

REPORT ON THE SITUATION OF BLIND
AND PARTIALLY SIGHTED PERSONS REGARDING
EMPLOYMENT IN EUROPE AFTER 10 YEARS OF
THE UNITED NATIONS CONVENTION ON THE
RIGHTS OF PERSONS WITH DISABILITIES:
CHALLENGES AND OPPORTUNITIES



The voice of blind and partially sighted people in Europe

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FOREWORD

Following the 10th European Blind Union General Assembly, held in London from October 26th to 28th 2015, EBU adopted its *Strategic Plan* for the period 2016-2019 as a roadmap to guide the organisation in the following years. This *Strategic Plan* is divided in seven parts and includes three strategic priorities which seek to improve the lives of blind and partially sighted people, strengthen national organisations of blind and partially sighted people, and create a community of organisations.

More specifically, in the area of employment the *EBU Strategic Plan 2016-2019* aimed to give every blind and partially sighted adult in Europe the opportunity to work, in line with Article 27 of the *United Nations Convention on the Rights of Persons with Disabilities*.

Given ONCE's wide experience in the field of employment and inclusion in the labour market for persons with disabilities, and not just visual impairment, in our country, ONCE's work monitoring European Union employment policies and programmes through its Technical Office for European Affairs, and its direct participation in the United Nations Committee on the Rights of Persons with Disabilities via one of its 18 experts, we believed that one of the key contributions ONCE could make to EBU during this term of office was to lead a study presenting a clear overview of the state of play for people who are blind and partially sighted in Europe in regard to work and employment. This report

endeavours not only to identify the needs of this population group and the obstacles they face, but also, and even more importantly from our point of view, to highlight the achievements of initiatives and actions undertaken by several EBU member organisations with positive outcomes.

In order to prepare this study and given the lack of official statistical data, the reference point was the countries in the region examined by the UN Committee on the Rights of Persons with Disabilities since it began its work and until 2018. This enabled us to gather updated information from governments and civil society contributions (including, in some cases, from the national organisation of blind people), as well as the concluding observations issued by the Committee to the countries as recommendations. These countries are the following: Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Germany, Hungary, Italy, Montenegro, Portugal, Serbia, Spain, Sweden and the United Kingdom.

Furthermore, ONCE felt it was vitally important to include some practises from other countries, such as France, which, although not yet examined by the CRPD Committee, had achieved positive results in terms of employment for people who are blind or partially sighted, examples which deserved to be made available to the international community in this publication.

In addition to the direct link to article 27 of the UNCRPD (work and employment), the United Nations 2030 Agenda and Sustainable Development Goals have also been considered, and more precisely SDG number 8 (decent work and economic growth); not only because it addresses the subject of this study, but also because one of its targets includes an explicit reference to persons with disabilities (target 8.5: *“By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value”*). Despite this, the failure to consider employment of persons with disabilities in the voluntary national review processes involving the 16 countries covered in this publication made it impossible for us to access more detailed information on the implementation of this specific target. Moreover, the general lack of statistics and the fact that the scarce data available on gender is constantly overlooked also acted as significant barriers to addressing properly the situation faced by women with disabilities in terms of their access to the labour market and continuity and advancement within it.

This being said, it would not have been possible to publish the report without the invaluable contributions of the national organisations of blind people in the countries included, as well as those of the EBU President and Executive Director. To everyone involved we offer our appreciation and gratitude.

Alberto Durán López,
1st Vice-President for Institutional Coordination,
Solidarity and External Relations,
ONCE General Council.

BACKGROUND

The European Blind Union's mission is to promote the interests of the estimated 30 million blind and partially sighted persons in Europe within European bodies, to produce Europe-wide research and best practices relating to policies, services and social inclusion, and to support and strengthen national organisations of blind and partially sighted persons.

Blind and partially sighted Europeans are among the most vulnerable and least visible members of society, with very low earnings and an estimated average unemployment rate of over 75 per cent –and even higher among women– leading to their social exclusion and poverty.

Employment is a very important policy issue in the EBU. EBU believes that an open attitude with employers, adequate support, skills, training and adaptive technology can change the picture and allow blind and partially sighted persons to fulfil their potential in the workplace. EBU played a major role in Council Directive 2000/78/EC of 27 November 2000 *establishing a general framework for equal treatment in employment and occupation*, and advocates for social benefits for unemployed persons with disabilities to protect their right to a decent income.

Rehabilitation and vocational training are closely related to employment and decent income and have always been high on EBU's agenda. The EBU Commission for Rehabilitation, Vocational Training and Employment (RVTE) was

¹ Simkiss P. and Reid F., RNIB (2013), *The Hidden Majority* summary report, p. 4.

established in 2003¹. The EBU and its RVTE Commission has researched various aspects of job inclusion, including strategies for blind and partially sighted persons' rehabilitation, access to the labour market, self-employment, job placement, women at work and raising awareness among employers, among others.

For instance, regarding self-employment, EBU carried out a transfer of innovation project, *Vision in Enterprise*, funded by the Lifelong Learning Programme of the European Commission and implemented between November 2010 and October 2012, with the objective of developing a toolkit for training business support advisers working with blind and partially sighted persons². With respect to women at work, in 2007 a questionnaire on the education, vocational training and rehabilitation of blind and partially sighted women was conducted with recommendations to foster the job inclusion of blind and partially sighted women.

As for access to employment, the project *Passemploi - Bridges to Employment*, co-financed by the Lifelong Learning Programme of the European Commission and implemented between 2008 and 2010, was developed. One of the objectives was to create direct partnerships among organisations working with blind and partially sighted persons, training and professional placement organisations and businesses.

The working group of the Commission for Rehabilitation, Vocational Training and Employment reported that between 40 to 80 per cent of blind and partially sighted persons were not in work. This commission has carried out some studies on important issues in employment such as *Political Positions Concerning the labour Market from Self-Help Organisations of Blind and Partially Sighted Persons in Europe* and a report titled *The Hidden Majority*. The latter is comprised of a series of studies about economic inactivity among blind and partially sighted people in seven European countries (Sweden, Germany, Romania, Poland, Austria, Netherlands and France).

²Countries that responded to the questionnaire were: Bulgaria, Denmark, Germany, Estonia, Finland, Great Britain, Ireland, Italy, Luxembourg, Montenegro, Norway, Russia, Sweden, Switzerland, Spain and the Czech Republic. Great Britain contributed with a study by the Royal National Institution of the Blind (RNIB): *Network-1000-study and the Labour Market Experiences of People with Seeing Difficulties*.

From 2015 onwards, several training courses on youth employability have been held. This activity is part of EBU's triennial action plan 2015-2017, co-funded by the Rights, Equality and Citizenship Programme of the European Commission.

In 2008, EBU's online database on the CRPD was initiated and it continues to be developed. Its focus is to gather and present data from 40 participating countries on specific aspects of national law and policy with a particular emphasis on data collection especially relevant to blind and partially sighted persons. The database is organised into sections that correspond to the different UNCRPD articles, such as article 27 on work and employment.

EBU's actions are guided by its Strategic Plan, which is an important instrument in its work and articulates its key priorities and initiatives following the principles set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The latest Strategic Plan outlines its direction for 2016 to 2019 and sets out the Union's strategic priorities. Accomplishing the plan requires a partnership between EBU and its member organisations. At its meeting on 16th and 17th January 2016, the EBU Board received the conclusions of the working party set up to finalise the strategic plan 2016-2019 based on feedback gathered at the 10th General Assembly.

In 2016, the new EBU Board identified a number of priority projects to pursue in order to support the delivery of the strategic plan. One of its priorities was to improve the lives of blind and partially sighted people and, within this priority, the decision was taken to carry out a study focusing on blind and partially sighted people's access to the job market, especially in light of the fast-changing employment environment in Europe.

It was decided to carry out a comparative study focusing mainly on the Concluding Observations of the UNCRPD Committee regarding employment, and the Spanish National Organisation of the Blind (ONCE) was selected to lead the project.

The overarching objective of this research is to detail the current situation of blind and partially sighted persons in Europe ten years after the adoption of the UNCRPD, as well as to identify challenges and opportunities and offer guidelines in order to improve their access to the labour market.

The specific objectives of the project are:

- to analyse UNCRPD article 27, international legislation and Sustainable Development Goal number 8;
- to capture the status of persons with disabilities, and particularly people with visual impairment, in relation to employment;
- to identify current challenges concerning access to the labour market;
- to highlight best practices in Europe which can provide real opportunities for employment;
- to draw up guidelines for public authorities, service providers and organisations representing blind and partially sighted persons.

The main benefits to be achieved from the research are:

- to update facts and figures regarding employment from reports presented to the UNCRPD Committee;
- to identify the main challenges in access to work and employment;
- to showcase current 'effective employment schemes', mainly in the European Union but also referencing other European countries, and to compile best practices;
- to gather and disseminate examples of good practices in providing support in the workplace.

The study takes this background information into account, as well as the specific research on employment among blind and partially sighted people carried out by EBU in the past. It also focuses on meeting the objectives and expected outcomes mentioned above.

METHODOLOGY

The theoretical basis of this research is the United Nations Convention on the Rights of Persons with Disabilities and, more specifically, its article 27 on work and employment.

The entry into force of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol in May 2008 marked the beginning of a new era in the way disability and persons with disabilities are considered. Disability is recognized as the consequence of the interaction of the individual with an environment that does not accommodate that individual's differences and limits or impedes the individual's participation in society. This approach is referred to as the social model of disability. The Convention on the Rights of Persons with Disabilities endorses this model and moves it forward by explicitly recognizing disability as a human rights issue, and this study is carried out from this paradigm.

The methodology is based on the international monitoring process followed by States Parties to the Convention. At the international level, article 34 of the Convention establishes the Committee on the Rights of Persons with Disabilities, a committee of independent experts which engages in a constructive dialogue with states on the implementation of the Convention. This dialogue is carried out on the basis of an initial report that should be presented within two years after the entry into force of the Convention in the state concerned, and thereafter at least every four years and whenever the Committee so requests. In its report, the State Party provides information on measures taken to give effect to its obligations under the Convention.

Civil society organizations, organizations of persons with disabilities, independent monitoring mechanisms, national human rights institutions and other stakeholders may also engage with the Committee by submitting their alternative reports so that the Committee enjoys a fuller understanding of the problems affecting the implementation of the Convention in a specific state. The Committee also emphasizes the importance of the participation and consultation of such organizations by States Parties in the preparation of their reports, in order to reflect the reality of persons with disabilities.

The Committee may appoint members to serve as country rapporteurs, who may then act as focal points for introducing and coordinating the constructive oral dialogue with the State Party delegation. This includes prior consultation and co-ordination regarding any priority areas or issues to be considered. The country rapporteur prepares a list of issues on the report, which includes questions that require further clarification by the State Party or that are of special concern to the Committee prior to the dialogue. The State Party gives its answers to this list of issues and, based on all of this information, the constructive dialogue is held.

Finally, following the constructive dialogue, the country rapporteur drafts concluding observations and recommendations for follow-up actions to improve and strengthen implementation and, to finalise the process, these concluding observations are approved by the Committee in plenary session.

The Committee may issue authoritative statements, known as general comments, to clarify specific provisions in the Convention or specific issues arising in the implementation of the Convention. It has already issued four general comments which are also considered in this study³.

The research is based on all the information and secondary data gathered by the UNCRPD Committee regarding article 27 on work and employment during the reporting procedure, such as States Parties' reports, alternative reports presented by civil society and other interested parties, States Parties' replies to lists of issues and concluding observations. It aims to give an account of the

³CRPD General Comment No 1 (2014), Article 12: Equal Recognition before the Law; CRPD General Comment No 2 (2014), Article 9: Accessibility; CRPD General Comment No.3 (2016), Article 6: Women with Disabilities; and CRPD General Comment No 4 (2016), Article 24: The Right to Inclusive Education.

situation of the rights of persons with disabilities in the European Union based on an analysis of the activity carried out by the UNCRPD Committee and information gathered during the CRPD follow-up process. This means we are describing the real situation from the point of view of the Committee, allowing us to gain insight into some of the issues that most concern the Committee in relation to employment as well as assessing implementation of the Convention in the European Union using information provided by organisations of blind and visually impaired people.

At the time this study was conducted, the following European countries had been considered by the Committee: Spain (September 2011), Hungary (September 2012), Austria (September 2013), Sweden (March-April 2014), Azerbaijan (April 2014), Belgium (September 2014), Denmark (September 2014), Germany (March 2015), Croatia (March 2015), Czech Republic (March-April 2015), Ukraine (August 2015), Serbia (April 2016), Slovakia (April 2016), Lithuania (April 2016), Portugal (April 2016), Italy (August 2016), Bosnia and Herzegovina (April 2017), Armenia (April 2017), Cyprus (April 2017), Republic of Moldova (April 2017), Latvia (August 2017), Luxembourg (August 2017), Montenegro (August 2017), the United Kingdom (August 2017), Slovenia (February-March 2018), Russian Federation (February-March 2018), Bulgaria (August 2018), Malta (August 2018), Poland (August 2018), and the former Yugoslav Republic of Macedonia (August 2018). The European Union (August 2015) had also been considered in its capacity as a regional integration organisation.

Other sources of information are the studies EBU has published on the subject, other relevant bibliography as well as the EBU's online database on the CRPD, which collects and presents data on specific aspects of national law and policy with a particular emphasis on gathering data especially relevant to blind and partially sighted persons through a questionnaire presented by national authors in the section on article 27. The following countries answered the questionnaire on article 27:

Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Montenegro, Netherlands, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

The study also considers information gathered in the framework of the EBU REC Strategic Plan 2018-2021, which includes a contest to collect, summarise and disseminate the best employment practices for blind and partially-sighted people in Europe.

In order to carry out the research, a supervisory committee was set up to coordinate each stage of the project. Its work was performed mainly by e-mail and Skype calls, but one face-to-face meeting was held in Madrid on November 25th 2017 with the participation of representatives from Denmark, Italy, Hungary and Spain.

Regarding the structure of the study, it is divided in two parts. First the theoretical framework is established, the right to work and employment is explored by considering the most relevant international legal instruments, such as the International Covenant on Economic, Social and Cultural Rights (CESCR) General Comment 23, the Convention on the Rights of Persons with Disabilities and the Sustainable Development Goals, including an analysis of Goal 8 on employment and persons with disabilities. Secondly, the study provides a compilation of the situation of persons with disabilities, and in particular blind and partially sighted persons, regarding employment in European countries. The criteria used to select the countries to be studied is that they have gone through the CRPD reporting procedure and they have answered EBU's questionnaire on article 27. The study includes an analysis of the countries selected regarding each of the key provisions of the Convention. The information is analysed, good practices are compiled, conclusions are drawn and recommendations are put forward.

Several obstacles were encountered when conducting the study. First, to develop a comparative international study, caution is required due to the different definitions of 'disability' and 'blindness and partial sight' and varying interpretation of statistical data. It is also important to bear in mind that a wide range of social security systems, employment regulations and different economic situations exist in each of the European countries. It should be noted that information on countries varies; in some cases, we only have the state report, while in others we also have alternative reports. The information in the observations and recommendations is analysed and compared. As there is very little specific data on blind and partially sighted persons regarding employment, most of the data gathered refers to the wider population of persons with disabilities.

THE RIGHT TO WORK AND EMPLOYMENT

The right to work is a fundamental human right. The Universal Declaration of Human Rights recognizes that *“everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”* (art. 23, para. 1). The right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity⁴.

The Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities, in article 27, sets out the right to work of persons with disabilities and establishes the legal framework for state obligations in relation to work and employment of persons with disabilities. Article 27 reads as follows:

Article 27 - Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to

⁴The human right to work has been codified in several international legal instruments: the Convention on the Rights of Persons with Disabilities (art. 27); the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights (art. 8, para. 3 (a)); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5, para. (e)(i)); the Convention on the Elimination of All Forms of Discrimination against Women (art. 11, para. 1 (a)); the Convention on the Rights of the Child (art. 32); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (arts. 11, 25, 26, 40, 52 and 54). The ILO has also adopted a wide range of instruments related to the right to work, including the Declaration on Fundamental Principles and Rights at Work (1998) and the Declaration on Social Justice for a Fair Globalization (2008). ILO has also formulated the concept of ‘decent work’.

gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

(f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

(g) Employ persons with disabilities in the public sector;

(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

(j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 27, paragraph 1 of the Convention obligates States Parties to recognize the right of persons with disabilities to work on an equal basis with others. It states that the right of persons with disabilities to work includes the right to the opportunity to gain a living by work **freely chosen** or accepted in a labour market and work environment that is **open, inclusive and accessible** to persons with disabilities, and sets out a non-exhaustive list of appropriate steps for States Parties to take, including through legislation, to safeguard and promote the realization of the right to work.

There are a number of essential principles with which governments are bound to comply:

- **Free choice:** a person must be free to choose to participate in employment opportunities without being forced into certain types of work.
- **Open labour market:** there must be no discrimination in access to or participation in the labour market.
- **Decent work:** a person must be treated fairly in terms of payment, length of working hours and freedom to join trade unions.
- **Safe working environment:** a person must be able to work without being at risk of injury or death.

While the primary focus of employment strategies for persons with disabilities should be on providing them with equal opportunities in the open labour market, so called 'alternative' employment has been, for many, the only real option

available. Often, such initiatives take the form of supported employment or sheltered employment.

Supported employment involves the worker learning on the job alongside a job coach who provides follow-up support to both the employee and the employer in a regular workplace.

Sheltered employment takes place in a separate setting and may entail lower work output requirements than that expected in the open labour market. Furthermore, working arrangements are frequently not covered by labour laws. Sheltered employment should be regarded as transitional, but also a type of employment that provides ongoing support.

Article 27 of the Convention clarifies the right of women and men with disabilities to work and further outlines the following obligations governments must meet with respect to providing equal opportunities in employment:

(a) Non-discrimination: persons with disabilities have the right to work on an equal basis with others.

The Convention acknowledges that persons with disabilities may be subject to multiple or aggravated forms of discrimination on the basis of a variety of factors, including race, colour, sex, age, language, religion, ethnic, indigenous or social origin or any other status (preamble, para. (p)).

(b) Accessibility: the right of persons with disabilities to work includes the opportunity to earn a living in a work environment that is accessible for people with disabilities. Accessibility in the workplace involves identifying and removing barriers that prevent persons with disabilities from carrying out their work on an equal basis with others.

(c) Reasonable accommodation: the Convention defines reasonable accommodation as *“necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”* (article 2).

Governments and employers have a legal obligation to provide reasonable accommodation to persons with disabilities and such accommodations should involve a proportionate cost for employers. The employer must take measures to adapt workplaces for an employee with disabilities, such as removing physical barriers by installing ramps, facilitating access by employees with visual impairment to information technologies, or adjusting working times to accommodate the needs of workers with disabilities.

Policies that promote and regulate flexible and alternative work arrangements that reasonably accommodate the individual needs of employees with disabilities should be implemented. These can include adjustment and modification of machinery and equipment, modification of job duties, working times and work organisation, and physical adaptation of the work environment to provide access to the workplace.

(d) Positive measures: states should adopt positive measures to promote employment opportunities for persons with disabilities. The most common tends to be the use of quotas, but there are others such as subsidies, tax breaks and preferential conditions in public procurement processes, among others.

Article 27, paragraph 2 of the Convention establishes that *“States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”*

Persons with disabilities, and in particular persons with intellectual or psychosocial disabilities, may be especially vulnerable to situations of forced labour and exploitation due to prejudice related to their mental capacity (UN, 2012: 13).

The Convention includes some key provisions relating to protecting the rights of persons with disabilities to **just and favourable conditions of work**, including equal opportunities and equal remuneration for work of equal value, as well as safe and healthy working conditions, including protection from harassment.

If persons with disabilities are employed, they commonly earn less than their counterparts without disabilities. Moreover, women with disabilities often earn less than men with disabilities (WHO, 2011: 239).

The Convention requires States Parties to enable persons with disabilities to **have effective access to general technical and vocational guidance programmes**. Education, training and continuous learning are instrumental to the right to work.

Many countries have introduced technical and vocational training strategies for persons with disabilities. Often, however, such training tends to take place in segregated settings and frequently focuses on skills and activities that are not in demand in the labour market. Moreover, it is guided by low expectations in terms of what persons with disabilities can do. Consequently, persons with disabilities may be trained for many years without any expectation of inclusion in the open labour market (UN, 2012: 12).

The full realization of the provisions of article 27 of the Convention on work and employment is reliant upon the implementation of, inter alia, the following articles of the Convention: article 8 on awareness raising; article 9 on accessibility; article 12 on equal recognition before the law; article 17 on protecting the integrity of the person; article 20 on personal mobility; article 24 on education; and article 26 on habilitation and rehabilitation.

The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights guarantees the right to work in a broad sense (art. 6). It recognises the right of everyone, including persons with disabilities, to the enjoyment of just and favourable conditions of work, and in particular the right to safe working conditions (art. 7). Article 8 of the Covenant enunciates the right of everyone to form trade unions and join the trade union of her or his choice, as well as the right of trade unions to function freely.

In its *General comment No. 23 (2016) on the right to just and favourable conditions of work* (article 7 of the International Covenant on Economic, Social and Cultural Rights), the relationship between the right to just and favourable conditions of work and workers with disabilities is set out:

“At times, workers with disabilities require specific measures to enjoy the right to just and favourable conditions of work on an equal basis with

others. Workers with disabilities should not be segregated in sheltered workshops. They should benefit from an accessible work environment and must not be denied reasonable accommodation, like workplace adjustments or flexible working arrangements. They should also enjoy equal remuneration for work of equal value and must not suffer wage discrimination due to a perceived reduced capacity for work;⁵

Sheltered workshops should be treated with care since the right of everyone to the opportunity to gain a living by work which he or she freely chooses or accepts⁶ is not accomplished when the only real opportunity open to persons with disabilities is to work in these facilities, often under substandard conditions. In this spirit, the Committee on Economic, Social and Cultural Rights has pointed out that arrangements whereby persons with a certain category of disability are effectively confined to certain occupations or to the production of certain goods may violate the right to work⁷.

The 2030 Agenda: Sustainable Development Goals. Analysis of Goal 8 and persons with disabilities

The 2030 Agenda was adopted in 2015 and concludes in 2030. It is universal so it applies to all countries. Its objective is to eradicate poverty in all its forms and to realize economic empowerment through sustainable development. It comprises 17 goals which include a total of 169 targets (all measured using 231 global indicators). There are 7 references to persons with disabilities in the Agenda: education (2); employment; reducing inequalities; inclusive cities (2); and disaggregation of data by disability.

In paragraph 23, persons with disabilities are included among vulnerable people which means that whenever ‘vulnerable’ is referenced throughout the Agenda (18 times), these provisions directly apply to persons with disabilities.

⁵ General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights) (E/C.12/GC/23).

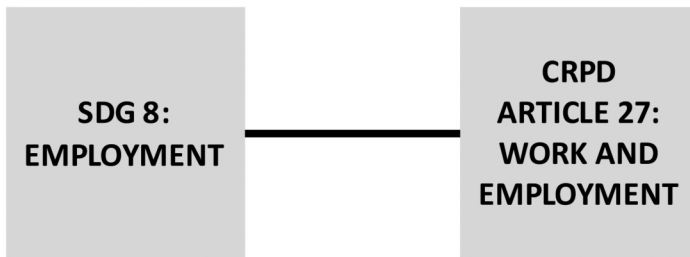
⁶ See International Covenant on Economic, Social and Cultural Rights, art. 6, para. 1.

