read language. Meetings and negotiations should also take place in physically accessible settings to ensure that everyone can be present.

### On protection from in-work poverty

**(Relating to Article 27 Point 1b)**

Adequate income for persons with disabilities requires more than ensuring the respect of national or sectoral minimum wage policies. The extra cost of living for persons with disabilities, because of the need to pay out-of-pocket to compensate for inaccessible structures, is such that a salary alone is rarely enough to bring a person with disabilities out of poverty. As such, the concept of “reasonable remuneration” needs to take into account the way salaries are compatible with social welfare systems. States Parties should allow persons with disabilities to retain entitlement to disability allowance when in employment, to compensate for the extra cost of living. Improving one’s quality of life by taking up paid employment should not be penalised by loss of support mechanisms and disability “benefits”.

### On career progression

**(Relating to Article 27 Point 1.a and 1.d)**

States Parties must ensure the entitlement to career progression for workers with disabilities. Particular effort must be made to ensure that training programmes are made accessible for persons with disabilities, and that workers are free from discrimination when it comes to promotions and pay-scale progression.

### On self-employment and entrepreneurship

**(Relating to Article 27 Point 1.f)**

States Parties should promote self-employment and entrepreneurship among persons with disabilities by facilitating access to capital, simplifying procedures to set-up and register a business, and facilitating access to information in accessible formats for business owners.

### On the transition towards employment in an inclusive open labour market

**(Relating to Article 27 Point 1j)**

Of particular importance should be the support towards preparing people for work in the open labour market, as well as making the open labour market inclusive enough to be able to welcome workers with disabilities. This means that, where sheltered work settings exist, there should be a focus on enabling workers to make the transition towards mainstream work settings in line with their skills, should they wish to. This can sometimes be achieved by what is referred to as “supported employment” where assistance is offered to support an employee with disabilities in adapting to a new work environment.

### Definition of sheltered workshops

The General Comment on Article 27 should clearly define what the CRPD committee understands by “sheltered workshops” and the “open labour market”. The notion of “sheltered workshops” refers to a working environment that employs persons with disabilities in settings that are largely separate from workers without disabilities, or where workers with disabilities are disproportionately represented. They are, in other words, work settings foreseen specifically for persons with disabilities. In some countries the legal status of people employed in sheltered workshops might differ from that of the open labour market, with an impact on salary norms and other rights. This is not the case in all countries. In this sense what is classed as a “sheltered workshop” by default differs from the inclusive “open labour market”.

### On safe and healthy working conditions

**(Relating to Article 27 Points 1.a and 1.b)**

States parties must make it an obligation for employers to ensure the health and safety of persons with disabilities in the workplace. This will require taking measures to make emergency evacuation procedures accessible and usable by all staff, in a way that leaves nobody behind and puts no person at disproportionate risk because of their disability. It should also require the accessibility of warning and alarm systems for emergencies and prioritise evacuations that can be done autonomously to the greatest extent possible.

Ensuring health and safety also means making sure reasonable accommodation is available so that tasks can be carried out by the person with disabilities without requiring excessive strain that could result in health issues or injury.

### On education and preparation for the job market

**(Relating to Article 27 Point 1.j)**

The barriers to finding employment can go back as early as our school years. States Parties must begin tackling this issue by investing in barrier-free, inclusive and quality education for persons with disabilities, including easier access to life-long learning. The education of young people should comprise the opportunity to be provided with a work experience placement, just as is the case in mainstream education in many countries. Likewise, vocational guidance should be offered to persons with disabilities while at school, assisting them in their transition towards the world of work, or in making informed choices about possibilities for further education.

States Parties should also make more efforts in increasing the visibility and accessibility of programmes aimed at young people that help in the transition period from education to the labour market, such as support for a first job, or traineeship placement (such as the [Youth Guarantee in the European Union](https://ec.europa.eu/social/main.jsp?catId=1079&langId=en)). These programmes should also allow young people to continue benefiting from their financial supporting mechanisms on disability (allowance and other rights going with it). Traineeship opportunities should comply with the same rules and values as full employment, meaning that reasonable accommodation should also apply to traineeship placements.

Young people with disabilities are less likely to be employed than their peers without disabilities and more effort should be made by States Parties to help this group access the open labour market.

### On the employment of women with disabilities (linking with Article 27 and Article 6 of the CRPD)

States Parties should pay particular attention not only to the inclusion of persons with disabilities in the open labour market as a whole, but specifically to the employment of women with disabilities. Statistically, women with disabilities are significantly less likely to be employed and more likely to be in underpaid, low-quality jobs with poor working conditions. Indicators measuring the employment of persons with disabilities in the labour market therefore always need to be disaggregated on the basis of gender and specific targets set for boosting the rate and the quality of employment for women with disabilities. Specific measures should be adopted to address the gender and disability pay gap, such as measures on pay transparency, and to ensure equal opportunities to high paid job and positions of leadership.

States Parties should also combat harassment, including sexual harassment, faced by women with disabilities in the world of work, in line with the [discussion paper adopted by UN Women in 2020](https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/discussion-paper-sexual-harassment-against-women-with-disabilities-en.pdf?la=en&vs=1256) and the [Joint statement by UN Women, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities on ending sexual harassment against women and girls with disabilities](https://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/JointStatement_UNW_CEDAW_CRPD.docx).

### On discrimination by association (linking with Article 27 and Article 5 of the CRPD)

Parents or relatives of persons with disabilities, in particularly mothers of children with disabilities, often face discrimination by association in employment. Workers caring for a relative with disabilities may struggle to find employment, face difficult working conditions or be laid off by their employers.

States Parties must combat discrimination by association and ensure that workers caring for relative with disabilities are granted flexible working hours, work-life balance and accommodations in line with the Convention.

# Document credits

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