⁷ See the Committee’s general comment No. 5 (1994) on persons with disabilities, para. 21. The Committee on the Rights of Persons with Disabilities has also expressed concern over reserved employment, such as the field of “blind massage,” for example, which discriminates against persons with disabilities in their vocational and career choices (CRPD/C/CHN/CO/1, para. 41).

The inclusive phrasing of many goals and targets also make them implicitly applicable for persons with disabilities, such as those referencing “for all” or “all women and men.” Even without any such references, all the goals and targets are applicable to persons with disabilities by simple virtue of their universality, which applies to all, and the overarching principle of ‘leave no one behind’.

Inclusion and the rights of persons with disabilities can only be ensured by applying the UNCRPD to the implementation of the SDGs. The implementation of the 2030 Agenda must be guided by the CRPD in order to transform the lives of persons with disabilities worldwide⁸.

GOAL 8. EMPLOYMENT AND CRPD



Source: The 2030 Agenda: the inclusion of persons with disabilities introductory toolkit, IDA.

There is a specific reference to persons with disabilities and employment in Goal 8, which states as follows:

“8.5. By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

8.5.1. Average hourly earnings of female and male employees, by occupation, age and persons with disabilities.

8.5.2. Unemployment rate, by sex, age and persons with disabilities.”

⁸ High-Level Political Forum 2017, Submission paper by the Stakeholder Group of Persons with Disabilities.

In order to accomplish this goal the following actions are needed:

- Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services.
- Achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.

How is this goal achieved for persons with disabilities?

- the expansion of anti-discrimination provisions in labour and labour-related laws;
- the realization of reasonable accommodation and creating more inclusive mainstream initiatives to promote full and productive employment for persons with disabilities;
- access to training and vocational education courses;
- access to bank loans and micro-finances to start-up businesses.

European Legislation

Based on article 13 of the Treaty establishing the European Community, *Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation* (the Employment Equality Directive), which prohibits discrimination inter alia on the grounds of disability in the field of employment and vocational training, was adopted.

The Directive prohibits any discrimination, be it direct or indirect, in the field of employment, vocational training, pay and working conditions and membership in organizations of workers or employers on several grounds, including disability.

European Union member states were required to adopt national laws to ensure compliance with the Directive by December 2006. Unfortunately, the directive is still far from full implementation on a level-playing field in all countries. This legislation is quite a useful and strong instrument, and the priority is still at national level to make sure that it is implemented and used by persons with disabilities who have been subjected to discrimination.

The European Commission has the right to take any member state that fails to adopt such laws or transposes them incorrectly to the European Court of Justice. The Court is also responsible for a uniform interpretation of the directive and has already pronounced a judgement in relation to this piece of legislation. EDF has produced a document regarding the interpretation of the European Court of Justice judgement.

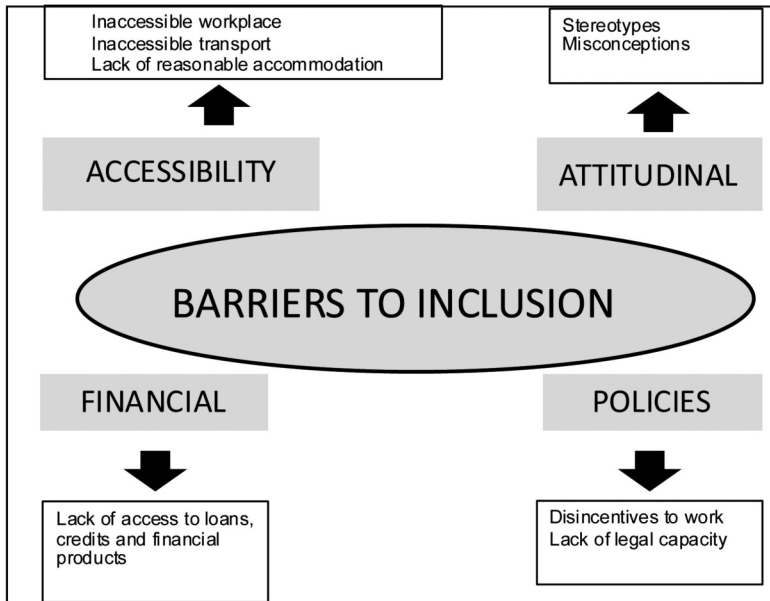
Among the substantive provisions of the Directive, the article on *reasonable accommodation* is of crucial importance to persons with disabilities.

Another way in which member states are permitted by EU law to favour workers with disabilities is through the use of disability-based criteria in public procurement processes. By virtue of Directive 2014/23/EU (it should be noted that article 20 is non-mandatory, although member states are advised to transpose it), article 20 would allow contracting authorities to restrict some tendering procedures for the purchase of goods, works or services to sheltered workshops and economic operators whose main aim is integration in the labour market for people with disabilities and disadvantaged persons. The revised Directive requires 30% of employees to fall into these two categories.

Barriers to inclusion

When persons with disabilities are employed, they are more likely to be in low-paying jobs, at lower occupational levels and with poor promotion prospects and working conditions. They are often in part-time jobs or temporary positions with few possibilities for career development. The obstacles people with disabilities face in this regard are often related to negative attitudes or opinions, deeply-rooted stigmas and stereotypes and lack of interest on the part of governments, employers and the general population. Lack of access to education and training in skills relevant to the labour market are also major barriers. Persons with disabilities are often seen as unfit for working life, incapable of carrying out tasks needed in the open labour market, or better off in protected environments such as sheltered workshops (UN, 2012).

Since persons with disabilities have difficulties in accessing the open labour market, **self-employment** is a common practice. However, persons with disabilities often find themselves in situations where they are denied support to start a business due to obstacles in accessing loans, credit guarantees or similar financial assistance.



Source: CBM (2016).

ANALYSIS OF THE SITUATION OF PERSONS WITH DISABILITIES REGARDING EMPLOYMENT IN EUROPEAN COUNTRIES

There are estimated to be over 30 million blind and partially sighted people in geographical Europe (see details). An average of 1 in 30 Europeans experiences sight loss. There are four times as many partially sighted persons as blind persons. The average unemployment rate among blind and partially sighted persons of working age is over 75 percent. More women are unemployed than men⁹.

Regarding the employment situation of blind and partially sighted persons, the UNCRPD Committee highlights the high unemployment rates for persons with disabilities, which are greater for women, and the special working conditions that persons with disabilities face. In this area, it is common to find observations on economic policies. Recommendations to eliminate discrimination in working conditions, access to the labour market by persons with disabilities, and adjustments and support for employment stand out as mechanisms for the achievement of inclusive employment.

The following is an analysis of the situation of persons with disabilities, and in particular blind and partially sighted persons, regarding employment in the European countries which have gone through the CRPD reporting procedure and answered EBU's questionnaire on article 27.

⁹ EBU web, <http://www.euroblind.org>.

AUSTRIA

Austria ratified the Convention and its Optional Protocol in July 2008. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/AUT/1) submitted on 10th October 2011 Alternative reports: Austrian Civil Society Organizations; Disability Council International
List of Issues (CRPD/C/AUT/Q/1) submitted on 8th May 2013
Concluding Observations (CRPD/C/AUT/CO/1) adopted on 11th September 2013
Presentation of combined second and third periodic reports no later than 26th October 2018

- Protection from discrimination

The ban on discrimination in employment was regulated in the Disability Employment Act.

Protection against discrimination and harassment at work is an important part of anti-discrimination legislation for people with disabilities. The essential point is

that nobody may be directly or indirectly discriminated against in employment because of a disability. This protection stretches from job applications to ending a job and covers pay rates, initial and further training, re-training and careers issues. The assertion of claims in court has to be preceded by obligatory conciliation proceedings at the Federal Social Office.

In addition, for registered persons with disabilities there is enhanced protection against dismissal to protect against socially incompatible dismissals. Whether a dismissal can take place or not is decided by a regional Disability Committee which includes civil society organisations. The decision is based on a weighing up of interests¹⁰.

- Positive measures

The Federal Ministry of Labour, Social Affairs and Consumer Protection (BMASK) and the Federal Social Office have a whole range of measures for the occupational integration of people with disabilities. The most important of these are:

- (a) Individual funding (e.g. wage support and workplace adaptation);
- (b) Project support and accompanying help (e.g. personal assistance, clearing, projects to help people obtain qualifications and employment projects).

The BMASK draws up a Nationwide Labour Market Policy Programme for the Disabled (BABE) every two years. The cornerstone of this programme is the system of accompanying assistance. Financing is provided by the European Social Fund and national funding (compensatory tax fund and the budget). Examples of accompanying assistance are work assistance and vocational training assistance, personal assistance and technical equipment in the workplace, job coaching and 'clearing'¹¹.

- Protection of the rights of blind and partially sighted persons

The BMASK also points out that blind people and those with severely impaired vision receive financial support (blind person's allowance, guide dog allowance)

¹⁰ CRPD/C/AUT/1, para. 293-294.

¹¹ CRPD/C/AUT/1, para. 286-287.

from social compensation. In order to ensure the highest possible levels of personal mobility and independence, high-quality mobility aids, devices, supporting technologies and human/animal help (e.g. guide dogs) are (co-) financed¹².

Disability organisations point out that people with visual disabilities frequently also have reduced mobility. In order to take part in public life, for many people the availability of a guide dog and of mobility, orientation and low-vision training is essential. The Austrian Association for the Blind and Visually Disabled (BSVÖ) therefore demands that guide dogs be recognised as a medical rehabilitation measure. Furthermore, mobility and orientation training as well as instruction in practical life skills for blind and visually disabled people and low-vision training should also be included in medical measures¹³.

For decades now, the relevant laws behind social compensation have provided for monthly cash benefits which cover both the additional costs related to disabilities (e.g. basic pensions for invalidity, widows and orphans, additional allowances for nursing care, the blind and for very severe disabilities, and allowances for special diets) as well as providing a subsistence allowance in the form of a minimum income¹⁴.

Disability organisations and social services providers (such as Caritas and Diakonie) criticise the fact that the accessibility of workplaces is often poor¹⁵.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Against the background that obtaining access to initial vocational training is particularly challenging for young people with disabilities and special educational needs, integrated vocational training (IBA) was created in 2003, which provides for the extension of the duration of training by one or two years and/or makes it possible to obtain a partial qualification in a trade. IBA is accompanied by

¹² CRPD/C/AUT/1, para. 207.

¹³ CRPD/C/AUT/1, para. 283.

¹⁴ CRPD/C/AUT/1, para. 306.

¹⁵ CRPD/C/AUT/1, para. 303.

vocational training assistance. This ensures a reaction which is flexible and suited to the needs and situation of the respective person¹⁶.

The BMASK explains that the eight integrated companies which provide around 1,700 jobs for people with disabilities are a tried and tested instrument of vocational integration. The Ministry also refers to the appropriate wages (based on collective agreements) and comprehensive social insurance cover provided for those employed there¹⁷.

- Promote employment opportunities and assistance

In the Value Added Tax (VAT) Act, the turnover of the businesses of blind persons is exempt from VAT¹⁸.

Disability organisations and social services providers (such as Caritas and Diakonie) note there is a disadvantage in terms of social insurance and pension law, in that it is still not possible for people with disabilities to receive social insurance cover as part of work in workshops and day centres¹⁹.

- Employment in the public sector

Although the employment of workers with disabilities in the public sector is regulated by law, it is mostly NGOs which employ people with disabilities; most public enterprises prefer to pay a fine for not hiring enough workers with disabilities²⁰.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Companies employing people with disabilities are entitled to receive integration subsidies, wage subsidies, job safeguarding subsidies, grants for wage/training costs or subsidies to adapt facilities to make them more barrier-free.

¹⁶ CRPD/C/AUT/1, para. 290.

¹⁷ CRPD/C/AUT/1, para. 291.

¹⁸ CRPD/C/AUT/1, para. 192.

¹⁹ CRPD/C/AUT/1, para. 303.

²⁰ EBU questionnaire.

The Federal Chancellery (BKA) refers to the Federal Public Procurement Act, and particularly to the possibility for social policy issues to be taken into account in the tendering process (e.g. the employment of people with disabilities)²¹.

There are many projects and organizations working on the inclusion of workers with disabilities in the open labour market. They focus on different clients or services, e.g. people with mental disabilities, academics with disabilities or visually impaired people like the training centre of the Austrian Federation of the Blind and Partially Sighted, SEBUS, which provides vocational training and helps with the application process and job interviews²².

The Austrian Economic Chamber (WKÖ) underlines the significance of sustainable integration and refers to numerous events such as 'Careers without Barriers' and projects such as the internet platform www.arbeitundbehinderung.at, which offers information about funding opportunities and examples of best practice. Brochures such as 'It's the Attitude That Counts' are created together with the BMASK. Best practice projects such as 'Self-employed with a Disability' aim to support self-employed persons with health impairments. In the view of the WKÖ, integration can only succeed if it is carried out with the necessary consideration for business processes²³.

Unfortunately, there are many workers with disabilities in the sheltered sector. Workers in those day care centres have regular working hours in which they produce goods or provide services, but their work is not classified as gainful employment. Therefore, they are not covered by any wage agreements and minimum wages don't apply, which means that they are left with a kind of pocket money only. They are not fully insured and have no right to pensions; also, there is no statistical data on employment in the sheltered sector available²⁴.

- Provision of reasonable accommodation

The Disability Employment Act obliges employers to take measures which are suitable and required in specific cases in order to provide people with disabilities

²¹ CRPD/C/AUT/1, para. 289-290.

²² EBU questionnaire.

²³ CRPD/C/AUT/1, para. 299.

²⁴ EBU questionnaire.

with access to employment, to allow them to practise a trade or profession, to obtain promotion and to participate in initial and further training, except in cases where these measures would place an unreasonable strain on the employer. If the barriers cannot be eliminated with reasonable cost and/or effort, at least a substantial improvement of the situation should be strived for which comes as close as possible to equal treatment²⁵.

- Acquisition of work experience in the open labour market

Against the background of the existence of a whole range of interesting programmes for labour market integration, there is a lack of central coordination and information about the various offers. In practice, it can be seen that the transition from the sheltered labour market to the primary labour market is difficult, given that those affected lose the right to work in their sheltered workplace again, including the financial support provided for in the legislation on disabled persons (no return into the system of 'help for the disabled')²⁶.

There are many projects and organizations working on the inclusion of workers with disabilities in the open labour market. They focus on different clients or services, e.g. people with mental disabilities, academics with disabilities or visually impaired people like the training centre of the Austrian Federation of the Blind and Partially Sighted, SEBUS, which provides vocational training and helps with the application process and job interviews²⁷.

Disability organisations and social services providers (such as Caritas and Diakonie) note that due to a lack of awareness in society concerning people with disabilities, it is difficult to become fully accepted in the world of work²⁸.

- Vocational and professional rehabilitation, job retention and return to work programmes

The Federal Ministry of Health (BMG) points out that there are various forms of rehabilitation: at a medical level (to ensure the success of hospital treatment or relieve the consequences of an illness); at occupational level (enabling a

²⁵ CRPD/C/AUT/1, para. 34 and 54.

²⁶ CRPD/C/AUT/1, para. 302.

²⁷ EBU questionnaire:

<http://www.euroblind.org/convention/article-27--work-and-employment/nr/3167#16>.

²⁸ CRPD/C/AUT/1, para. 303.

person to work in their job); and at a social level (facilitating their private lives). In the field of social insurance, the motto is 'rehabilitation rather than granting a pension'. If the original job can no longer be performed, there is the right to vocational retraining which is financed by the Ministry of Social Affairs²⁹.

The Länder are accused of not granting uniform rehabilitation services to which there is legal entitlement³⁰.

CONCLUDING OBSERVATIONS

44. The Committee notes with concern that approximately 19,000 Austrians work in sheltered workshops outside of the open labour market and receive very little pay.

45. While noting that Austria has a quota system for employing persons with disabilities, the Committee is concerned at reports that the majority of employers prefer to pay a fine rather than comply with the quota requirement. It notes that only 22 per cent of employers actually fulfil their obligations under the Disability Employment Act, which governs this quota system.

46. The Committee notes with concern that there is a significant gender gap in the employment and income of women with disabilities, compared to men with disabilities.

47. The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market. The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market.

The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.

²⁹ CRPD/C/AUT/1, para. 275.

³⁰ CRPD/C/AUT/1, para. 284.

BELGIUM

Belgium ratified the Convention and its Optional Protocol in July 2009. Belgium made a declaration upon signature: *“This signature is equally binding on the French Community, the Flemish Community, the German-speaking Community, the Walloon Region, the Flemish Region and the Region of Brussels-Capital.”*

Revision Process CRPD Committee
State Party report (CRPD/C/BEL/1) submitted on 13th March 2013
Alternative reports: Gelijke Rechten voor Iedere Persoon met en handicap (GRIP) - shadow report Flanders (Belgium) 2011; Belgium Disability Forum-12th Session Submission on Belgium; Interfederal Centre For Equal Opportunities and Opposition to Discrimination and Racism - List of issues - Belgium
List of Issues (CRPD/C/BEL/Q/1) submitted on 12th May 2014
Concluding Observations (CRPD/C/BEL/CO/1) adopted on 28th October 2014
Presentation of combined second and third periodic reports no later than 2nd August 2019

Belgium has been a federal state with communities and regions since 1993, and each level of government has competence in certain areas. Disability policy falls under the remit of a number of bodies.

The 1963 Social Rehabilitation Act (Loi de Réhabilitation Sociale) is the main piece of federal legislation governing disability and employment. It applies to both the private and public sectors. In addition, decrees are issued by each of the three Communities (Flemish, French, and German speakers) and the regional governments in each of the three Regions (Flemish, Walloon and Brussels Regions).

The most recent statistics available on persons with disabilities and employment date from 2002. There have been no more recent updates on these statistics. The rate of employment among persons with disabilities is 42.5%, in comparison with 63.4% for the rest of the population³¹.

There is a low level of awareness in the public and private sectors among employers, workers and unions with regard to the realities of disability, the skills persons with disabilities possess and the need for persons with disabilities to work³².

- Protection from discrimination

Efforts to tackle discrimination against persons with disabilities are governed by the Act of 10th May 2007 on combating certain forms of discrimination. This act prohibits all forms of discrimination: direct and indirect discrimination, incitement to discrimination, harassment and denial of reasonable accommodation for persons with disabilities (art. 14)³³.

Pursuant to the 2002 decree, Flanders is also implementing a policy to promote proportionate participation and diversity in the labour market. The actions provided for include the formulation of diversity plans by enterprises, local administrations and other employers in the business and non-business sectors. Enterprises are invited to draw up targets in terms of entry, transition, training and retention of persons with vocational disabilities. In Flanders, since 2000, around 5,000 enterprises and organizations have implemented this type of diversity policy³⁴.

³¹ Belgium Disability Forum Alternative Report, p.195.

³² Belgium Disability Forum Alternative Report, p.197.

³³ CRPD/C/BEL/1, para. 139.

³⁴ CRPD/C/BEL/1, para. 142.

- Positive measures

Pursuant to the 2002 decree, various recruitment support measures have been developed, including subsidies for wage costs, adaptations to workplaces and work tools, provision of interpreters for deaf persons, and financial support with regard to transport and accommodation costs.

In terms of personal assistance, the French Community Commission Decree of 4th March 1999 provides for allowances towards communication aids (video-magnifiers, TV magnifiers, wireless sound transmitters, FM equipment, adapted telephones, braille writing machines, computers and other adaptations for persons who are blind or visually impaired) and braille translation³⁵.

- Protection of the rights of blind and partially sighted persons

The protection afforded against unlawful dismissal is based on the principles contained in the European directives on equal treatment and non-discrimination, as well as on the Act of 10th May 2007 on combating certain forms of discrimination, which prohibits and penalizes discrimination in this area³⁶.

In 2002, the Walloon government undertook to make the majority of the Walloon Region's websites accessible to persons with visual impairments. In 2005, this policy was incorporated in the Walloon component of the national action plan for tackling the digital divide. At present, there are 27 websites carrying either the Anysurfer or Blindsurfer label³⁷.

The concept of disability-based harassment is explicitly referred to in the Belgian legislation on protection against violence and harassment. Workers with disabilities who feel that they are the subject of harassment linked to their disabilities have access, in the same way as other workers, to the internal procedures of their enterprises. They may request that the situation be resolved through informal channels or through a complaint lodged with a prevention adviser specializing in the psychosocial aspects of work³⁸.

³⁵ CRPD/C/BEL/1, para. 91.

³⁶ CRPD/C/BEL/1, para. 153.

³⁷ CRPD/C/BEL/1, para. 91.

³⁸ CRPD/C/BEL/1, para. 150.

In Belgium, the transition from unpaid activity to paid labour is not well organized. In Flanders VDAB and GTB try to place persons with a disability in the labour market. However, the combination of allowances (allowance for persons with disabilities, sickness or disability benefits, unemployment benefits) with paid labour is problematic³⁹. This aspect is also underlined as problematic by GRIP.

- Labour and Trade Union Rights

With regard to the measures taken to promote the trade union rights of persons with disabilities, all discrimination in connection with membership or involvement in the activities of organizations of workers or employers is prohibited (under the Act of 10th May 2007 on combating certain forms of discrimination).

Pursuant to the Act of 4th August 1996 on welfare in the workplace, employers, who are responsible for the welfare of employees, must take preventive measures to avoid situations of risk and to avoid or limit injuries. These measures relate in particular to the adaptation of the workplace, the design and adaptation of workstations, the selection and use of work equipment and of personal protection equipment, and so forth⁴⁰.

Flanders also supports the hiring by trade unions of diversity advisors, responsible for raising awareness among trade union leaders, officials and activists in enterprises and organizations concerning proportionate participation of at-risk groups in the labour market⁴¹.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

As set out in the Decree of 1st April 2004 on the co-ordinated social and professional integration mechanism, the Walloon Region has 11 regional employment offices to implement integration and support initiatives, focusing on persons with disabilities with a view to steering them towards sustainable

³⁹ GRIP alternative report.

⁴⁰ CRPD/C/BEL/1, para. 139.

⁴¹ CRPD/C/BEL/1, para. 142.

employment. In addition, the Walloon Agency for the Integration of Persons with Disabilities has accredited and funds 13 vocational training centres, which have as their mission to organize vocational training tailored to the professional aspirations, personality, skill level and needs of each participant.

The aim of the vocational training is to ensure that trainees find employment under regular working conditions. In addition, the Walloon government has made efforts such as:

- Developing employment support activities within the services to provide assistance to persons with disabilities;
- Supporting access to training courses organized by the Walloon Office for Vocational Training and Employment (FOREM) for jobseekers with disabilities;
- Placing representatives of the Walloon Agency for the Integration of Persons with Disabilities in the Office's advice services to promote the employment of persons with disabilities in tandem with the Office;
- Strengthening and assessing job coaching provided to persons with disabilities;
- Incorporating in the Diversity Charter a percentage-based recruitment quota for persons with disabilities and assessing, including at the federal level, the possibility of a quota policy in the private sector⁴².

- Promote employment opportunities and assistance

Many persons with disabilities may find it more difficult to travel to work, and new communication technologies offer an excellent solution in the form of telework. The aim of Collective Labour Agreement No. 85 on telework, concluded on 9th November 2005, is to establish the fundamental principles governing telework. Home workers are now on an equal footing with other workers, although certain considerations linked to the fact that they are not present on the work premises are taken into account⁴³.

The work of the Braille League training centre has been based on an inclusive approach for decades. In this regard, specific training courses have been offered

⁴² CRPD/C/BEL/1, para. 143.

⁴³ CRPD/C/BEL/1, para.155.

to their target audience. Courses are offered at various locations in order to reach a wider audience. The Braille League offers specific support to a very specific audience⁴⁴.

- Employment in the public sector

Various measures have been taken at all levels of government to encourage the employment of persons with disabilities in the civil service.

The federal administration has set itself the goal of increasing the number of persons with disabilities in its employ. The Royal Decree of 5th March 2007 on the recruitment of persons with disabilities states that such persons should make up 3 per cent of the staff of each federal department.

To promote proportionate access to employment for persons with disabilities, the Decision of the Flemish Government of 24th December 2004 on diversity and equal opportunities policy in the Flemish administration makes provision for a target figure of 4.5 per cent representation of employees with disabilities; measures such as subsidized wages and technical support; setting aside of posts for persons with disabilities; and encouragement of equal opportunities in recruitment procedures. Moreover, regular dialogues with members of staff with disabilities have been put in place.

The Walloon government adopted the Decree of 27th May 2009, under which provinces, municipalities and associations of municipalities are obliged to employ 1 part-time employee with a disability for every 20 full-time employees. Moreover, the Walloon government intends to impose on all public enterprises the obligation to publish the percentage of staff members with disabilities on their payrolls.

In Brussels, the Order of 4th September 2008 on promoting diversity and combating discrimination in the Brussels regional civil service guarantees equal treatment in respect of employment in the civil service. The Order of 6th May 1999 and the Decree of 26th September 2002 impose a figure of 2 per cent representation of employees with disabilities and define the criteria for recognition of the existence of a disability.

⁴⁴ Belgian Disability Forum alternative report.

In the French Community, the Government Decree of 21st December 2000 on the employment of persons with disabilities in government services and in certain public-service bodies within the remit of the French Community sets the percentage of persons with disabilities to be employed within those services and bodies at 2.5 per cent⁴⁵.

- Employment in the private sector, affirmative action programmes, incentives and other measures

The Royal Decree of 9th February 2010 redefined the conditions that young workers with disabilities must meet in order to retain their supplementary disability allowance. As a result, young persons with disabilities can receive supplementary allowances until the age of 21. In 2005, the federal government began to develop a new Equality-Diversity label for enterprises in respect of employment and promotion of diversity. So far, 15 of the enterprises involved in the project have been awarded the label⁴⁶.

In Flanders, a number of 'rehabilitation through employment' initiatives have been set up in cooperation with adapted work enterprises (ETAs), sheltered workshops, psychiatrists and social protection bodies to assist persons with disabilities in day centres.

In the Walloon Region, the Walloon Agency for the Integration of Persons with Disabilities has accredited and funds 58 adapted work enterprises and provides wage assistance. The Walloon government is committed to supporting these enterprises through the professionalization and training of their workers. It is also examining the possibility of creating a special status for persons who are unable to work on a full-time basis or are prevented from accessing employment in regular enterprises or adapted work enterprises because of concerns about profitability and productivity. Around 7,000 workers with disabilities are currently employed by adapted work enterprises.

There are three such enterprises in the German-speaking Community. However, as many persons are employed on the general labour market as in adapted work enterprises.

⁴⁵ CRPD/C/BEL/1, para. 147.

⁴⁶ CRPD/C/BEL/1, para. 141.

In its Decree of 4th March 1999, the French Community Commission made provision for employment support in adapted work enterprises in order to ensure that all persons with disabilities have useful paid work and to allow them to develop professionally and make use of their skills. All workers employed by adapted work enterprises receive at least the guaranteed monthly average minimum income. In the (French-speaking) Brussels Region, there are 13 adapted work enterprises, which employ 1,450 workers with disabilities⁴⁷.

The Flemish policy regarding employment does not sufficiently commit to adapted regular work for persons with a disability. The investment in supportive measures in the regular economy are significantly lower and involve a smaller group compared to the funding for sheltered workshops⁴⁸.

Most sheltered workplaces are private non-profit organisations known as Adapted Companies (*entreprises de travail adapté*) and they are funded by the agencies. Many such work places also operate as subcontractors to other companies in the non-sheltered sector. The sheltered sector receives about 80% of the public funds allocated to disabled workers (the remaining 20% is spent on wage subsidies and professional training)⁴⁹.

- Provision of reasonable accommodation

Policies on the technical and/or financial assistance to be made available for carrying out reasonable accommodations have been developed by authorities at several levels:

- The adaptation of workstations is a right conferred by the Anti-Discrimination Act of 10th May 2007. Thus, each federal public service must ensure that technical assistance with respect to workstation adaptation is made available to staff members with disabilities, as necessary;
- The Federal Administration Selection Bureau (Selor) arranges reasonable accommodation in respect of selection and recruitment procedures,

⁴⁷ CRPD/C/BEL/1, para. 148.

⁴⁸ GRIP alternative report.

⁴⁹ Answer to EBU questionnaire: <http://www.euroblind.org/convention/article-27--work-and-employment/nr/87>.

language testing, internal mobility and career management, as defined in the Royal Decree of 5th March 2007 on the recruitment of persons with disabilities to the federal administration⁵⁰. According to GRIP, job coaching should encompass the whole career of persons with disabilities. Assistance is not only necessary at the inflow (recruitment) stage but during the whole career.

In order to promote equal opportunities for persons with disabilities on the general labour market, the Walloon government adopted the Decree of 29th November 2007, which provides for several reasonable accommodation measures and different forms of technical and financial assistance such as for wage cost subsidies, assistance with adapting workstations, allowances for self-employed persons, taster training courses, vocational adaptation contracts, integration grants, mentoring allowances and assistance with the cost of travel to and from the workplace⁵¹.

The Brussels-Capital Region has adopted the following legislation:

- The Order of 4th September 2008 on combating discrimination and on equal treatment, which makes provision for workplace diversity plans;
- The Order of 18th March 2004 on the accreditation and funding of local employment development initiatives (ILDEs) and inclusive enterprises (IEs);
- The Order of 26th June 2003 on joint management of the employment market.

In addition, within the framework of the Territorial Employment Pact for the Brussels-Capital Region, which mobilizes and coordinates all stakeholders in the field of employment around a common project, Actiris (the regional employment office) offers support to enterprises and associations wishing to develop a diversity policy. Subsidies covering half the cost of implementing a diversity plan, up to a maximum of 10,000 Euros, are available. Under the Territorial Employment Pact, enterprises also have access to the services of diversity consultants and those enterprises and associations that meet the required criteria are eligible to receive the Diversity label⁵².

⁵⁰ CRPD/C/BEL/1, para. 140.

⁵¹ CRPD/C/BEL/1, para. 143.

⁵² CRPD/C/BEL/1, para. 144.

The Brussels-Capital Region supports grass-roots associations through subsidies for projects that promote equal opportunities and diversity. In 2010, projects focusing on access to employment received financial support such as a project run by the Braille League aimed at promoting among potential employers the recruitment of persons with visual impairments⁵³.

In Brussels, the French Community Commission has taken measures in respect of vocational adaptation contracts, wage cost subsidies, start-up allowances for self-employed persons, assistance with the cost of adapting workstations, taster training courses, mentoring allowances, integration grants and recruitment premiums. In addition, co-operation has been established between the Brussels French-speaking Service for Persons with Disabilities and the Brussels Regional Employment Office to ensure that persons with disabilities have access to job offers while at the same time receiving adequate support.

In the German-speaking Community, the Agency for Persons with Disabilities offers two forms of orientation for persons with disabilities: guidance within enterprises, which is provided as part of a wider vocational guidance scheme managed in cooperation with the public employment service, and training within enterprises. However, owing to a lack of resources the system is not currently functioning as well as it ought to⁵⁴.

- Acquisition of work experience in the open labour market

The 'Jobkanaal' project, aimed at Flemish employers, attempts to stimulate labour market participation of certain disadvantaged groups, including workers with disabilities. This employment platform allows enterprises seeking competent employees belonging to certain target groups to access a network of over 500 recruitment agencies⁵⁵.

- Vocational and professional rehabilitation, job retention and return to work programmes

Through the services of the Flemish Employment and Vocational Training Office (VDAB), unemployed persons with disabilities can access the general

⁵³ CRPD/C/BEL/1, para. 145.

⁵⁴ CRPD/C/BEL/1, para. 147.

⁵⁵ CRPD/C/BEL/1, para. 142.

assistance provided by the office or more specialized assistance aimed at jobseekers with work disablement. The assistance services offer graduated, comprehensive assistance and support for persons seeking employment. The help offered includes screening and guidance, assistance and training concerning recruitment procedures, vocational training, access to trainers, assistance and training concerning career paths, and adaptation of the work environment⁵⁶.

CONCLUDING OBSERVATIONS

38. The Committee notes with concern the low number of persons with disabilities in regular employment. The Committee also notes the Government's failure to reach targets for the employment of persons with disabilities within its own agencies, as well as the lack of a quota in the private sector.

39. The Committee recommends that the State party take all necessary regulatory measures and incentives to guarantee the right of persons with disabilities to employment, in both the private sector and the public sector. It should ensure that they have effective protection against discrimination, vocational training, adequate accessibility and the necessary reasonable accommodation.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market.

The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.

⁵⁶ CRPD/BEL/1, para. 142.

CROATIA

Croatia ratified the Convention and its Optional Protocol in August 2007. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State party report (CRPD/C/HRV/1) submitted on 26th October 2011
Alternative reports: Croatian Union of Associations of Persons with Disabilities and other contributing Disabled Persons Organisations (INT_CRPD_CSS_CRO_19930_E); Disability Ombudsman's Office-Croatia (CRO/INT_CRPD_CSS_CRO_19937_E); Human Rights Watch (CRO/INT_CRPD_CSS_CRO_19945_E)
List of Issues (CRPD/C/HRV/Q/1) submitted on 30th October 2014
Reply to List of Issues (CRPD/C/HRV/Q.1/Add.1)
Concluding Observations (CRPD/C/SRB/CO/1) adopted on 15th May 2015
Submission of combined second, third and fourth periodic reports is due in 2021

With regard to the employment of persons with disabilities, in the Republic of Croatia there are 16,539 employed persons with disabilities, of which 65% are male and 35% are female workers⁵⁷.

⁵⁷ INT_CRPD_CSS_CRO_19930_E.

- Protection from discrimination

The Labour Act (2009) and the Anti-discrimination Act (2008) prohibit direct or indirect discrimination in the field of work and working conditions. In addition, the Anti-discrimination Act prohibits encouraging discrimination and failure to make reasonable accommodations. The need to ensure reasonable adaptation is defined in the Anti-discrimination Act (2008)⁵⁸.

- Positive measures

In 2013, a new Act on Vocational Rehabilitation and Employment of Persons with Disabilities was passed. This act provides for incentives for vocational rehabilitation and employment and stipulates that employers who employ over 20 workers, with the exception of foreign diplomatic and consular missions, integrative and sheltered workshops, are obliged to employ a certain number of persons with disabilities (3% of the total number of employees) in the appropriate workplace of their choice and in appropriate working conditions. Employers were required to fill the quota by 1st January 2015, otherwise they became liable to pay financial compensation in the amount of 30% of the minimum monthly salary for each person with disability they were obliged to employ⁵⁹.

The aforementioned act also provides Replacement Quotas for employers such as scholarships for students with disabilities and business cooperation with legal entities that employ persons with disabilities. These measures intend to improve employment for persons with disabilities⁶⁰.

- Protection of the rights of blind and partially sighted persons

Promoting the application of the universal design principle is one of the measures foreseen in the National Programme for the Protection and Promotion of Human Rights 2008-2011, which includes ensuring accessibility of all public services and public transport and ensuring accessible environments in line with universal design principles⁶¹.

⁵⁸ CRPD/C/HRV/1, para. 19 and 181.

⁵⁹ INT_CRPD_CSS_CRO_19930_E.

⁶⁰ INT_CRPD_CSS_CRO_19930_E.

⁶¹ CRPD/C/HRV/1, para. 22.

The Law on Social Welfare (1997, 2011) ensures to persons with disabilities training for self-care through special rehabilitation programmes (for example, mobility training with the use of a white cane or guide dog for people with a visual impairment, etc.). If necessary and for the purpose of training, the person is provided with accommodation or cash assistance to cover transport expenses⁶².

The Law on Movement of Blind Persons with Assistance of Guide Dogs (1998) regulates the right of a blind person with a guide dog to use public transportation means, and their free access to public spaces⁶³.

Ensuring access to public transport for persons with disabilities is the responsibility of LSAUs, which take numerous measures to facilitate personal mobility - installing audible signals on crossroads, platform lifts in pedestrian underpasses, placing tactile strips and guiding lines for blind and visually impaired persons, lowering kerbstones, etc⁶⁴.

Ensuring the availability of official information from all spheres of life, regardless of possibilities, knowledge and possible limitations of users, is enabled through the web portal "My administration" (www.mojauprava.hr), which is accessible to persons with various types of disabilities. By adapting the display in several ways and applying standards that enable machine-assisted reading for the visually impaired and the blind, access to information for persons with disabilities was ensured on an equal basis with others. Also, the Law on Electronic Communications (2008) was adopted, which, in addition to convenience of choice, price and quality of communication services, provides accessibility and availability of public electronic communication services⁶⁵.

The Law on Personal Income Tax (2004) enables persons with disabilities to receive higher remuneration for work of equal value compared to persons without disabilities⁶⁶.

⁶² CRPD/C/HRV/1, para. 108.

⁶³ CRPD/C/HRV/1, para. 109.

⁶⁴ CRPD/C/HRV/1, para. 111.

⁶⁵ CRPD/C/HRV/1, para. 115.

⁶⁶ CRPD/C/HRV/1, para. 183.

- Labour and Trade Union Rights

The collective bargaining agreement for civil servants and state employees (2008) determines that state bodies must take into account the employment of persons with disabilities when making plans for recruitment and filling vacancies, in accordance with the stated law, and for this purpose determine appropriate work positions and working conditions⁶⁷.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

The most important legal regulations and acts in the field of regulating the right to professional rehabilitation and employment of persons with disabilities are as follows: Law on Professional Rehabilitation and Employment of Persons with Disabilities (2002); Law on Mediation in Employment and Entitlements During Unemployment (2008, 2009, 2010); and the Rulebook on Active Job Search and Availability for Work (2009)⁶⁸.

Adopting the Law on Professional Rehabilitation and Employment of Persons with Disabilities (2002) created preconditions for the establishment of the FPREDP which was established in 2003. FPREDP's activities, among other things, include implementation of the policy for development and improvement of professional rehabilitation and employment of persons with disabilities; financing or co-financing institutions for professional rehabilitation and work centres; payment of cash incentives; co-financing the development of existing programmes and introduction of new technologies and programmes intended for the employment of persons with disabilities; co-financing programmes for maintaining employment of persons with disabilities; co-financing and financing programmes for educating professionals in the field of professional rehabilitation; and co-financing and financing research and development programmes concerning professional rehabilitation⁶⁹.

⁶⁷ CRPD/C/HRV/1, para. 198.

⁶⁸ CRPD/C/HRV/1, para. 182.

⁶⁹ CRPD/C/HRV/1, para. 188.

- Promote employment opportunities and assistance

According to data provided by the Croatian Employment Institute, in 2013 over 60% of all workers with disabilities were employed through active employment policy measures, while the rest were employed in the open market⁷⁰.

- Employment in the public sector

Data on the number of persons with disabilities employed in state administration bodies are determined by the civil service recruitment plans for state administration bodies, professional services and GRC Offices, and employment of these persons is planned. In ministries, state administration organisations and central state offices, a total of 534 people with disabilities are employed. State bodies were obliged, in accordance with the provisions of the Law on Professional Rehabilitation and Employment of Persons with Disabilities, to employ at least one person with disabilities for every 35 employees by 31st December 2011⁷¹.

- Employment in the private sector, affirmative action programmes, incentives and other measures

The most common professions among workers disabilities are shop assistants, unskilled workers, economic technicians, car mechanics, farm workers, waiters, drivers and chefs⁷².

Employers are often reluctant to hire persons with disabilities, as they deem they are not capable of performing certain tasks and/or that their employment would be too expensive. This is due to, on the one hand, a lack of information about the incentives for the employment of persons with disabilities, as well as the presence of stereotypes. An additional cause of low employability of persons with disabilities is that they are schooled for jobs that are not consistent with the needs of the labour market. Due to failings in physical accessibility, overprotectiveness of the family and social contributions, people with disabilities do not educate themselves or search for employment⁷³.

⁷⁰ INT_CRPD_CSS_CRO_19930_E.

⁷¹ CRPD/C/HRV/1, para. 200.

⁷² INT_CRPD_CSS_CRO_19930_E.

⁷³ INT_CRPD_CSS_CRO_19930_E.

In 2014, the National University Library was equipped with workplaces for visually impaired students and paths for the blind were installed. The library was equipped using funds acquired through tender from the state budget for regular activities of the library. In terms of reasonable accommodation, the funds have not been allocated. There is a plan for further adjustments, but it depends on the funds the library will get through tender. As for architectural accessibility, about 50% of the libraries in the Republic of Croatia are accessible to persons with disabilities⁷⁴.

Accessibility of information and communication technologies for the visually impaired is provided in the main libraries in the county centres through a project managed by the Ministry of Culture. As for the programmes, the most common ones are those for persons with intellectual disabilities; from a total of 231 programmes in Croatia, 22 are for the visually impaired⁷⁵.

- Provision of reasonable accommodation

Adapting public facilities is regulated by the Law on Physical Planning and Construction (2007) and the Rulebook on ensuring accessibility of buildings to persons with disabilities and reduced mobility (2005). This Rulebook prescribes conditions and ways to ensure uninterrupted access, movement, stay and work for persons with disabilities⁷⁶.

In order to ensure performance of work tasks on an equal basis with other employees for a person with disabilities, the Law on Professional Rehabilitation and Employment of Persons with Disabilities (2002) regulates to ensure reasonable accommodations in workplaces: adaptation of a workplace and working conditions, compensation of differences due to reduced work efficiency, co-financing of personal assistant costs (helper at work), co-financing of interest on credits, co-financing of the costs of occupational therapy⁷⁷.

⁷⁴ INT_CRPD_CSS_CRO_19930_E.

⁷⁵ INT_CRPD_CSS_CRO_19930_E.

⁷⁶ CRPD/C/HRV/1, para. 20.

⁷⁷ CRPD/C/HRV/1, para. 21.

- Acquisition of work experience in the open labour market

The Act on Vocational Rehabilitation and Employment of Persons with Disabilities (157/13, 152/14, 2/15) is the main legislation regarding employment in the open labour market.

People with disabilities can be employed in the open labour market and the employer is obliged to provide reasonable accommodation in the workplace.

On the open labour market a person with disabilities can be employed:

- without financial or technical support because he/she is fully qualified to work at a specific workplace in relation to his/her disability and deemed fit for work (employment without support);
- with the use of financial support to overcome disability-related difficulties, as determined by the findings and opinion of the Centre for Vocational Rehabilitation (employment with incentives);
- with the use of specific professional support to overcome disability-related difficulties, as determined by the findings and opinion of the Centre for Vocational Rehabilitation (supported employment);
- with the use of certain grants and professional support to overcome disability-related difficulties, as determined by the findings and opinion of the Centre for Vocational Rehabilitation (supported employment with incentives)⁷⁸.

- Vocational and professional rehabilitation, job retention and return to work programmes

The CEI cooperates closely with all relevant stakeholders in the field of education and employment of persons with disabilities, and specially with the FPREDP and numerous CSOs that care for persons with disabilities, and which are strong drivers in realising the goal of social integration and raising the quality of life of persons with disabilities. The MHSW in cooperation with the CUAPD established 7 IT Centres where persons with disabilities are trained for IT professions needed in the labour market⁷⁹.

⁷⁸ <http://www.euroblind.org/convention/article-27/croatia#1>.

⁷⁹ CRPD/C/HRV/1, para. 196.

CONCLUDING OBSERVATIONS

41. The Committee is concerned that the majority of persons with disabilities are either unemployed or have low-income employment.

42. The Committee recommends that the State party develop and implement, in cooperation with organizations of persons with disabilities, a plan of action to increase the employment of persons with disabilities in the open labour market. It recommends that the quota system is complemented with other incentives for employers to hire persons with disabilities. Disincentives to employment for persons with disabilities should be analysed and remedied. Reasonable accommodation, including supported employment with personal assistance, and the accessibility of the workplace, should be regulated and monitored.

CRPD COMMITTEE RECOMMENDATIONS

To develop and implement, in cooperation with organizations of persons with disabilities, a plan of action to increase the employment of persons with disabilities in the open labour market.

The quota system is complemented with other incentives for employers to hire persons with disabilities.
Disincentives to employment for persons with disabilities should be analysed and remedied.
Reasonable accommodation, including supported employment with personal assistance, and the accessibility of the workplace, should be regulated and monitored.

CYPRUS

Cyprus ratified the Convention and its Optional Protocol in June 2011.

Revision Process CRPD Committee
State party report (CRPD/C/CYP/1) submitted on 27th February 2015
Alternative reports: European Union Agency for Fundamental Rights (FRA)-Submission on Cyprus; Hope for Children CRC Policy Center-Submission on Cyprus; Independent Authority for the Promotion of the Rights of Persons with Disabilities; National Human Rights Institution of Cyprus - Parallel Report; Pancyprrian Alliance for Disability Alternative Report
List of Issues (CRPD/C/CYP/Q/1) submitted on 6th October 2016
Concluding Observations (CRPD/C/CYP/CO/1) adopted on 8th May 2017
Presentation of combined second and third periodic reports no later than 27th July 2021

Cyprus has ratified the CRPD with a reservation:

“Whereas the Persons with Disabilities Law, as this has been harmonized with the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, prescribes in section 3A thereof that the said Law shall not apply as regards employment:

(a) to the armed forces, to the extent that the nature of the work requires special abilities which cannot be exercised by persons with disabilities, and

(b) to occupational activities where by reason of the nature or the context in which they are carried out, a characteristic or an ability which is not possessed by a person with a disability, constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate, taking into account the possibility of adopting reasonable measures.”

- Protection from discrimination

In the Equal Treatment of Work and Employment Law of 2004 and in the Persons with Disabilities Law 2000–2007 the European Directive 2000/78/EC has been incorporated. This defines the rights of persons with disabilities in employment. Any person who feels his or her rights have been violated in relation to discrimination in employment may register a complaint with the Office of the Ombudsman and Human Rights Equality Authority⁸⁰.

The International Labour Organization Vocational Rehabilitation and Employment Convention, 1983 (No. 159) on vocational rehabilitation and employment for disabled persons was ratified by the Ratifying Law 42/1987.84. Article 4 specifies that special positive measures aimed at effective equality of opportunity and treatment in employment between workers with disability and other workers shall not be deemed to discriminate against other workers⁸¹.

The IMM notes associative discrimination through the difficulties encountered by families of persons with disabilities who are forced to combine their professional life with their care duties under inflexible working conditions⁸².

- Positive measures

The Law for Recruitment of Trained Blind Telephone Operators in the position of a telephone operation in Public Service, Education Service and Public Legal

⁸⁰ CRPD/C/CYP/1, para. 210.

⁸¹ CRPD/C/CYP/1, para. 211.

⁸² Independent Monitoring Mechanism (IMM) report. para. 74.

Entities (L.17/1998) which is administered by the Public Administration and Personnel Department, ensures the right to vocational rehabilitation specifically for persons with visual disability as a priority, in positions in the wider public sector. The law provides exclusive priority to those individuals that acquire a diploma as telephone operators from the School for the Blind. If there are no visually impaired trained telephone operators, within the provisions of the law, priority is given to other persons with disabilities⁸³.

- Protection of the rights of blind and partially sighted persons

The Department of Social Welfare, when granting Minimum Guaranteed Income under the Public Assistance and Services Laws of 2006 and 2012, in the case of persons with disabilities, exempt from income criteria the first EUR 512 from participation in employment/training schemes as an incentive for persons with disabilities to remain active in the workforce⁸⁴.

To provide safe and healthy working conditions, including protection from harassment, and investigation of any complaint, the Health and Safety in Employment Laws of 1996 and 2011 are in force under the responsibility of the Department of Labour Inspection. These require that each employer prepares a written risk assessment for the people employed and any third parties at any workplace that is under its responsibility⁸⁵.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

The Department for Social Inclusion of Persons with Disabilities delivers schemes for vocational training rehabilitation of persons with disabilities by providing financial assistance to persons with disabilities for the purposes of creating small units/enterprises within the framework of the Special Fund of the Vocational Rehabilitation of Persons with Disabilities Centre Law L.103 (I)/2000.86. The Scheme provides a grant of up to 8,543 Euros for people with disabilities who do not have the financial means for self-employment. The amount

⁸³ CRPD/C/CYP/1, para. 216.

⁸⁴ CRPD/C/CYP/1, para. 218.

⁸⁵ CRPD/C/CYP/1, para. 221.

of the grant approved mainly covers the purchase of machines and other equipment, raw materials and working capital⁸⁶.

This department also subsidizes organizations of persons with disabilities to operate supported employment programmes. Based on the Supported Employment Scheme approved by the Council of Ministers in 1994, DSID subsidizes organizations for persons with disabilities with the amount of 13,500 Euros per year, per programme for supported employment⁸⁷.

The St. Barnabas School for the Blind offers a variety of programmes and services including:

- Vocational training programmes for adults;
- Training programmes for adults aiming towards the enhancement of creativity, skills and self-development;
- Telephony Department⁸⁸.

Pre-vocational training programmes are also offered in special units in high schools and technical schools. The aim of these programmes is to enable individuals with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational abilities and inclusion and participation in all aspects of life. The aim of this educational and social policy is the smooth transition of these students from the school to the professional field⁸⁹.

- Promote employment opportunities and assistance

The Employment Services of the Department of Labour offer free services for job seekers through the District and Local Employment Offices. The services offered concern finding a suitable work placement, advice and information on occupations, information on training opportunities and education and information on working conditions and labour legislation. Employment Department advisors are specially trained to serve vulnerable groups including persons with disabilities⁹⁰.

⁸⁶ CRPD/C/CYP/1, para. 212.

⁸⁷ CRPD/C/CYP/1, para. 221.

⁸⁸ CRPD/C/CYP/1, para. 219.

⁸⁹ CRPD/C/CYP/1, para. 220.

⁹⁰ CRPD/C/CYP/1, para. 213.

- Employment in the public sector

The Department for Social Inclusion of Persons with Disabilities provides the services to implement the Recruitment of Persons with Disabilities in the Wider Public Sector (Special Provisions) Law of 2009, L.146 (I)/2009.88. This law regulates the recruitment of persons with disabilities who meet specified objective criteria in 10 per cent of current vacancies in the public sector. Its purpose is to promote employment opportunities for persons with disabilities⁹¹.

There have been a number of complaints concerning procedural as well as legal and attitudinal problems arising with regard to the implementation of the legislation for quotas in employment in the public service⁹².

- Employment in the private sector, affirmative action programmes, incentives and other measures

The Department of Labour also acts as an Intermediary Agency for projects co-funded by the European Social Fund. It was also responsible for implementing programmes to subsidize the employment of persons with disabilities under the Axis 'Enlargement of the Labour Market and Social Cohesion', which was included in the Organizational Programming Period for 2007-2013⁹³.

- Provision of reasonable accommodation

The extent of the obligation to provide reasonable accommodation in employment is highly unknown amongst employers. This, in part, is due to the non-harmonization of the Law for Persons with Disabilities with articles 2, 5 and 27 of the CRPD⁹⁴.

- Acquisition of work experience in the open labour market

The great majority of workers with a visual impairment are hired as switchboard operators by the government and the private sector (46.9%). Only

⁹¹ CRPD/C/CYP/1, para. 212.

⁹² IMM alternative report. para. 75.

⁹³ CRPD/C/CYP/1, para. 214.

⁹⁴ IMM alternative report. Para. 73.

about 148 people with a visual impairment are graduates of higher education institutions and they are engaged mainly in positions within the government and education as lawyers, teachers, administrative officials, etc. About ten individuals with visual problems are involved in the manufacture of chairs, stools, baskets and other handicrafts in the organization's workshops⁹⁵.

- Vocational and professional rehabilitation, job retention and return to work programmes

There are some programmes and schemes on employment⁹⁶ provided by the Department of Social Inclusion for Persons with Disabilities, such as:

- Scheme for supported employment whose beneficiaries are certified non-governmental organizations which offer services of supported employment via the employment of a job coach, to persons with physical, mental, intellectual or sensory disability. Provision: Up to 13 500 Euros per year for each programme⁹⁷.

- Scheme for subsidising organisations for vocational training programmes for disability professionals. The beneficiaries of the scheme are certified non-governmental organizations who represent or offer services to persons with physical, mental, intellectual or sensory disability and are active in designing and implementing programs, including training for their staff and/or persons with disabilities. Each programme can be sponsored with up to 3 000 Euros, with the exception of the programmes being co-funded by European funds, which may be sponsored up to 5 000 Euros.

- Scheme for the vocational training of persons with disabilities. The beneficiaries are persons with disabilities who may experience employment difficulties in their field, despite their level of education. The provision is up to 1 708 Euros.

- Scheme for the creation and operation of small units for self-employment purposes of persons with disabilities whose beneficiaries are persons with

⁹⁵ Answers to EBU questionnaire.

⁹⁶ Further information may be found at the Department of Social Inclusion for persons with Disabilities: www.mlsi.gov.cy/dsic.

⁹⁷ Further information at: <https://drive.google.com/file/d/0B7FK-lfoDIHMbmlZV0w0MEdjU28/view>.

physical, sensory, mental or other disabilities, which have less possibilities of employment in the open labour market. Provision: up to 8 543 Euros.

- Scheme to subsidise organisations for vocational training programmes for persons with disabilities. Beneficiaries of the scheme shall be certified non-governmental organizations. Each programme can be sponsored with up to 5 000 Euros, with the exception of programmes co-funded by European funds, which may be sponsored up to 10 000 Euros. Eligible costs include the trainer's fee, travel and accommodation expenses of the trainers from abroad as well as the expenses of renting suitable training space and training material. In addition, the costs may include reproduction of the training material.

- Mobility allowance: the beneficiaries are persons whose visual acuity is equal or less than 6/36 in each eye. The amount is 102 Euros per month to blind persons who are working or studying.

- Provision of a secretary/guide to professionals who are blind and are employed in the public or education sector.

CONCLUDING OBSERVATIONS

53. The Committee is concerned by the high level of unemployment and lack of gender, age and disability disaggregated data regarding employment of persons with disabilities, and about the insufficient measures to promote their inclusion into the open labour market regardless of the type of impairment.

54. The Committee recommends that the State party ensure access to employment in the open labour market, including by ensuring that the private sector is also covered by a quota system and by ensuring equal pay for work of equal value in all settings for all persons with disabilities being guided by target 8.5 of the Sustainable Development Goals. It furthermore recommends that the State party collect data on the employment of persons with disabilities, disaggregated by gender, age and type of impairment.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends to ensure access to employment in the open labour market, including by ensuring that the private sector is also covered by a quota system and by ensuring equal pay for work of equal value in all settings for all persons with disabilities being guided by target 8.5 of the Sustainable Development Goals.

The Committee further recommends the State party collect data on the employment of persons with disabilities, disaggregated by gender, age and type of impairment.

CZECH REPUBLIC

The Czech Republic ratified the Convention on the 28th September 2009 and signed its Optional Protocol in March 2007. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State party report (CRPD/C/CZE/1) submitted on 1st November 2011
Alternative reports: Global Initiative to End All Corporal Punishment of Children-Czech Republic (CZE/INT_CRPD_CSS_CZE_19772_E); NGOs and DPOs Coalition Submission-Czech Republic (CZE/INT_CRPD_CSS_CZE_19782_E)
List of Issues (CRPD/C/CZE/Q/1) submitted on 28th October 2014
Reply to List of Issues (CRPD/C/CZE/Q/1/Add.1)
Concluding Observations (CRPD/C/CZE/CO/1) adopted on 15th May 2015
Submission of combined second, third and fourth periodic reports due in 2019

- Protection from discrimination

The state employment policy pursuant to article 2 of the Employment Act 119 comprises measures to promote and achieve the equal treatment of persons with disabilities in the labour market in respect of access to employment, retraining,

vocational preparation and specialized retraining courses, and measures adopted to employ such persons. It prohibits discrimination in exercising the right to employment, inter alia, on the basis of the state of health. Article 4, paragraph 9 states that discrimination also means harassment and sexual harassment on the basis of disability.⁹⁸ Concrete protection against discrimination is guaranteed in particular by Antidiscrimination Act No. 198/2009 Coll. A crucial element in protection against discrimination of persons with disabilities is the principle of reasonable accommodation, and the Antidiscrimination Act regulates this concept. This Act in § 3 sub. 2 states that indirect discrimination on the grounds of disability is understood also to include refusal or failure to take reasonable steps to ensure that a person with disabilities has access to a specific job⁹⁹.

Consistent with the provisions in article 80 of the aforementioned act, employers are obliged:

- (a) to extend, in accordance with their conditions and in cooperation with the physician of company preventive care, the opportunities to employ persons with disabilities by individual adjustment of work positions and working conditions and by designating jobs for persons with disabilities;
- (b) to cooperate with the regional branch of the Labour Office regarding the provision of vocational rehabilitation;
- (c) to keep records of employed persons with disabilities;
- (d) to keep records of jobs designated for persons with disabilities¹⁰⁰.

- Positive measures

With a view to supporting persons with disabilities to find employment, tools for active employment policies are implemented to motivate employers. This includes financial support paid to employers for the creation of new work positions for persons with disabilities, i.e. sheltered jobs and workshops. In this case, employers receive financial support to purchase the equipment necessary for the creation and adaptation of the post¹⁰¹.

⁹⁸ CRPD/C/CZE/1, para. 343 and 344.

⁹⁹ INT_CRPD_NGO_CZE_15594_E, page 8.

¹⁰⁰ CRPD/C/CZE/1, para. 345.

¹⁰¹ CRPD/C/CZE/1, para. 347.

- Protection of the rights of blind and partially sighted persons

Paragraph 1 of Article 29 of the Charter of Fundamental Rights states that persons with disabilities are entitled to enhanced protection of health at work and to special working conditions. Paragraph 2 of the same article reaffirms the right of persons with disabilities to special protection in labour relations and to assistance in vocational training¹⁰².

The promotion of accessibility in cultural services for persons with disabilities is regarded a priority even in the fundamental strategic document for libraries, the Library Development Concept 2004 - 2010. The measures are implemented both in the shape of continuous funding for the Library and Printing Office for the Blind K. E. Macana, a contributory institution of the Ministry of Culture, and by announcing grant tenders¹⁰³.

Accessibility and personal mobility are also facilitated by specific technical measures such as acoustic signals serving for the orientation of persons with visual disability at crossroads and pedestrian crossings, guide grooves for persons with visual disability at pedestrian crossings, etc¹⁰⁴.

In rail passenger transport, pursuant to the provisions of paragraph 5 of article 73 of the Rail Transport Rules, information on train operations is given to passengers by means of audio and video information devices. Essential information in graphic formats must be contrasting and visible. On major communication routes in stations, such information is complemented with acoustic, tactile and visual elements used by persons with limited mobility and orientation. Access to information in rail transport for persons with disabilities is provided including the use of braille and audio announcements for passengers with visual disability. Moreover, information is available through remote access on the website of railway companies¹⁰⁵.

¹⁰² CRPD/C/CZE/1, para. 346; Resolution No. 2/1993 Coll., the Presidium of the Czech National Council on the Declaration of the Charter of Fundamental Rights and Freedoms as an Integral Part of the Constitutional Order of the Czech Republic.

¹⁰³ CRPD/C/CZE/1, para. 63.

¹⁰⁴ CRPD/C/CZE/1, para. 228.

¹⁰⁵ CRPD/C/CZE/1, para. 240.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

The vocational rehabilitation of persons with disabilities is covered by Act no. 435/2004 Coll. on employment. Labour offices are responsible for carrying out such rehabilitation. According to our experience this measure is very seldom utilised for visually impaired persons. Labour officers are generally unable to utilise this measure and, moreover, they usually have no idea about the potential of visually impaired individuals, etc. At the same time, visually impaired people seldom register at the Labour office when they lose their job¹⁰⁶.

People with visual impairment make use of professional vocational counselling mostly in the areas of: Labour Code (employment contract and overtime agreement requirements and terms, employment termination options, registration at Labour office, employment options in parallel with disability income), CV and cover letter formulation, where to look for job offers, etc. In addition, professional vocational counselling is also involved in the area of adaptive equipment, specifically in the way how such equipment might be helpful in job accomplishment. Another related area is independent mobility and spatial orientation training¹⁰⁷.

- Promote employment opportunities and assistance

Financial support is available to persons with disabilities who decide to become self-employed. The support covers the acquisition of the equipment needed to start the business. Twenty-seven people were supported in the first half of 2011, and 52 persons in 2010¹⁰⁸.

The employers of persons with disabilities and self-employed persons with disabilities are paid subsidies as partial reimbursement for operational costs. The subsidies can be used, for instance, to pay for rent, fuel, power, water and sewage rate, transportation, etc.¹⁰⁹.

¹⁰⁶ Answers to EBU Questionnaire: <http://www.euroblind.org/convention/article-27/czech-republic>.

¹⁰⁷ Answers to EBU Questionnaire: <http://www.euroblind.org/convention/article-27/czech-republic>.

¹⁰⁸ CRPD/C/CZE/1, para. 349.

¹⁰⁹ CRPD/C/CZE/1, para. 350.

- Employment in the public sector

Public sector bodies have the same legal obligation to employ individuals with disabilities as all other employers. Since public sector bodies may not use the raised taxes option, they must either employ 4+% of disabled individuals or may comply by acquiring an adequate amount of goods or services from companies employing over 50% of disabled individuals¹¹⁰.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Every employer with more than 50 per cent persons with disabilities (of the total number of their employees) is entitled to receive the subsidy to promote employment for persons with disabilities. This subsidy is paid on a monthly basis to refund wage costs incurred with respect to an employee who is a person with a disability¹¹¹.

Another tool is the mandatory quota of employees with disabilities, which means that every employer having more than 25 employees is obliged to employ persons with disabilities for share of 4 per cent of such persons out of the total number of employees. This mandatory quota can be met by contracting people with disabilities, by purchasing products or services from employers with more than 50 per cent of employees with disabilities, or by levies to the state budget. Employers may choose one option or combine them as they please¹¹². Currently, in the Czech Republic, most employers prefer payment to the state budget¹¹³.

Employers are motivated to employ persons with disabilities in the open labour market by income tax deductions¹¹⁴.

- Provision of reasonable accommodation

Reasonable measures and the extraordinary conditions in the context of the employment of persons with disabilities is quite vague in the Czech legal system,

¹¹⁰ Answers to EBU Questionnaire: <http://www.euroblind.org/convention/article-27/czech-republic>.

¹¹¹ CRPD/C/CZE/1, para. 351.

¹¹² CRPD/C/CZE/1, para. 355.

¹¹³ INT_CRPD_NGO_CZE_15594_E, page 119.

¹¹⁴ CRPD/C/CZE/1, para. 356.

and it is not entirely clear under which conditions people in the third degree of disability can be employed; as a result, they are virtually excluded from the labour market¹¹⁵.

- Acquisition of work experience in the open labour market

In the Czech Republic, the law does not provide for supported employment. This service is not included in the existing typologies of social services, and in most cases it is registered as a type of 'social rehabilitation'. This implies an imbalance in the concept of supported employment. The main objective of supported employment is to enable people with disabilities to obtain and maintain suitable employment in the open labour market. Social rehabilitation is focused on supporting the personal competencies, capabilities and skills of the person, so that he or she may use mainstream social resources and work in the natural environment, in all areas of social life. Financing the two activities as one service is confusing and unbalanced. Funding for the service is not guaranteed and it is not possible to monitor the results and consequences of supported employment¹¹⁶.

- Vocational and professional rehabilitation, job retention and return to work programmes

When employing a person with more severe disability, the employer is paid a higher subsidy for the creation of sheltered jobs and sheltered workshops.

CONCLUDING OBSERVATIONS

51. The Committee notes with concern the high unemployment rate of persons with disabilities and the fact that the unemployment rate of women with disabilities is higher than that of men with disabilities. Furthermore, the Committee notes with concern that close to one third of employed persons with disabilities work outside the open labour market.

¹¹⁵ INT_CRPD_NGO_CZE_15594_E, page 117.

¹¹⁶ INT_CRPD_NGO_CZE_15594_E, page 111.

52. The Committee calls upon the State party to ensure the same wage for all persons with disabilities, regardless of their disability classification. It also urges the State party to develop measures, intensify efforts and allocate sufficient resources to promoting the employment in the open labour market of persons with disabilities, especially women.

CRPD COMMITTEE RECOMMENDATIONS

To ensure the same wage for all persons with disabilities, regardless of their disability classification.

To develop measures, intensify efforts and allocate sufficient resources to promoting the employment in the open labour market of persons with disabilities, especially women.

DENMARK

Denmark ratified the Convention and its Optional Protocol in August 2009. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/DNK/1) submitted on 24th August 2011
Alternative reports: Disabled People's Organisations - Annex on Reinstitutionalisation, INT_CRPD_CSS_DNK_18209_E; Disabled People's Organizations Denmark, INT_CRPD_CSS_DNK_18208_E; Faroe Islands Union for the Handicapped, INT_CRPD_CSS_DNK_18210_E; Joint Submission, 38 Danish Civil Society on Denmark: INT_ICO_DNK_16287_E
List of Issues (CRPD/C/DNK/Q/1) submitted on 12th May 2014
Reply to List of Issues (CRPD/C/DNK/Q.1/Add.1) submitted on 15th July 2014
Concluding Observations (CRPD/C/DNK/CO/1) adopted on 30th October 2014
Submission of combined second and third periodic reports due on 24th August 2019

In 2016, the percentage of employed persons with disabilities was just above 50 per cent. According to Statistics Denmark (2015-2017) the percentage of employed people with visually impairment is only around 20 per cent, of which 8 per cent are employed in flexi-jobs. A person can be entitled to a flexi-job if the local authority finds that, e.g., a visually impaired person's capacity for work is permanently and substantially reduced. Recipients of disability pension (also known as early retirement pension) may to some extent work while receiving the pension, e.g. in supported or sheltered employment or as self-employed. Approximately 10% of the visually impaired recipients of disability pensions do so.

- Protection from discrimination

Danish disability policy rests on the compensation principle, which means that society offers people with functional impairment a number of services to offset the consequences of their disabilities. Compensation must ensure that persons with disabilities have the same starting point as people without them. Compensation may be in the form of individual personal aids, for instance, that written material be published on special media in accessible versions such as audio or braille. Compensation may also consist of collective measures that orient society towards taking the widest possible consideration of persons with disabilities¹¹⁷.

Danish legislation contains a range of special provisions aimed at preventing discrimination of persons with disabilities. An express ban has been adopted on discrimination of persons with disabilities in the labour market, which also imposes a duty on employers to make reasonable adjustments for people with disabilities in relation to employment and training or education.

In 1993 the Danish parliament adopted motion B 43 on equal treatment and equality between person with disabilities and persons without disabilities. The Danish parliament recommended that all central and local government authorities and private companies observe the principle of equality and equal treatment among persons with disabilities and other citizens¹¹⁸.

¹¹⁷ CRPD/C/DNK/1, para. 29 and 30.

¹¹⁸ CRPD/C/DNK/1, para. 44.

The Danish Act on Prohibition against Differential Treatment in the Labour Market forbids direct and indirect differential treatment and harassment as well as instructions to discriminate on grounds of disability, etc. Disability was inserted in the act as a discrimination criterion that implements parts of Council Directive 2000/78 establishing a general framework for equal treatment in employment and occupation¹¹⁹.

In 2018 the Danish government submitted a new act regarding 'General Prohibition against Differential Treatment of People with Disabilities'.

In cooperation with the Centre for Comparative Welfare Studies at Aalborg University, in January 2018 the Danish Association of the Blind published a survey report titled 'The invisible'. The survey concerned employers' attitudes towards blind and partially sighted employees. The report concluded that employers were not directly negative or prejudiced towards blind and partially sighted (potential) employees, but they lacked knowledge (e.g. regarding support schemes, wage subsidies and, last but not least, job functions suitable for visually impaired people).

- Positive measures

One of the results of the Reform of the Incapacity Benefits and Flexi Jobs is that the most vulnerable persons in the labour market receive new measures and help to get further on in life. At the same time the flex job-system is especially focused on persons with a very limited ability to work¹²⁰.

- Protection of the rights of blind and partially sighted persons

Persons with disabilities –regardless of disability– are covered by general employment policy measures. If the disability entails a need for special measures or assistance, such measures or assistance can be granted through the Act on Compensation for Disabled Persons in Employment, etc. The objective of this scheme is to enhance and stimulate the possibilities of employing persons with disabilities and retaining them in the market, and to offer them the same

¹¹⁹ CRPD/C/DNK/1, para. 286.

¹²⁰ CRPD/C/DNK/Q/1/Add.1, para. 214.

possibilities of pursuing a profession as persons without disabilities¹²¹. The Act on compensation for disabled persons in employment consists of:

- personal assistance for persons with e.g. visually impairment in employment (individually measured);
- wage subsidies on employment of newly educated people;
- preferential access (when filling a vacant position, public employers are under an obligation to give a disabled person who has difficulty finding employment in the ordinary labour market preferential access to the vacant position if, in the opinion of the employer, the person with disability has the same qualifications as the other applicants).

The act on active employment measures concerns subsidies for e.g. tools and assistive technology such as screen readers, braille displays, etc.

Regarding public transport, persons with visual disability and their guide or guide dog all receive a discounted rate (up to 50%), but unfortunately there aren't any individualized solutions for employed blind or partially sighted persons.

- Labour and Trade Union Rights

The National Board of Industrial Injuries also aims to involve other relevant players such as trade unions to support the injured person in his or her endeavours to return to the labour market¹²².

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Moreover, the act states that, in connection with job advertisements or applications for vocational training programmes, advertising specifically for disabled people or stating that disabled applicants are preferred is prohibited. Neither may advertisements say that applications from persons with disabilities are unwanted. Finally, provisions in individual or collective agreements or provisions in employers' internal rules conflicting with the provisions of the law are invalid. This applies to both public and private employers¹²³.

¹²¹ CRPD/C/DNK/1, para. 285.

¹²² CRPD/C/DNK/1, para. 284.

¹²³ CRPD/C/DNK/1, para. 481.

- Promote employment opportunities and assistance

To ensure that persons with disabilities can join the labour market, the Danish government and Disabled People's Organisations Denmark have launched a four-year disability strategy, the idea for which springs from the possibility of uniting disabilities and employment. As part of the strategy, the two parties are launching nine initiatives focusing on the three key players in activities in favour of persons with disabilities - job centres, the private individual and businesses. The initiatives cover the following three action areas and involve both the retention and inclusion of persons with disabilities in the labour market:

- facilitating the combination of disabilities and work;
- spreading awareness of existing compensation options;
- obtaining more knowledge about effective means of getting more persons with disabilities into employment¹²⁴.

- Employment in the public sector

When filling a vacant position, public employers are under an obligation to give a disabled person, who has difficulty finding employment in the ordinary labour market, preferential access to the vacant position if, in the opinion of the employer, the person with the disability has the same qualifications as the other applicants.

Disability policy initiatives are formed on the basis of current legislation in the area of the Ministry of Defence. The Ministry of Defence is exempted from the prohibition against differential treatment. Due to the physical and mental requirements of military service, discrimination on account of age and disability is permitted as being in good physical condition and health is an ultimate requirement as concerns operations safety on international missions¹²⁵.

- Employment in the private sector, affirmative action programmes, incentives and other measures

On 1st May 2011, the Ministry of Employment joined the Disabled People's

¹²⁴ CRPD/C/DNK/1, para. 280.

¹²⁵ CRPD/C/DNK/1, para. 294 to 296.

Organisations Denmark and the Business Forum for Social Responsibility (VFSA) in launching a project aimed at ensuring that as many persons with disabilities as possible find or retain jobs. The project focuses on such steps as motivating persons with disabilities to seek jobs, helping companies to employ and retain persons with disabilities, and equipping job centres to give company-directed offers to the target group¹²⁶.

Private and public businesses may apply for funds from the Disabled Pool for projects that help persons with disabilities find a place in the labour market. The municipality is responsible for employment activities, but the National Board of Industrial Injuries helps establish the injured person's situation and can award a temporary loss of earning capacity. This helps prevent the injured person from feeling locked in his or her situation, the risk being that the person in question loses his or her connection with the labour market¹²⁷.

- Provision of reasonable accommodation

Under the Danish Act on Prohibition against Differential Treatment on the Labour Market, an obligation of adjustment applies to persons with disabilities, meaning that an employer must take the measures that are expedient in consideration of the specific requirements for granting a person with disability access to employment, to work or to success in employment. However, the obligation of adjustment does not apply if the employer is thus imposed a disproportionately heavy burden. If the burden is sufficiently alleviated through public measures, it is not considered to be disproportionately heavy¹²⁸.

Under the Danish Act on Prohibition against Differential Treatment on the Labour Market, subsidies may be granted to a business for the remuneration, etc., of a personal assistant, which can be offered to unemployed people, wage earners and self-employed businesspeople¹²⁹.

Under employment legislation, subsidies are granted for aids, tools, small-scale workstation design and layout or teaching equipment¹³⁰.

¹²⁶ CRPD/C/DNK/1, para. 52.

¹²⁷ CRPD/C/DNK/1, para. 281-282.

¹²⁸ CRPD/C/DNK/1, para. 288.

¹²⁹ CRPD/C/DNK/1, para. 291.

¹³⁰ CRPD/C/DNK/1, para. 295.

- Acquisition of work experience in the open labour market

With a view to gradual inclusion in the labour market of a disabled person who has completed an education programme of at least 18 months' duration, which can entitle the person to membership of an unemployment insurance fund, support may be granted to employment with a public or private employer for a period of up to two years after the programme is completed¹³¹.

- Vocational and professional rehabilitation, job retention and return to work programmes

According to the November 2006 agreement on implementing the globalization pool, aimed at making Denmark a leading growth, knowledge and entrepreneur society, at least 95 per cent of young people in a given year must complete a youth education programme from 2015. Meeting this ambitious target calls for more than viewing the youth education programmes separately. The government has launched initiatives regarding primary school, counselling and vocational training programmes. All the initiatives are intended to help meet the 95 per cent target¹³².

During rehabilitation with a job plan, the person receives rehabilitation benefits in the amount of the highest daily cash benefits. Young people below the age of 25 generally receive half the amount. As of 15th April 2011, benefits were likely to be changed for young people below the age of 30. Subsequently, these young people would receive rehabilitation benefits in the amount of the cash benefits unless they were providers for resident children or had a considerable income prior to rehabilitation¹³³.

CONCLUDING OBSERVATIONS

58. The Committee notes with concern that while the Act on the Prohibition of Discrimination in the Labour Market prohibits direct and indirect differential treatment on the grounds of disability, neither the general labour legislation nor

¹³¹ CRPD/C/DNK/1, para. 293.

¹³² CRPD/C/DNK/1, para. 222-223.

¹³³ CRPD/C/DNK/1, para. 249.

collective labour agreements stipulate clear obligations on employers to afford reasonable accommodation in the labour market, which may be among the sources of a prevailing employment gap between persons with disabilities (44 per cent of whom are working) and persons without disabilities (78 per cent of whom are working).

59. The Committee recommends that the State party take all necessary measures to significantly increase, as soon as possible, the percentage of persons with disabilities working in the open labour market, including amendments to the general labour legislation so that it imposes clear obligations on employers to afford reasonable accommodation to employees with disabilities.

CRPD COMMITTEE RECOMMENDATIONS

To take all necessary measures to significantly increase, as soon as possible, the percentage of persons with disabilities working in the open labour market.

To include amendments to the general labour legislation so that it imposes clear obligations on employers to afford reasonable accommodation to employees with disabilities.

GERMANY

Germany ratified the Convention and its Optional Protocol in August 2009. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/DEU/1) submitted in May 2013
Information received from Germany on follow-up to the concluding observations (CRPD/C/DEU/CO/1/Add.) in November 2017
Alternative reports: Enthinderungsselbsthilfe von Autisten für Autisten (ESH) -Alternative Report on Germany; German CRPD Alliance (BRK-Allianz); German CRPD Alliance (BRK-Allianz) - Appendix_ENG-27022015; Bundesverband Psychiatrie-BPE-Germany; Association of German Development NGOs (VENRO); German Institute for Human Rights; Zwischengeschlecht-International Intersex Human Rights NGO-Germany
List of Issues (CRPD/C/DEU/Q/1) submitted on 12th May 2014
Concluding Observations (CRPD/C/DEU/CO/1) adopted on 28th October 2014
Presentation of combined second and third periodic reports no later than 24th March 2019.
List of Issues for combined second and third periodic reports submitted by German CRPD Alliance (BRK-Allianz); update for combined second and third periodic reports provided by German CRPD Alliance (BRK-Allianz)

In accordance with the federal system set out in the Basic Law, specific legislative competences are incumbent on the Federation. Statutes based on this are hence applicable in the entire federal territory. This is, for instance, the case with labour and social legislation. Additionally, there are legislative competences to which the Länder are entitled in exclusivity, such as in the sphere of education¹³⁴.

In Germany, 12.4% of persons with disabilities were affected by unemployment in 2016, compared with 7.8% for general unemployment. In 2013, 49% of persons with disabilities and around 33% of persons with visual impairment were part of the labour force, compared to 80% for the general population. Employees with disabilities are more likely to work part time or below minimum wage. Consequently, the poverty risk for persons with disability rose from 13% in 2005 to 20% in 2013. Persons with chronic illnesses have a poverty risk of 26% compared to 13% for the general population¹³⁵.

- Protection from discrimination

In accordance with the Basic Law of the Federal Republic of Germany, no person may be disfavoured because of disability (Article 3 Para. 3 of the Basic Law). In 2006, the General Anti-Discrimination Act (Allgemeines Gleichbehandlungsgesetz – AGG) entered into force. This act protects people at work and in civil legal transactions against discrimination not only on grounds of a disability, but also of race or ethnic origin, gender, religion or philosophical creed, age or sexual identity¹³⁶. The term disfavoured, or placing at a disadvantage (Benachteiligung), was defined in the AGG. Accordingly, a disadvantage is incurred if, because of a ground named in section 1 of the AGG, a person receives less favourable treatment than another person receives, has received or would receive in a comparable situation (direct discrimination). Also, indirect discrimination, meaning apparently neutral provisions, measures, criteria or procedures which place specific individuals or groups at a disadvantage on the grounds of one of the discrimination characteristics without an objective reason, fall under the term “disadvantage”¹³⁷.

¹³⁴ CRPD/C/DEU/1, para. 30.

¹³⁵ CRPD Update, 2018, pages 10-12.

¹³⁶ CRPD/C/DEU/1, para. 8.

¹³⁷ CRPD/C/DEU/1, para. 22.

If private entities deny reasonable accommodation in the field of employment, this qualifies as discrimination under the AGG. Public entities on the federal level need to provide reasonable accommodation under the German Equal Opportunities for Disabled People Act (Behindertengleichstellungsgesetz – BGG). Denial thereof amounts to discrimination. The implementation of laws similar to the BGG on the sub-federal level is unequal and universal protection from discrimination is not assured¹³⁸.

- Positive measures

Persons with disabilities receive assistance for participation in work (for instance, establishment of a driving service, employment of readers for blind workers, provision of sign language interpreters for the deaf) in accordance with section 102, subs. 4 of Book IX of the Social Code¹³⁹. The construction measures include the use of floor indicators (grooves, ribbed and knobbed boards) as an aid for the orientation of blind and visually-impaired persons¹⁴⁰.

- Protection of the rights of blind and partially sighted persons

Persons with disabilities in Germany have the same rights as persons without a disability. No person may be disfavoured because of disability. This is stipulated by the Basic Law of the Federal Republic of Germany (Article 3 of the Basic Law). Equal treatment and the promotion of equal opportunities are hence key to policies on people with disabilities. This policy aims to guarantee the benefit of self-determination and participation of persons with disabilities in life in our society¹⁴¹.

The BGG governs accessibility in an extensive manner, making documents accessible for both blind people and visually impaired persons in the administrative procedures, through to the barrier-free design of the internet presentations of the federal authorities. A partial reform of the BGG in 2018 in transposing EU Directive 2016/2102 on the accessibility of public websites has

¹³⁸ CRPD Update, 2018, page 2.

¹³⁹ CRPD/C/DEU/1, para. 147.

¹⁴⁰ CRPD/C/DEU/1, para. 155.

¹⁴¹ CRPD/C/DEU/1, para. 14.

decreased the quality of protection of the rights of blind and partially sighted readers. Moreover, its implementation on the sub-federal level is unequal¹⁴².

- Labour and Trade Union Rights

In the workplace, the elected representatives of severely disabled persons (Schwerbehindertenvertretung - SBV) work for the interests of persons with disabilities. There are special work councils in the WfbM workshops. Despite marginal improvements of their rights in the BTHG, these committees can only partly assume their responsibilities since they do not have equal decision and participation rights as compared with other employee and staff councils¹⁴³.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

There are no reliable data either on the federal or the Länder level regarding the transition from special needs schools to working life, or to general vocational training [Berufsvorbereitung] measures. While a total sum of 1.5 million vocational training positions were available in 2010¹⁴⁴, a mere 6,700 adolescents with severe disabilities were able to start their regular vocational training within the dual education system¹⁴⁵. This mirrors the general situation for young persons with disabilities on the labour market as described above. In particular, young women with disabilities experience considerable restrictions when it comes to choosing a vocational training program. Moreover, the overall percentage of women with severe disabilities in vocational training is lower than in the male reference group¹⁴⁶.

Vocational training within the dual education system is rarely offered to young people with disabilities in order to comply with the framework regulations provided by the board of the Federal Institute for Vocational Education and Training

¹⁴² DBSV, 2018, <https://www.dbsv.org/stellungnahme/umsetzung-rl-2016-2102.html>.

¹⁴³ BRK-Allianz (Eds.), 84; CRPD Update, 2018, page 11.

¹⁴⁴ Statistisches Bundesamt, 2010 figures.

¹⁴⁵ Bundesagentur für Arbeit: Beschäftigungsstatistik Schwerbehinderte Menschen in Beschäftigung, Berichtsjahr 2010, chart 6.

¹⁴⁶ Bundesagentur für Arbeit (BA): Arbeitsmarkt in Zahlen – Förderstatistik: Teilhabe behinderter Menschen am Arbeitsleben – Rehabilitanden. 2012.

[Bundesinstitut für Berufsbildung].¹⁴⁷ Lifelong learning opportunities are rarely designed in an accessible way, thus hindering the participation of persons with disabilities.

- Promote employment opportunities and assistance

Sixty percent of all unemployed persons with disabilities are registered in job centres [Jobcenter]. In contrast to the federal employment agencies [Agentur für Arbeit, see § 104 SGB IX)], job centres are not legally obliged to provide specific counselling and placement services for (severely) disabled persons. However, considering that many of these persons have been unemployed long-term and have complex support needs, these services would be essential in job centres. Moreover, the long timeframe for granting assistance or assistive technologies places unnecessary burdens on persons with disabilities. It is normal for assistive technologies to be granted only after several months on a new job, thus limiting the probability for a contract extension beyond the probation period¹⁴⁸.

The quality of counselling and guidance in the job centres is deficient. They do not focus on the tested and approved participation goals defined in the SGB IX (long-term, quality job positions), but, instead, on the fast placement of clients into low-skill jobs. Many job centre employees are not qualified enough to properly recognize their clients' needs. This impedes access to rehabilitation and results in persons only obtaining basic benefits and no additional means necessary to meet the needs arising from their disability. Likewise, general benefits for employment promotions are allocated to severely disabled people far less frequently when they fall under the responsibility of SGB II, instead of SGB III¹⁴⁹.

- Employment in the public sector

Public employers are generally aware of their obligation to employ persons with severe disabilities. Here, the rate increased from 5.4 percent in 2003 to 6.3 percent in 2009¹⁵⁰. However, in 2016 this rate dropped to 4.7 percent, which is below the threshold set at 5 percent¹⁵¹.

¹⁴⁷ Framework guidelines for vocational training regulations according to § 66 BBiG and § 42 HwO for persons with disabilities, June 20th, 2006.

¹⁴⁸ BRK-Allianz (Eds.), page 77.

¹⁴⁹ BRK-Allianz (Eds.), page 77.

¹⁵⁰ CRPD/C/DEU/CO/1, para. 228.

¹⁵¹ CRPD Update, 2018, page 10.

- Employment in the private sector, affirmative action programmes, incentives and other measures

The Federal Government is promoting multiple projects which are to improve the participation in working life of persons who are particularly affected (for instance blind people and those who are partially sighted, as well as deaf persons and persons who are partially deaf)¹⁵². These projects, however, show no immediate results, and the gap in the unemployment rate between persons with disabilities and the general populations remains stable¹⁵³.

Only 4.1 percent of companies in the private sector employ persons with disabilities, and in 2016 there were 41,000 companies that did not employ any people with disabilities at all. Sanctions are rarely enforced and the compensation fee amounts to no more than 320 Euros¹⁵⁴.

There are currently around 700 workshops for persons with disabilities in Germany (Werkstätten für behinderte Menschen – WfbM). The workshops offer an employment opportunity to people who, because of the nature or severity of their disability, cannot be employed in the general labour market. Roughly 310,000 persons with disabilities are employed in the workshops as of 2017, with numbers growing¹⁵⁵. Recognised workshops for persons with disabilities are to be given preferential treatment when awarding public contracts (section 141 of Book IX of the Social Code)¹⁵⁶. Access is granted only to those persons who are capable of producing a minimum amount of economically productive work output¹⁵⁷. The law stipulates that workshops should prepare people for the primary labour market; however, transition to the primary labour market is only successful for one percent of those employed in workshops¹⁵⁸. The Federal Participation Act of 2017 (Bundesteilhabegesetz – BTHG) somewhat increased the financial conditions of working in these workshops, but the salary is still substantially below the minimum wage¹⁵⁹.

¹⁵² CRPD/C/DEU/CO/1, para. 233.

¹⁵³ CRPD Update, 2018, page 10.

¹⁵⁴ CRPD Update, 2018, pages 10-11.

¹⁵⁵ CRPD-Update, 2018, para. 11.

¹⁵⁶ CRPD/C/DEU/1, para. 239.

¹⁵⁷ Section 136, para 2, item 1, SGB IX.

¹⁵⁸ German Institute for Human Rights, page 27.

¹⁵⁹ CRPD Statement, 2018, page 4.

- Provision of reasonable accommodation

Reasonable accommodation in Germany is constituted by the benefits and schemes which persons with a disability and those at risk of disability receive in order to promote their self-determination and equal participation in society, to avoid or to counter disadvantages (section 1 of Book IX of the Social Code)¹⁶⁰. Private entities only need to provide reasonable accommodation in the field of employment (see above).

- Acquisition of work experience in the open labour market

Further efforts are therefore necessary in order to improve the participation of persons with disabilities in the labour market. Also, organizations of persons with disabilities are calling for enhanced promotion in the integration of persons with disabilities in the labour market. The Federal Government has hence created initiatives and programmes in this field to improve the participation of persons with disabilities in training and in work¹⁶¹.

- Vocational and professional rehabilitation, job retention and return to work programmes

In the National Pact for Training and Young Specialist Workers (which had been extended to 2014), the national associations of German industry and the Federal Government agreed to exploit all potential for training. They would also like to support and promote young people with a (severe) disability individually here together. Together with the Länder and industry, the Federal Government is endeavouring to achieve improved participation in in-company training for juveniles with a disability¹⁶².

For people for whom training is not possible despite making use of all available support to compensate for their disadvantages, the Federal Government developed a new form of support as per 1st January 2009 in the shape of 'supported employment'. Supported employment leads people with a special

¹⁶⁰ CRPD/C/DEU/CO/1, para. 23.

¹⁶¹ CRPD/C/DEU/CO/1, para. 230.

¹⁶² CRPD/C/DEU/CO/1, para. 235.

need for support in line with their abilities and leanings to new employment opportunities in an enterprise. In line with the principle of 'placement first, training second', they are trained and supported on the job as long as is necessary until an employment contract can be concluded. Where necessary, they may subsequently receive further vocational accompaniment on the job from the integration offices¹⁶³.

Older persons as well as women with disabilities encounter particularly severe difficulties when trying to access vocational rehabilitation programs. From the participant age of 50 on, the percentage of completed vocational training services that are provided by the Rentenversicherung declines dramatically¹⁶⁴.

CONCLUDING OBSERVATIONS

49. The Committee is concerned about:

- (a) Segregation in the labour market;
- (b) Financial disincentives for persons with disabilities preventing their entry or transition to the open labour market;
- (c) The fact that segregated, sheltered workshops fail to prepare workers for or promote transition to the open labour market.

50. The Committee recommends that the State party provides regulations that effectively create an inclusive labour market in accordance with the Convention by:

- (a) Creating employment opportunities in accessible workplaces, in line with general comment No. 2 of the Committee, in particular for women with disabilities;**
- (b) Phasing out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market;**
- (c) Ensuring that persons with disabilities do not face any reduction in social protection and pension insurance currently tied to sheltered workshops;**
- (d) Collecting data on the accessibility of workplaces in the open labour market.**

¹⁶³ CRPD/C/DEU/CO/1, para. 237.

¹⁶⁴ Reha-Bericht, I.c., page 60: utilization rate based on 10,000 insured individuals in the relevant age group.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party provides regulations that effectively create an inclusive labour market in accordance with the Convention.

- (a) Create employment opportunities in accessible workplaces
- (b) Phase out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market;
- (c) Ensure that persons with disabilities do not face any reduction in social protection and pension insurance currently tied to sheltered workshops;
- (d) Collect data on the accessibility of workplaces in the open labour market.

HUNGARY

Hungary ratified the Convention and its Optional Protocol in July 2007. No reservations or declaration have been made.

Revision Process CRPD Committee
State party report (CRPD/C/HUN/1) submitted on 28th June 2011
Alternative reports: ----
List of Issues (CRPD/C/HUN/Q/1) submitted on 16th May 2012
Concluding Observations (CRPD/C/HUN/CO/1) adopted on 22nd October 2012
Presentation of combined second and third periodic reports no later than August 2014

- Protection from discrimination

The status of a person with reduced working capability is defined in Act 191 of 2011. There is no specific law on the status of a person with disabilities as a worker or employee, and a person with disabilities is classified as a person with changed working capability¹⁶⁵.

¹⁶⁵ EBU questionnaire.

Act XX of 1949 on the constitution of the Republic of Hungary (hereinafter referred to as the Constitution) provides for equality before the law and human and civil rights for all individuals without differentiating in terms of race, colour, language, religion, political or other opinions, national or social origin, pecuniary, birth or other situations including, among others, disabilities¹⁶⁶. The Constitution says that everybody has the right to equal wages for equal work, without any discrimination, and all workers have the right to income that conforms to the quality and quantity of the work performed by them¹⁶⁷.

The prohibition of discrimination is laid down as a basic principle in Act XXVI of 1998 on safeguarding the rights and equal treatment of people with disabilities, as well as by the Fundamental Law of Hungary (25th April 2011)¹⁶⁸.

Regarding the law on equal opportunities, disability-based discrimination in the field of employment means infringement of the requirement to provide equal treatment. This is not infringed by conduct, measures, conditions, failure, instruction or practice that restrict, in an unavoidable case, the disadvantaged party's basic right with a view to enforce another basic right, provided that the restriction is suitable for meeting the objective and it is in proportion with it. Furthermore, in cases not pertaining to the above aspect, the restriction has reasonable grounds that are directly related to the legal relationship in question according to objective considerations¹⁶⁹.

- Positive measures

The Governmental Decree on the rules of accrediting employers employing workers with changed work capacities and on controlling accredited employers entered into force on 1st November 2005. The Governmental Decree on budgetary support that can be rendered for the employment of workers with changed work capacities and the ministerial decrees on implementation entered into force in several stages between 1st November 2005 and 1st July 2007. The essence of the changes is that employers may obtain certificates on three levels

¹⁶⁶ CRPD/C/HUN/1, para. 30.

¹⁶⁷ CRPD/C/HUN/1, para. 194.

¹⁶⁸ EBU questionnaire.

¹⁶⁹ CRPD/C/HUN/1, para. 195.

(basic, rehabilitation and extraordinary) and eligible support is adjusted to the level of the accreditation¹⁷⁰.

One of the measures supporting employers in Hungary is Government Decree 327/2012 (XI.16.) on accreditation of employers employing workers with disabilities, and on the availability of budget support for their employment. In compliance with this regulation, an accredited employer is granted support from the state budget for the rehabilitation wages and the additional costs of persons with reduced working capacities. The extent of wage cost support may amount to a maximum of 100% or less, depending on which category the worker in question belongs to: 'permanent' or 'transitory' employment¹⁷¹.

Persons with severe disabilities, including severe visual impairment, are usually entitled to permanent employment by an accredited employer. Employers will apply for state support to cover the rehabilitation wage costs and other extra expenses. There are also other ad hoc project possibilities, where an employer may submit an application for state support to create rehabilitation jobs, and these projects are usually supported by EU programs and funds. There are also continuous state support possibilities for social employers to employ persons with disabilities. Employers are also supported so that once an employee with disabilities has secured the 'Rehabilitation Card', they do not have to pay social contribution tax. The regulations do not enable a person with severe visual impairment or with other kinds of severe disability to get a Rehabilitation Card. Once an employer having not less than 25 employees has got at least one worker with reduced working capacities, the employer in question does not have to pay the so-called Rehabilitation Contribution¹⁷².

Participation in training schemes that promote employment can be supported if the training schemes promote access to work or the preservation of the jobs of the participants¹⁷³.

¹⁷⁰ CRPD/C/HUN/1, para. 218.

¹⁷¹ EBU questionnaire.

¹⁷² EBU questionnaire.

¹⁷³ CRPD/C/HUN/1, para. 206.

- Protection of the rights of blind and partially sighted persons

Based on regulations in force, people have 'changed capacity for work' if they have limited sight, receive allowance for the blind or receive a disability allowance owing to the development disorder afflicting their personality as a whole. This category includes the person who, based on rules of law, is to be considered as mentally seriously handicapped and, as a result, is entitled to an allowance reducing the tax base, as provided for by the act on the income tax of private persons¹⁷⁴.

- Labour and Trade Union Rights

The Rehabilitation Dialogue Committee is the interest representation body of persons with changed work capacity. The committee has two sides: employers and employees. The Local Industry and Municipal Workers' Union represents employees with changed work capacity and the National Association of Protected Organisations represents employers. The Controlling Body of the Labour Market Fund, where the government is also represented in addition to social partners, while employees are represented by the trade union delegates, plays an important role in allocating employment-related subsidies¹⁷⁵.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Wage support can be granted to help rehabilitation employment of up to between 40% and 100% of the wages and benefits payable to employees. Support can be granted from 1st July 2007 only to employers holding an accreditation certificate. Wage support may be requested by the employers at the corresponding labour centre at the place of employment or at the corporate seat of the employers, except for public administrative bodies as well as state or local municipal budgetary organisations if employees with changed work capacities are or will be employed within the framework of an employment relationship¹⁷⁶.

¹⁷⁴ CRPD/C/HUN/1, para. 15.

¹⁷⁵ CRPD/C/HUN/1, para. 221-222.

¹⁷⁶ CRPD/C/HUN/1, para. 208.

The main task of the National Employment Foundation is to promote the extension of employment, to improve the adaptation abilities of employees and job-seekers, to render services to employers, to improve opportunities for disadvantaged people in the labour market, and to promote their employment. It draws into the service programmes the widest possible range of inactive people and provides a chance to satisfy the self-information needs of those seeking and offering jobs¹⁷⁷.

Mediation is a primary service task of the labour centres, and it is free of charge for all parties. In the course of mediation, the most important objective is to provide a meeting point for those who seek and offer jobs as well as to establish a legal relationship for employment between them. To that end, the service highlights the differences in the demand and supply structures so that demand can be better met through appropriate re-training schemes and other forms of support. A further task of the service is to provide a solution for the life situation of people registered as job-seekers as well as to promote preparations required to secure employment or taking labour market positions through human services, prioritised programmes or active employment-policy instruments¹⁷⁸.

- Promote employment opportunities and assistance

Under the Governmental Decree 291/2006 (XII.23) on Public Employment Service, the service organises and renders services, manages work mediation, gathers reports on labour needs, provides information and consulting and carries out customer service activities related to the tasks performed by them. Furthermore, it provides information in connection with the European Employment Service (EURES), keeps contacts with employers taking part in the economic life of the county and the small region concerned, with local municipalities and other organisations in the county and the small region concerned, and co-operates in economic restructuring and in programmes aimed at improving the employment situation¹⁷⁹.

¹⁷⁷ CRPD/C/HUN/1, para. 201.

¹⁷⁸ CRPD/C/HUN/1, para. 203.

¹⁷⁹ CRPD/C/HUN/1, para. 202.

Capital allocations of up to HUF 3 million help job-seekers to become entrepreneurs, and the allocation can be reimbursable or non-reimbursable; furthermore, wage support can be granted for up to six months and it may not be higher than the amount of the lowest compulsory wage; in addition, consulting costs required for starting and pursuing entrepreneurial activities are reimbursed¹⁸⁰.

The social co-operative is a co-operative whose objective is to find employment for its members who are without a job or are socially disadvantaged, and to encourage the improvement of their social situation by other means. Social co-operatives (with the exception of school co-operatives) establish their tax base and determine their tax exemption under the rules relevant to non-profit business associations of public benefit and prioritised public benefit. Social co-operatives are given tax exemption at the rate that is represented by its revenues gained from the preferential activities within the total revenues¹⁸¹.

- Employment in the public sector

Unfortunately, the employment rate of people with disabilities in the public sector in Hungary is very low. It is not facilitated by the fact that the public sector is not entitled to a grant after the employment of a person further to his or her reduced working capacity or disability. It is valid also for the employers in the public sector that they are granted exemption from the Rehabilitation Contribution Tax if they hire a person with reduced working capacity. They take advantage of this tax exemption possibility by employing someone registered as a person with reduced working capacity due to a chronic disease or for another reason. That way an employer has already met the pre-conditions of the tax exemption, and the employment of people with severe disabilities is not treated as an important issue anymore¹⁸².

- Employment in the private sector, affirmative action programmes, incentives and other measures

Several nationwide programmes support the employment of people with changed working abilities, including employees in the most disadvantaged

¹⁸⁰ CRPD/C/HUN/1, para. 207.

¹⁸¹ CRPD/C/HUN/1, para. 219.

¹⁸² EBU questionnaire.

position. Those persons living with disability who are unable to enter the open labour market can participate in several programmes within the protected labour market based on their abilities. Social employment financing is available - within an annual budget specified for social institutions - to those who can join the world of labour only through partial activities or with regular, high-intensity support (technology, human resources, etc.)¹⁸³.

The National Employment Foundation has devised and supported transition models intended to ensure mobilisation towards the open market by improving the chances of employees to seek jobs and by creating an interest on the employers' side. It has conducted the programme titled 'encouraging the employment activity of employers and employees with changed work abilities'. The programme was meant to explore the secondary elements of encouragement (not based on state subsidies) that can convince the open market players about the advantages of employing people with changed capacity for work¹⁸⁴.

Subsidies may be granted from the Rehabilitation Fund section of the Labour Market Fund –based on a tendering procedure– for establishing and transforming workplaces and for providing free access to workplaces as well as for modernising and making investments in work tools. With a view to the economic crisis, this form of subsidy could not be granted temporarily after the second half of 2009. Its role was taken over by the Social Renewal Operative Programme, which was to be introduced later¹⁸⁵.

The costs of passenger transport, administration, logistics, work organisation and transportation can be reimbursed in the form of cost compensation support and tendering. Rehabilitation cost subsidy can be granted to employers who agree to employ –in a contract concluded with the authorities through a tendering procedure– people who cannot be employed in the open labour market due to their health condition or disability and who meet the conditions to qualify for the extraordinary accreditation certificate¹⁸⁶.

¹⁸³ CRPD/C/HUN/1, para. 197-198.

¹⁸⁴ CRPD/C/HUN/1, para. 199-200.

¹⁸⁵ CRPD/C/HUN/1, para. 209.

¹⁸⁶ CRPD/C/HUN/1, para. 210.

In the case of seriously handicapped individuals, the tax on the aggregate tax base is reduced by the amount (personal allowance) equalling 5% of the monthly minimum wage valid on the first day of the taxation year, every month, from the month of the starting day of the handicapped status during the period while this status prevails, on the basis of the relevant certificate. Based on Act LXXXI of 1996 on corporate tax and dividend tax, the profit before tax can be reduced –in the case of employing people with work capacity changed at least at 50%– with the amount of wages paid to the employee with changed work capacity every month per person, but at most with the minimum wage valid on the first day of the taxation year, provided that the average staff numbers of workers employed by the tax-payer does not exceed 20 persons in the taxation year¹⁸⁷.

- Provision of reasonable accommodation

Reimbursement of local and point-to-point travel costs related to travelling to work and gaining work experience between the place of residence or place of abode and the place of work is available. Reimbursement of local and point-to-point travel costs related to going to work and gaining work experience can also be determined –based on Governmental Decree No. 39/2010. (II. 26)– in the case of travelling to work in one’s own motor vehicle as well as for persons with physical handicap or disability and their relatives. Transporting groups of passengers can also be supported in the case of employers who provide for the travel of employees between their residence (place of abode) and the place of work in the form of transporting groups of passengers. The costs of local and point-to-point travel can also be supported in connection with job-seeking if the travel is required in order to obtain expert opinion on occupational health and training suitability initiated by the labour centre. The reimbursement of the costs of occupational health and training suitability examinations is requested by the employer and/or the training institution, but the costs of examination are reimbursed by the labour centre directly to the organisation carrying out the examination¹⁸⁸.

- Acquisition of work experience in the open labour market

The employment rate of persons with disabilities, including visually impaired people, is extremely low on the open labour market in Hungary. It is meant to be

¹⁸⁷ CRPD/C/HUN/1, para. 217-218.

¹⁸⁸ CRPD/C/HUN/1, para. 214.

increased by granting an exemption from the Rehabilitation Contribution Tax if an employer hires a person with reduced working capacity. Rehabilitation Cards should also help to increase the employment rate of people with reduced working capacity. If a person having a Rehabilitation Card is employed, the employer need not pay the Social Contribution Tax for the employee in question. Act No. 191 of 2011 on the employment and care of persons with disabilities, and the aforementioned Government Decree 327/2012 (XI.16.) on accreditation of employers employing workers with disabilities and on the availability of budget supports for the employment of workers with disabilities should theoretically facilitate the employment of people with disabilities in the open labour market¹⁸⁹.

The government launched the programme 'Chance for the future' in 2002 in order to set up new, remote workplaces. The central labour market programme, which was started in order to foster remote work, was intended to promote the establishment of new workplaces as well as encourage the application of flexible forms of work, the more flexible operation of work organisations and the further modernisation of the work culture. By further propagating remote work, the tender offers a chance to access the labour market also for those actors in the labour market who belong to a disadvantaged group. Those applicants who also create a chance for people living with disabilities are given special consideration¹⁹⁰.

General experience shows that visually impaired persons have opportunities to be employed in social and IT fields, mainly in the non-profit sector and NGOs. Those visually impaired people having higher level education and qualifications have better chances, and fortunately we can mention legal fields as a good example for that as many visually impaired lawyers work in their own profession. A lot of visually impaired people used to work as therapeutic masseurs; however, this position has started lately to fade into the background. Numerous visually impaired persons work in 'sheltered working places' performing mainly unskilled work. It is typically the non-profit sector, foundations and associations where a visually impaired person can do a job fitting his or her qualification and skills, either in advocacy fields or other services. Nowadays persons with reduced working capability, including visually impaired people, tend to be offered jobs in call centres¹⁹¹.

¹⁸⁹ EBU questionnaire.

¹⁹⁰ Answers to EBU questionnaire.

¹⁹¹ Answers to EBU questionnaire.

- Vocational and professional rehabilitation, job retention and return to work programmes

In Hungary every visually impaired adult is entitled in principle to participate in elementary rehabilitation and habilitation training in the framework of the services provided by the National Institute of the Blind (VÁI), and by local rehabilitation centres. Such services and other kinds of rehabilitation services are provided also by NGOs and other advocacy and representative organisations of the blind. There are also project possibilities within the 'Social Renewal Operational Programme (SROP)' (TÁMOP) to carry out rehabilitation programmes for people with disabilities. While being employed by a rehabilitation employer, a person with reduced working capability can take part in a rehabilitation process aiming to improve his or her skills and to facilitate him or her getting back to work. In 2013 and 2014 there were training courses held for people employed by sheltered employers. Training is carried out as part of projects delivered by several NGOs¹⁹².

Wage support: wage support to extend employment; wage support to extend rehabilitation employment; support for the employment of persons rendering assistance at work; wage cost support for the purpose of gaining work experience, internships and work trials¹⁹³.

Support for self-employment: support can be granted upon request under the programme, for not more than six months and up to the amount of the obligatory minimum working wage¹⁹⁴.

CONCLUDING OBSERVATIONS

43. The Committee notes with appreciation that the State party has taken a number of steps to promote the right to work of persons with disabilities, including through the inclusion of a provision on reasonable accommodation for persons with disabilities in the 2012 Labour Code (Law 1/2012). The Committee regrets, however, that the overall employment rate of persons with disabilities remains lower than for other population groups despite such efforts.

¹⁹² Answers to EBU questionnaire.

¹⁹³ CRPD/C/HUN/1, para. 212.

¹⁹⁴ CRPD/C/HUN/1, para. 213.

44. The Committee recommends that the State party effectively implement the disability-specific provisions of the Labour Code and develop programmes to integrate persons with disabilities into the open labour market and the education and professional training systems, and to make all work places and educational and professional training institutions accessible for persons with disabilities, as recommended by the Committee on Economic, Social and Cultural Rights in 2008 (E/C.12/HUN/CO/3), through fulfilling the requirements of article 27 of the Convention, with a special view to further intensifying its efforts to increase the employment opportunities for women and men with disabilities in the public and private sectors.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends to effectively implement the disability-specific provisions of the Labour Code and develop programmes to integrate persons with disabilities into the open labour market and the education and professional training systems, and to make all work places and educational and professional training institutions accessible for persons with disabilities.

The Committee further recommends to increase the employment opportunities for women and men with disabilities in the public and private sectors.

ITALY

Italy ratified the Convention and its Optional Protocol in May 2009. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/ITA/1) submitted on 6th March 2015
Alternative reports: Italian Disability Forum Alternative Report (INT_CRPD_NGO_ITA_22800_E); Coordinamento Nazionale Famiglie Disabili, English Alternative Report, Italy (INT_CRPD_CSS_ITA_25451__E); Italian Disability Forum (Forum Italiano Sulla Disabilità) (INT_CRPD_CSS_ITA_24265__E)
List of Issues (CRPD/C/ITA/Q/1) submitted on 29th April 2016
Reply to List of Issues (CRPD/C/ITA/Q/1/Add.) submitted on 14th June 2016
Concluding Observations (CRPD/C/ITA/CO/1) adopted on 6th October 2016
Presentation of combined second and third periodic reports no later than 11th May 2023

In Italy and according to the collected data, the total unemployment rate of persons with disabilities is missing. The total unemployment and inactivity rate of persons with disabilities stands at over 80% compared to 12% of the general

population¹⁹⁵. The employment exchange services in charge of job-seekers with disabilities indicated a total of 1,844 persons with visual impairment registered in the unemployment register as of 31st December 2012 (corresponding to 0.3% of the total persons with disabilities registered)¹⁹⁶.

- Protection from discrimination

Law No. 67 of 1st March 2006 (Provisions for judicial protection of persons with disabilities who are victims of discrimination), Article 3 of the Italian Constitution and Article 3 of Law No. 104 of 5th February 1992, and Legislative Decree No. 216 of 9th July 2003 (implementing European Directive 2000/78/EC on equal treatment in employment and occupation) are the main legal instruments concerning disability-based discrimination in Italy.

Italian legislation lacks a definition of reasonable accommodation and, where there is an explicit reference, its implementation is subject to the availability of resources. Moreover, Law 99/2013 only refers to the field of employment and it does not prescribe the provision of reasonable accommodation in other areas of life, in compliance with the CRPD requirements. Italian legislation does not acknowledge the denial of reasonable accommodation as a discrimination based on disability. This lack of definitions is present also in the legislative framework of the regions, which have autonomous legislative power in all areas involving persons with disabilities¹⁹⁷.

People with disabilities are discriminated when compared to other citizens with regard to the availability of data and statistics, working opportunities, active labour policies and investments intended for them in the labour market. In addition, women with disabilities live in a condition of multi-discrimination that penalizes them in the attainment of a job¹⁹⁸. There are no specific measures for women with disabilities.

¹⁹⁵ Italian Disability Forum, 2016.

¹⁹⁶ V. Cascio, 2016: *The employment of blind and partially-sighted persons in Italy*, Italian Union of the Blind and Partially Sighted (UICI).

¹⁹⁷ INT_CRPD_NGO_ITA_22800_E, page 8.

¹⁹⁸ INT_CRPD_NGO_ITA_22800_E, page 74.

- Positive measures

The law obliges both public and private employers with at least 15 workers to hire workers with disabilities in accordance with a reserve quota (art. 3).

Job offices register job seekers and provide counselling and outplacement. A specific scheme, known as 'targeted employment', is made available to job seekers with disabilities to help them find a job, further their skills and compete on the job market. An individual plan is first designed to assess the skills, aspirations and profile of the person with disabilities and, if the plan includes training, the regional government will mandate a company or a disability specific organisation to carry out the relevant training. The person also receives help with locating relevant job announcements¹⁹⁹.

- Protection of the rights of blind and partially sighted persons

As to employment and work protection for persons with disabilities, the most relevant legislative measure is Law 68/99. Law 68/99 applies to:

- a) people of working age with physical, mental or sensorial disabilities, with a reduction of their working ability of more than 45%, as confirmed by dedicated commissions for the certification of disability;
- b) industrially disabled people with a degree of handicap of more than 33%, certified by the National Institute for the Insurance against Accidents at Work (INAIL);
- c) deaf or blind people, except for blind telephone operators, masseurs and physiotherapists, rehabilitation therapists and teachers;
- d) disabled ex-servicemen, registered disabled civilians and legally disabled persons with impairment as per DPR 915/78.

Public authorities employ persons with disabilities belonging to the so-called protected categories on the basis of competitive entry examinations where blind persons may benefit from special time adjustments and use their adapted assistive technologies (regulated by law 104 of 1992)²⁰⁰.

¹⁹⁹ <http://www.euroblind.org/convention/article-27/italy>.

²⁰⁰ CRPD/C/ITA/1, para. 134.

In the quota system adopted by this law, visually impaired people are included due to the special laws addressed to this target group (L. 113/85 and L. 29/94: telephone operators and masseurs-physiotherapists)²⁰¹.

There are no specific measures applicable to women workers with disabilities, including women with a visual impairment, in Italy. All legal measures concerning the employment of persons with disabilities are applied equally to men and women²⁰².

- Labour and Trade Union Rights

Italian trade unions offer assistance to workers with disabilities under the same conditions as any other trade union member. However, unions have developed specific measures to target employment and work-related issues for people with disabilities²⁰³.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

There is no specific public service catering for vocational counselling in Italy. Vocational counselling is carried out mainly by disability specific organisations or by the agencies who work in the rehabilitation and training fields²⁰⁴.

- Promote employment opportunities and assistance

The regional fund for the employment of people with disabilities (according to art. 14 l. of Law 68/99 as modified by art. 11 of Legislative Decree 151/2015) promotes employment opportunities and assistance. It is financed by: compensation fees paid by employers who do not respect the obligations set out in Law 68/99; taxes paid by employers (not included in the previous fund); and donations from private foundations and interested institutions²⁰⁵.

²⁰¹ UICI, 2016.

²⁰² UICI, 2016.

²⁰³ <http://www.euroblind.org/convention/article-27/italy>.

²⁰⁴ <http://www.euroblind.org/convention/article-27/italy>.

²⁰⁵ UICI, 2016.

Law No. 113 of 29th March 1985 regulated the employment of visually impaired switchboard operators and comprehensively addressed vocational training, job placement, contracting and retirement schemes. All public offices and private companies with a switchboard of at least 5 telephone lines must hire one visually impaired telephone switchboard operator. Public offices with switchboards comprising more than one operator position must reserve no less than 51% of all positions to visually impaired people.

Law No. 29 of 11th January 1994 governs the employment of visually impaired rehabilitation therapists. Private nursing homes and public hospitals must hire at least one and up to 5% of visually impaired therapists²⁰⁶.

Under Law No. 270 (1982), 2% of the teaching posts made available in the context of each examination are reserved for visually impaired candidates. They are also entitled to priority in choosing the location of their teaching post and to a reduction in the quantity of required service. Under Law No. 946 of 6th September 1967, visually impaired teachers are entitled to specific benefits, including priority access to positions in blind schools and institutes and facilitated access to positions in mainstream schools.

- Employment in the public sector

The Law on the employment of persons with disabilities (Law No. 68 of 12th March 1999, Regulations on the right to employment for persons with disabilities) is the main legislation concerning disability employment in Italy.

Based on the size of their workforce, public offices are required to hire a certain percentage of workers with disabilities:

- offices with more than 50 employees must meet a 7% disability employment quota;
- at least 2 workers with disabilities must be hired in workplaces of between 36 and 50 employees;
- workplaces of between 15 and 35 employees must hire at least 1 worker with a disability if they operate a new job intake;

²⁰⁶ <http://www.euroblind.org/convention/article-27/italy>.

- workers with disabilities hired on temporary contracts for a period of less than 9 months cannot be included in the percentages, in other words employers must hire workers with disabilities for longer periods to meet the legal requirement²⁰⁷.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Private entities and companies employ persons with disabilities on the basis of employment lists created by the relevant employment service at provincial level, following a well-established quota system which sets progressive percentages on the basis of the number of non-disabled employees²⁰⁸.

Private and public entities which do not comply with the legal obligations are subject to administrative sanctions, the revenue of which is allocated to a special fund for the employment of persons with disabilities held at regional level²⁰⁹.

From January 2016 on, financial incentives may be allocated, upon application/request, to employers hiring a disabled person with an open-ended contract for a period of up to 36 months (art. 10, Legislative Decree 151/2015):

- 1) to the extent of 70% of the social-security-purposes taxable amount of the gross monthly salary for a disabled person with a reduced working ability above 79%;
- 2) to the extent of 35% of the social-security-purposes taxable amount of the gross monthly salary for a disabled person with a reduced working ability of between 67% and 79%²¹⁰.

- Provision of reasonable accommodation

The regional fund for the employment of people with disabilities is set by each region (according to art. 14 I. of Law 68/99 as modified by art. 11 of Legislative Decree 151/2015) and is used for:

²⁰⁷ <http://www.euroblind.org/convention/article-27/italy>.

²⁰⁸ UICI, 2016.

²⁰⁹ UICI, 2016.

²¹⁰ UICI, 2016.

- regional placement schemes for disabled people or related services;
- adaptation of equipment;
- adaptation of premises;
- promoting on-the-job training;
- promoting teleworking for people with disabilities.

- Acquisition of work experience in the open labour market

Sheltered employment no longer exists in Italy. However, Law No. 68 of 12th March 1999 regulates specific supported contracts which are used to give people with multiple disabilities work experiences. These workers often require additional support. Such contracts may concern both public institutions and private employers who are required to hire workers with disabilities²¹¹.

The main occupations of blind and partially sighted workers in Italy are as follows: telephone work, rehabilitation specialists and physiotherapists, IT specialists and programmers, teachers, musicians, lawyers, journalists, psychologists and civil servants²¹².

- Vocational and professional rehabilitation, job retention and return to work programmes

Persons with disabilities are entitled to access vocational or rehabilitation training, regardless of whether their disability occurred from birth or later in their lives.

Vocational training courses for persons with visual impairment in switchboard operations, other telephone-based jobs and physiotherapy take place in specialised centres and training costs are funded by regional governments.

A training scheme is made available to both workers with disabilities and job seekers under Law No. 68 of 12th March 1999 ('Regulations on the right to employment for persons with disabilities'). This scheme is known as 'targeted employment' because it aims to allow persons with disabilities to compete on the

²¹¹ UICI, 2016.

²¹² <http://www.euroblind.org/convention/article-27/italy>

job market. An individual plan is designed and if it includes training the regional government will mandate the company that employs the disabled person or a disability specific organisation to carry out the relevant training.

CONCLUDING OBSERVATIONS

69. The Committee is concerned about the high levels of unemployment among persons with disabilities, and inadequate provisions to promote their inclusion in the open labour market, in particular women with disabilities. The Committee is concerned that persons with disabilities in the State party may be restricted to the performance of certain professions on the grounds of their disability.

70. The Committee recommends that the State party be guided by article 27 of the Convention in implementing target 8.5 of the Sustainable Development Goals; and that it ensures the achievement of full and productive employment and decent work for all, including persons with disabilities, and equal pay for work of equal value. In addition, the State party must implement special measures to address the low level of employment for women with disabilities. It also recommends that the State party remove any legislation limiting the rights of persons with disabilities to perform any profession on the grounds of their disability.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party is guided by article 27 of the Convention in implementing target 8.5 of the Sustainable Development Goals; and that it ensures the achievement of full and productive employment and decent work for all, including persons with disabilities, and equal pay for work of equal value.

The State party must implement special measures to address the low level of employment for women with disabilities. It also recommends that the State party removes any legislation limiting the rights of persons with disabilities to perform any profession on the grounds of their disability.

MONTENEGRO

Montenegro ratified the Convention and its Optional Protocol in December 2009. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/MNE/1) submitted on 13th March 2015
Alternative reports: Coalition to end corporal punishment; Global Initiative to end corporal punishment; Human Rights Action
List of Issues (CRPD/C/MNE/Q/1) submitted on 30th October 2015
Concluding Observations (CRPD/C/MNE/CO/1) adopted on 22nd Sept 2017
Submission of combined second, third and fourth periodic reports by 31st August 2023

The Employment Agency of Montenegro, as of 31st December 2012, recorded a total of 1,958 persons with disabilities (workers with disabilities in categories 2 and 3 - 1,377, of whom 410 women and 581 categorized persons, of whom 233 women)²¹³.

²¹³ CRPD/C/MNE/1, para. 242.

- Protection from discrimination

On 22nd July 2011, the Disability Discrimination Act was passed. This Act has not yet been fully implemented, particularly in terms of the norms regarding the prohibition of discrimination of persons with disabilities at work²¹⁴.

The principle of non-discrimination in the area of labour and employment is established also by the Labour Law, which prohibits any discrimination, whether direct or indirect, towards employees in relation to, among other things, their health condition or disability. Discrimination is prohibited in relation to working conditions and all rights concerning employment, education, training, promotion and termination of employment²¹⁵.

- Positive measures

The Law on professional rehabilitation and employment of persons with disabilities stipulates that a person with a disability shall be employed under general or special conditions in accordance with the law, and establishes quotas for the employment of persons with disabilities, pursuant to which the employer that has 20 to 50 workers is required to employ at least one person with a disability and the employer who has more than 50 workers is required to employ at least 5% of people with disabilities in relation to the total number of employees²¹⁶.

An employer who does not hire a person with a disability shall, for each person not employed, when paying the monthly wages and salaries to employees, pay a special contribution for vocational rehabilitation and employment of persons with disabilities, and those funds shall be paid into a special account of the budget of Montenegro – the Fund for professional rehabilitation and employment of persons with disabilities²¹⁷.

An employee with a disability in any calendar year shall be entitled to paid annual leave of at least 26 working days and cannot be assigned to work outside

²¹⁴ EBU questionnaire.

²¹⁵ CRPD/C/MNE/1, para. 235.

²¹⁶ CRPD/C/MNE/1, para. 231.

²¹⁷ CRPD/C/MNE/1, para. 232.

the place of residence. Furthermore, the period of notice stipulated by a special law shall not be less than 30 days for a person with a disability, unless termination is a result of the guilt of the person²¹⁸.

- Protection of the rights of blind and partially sighted persons

According to the Labour Law, a worker with a disability has special protection: she/he cannot be assigned to work in another place outside his place of residence. Equal pay for equal work or work of equal value is guaranteed, which means the work which requires the same level of educational attainment, educational qualification, or professional qualification, responsibility, skills, working conditions and work performance. Entitlement to severance pay in the amount of at least 24 average wages if the disability is caused by an injury or illness unrelated to work and severance pay of minimum 36 average wages if the disability is caused by an injury or occupational illness. The level of severance pay for persons with disabilities shall be determined based on the average wage of the employer if it is more favourable for him/her²¹⁹.

Indirect protection of persons with disabilities has been prescribed in a way that an employee who takes care of people with severe disabilities has the right to work part-time hours and such working hours are considered full-time for the exercise of the labour based right²²⁰.

The 2008 Medical and Technical Regulation provides the blind with free-of-charge technical appliances including adapted watches, white cane, ultrasonic cane (for the deaf-blind), braille, audio players and recorders (cassette or CD) and audio computer display software. The visually impaired are also entitled to a monthly grant to hire an assistant or guide²²¹.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

The employer is obliged to assign employees with a disability to the tasks that correspond to their level of ability in the level of educational attainment, in

²¹⁸ CRPD/C/MNE/1, para. 240.

²¹⁹ CRPD/C/MNE/1, para. 236.

²²⁰ CRPD/C/MNE/1, para. 238.

²²¹ EBU questionnaire.

accordance with the Act on Job Classification. If an employee with a disability cannot be assigned, then the employer is obliged to provide him/her with other rights, in accordance with the law governing the vocational training of persons with disabilities and the collective agreement²²².

- Promote employment opportunities and assistance

In order to raise awareness about the working abilities of people with disabilities the public service Radio Television of Montenegro broadcasts a TV show called 'Pokreni se' at regularly scheduled times and all the newspapers have insert once a week or more in which citizens are regularly informed about the activities of the Employment Agency, especially when it comes to the activities of people with disabilities. Consultants for work with employers in all employment offices in the territory of Montenegro continuously inform employers about the stimulus measures in the case of employment of persons with disabilities²²³.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Organizations or associations of persons with disabilities, when they appear as employers, are exempt from the payment of contributions. Also, it was found that an employer who employs a person with a disability is entitled to a subsidy. Employers who hire a person with a higher degree of disability receive larger subsidies, which encourages employment of persons with severe disabilities²²⁴.

- Acquisition of work experience in the open labour market

Appropriate posts have been provided for persons with disabilities who are employed by employers on the open market. It is specified by the act of the employer emphasizing that only a person with a disability can be hired for those positions²²⁵.

²²² CRPD/C/MNE/1, para. 237.

²²³ CRPD/C/MNE/1, para. 249-250.

²²⁴ CRPD/C/MNE/1, para. 233.

²²⁵ CRPD/C/MNE/1, para. 239.

- Vocational and professional rehabilitation, job retention and return to work programmes

Of special importance are the measures and activities of vocational rehabilitation for persons with disabilities, aimed at brokering at employment based on the percentage of disability and the remaining work capacity, prerequisites for adequate preparation for the labour market and finding a job that will fully correspond to their abilities and needs²²⁶.

In accordance with the law, the Employment Agency of Montenegro organized a Fund for professional rehabilitation and employment of persons with disabilities, and the fund's resources are provided from the special contribution paid by employers to the government²²⁷.

The Employment Agency of Montenegro, as a mediator in seeking jobs for the unemployed, initiates and, in the initial stage, supports the establishment of specialized organizations for vocational rehabilitation and employment of persons with disabilities, as they require special longer professional treatment to overcome a number of barriers that affect their employment problem such as: prejudice, loss of self-esteem, lack of motivation, decreased work capacity, outdated and inadequate knowledge, and others²²⁸.

In cooperation with other social partners, for several years the Employment Agency of Montenegro has implemented public works, as well as measures of active employment policy, in which persons with disabilities are employed at a specific time, for a period of two months to a year²²⁹.

CONCLUDING OBSERVATIONS

48. The Committee is concerned about the lack of information on the effective protection of employees with disabilities from dismissal. It is also concerned about:

- (a) The fact that persons with disabilities, especially women, are particularly affected by unemployment;

²²⁶ CRPD/C/MNE/1, para. 241.

²²⁷ CRPD/C/MNE/1, para. 243.

²²⁸ CRPD/C/MNE/1, para. 246.

²²⁹ CRPD/C/MNE/1, para. 247.

- (b) The lack of information on subsidies or any measures, beyond the obligation for employers who do not respect the minimum quota for the employment of persons with disabilities, to contribute to the Fund for the Professional Rehabilitation and Employment of Persons with Disabilities;
- (c) The insufficient provision of reasonable accommodation in workplaces;
- (d) The use of the medical model of disability to assess people's capacity for work, which is in conflict with the Convention;
- (e) Insufficient comprehensive data on the situation of persons with disabilities in employment, particularly in the private sector.

49. The Committee recommends that the State party analyse and remedy any disincentives to employment for persons with disabilities, and further promote employment in the open labour market in the public and private sectors, with particular emphasis on women, in close consultation with persons with disabilities and their representative organizations. It also recommends that the State party:

- (a) Introduce legislation providing for effective sanctions against employers who fail to provide reasonable accommodation in the workplace;**
- (b) Collect disaggregated statistical data on the employment rate and situation of persons with disabilities, disaggregated by sex, age, type of employment and salary;**
- (c) Reform the assessment procedures in the employment context in line with the human rights model of disability prescribed by the Convention.**

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party introduces legislation providing for effective sanctions against employers who fail to provide reasonable accommodation in the workplace.

Collect disaggregated statistical data on the employment rate and situation of persons with disabilities, disaggregated by sex, age, type of employment and salary.

Reform the assessment procedures in the employment context in line with the human rights model of disability prescribed by the Convention.

PORTUGAL

Portugal ratified the Convention and its Optional Protocol in July 2009. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/PRT/1) submitted on 10th September 2014
Alternative reports: Disability and Human Rights Observatory; Autistic Minority International; Observatório da Deficiência e Direitos Humanos; Disability Council International (DisabCouncil)
List of Issues (CRPD/C/PRT/Q/1) submitted on 1st October 2015
Concluding Observations (CRPD/C/PRT/CO/1) adopted on 20th May 2016
Presentation of combined second to fourth periodic reports no later than 23rd November 2023

- Protection from discrimination

By virtue of Law 46/2006, of 28th August, which prohibits and punishes discrimination on the basis of a disability or illness, it is considered discriminatory practice against people with disabilities in the work and employment:

- (a) the adoption of a procedure, measure or criteria, directly by the employer or through instructions given to its workers or the employment agency, that

- subordinates the factors of physical, sensorial or mental nature in job offers, termination of employment and refusal of act of contract;
- (b) the production or dissemination of job offers, or other forms of advertising for pre-selection or recruitment that contain, direct or indirectly, any specification or preference based on factors of discrimination on the basis of disability;
 - (c) the adoption of practices or measures by the employer that, in the scope of labour relations, discriminate against a worker in the company²³⁰.

- Positive measures

Under the National Reform Plan 2008-2010, the situation of persons with disabilities was covered in field 5, concerning equal opportunities, in accordance with the Integration Plan for Persons with Disabilities or Impairments. The following measures were to be adopted:

- (a) reinforcement of the system of support for the creation of self-employment by persons with disabilities, through supporting the management of projects for the first three years from the beginning of an activity;
- (b) establishment of protocols with large national companies in order to increase employment opportunities for persons with disabilities, within the framework of corporate social responsibility;
- (c) support for the creation of small-scale business companies by or with the participation of persons with disabilities, with support provided in proportion to the number of persons with disabilities;
- (d) development of complementary training in entrepreneurship;
- (e) general support for employment, particularly with regard to adaptations to jobs, elimination of architectural barriers and all active employment measures, in order to ensure equal opportunities for persons with disabilities;
- (f) the accumulation of employment support measures and other measures;
- (g) redefinition of the rules governing protected employment and provision of financial and technical support²³¹.

²³⁰ EBU questionnaire.

²³¹ CRPD/C/PRT/1, para. 226.

- Protection of the rights of blind and partially sighted persons

The available research shows that the lack of accessibility to transportation, communication and information systems and the built environment is one of the main causes of the exclusion and denial of rights for persons with disabilities in Portugal. Furthermore, a failure to implement Universal Design principles and lack of training of human resources create difficulties and limitations on mobility and social participation for persons with disabilities in everyday life. Lack of access to information is still the main problem as reported by persons with disabilities, and especially deaf and blind people and people with low vision²³².

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Persons with disabilities have access to mainstream employment and vocational training programs and measures and to a set of specific measures.

The Employment and Vocational Training Institute (“Instituto do Emprego e Formação Profissional” – IEFP) is the national body in charge of implementing the vocational rehabilitation policy by developing actions that favour the vocational integration of people with disabilities in the open labour market²³³.

IEFP finances the remuneration of hired employees with disability and impairment under the ‘Employment (hiring) Support Programme’ and, more specifically, under the measure ‘Employment Stimulus’. For permanent employment contracts the financing is 110% of the Index of Social Support (ISS) multiplied by 12; for fixed-term contracts, it is 100% of the ISS multiplied by half of the entire number of months of the contract duration, up to 6 times the ISS.

Although there are numerous measures in place to support vocational training and transition to employment for persons with disabilities (e.g. training, internships, information, assessment and orientation, job placement support, post-placement support, assistance in workplace adaptation, allocation of assistive devices, support to remove architectural barriers, reduction in

²³² Observatório da Deficiência e Direitos Humanos.

²³³ EBU questionnaire.

contributions to social security, etc.), the employment rate of persons with disabilities is much lower than that of persons without disabilities and the rate of unemployment is high: the national average of employed persons without disabilities is 66.9%, while that of men with disabilities is 47.25 and 42.7% for women with disabilities²³⁴.

- Promote employment opportunities and assistance

The sheltered employment regime covers all people with disabilities who, although they cannot immediately or in the short term be covered by general work regulations, are sufficiently productive and can, under special conditions, carry out stable, paid and profitable work. This system has the objective of encouraging transition to the mainstream work market as soon as possible. It seeks to provide training for all people with disabilities who have an average work capacity equal to or greater than one third of the normal work capacity demanded of a non-disabled worker in the same position. These objectives are carried out mainly through Sheltered Employment Centres ('Centros de Emprego Protegido', CEP).

The Labour Code recognizes several rights for workers with disabilities such as:

- (a) the right to benefit from flexible working hours;
- (b) the right not to perform extra working hours or night work if that is considered dangerous for health or safety reasons²³⁵.

- Employment in the public sector

Decree Law 29/2001, of February 3rd (Employment Quota System) defines positive measures to promote the employment of people with disabilities in central and local public administration. There is a 5% quota for people with disabilities (motor, visual, hearing, mental or cerebral palsy) with a degree of incapacity greater than or equal to 60%²³⁶.

²³⁴ Observatório da Deficiência e Direitos Humanos.

²³⁵ EBU questionnaire.

²³⁶ EBU questionnaire.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Companies and other employers who enter into employment contracts with persons with disability and impairment whose working capacity is lower than that of a regular worker for the same job, can benefit from IEFP's financial support for those workers' remuneration and for the related compulsory taxes to be paid by the employer. The program also foresees the development of the concept 'Brand Inclusive Employer'. The establishment of the brand aims to promote public recognition and distinction of open and inclusive management practices developed by employers towards people with disabilities and impairment²³⁷.

The legislative instruments (Decree-Law No. 247/89 of 5th August 1989) aimed at promoting vocational training and integration in the regular labour market and the technical and financial incentives and supports available are:

- (a) Compensation subsidy: public funding made available to employers who hire people with disabilities and aimed at compensating them for the lower work productivity during the period of their adaptation or re-adaptation to work.
- (b) Grant for job adaptation and the elimination of architectural obstacles: these are non-repayable grants made to companies or other bodies to adapt their equipment or installations to accommodate workers with disabilities. Each grant must not exceed 12 times the amount of the minimum monthly wage regarding the highest ceiling it can reach. These grants are different from others because they are given for removing physical obstacles and for adapting workplaces.
- (c) Subsidy for personalised support: subsidy granted to employers for each disabled person they hire. The subsidy is aimed at covering the costs of personalised support for people with disabilities provided during the process of their integration in the company's productive systems and adaptation to the workstation.
- (d) Integration prize: financial compensation awarded to those employers who hire people with disabilities on permanent contracts or who convert fixed-term contracts into permanent contracts.

²³⁷ CRPD/C/PRT/Q/1/Add.1 para. 119.

- (e) Merit prize: financial prize awarded to those employers who, each year, stand out as a result of their good practices in the employment of people with disabilities²³⁸.

- Provision of reasonable accommodation

In terms of reasonable adaptations, an effort has been made to overcome existing barriers in buildings, as in most architectural features, including: adaptation of inquiry and interrogation rooms for persons with physical disabilities; acquisition of telescopic ramps and chair lifts; construction of specific health facilities for persons with disabilities; specific car parking spaces for persons with disabilities; creation of barrier-free service desks that can accommodate wheelchairs and other support devices; acquisition of ergonomic chairs for employees with disabilities; application of handrails, tactile command buttons inside and outside elevators, as well as alarm systems in elevator wells; and adaptation of websites for use by persons with reduced accessibility, particularly the visually impaired²³⁹.

- Acquisition of work experience in the open labour market

Sheltered Employment Centres seek to offer people with disabilities paid activity and the possibility of training and/or vocational improvement that allows them to be transferred whenever possible to the normal work market²⁴⁰.

Since 2009 and with the introduction of a new legal framework for the sector, financial and technical support for the vocational training of persons with disabilities has been decreasing while employers take increased advantage of support mechanisms (e.g. internship programmes) made available by the state to promote employment for vulnerable groups (including persons with disabilities) as a means to supply their workforce without creating new jobs²⁴¹.

²³⁸ EBU questionnaire.

²³⁹ CRPD/C/PRT/1, para. 88.

²⁴⁰ EBU questionnaire.

²⁴¹ Observatório da Deficiência e Direitos Humanos.

- Vocational and professional rehabilitation, job retention and return to work programmes

Law No. 38/2004, dated 18th August, defines the general bases of the legal system for prevention, habilitation, rehabilitation and participation²⁴².

Portugal has a network of rehabilitation services covering the entire national territory (including rural areas). Expert teams responsible for the development of rehabilitation projects are established in institutions of higher education, offering expertise on disability, especially in areas such as rehabilitation nursing, special education training, Portuguese sign language interpretation, occupational and speech therapy, orientation and mobility²⁴³.

To ensure regular monitoring of the implementation of the employment and vocational training policies addressed to people with disability and impairment, the 'Forum for Professional Integration' was established. This forum consists of representatives from the IEFP and from organizations representative of entities that develop vocational rehabilitation activities²⁴⁴.

CONCLUDING OBSERVATIONS

51. The Committee is concerned about discrimination and inequality in employment and the conditions of work of persons with disabilities, in particular women, and about the failure of the Labour Code to require companies to provide reasonable accommodation. The Committee is also concerned about the working conditions of persons with disabilities in the Occupational Activity Centres, including their average wage, and about the fact that when they exercise their right to work and employment the most common outcome is employment in these Centres.

52. The Committee recommends that the State party, in close consultation with organizations representing persons with disabilities, review its public- and private-sector labour legislation to bring it into line with the Convention and that it takes measures to enforce the law and apply

²⁴² EBU questionnaire.

²⁴³ CRPD/C/PRT/1, para. 221-222.

²⁴⁴ CRPD/C/PRT/Q/1/Add.1, para. 119.

the stipulated penalties for non-compliance. The Committee also recommends that it does away with segregated working environments, that it reviews the legislation regulating the Occupational Activity Centres from a human rights perspective to bring them into line with the Convention and that it step up efforts to promote access to the regular labour market for persons with intellectual disabilities and autism. The State party should promote corporate social responsibility in connection with the employment of persons with disabilities. The Committee recommends that the State party consider the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals, with a view to achieving full and productive employment and decent work for all women and men, including for persons with disabilities, and equal pay for work of equal value.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party review its public- and private-sector labour legislation to bring it into line with the Convention and that it takes measures to enforce the law and apply the stipulated penalties for non-compliance.

Review legislation regulating Occupational Activity Centres from a human rights perspective to bring them into line with the Convention and step up efforts to promote access to the regular labour market for persons with intellectual disabilities and autism. The State party should promote corporate social responsibility in connection with the employment of persons with disabilities. The Committee recommends that the State party consider the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.

SERBIA

Serbia ratified the Convention and its Optional Protocol in December 2007. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/SRB/1) submitted on 20th June 2012
Alternative reports: Coalition of Disabled Persons Organisations-Shadow report-Serbia (INT/CRPD/LIT/SRB/21108E); Mental Disability Rights Initiative-Serbia (MDRI-S); Disability Council International (DisabCouncil)-Submission on Serbia; Ombudsman of the Republic of Serbia- National Human Rights Institution
List of Issues (CRPD/C/SRB/Q/1) submitted on 2nd October 2015
Concluding Observations (CRPD/C/SRB/CO/1) adopted on 23rd May 2016
Submission of combined second, third and fourth periodic reports by 31st August 2023.

According to the assessment presented in the *Strategy for Improving the Position of Persons with Disabilities*, 330,000 persons with disabilities of working age live in the Republic of Serbia, of which 168,227 are part of the working

population. On the basis of the Report on Fulfilment of Obligation to Employ Persons with Disabilities, the number of employed persons is on the increase since the Law on Professional Rehabilitation and Employment of the Persons with Disabilities (LPREPD) was adopted. It increased from 10,326 people in 2010 to 11,467 people in 2012. Even though the increase exists, it is still not relevant in relation to the total number of persons with disabilities of working age. The structure among both employed and unemployed persons with disabilities indicates the substantially unfavourable status of women with disabilities in the labour market. For example, in 2013 there were 20,666 unemployed people with disabilities on the records of NSZ (67.0% men and 33.0% women)²⁴⁵.

- Protection from discrimination

The LPREPD is based on the principles of respecting human rights and dignity of persons with disabilities, the inclusion of persons with disabilities on equal terms and according to their professional skills, encouragement of employment of people with disabilities in appropriate positions and suitable working conditions, prohibition of discrimination of persons with disabilities, equal rights and obligations and gender equality for persons with disabilities²⁴⁶.

The Labour Law (LL)12 prescribes prohibition of direct or indirect discrimination against persons seeking employment and employees, inter alia, on the basis of their disability (art. 18)²⁴⁷. In cases of discrimination, a person seeking employment, and employees, may initiate compensation proceedings before the competent court in accordance with the Law.

The Law on Teaching and Other Teaching Materials prescribes that a textbook, i.e. teaching materials used for specialised education of the blind and visually impaired, may be written in braille, in electronic formats or in formats customized to the blind and visually impaired, i.e. texts printed in capital letters, sound recordings or photo enlargements, and/or other forms and media (art. 3, para. 5)²⁴⁸.

²⁴⁵ Alternative report INT/CRPD/LIT/SRB/21108E, page 24.

²⁴⁶ CRPD/C/SRB/1, para. 3 and 28.

²⁴⁷ CRPD/C/SRB/1, para. 27.

²⁴⁸ CRPD/C/SRB/1, para.19.

- Positive measures

Employment under special conditions is considered to be employment with an employer with adjusted job(s) and workplace. An employer hiring a person with a disability under special conditions may exercise the right to claim reimbursement of temporary costs²⁴⁹.

- Protection of the rights of blind and partially sighted persons

In accordance with article 104 of the Labour Law, an employee shall have the right to appropriate pay, which shall be determined in accordance with the law, general acts and employment agreements. The employee shall be guaranteed equal pay for the same work, or for the work of an equal value which he/she performs for his/her employer²⁵⁰.

An insured blind person is entitled to assistive devices for the visually impaired. The insured blind person who is trained to use braille is entitled to a braille typewriter. If he/she is a member of a library or at school, the insured blind person is entitled to a player. The blind insured person is entitled to a braille watch for the blind, to dark glasses and to a white cane for the blind. The insured blind person who is a pupil of the 5th or higher grade, a student, an employed person or a person who can make use of speech software for the Serbian language for the blind in terms of employment arrangements, is entitled to speech software for the blind in Serbian, if he/she has a computer of an appropriate configuration without this kind of speech software²⁵¹.

The Law on Road Traffic Safety prescribes rules that provide access for persons with disabilities, on equal terms with others, to the built environment. This includes installing equipment for blind and partially sighted persons to enable movement in buildings for public use, as well as installing special signalling devices which ensure undisturbed and oriented movement of blind and partially sighted persons. Additional aids may be installed like handrails, tactile guides and other similar tools that will enable blind and partially sighted people to move and orient themselves better and more easily in public areas or in public facilities²⁵².

²⁴⁹ CRPD/C/SRB/1, para.131-132.

²⁵⁰ CRPD/C/SRB/1, para. 29.

²⁵¹ CRPD/C/SRB/1, para. 237.

²⁵² CRPD/C/SRB/1, para. 108-110.

- Labour and Trade Union Rights

Workers with disabilities are included in trade unions. However, the existing trade unions do not provide adequate support to employed persons with disabilities²⁵³.

- Promote employment opportunities and assistance

Prior to the adoption of LPREPD, practice in this field did not provide equal access to the open labour market for persons with disabilities. Moreover, a dominant form of employment was in so-called 'sheltered workshops'²⁵⁴.

- Employment in the public sector

Data from the World Bank indicate that only about 13% of persons with disabilities are in employment in Serbia. An additional concern is the fact that 10% of this figure are people employed in the non-governmental organization sector, that is, most of them are employed in organizations of persons with disabilities and only 1% in the open economy and public sector²⁵⁵.

- Employment in the private sector, affirmative action programmes, incentives and other measures

The provisions foresee the possibility for employers to be exempted from paying contributions for three years if they employ a person with a disability; to receive assistance for equipping the workplace; and the means for minimum wage for a person with a disability for the first year of this person's work. Enterprises involved in the rehabilitation of persons with disabilities have the right to a subsidy for each employed person with disabilities amounting to 50% of the average salary.

- Provision of reasonable accommodation

Most jobs nowadays are not accessible because their design did not include the 'design for all' concept. It should also be noted that adjustment is not always

²⁵³ EBU questionnaire, <http://www.euroblind.org/convention/article-27--work-and-employment/nr/133#16>.

²⁵⁴ CRPD/C/SRB/1, para. 24.

²⁵⁵ CRPD/C/SRB/1, para. 24.

necessary, nor an argument is sufficient or circumstances that cannot be overcome when hiring persons with disabilities²⁵⁶.

- Acquisition of work experience in the open labour market

The adoption of the LPREPD for the first time created a possibility for persons with disabilities to be included in a larger number in the open labour market, and to improve the quality of their employability and/or employment quality. The LPREPD in this sense prescribes a series of incentives and activities for unemployed persons and employers alike. For unemployed persons there are particularly important professional rehabilitation measures and active employment policy measures. The adoption of the LPREPD was followed by the adoption of tighter regulations in this field²⁵⁷.

- Vocational and professional rehabilitation, job retention and return to work programmes

For unemployed persons, the professional rehabilitation measures and active employment policy measures are particularly important. The adoption of the LPREPD was followed by the adoption of regulations that more closely regulate this field²⁵⁸. Another novelty introduced by LSP is the so-called 'work centres', namely, "services aimed at improving job skills, i.e. recruitment of persons with disabilities who are users of social protection services, shall be provided in social care facilities and in work centres, in accordance with the Law regulating professional rehabilitation and employment of persons with disabilities"²⁵⁹.

CONCLUDING OBSERVATIONS

53. The Committee is concerned about the insufficient legal protection of employees with disabilities against dismissal and the insufficient provision of reasonable accommodation. The Committee is also concerned that persons with disabilities cannot establish in practice a representative trade union in the open labour market owing to their low representation and that, despite the provision of multidisciplinary committees, assessment of working capacity continues to be based on a medical model of "incapacity".

²⁵⁶ CRPD/C/SRB/1, para. 134.

²⁵⁷ CRPD/C/SRB/1, para. 25.

²⁵⁸ CRPD/C/SRB/1, para. 25.

²⁵⁹ CRPD/C/SRB/1, para. 43.

54. The Committee recommends that the State party review the practice of the application of law to make sure legislation is not disadvantageous for persons with disabilities in terms of employment and labour market participation and guarantee the provision of reasonable accommodation in the workplace. It also recommends that the State party review the assessment of working capacity to eliminate the medicalized approach and to promote the inclusion of persons with disabilities in the open labour market. The Committee further recommends that persons with disabilities can exercise in practice their right to establish trade unions and that the State party pay attention to the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.

55. The Committee is concerned that sheltered workshops for persons with disabilities persist and that the measures to promote the employment of persons with disabilities in the open labour market are not effective.

56. The Committee recommends that the State party promote among employers the right to employment on an equal basis with others and strengthen measures to support the transition of all persons with disabilities who are currently in sheltered workshops into formal, open labour market employment, ensuring the respect of all rights, in accordance with the Convention.

CRPD COMMITTEE RECOMMENDATIONS

The State party review the practice of the application of law to make sure legislation is not disadvantageous for persons with disabilities, and guarantee the provision of reasonable accommodation.

The State party review the assessment of working capacity to eliminate the medicalized approach and to promote the inclusion of persons with disabilities in the open labour market.

Persons with disabilities can exercise in practice their right to establish trade unions and to pay attention to the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.

The Committee recommends that the State party promote among employers the right to employment on an equal basis with others and strengthen measures to support the transition of all persons with disabilities who are currently in sheltered workshops into formal, open labour market employment, ensuring the respect of all rights, in accordance with the Convention.

SPAIN

Spain ratified the Convention and its Optional Protocol in December 2007. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/ESP/1) submitted on 1st July 2010
Alternative reports: -----
List of Issues (CRPD/ESP/Q/1) submitted on 20th July 2011
Concluding Observations (CRPD/C/ESP/CO/1) adopted on 19th October 2011
List of Issues prior to presentation of combined second and third periodic reports (CRPD/C/ESP/QPR/2-3) submitted on 28th April 2017
Combined second and third periodic reports
Contributions by the Peace, Human Rights and Independent Living Institute (IPADEVI); Autistic Minority International; European Network of (Ex-) Users and Survivors of Psychiatry (ENUSP)

The activity rate among people with a visual impairment is 30.99% (compared to 59.43% in the general population, according to the National Institute for Statistics [INE]). This rate is the percentage of people who are active in the labour

market in terms of the working-age population, and it includes people who are in employment and people who are out of work but actively seeking employment.

The unemployment rate among members of the Spanish National Organisation of the Blind (ONCE) is 7% (according to the National Institute for Statistics the rate in the overall population is 20.90%). The unemployment rate is the percentage of the population which does not have a job but is seeking employment in relation to the total active population²⁶⁰.

- Protection from discrimination

On November 29th 2013, Legislative Royal Decree 1/2013 adopting the Revised Text of the General Law concerning the rights of persons with disabilities and their social inclusion (hereon in LGD) was passed.

In relation to preventing discrimination on the grounds of disability, the Revised Text provides definitions of the terms 'direct discrimination', 'indirect discrimination', 'discrimination by association' and 'harassment'. Additionally, and for the first time, it includes:

- the concept of 'discrimination by association', as a result of the coining of the term by the European Court of Justice of the European Union in the ruling dated 17th July 2008 in Case C-303706 (Coleman v. Attridge), which recognised discrimination by association.

- the concept of multiple discrimination, as a means to provide special protection measures for individuals or groups who are particularly vulnerable.

- any instruction to discriminate is considered discrimination in the area of employment.

At regional level (Autonomous Communities) the legislative process during this period has mirrored the process at national level, and legislation has been enacted which includes and specifies the measures needed to ensure equality and rights for persons with disabilities.

²⁶⁰ ONCE, 2015.

- Positive measures

Focusing now on policies to foster inclusion in the labour market in Spain, it is worth noting that that measures differ in different areas of employment according to whether they originated at regional or national level. We shall focus on national initiatives, where the legal framework includes support measures to create employment to facilitate inclusion in the labour market by persons with disabilities, including people with severe visual impairment.

These support measures range from subsidies to encourage the recruitment of persons with disabilities or to adapt workplaces to measures making it easier for them to set themselves up as self-employed including, among others, reduced social security payments.

Public- and private-sector companies employing 50 or more people must set aside 2% of jobs for employees with a disability. Under exceptional circumstances, companies may be granted partial or complete exemption from this rule by entering into a civil or commercial contractual arrangement with a special employment centre or a self-employed person with a disability for the supply of raw materials, machinery, capital goods or any other type of goods, or by providing donations or sponsorship, or by setting up a work enclave via a contractual agreement with a special employment centre.

- Protection of the rights of blind and partially sighted persons

In addition to access to state employment services and the support delivered by the legislation outlined above, people who are blind or severely partially sighted also benefit from the social services ONCE provides for its members.

One of ONCE's key goals is to secure inclusion in the mainstream labour market for visually impaired people as a means to achieving full social inclusion. To meet this target, ONCE offers members its Employment Support Service in 22 centres distributed all around Spain. This service is responsible for the social and labour-market inclusion of ONCE members and for providing support for them to retain their jobs.

To this end, the ONCE Employment Support Service offers individual and personalised services to deliver professional guidance and enable the individual,

among others, to decide on an agreed employment itinerary and reach a suitable qualification level through training for employment, as well as manage their job-seeking for suitable job offers and provide support towards self-employment, as indicated above.

At the same time, ONCE provides guidance to employers who are looking to hire people who are blind or have severe vision loss and gives advice on the adjustments these people need to perform a job. These services are free-of-charge for both employers and ONCE members.

As an additional safeguard to ensure the individual is able to retain the position, ONCE, through its support for employment specialists, delivers actions designed to prevent exclusion from the labour market.

ONCE, as a special employment centre itself, offers its members and people with other disabilities the option of employment as a lottery salesperson, selling its products such as the 'Cupón' (daily ONCE lottery). In solidarity with people with other disabilities and through ONCE Foundation, it also delivers programmes aimed at fostering integration in the workplace, training programmes and employment programmes for persons with disabilities, as well as projects to boost accessibility and promote fully-accessible environments, products and services.

Moreover, ONCE's belief in the talent and skills of people with disabilities is evident in its own business group, which provides a wide range of job opportunities for people with both visual impairment and other types of disability. ILUNION, ONCE's group of social enterprises, currently has 479 work centres and, since it was set up in 2014, has demonstrated that social and financial profitability can go hand in hand in a variety of sectors within the economy, i.e. social sector, health, tourism and consulting. ILUNION has recently begun to expand internationally.

So ONCE, ONCE Foundation and ILUNION together represent a social assistance model which is unique worldwide and is fully committed to social inclusion and integration in the labour market for blind people and people with other disabilities. The three come together under the single name ONCE Social Group which, between the three organisations, employ a total of 68,467 employees, of which 38,780 (57%) have a disability.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Supported employment, by which we mean the assortment of guidance measures and personal support programmes in the workplace, is secured through specialised job coaches whose task is to facilitate social and employment-related adjustments needed by persons with disabilities who face particular difficulties to join the mainstream labour market. The coaches ensure these people with disabilities are able to perform their job in similar conditions to other employees working in the same position.

The goal is to provide subsidies to organisations wishing to promote supported-employment projects to enable them to hire job coaches. The grants are used to fund the labour and social security costs of hiring job coaches during the development stage of the supported-employment project, regardless of whether the coaches are hired during the project development phase or prior to it beginning.

The beneficiaries of these subsidies are bodies which foster supported-employment projects, which may be associations, foundations or other non-profit organisations, special employment centres, mainstream companies or the self-employed.

- Promote employment opportunities and assistance

Furthermore, Royal Decree 290/2004, dated 20th February 2004, also sets out the following steps to support job generation:

- Inducements to boost the hiring of employees with disabilities from an enclave enterprise working with a mainstream company, with a view to facilitating the transition from sheltered employment to the mainstream market. A company which signs a permanent contract with an enclave employee who, as a result of his or her disability, faces particular difficulties in accessing the mainstream market, can benefit from the following financial incentives: a reduction in corporation tax amounting to 9 000 Euros for the tax period immediately prior to hiring per person per year in case of an increase in the average number of employees with disabilities in the workforce with a legally-recognised degree of disability of between 33% and 64%. This amount rises to 12 000 Euros if the legally-recognised degree of disability is 65% or higher.

Within the sheltered employment sector there are labour enclaves, which involve a business arrangement between a mainstream labour market enterprise, known as the collaborating company, and a special employment centre, for the delivery of work or services directly linked to the normal activity of the collaborating company. To perform this job, a group of employees with disabilities from the special employment centre transfers temporarily to the collaborating company's premises to take over the tasks related to a particular stage of the production process or to deliver the service. The main aim of this programme is to facilitate the transition from work in a special centre to employment in the open labour market.

Furthermore, the main activity in some special employment centres is to produce goods or deliver services in the regular market, with the aim of ensuring persons with disabilities have a paid job and as a way to include as many people with disabilities as possible in the mainstream labour market.

Special employment centres generating jobs may benefit from certain types of assistance as part of a wider support programme to facilitate inclusion in the labour market for persons with disabilities. This assistance may also include financial support to retain jobs in special employment centres and grants to partially cover interest on loans granted by public- or private-sector bodies which have entered into an agreement with the ministry responsible for employment.

ONCE offers its members the option of a non-repayable grant, provided the project involves hiring at least one ONCE member who is seeking employment or looking to improve their job. A copy of the employment contract must be shown before the grant agreement is signed.

- Employment in the public sector

Legislative Royal Decree 5/2015, dated 30th October 2015, to adopt the revised text of the Basic Statute for Public-sector Employees, sets aside a quota of vacant positions in public-sector employment offers for persons with disabilities. A quota of no less than 7% of all vacant jobs must be reserved for persons with disabilities in public-sector job offers.

Following the selection process to access a public-sector position, people with disabilities who take up a public-sector job and have been admitted through the

normal selection process with a reserved quota may request the corresponding body to modify the order of precedence for the selection of positions within the geographical area covered by the selection process due to a situation of dependency, difficulties to travel to the job, or for other similar reasons. Proof of the circumstances must be provided. They may also ask for the workplace or their workstations to be adapted to meet their needs.

- Employment in the private sector, affirmative action programmes, incentives and other measures

Here we find a special arrangement covering persons with disabilities and particular difficulties in terms of inclusion in the labour market. This is a new type of arrangement which was introduced via Law 27/2011, dated 1st August 2011, on updating, adjusting and modernising the social security systems covering pensions and benefits in case of death or for subsistence.

A second measure is a nationwide quota system whereby at least 2% of the workforce in public- and private-sector companies employing 50 or more people must be workers with disabilities.

In terms of jobs held by ONCE members in companies outwith ONCE and ONCE Foundation, we find that most are in administration, telephony, teaching and physiotherapy.

The number of enterprises that have partnered with ONCE to offer positions to members was 588 in 2015, and the total number of job offers in the same year was 999.

Also worth mentioning is the support ONCE provides to boost self-employment among people who are blind or severely partially sighted. Members are offered guidance and economic support, with access to several types of financial assistance ranging from low-interest loans to non-repayable grants to start up, develop or relaunch self-employment projects, provided they are in line with ONCE's current regulations.

- Provision of reasonable accommodation

The principles behind the Revised Text of the LGD are the same as the principles enshrined in article 3 of the Convention.

The definition of ‘reasonable accommodation’ in the Revised Text is, essentially, the same as the previous one but with some additional elements taken from the Convention for the purpose of clarification. The concept of reasonable accommodation is also part of other legal instruments such as Law 8/2013, dated 26th June 2013, on urban rehabilitation, regeneration and renewal; article 2.4 of the law states that reasonable accommodation involves “measures to adapt a building to facilitate universal accessibility in an efficient, safe and practical manner, without giving rise to an undue burden”. It also sets out criteria to determine if a burden is disproportionate or not.

For those applicants with a degree of disability of 33% or more, the civil service entry exam process, including training courses and work experience programmes, must provide reasonable accommodations in terms of time and resources (both material and human) to enable applicants with disabilities to go through the process and with the goal of ensuring they may participate on equal terms. They may also ask for their workplace to be adapted.

- Acquisition of work experience in the open labour market

Among the jobs held and moving from higher to lower occupation rates, we find telephone services (38/32.76%), physiotherapy (12/10.34%), administrative assistants (12/10.34%), information and reception staff (9/7.76%), community animators (4/3.45%), social workers (4/3.45%), other professional positions (4/3.45%), primary education (3/2.59), and concierge services (3/2.59%)²⁶¹.

- Vocational and professional rehabilitation, job retention and return-to-work programmes

Measures have been put in place to encourage workers with disabilities to return to the workplace and grant them preference in return-to-work programmes.

At national level a number of government support programmes are available; these are delivered by regional governments and their aim is to encourage people who are unemployed to take up self-employment by offering start-up grants, financial support and other economic benefits (technical assistance, training, etc.).

²⁶¹ ONCE, 2015.

ONCE Foundation also delivers support programmes to boost self-employment. For some years now, the Foundation has offered the following support measures for entrepreneurs (calls for applications for support are published twice a year):

- feasibility study or business study;
- support for incorporation and start-up;
- investment in property assets and moveable assets, and other investments linked with the business activity;
- working capital for the first year of activity amounting to up to 10% of the investment;
- technical and legal assistance to restructure or adapt a business activity;
- any other type of support which members may request and which is deemed to be feasible and in line with the goals of the self-employment programme.

The new measures introduced in Law 6/2017, dated 24th October 2017, on the urgent review of the self-employed sector, include public inducements and support to foster self-employment among persons with disabilities.

CONCLUDING OBSERVATIONS

45. Despite there being a range of provisions whose goal is to keep persons with disabilities in employment, the Committee is concerned at the low overall employment rate among persons with disabilities.

46. The Committee recommends that the State Party draw up open and advanced programmes to increase employment opportunities for women and men with disabilities.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party draw up open and advanced programmes to increase employment opportunities for women and men with disabilities.

SWEDEN

Sweden ratified the Convention and its Optional Protocol in December 2008. No reservations or interpretative declarations have been made.

Revision Process CRPD Committee
State Party report (CRPD/C/SWE/1) submitted on 18th September 2012
Alternative reports: Sweden Disability Movement; Disability Council International; Equally Unique-The Swedish Federation of Human Rights for Persons with Disabilities; Forum-Women and Disability-Sweden; Individuellt Liv i Gemenskap; Association for Relatives of Psychically Disabled Persons; Sweden Disability Federation
List of Issues (CRPD/C/SWE/Q/1) submitted on 30th September 2013
Concluding Observations (CRPD/C/SWE/CO/1) adopted on 12th May 2014
Presentation of combined second and third periodic reports no later than 15th January 2019

- Protection from discrimination

The Constitution Act (article 5) states that the community at large should safeguard the right to employment and counter discrimination against persons on the basis of disabilities²⁶². The 2008 Discrimination Act (SFS 2008:567) is the main legislative item regarding discrimination in Sweden, and this act prohibits discrimination in working life; an employer may not discriminate against a person who is:

- an employee;
- enquiring about or applying for work;
- applying for or carrying out a traineeship; or
- available to perform work or is performing work as temporary or hired labour.

A number of other legislative measures also guarantee non-discrimination, such as the revised 1982 Act on Job Retention (LAS), which regulates redundancies. Under this legislation, employers must present substantial evidence of misconduct or other personal reasons to dismiss an employee. Disability or sickness are not valid reasons to terminate employment²⁶³.

- Positive measures

The introduction of new labour market policy measures in recent years has also resulted in more persons with disabilities and reduced capacity to work being able to find employment. The resources for wage subsidies and protected employment within Samhall AB (a wholly-owned, national limited company whose purpose is to produce goods and services and thereby to create meaningful, stimulating work for persons with disabilities that entail a reduced capacity to work) have increased. The maximum amount for support for vocational assistive devices has been raised and the support for personal assistance has increased since 2006²⁶⁴.

²⁶² CRPD/C/SWE/1, para. 236.

²⁶³ EBU questionnaire.

²⁶⁴ CRPD/C/SWE/1, para. 238.

Labour market policies, together with other policy areas, must contribute towards the achievement of the goals in the Strategy for gender equality in the labour market. Examples of initiatives include the strengthening of the 'work-first principle', for example through tax reductions for those in work. A gender equality bonus has been introduced in parental insurance in order to encourage a more even take-up of parental leave. Tax reductions for household services have been introduced, making it easier for women and men to combine working life with family life²⁶⁵.

- Protection of the rights of blind and partially sighted persons

The Social Insurance Office is responsible for vocational assistive devices that are required in order to continue in a job, while the Public Employment Service is responsible for ensuring that a person with a disability can join in working life. Individuals may also apply for a grant for vocational assistive devices. This relates to personal assistive devices that the individual can take with them, even if he or she changes workplace. The Public Employment Service is also responsible for assistive devices required by young persons with disabilities during practical vocational orientation, as well as costs for spoken and braille literature that visually impaired persons need in order to participate in labour market training²⁶⁶.

In order to regulate the allocation of guide dogs and to increase the number of guide dogs, the Swedish Parliament, following a proposal from the Government, decided in 2005 to regulate the system and introduce a procurement procedure in the supply of guide dog production. There are around 300 guide dogs in Sweden, and all dogs are owned by the Swedish Association of the Visually Impaired (SRF)²⁶⁷.

- Labour and Trade Union Rights

Employees with reduced capacity to work and who have been provided with special employment with an employer enjoy special protection. Such an employee may have priority to continued employment, irrespective of the order

²⁶⁵ CRPD/C/SWE/1, para. 248.

²⁶⁶ CRPD/C/SWE/1, para. 243.

²⁶⁷ CRPD/C/SWE/1, para. 163-164.

of employment. The Employment (Co-determination in the Workplace) Act also provides protection, as an employer has to negotiate with the employees' trade union before making any decisions regarding dismissal²⁶⁸.

Workers who utilise certain labour market policy support measures on the open labour market are covered by the Employment Protection Act. Employees with disability who, e.g. receive wage subsidies enjoy the same employment security as other employees, for example. However, persons who have development employment, sheltered employment with public sector employers or employment with Samhall AB are not covered by this Act²⁶⁹.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

The transition from school to working life is a critical period for young people with disabilities. The Government has therefore given the Public Employment Service a specific task to conduct activities to assist young persons with disabilities; this includes upper secondary school pupils aged at least 16 as well as persons below the age of 30 who are receiving compensation from social insurance.

The Public Employment Service co-operates with schools in order to safeguard the transition from school to work for pupils with disabilities. Within each labour market area, there must also be an appointed employment officer with knowledge about working life-oriented rehabilitation who co-operates with e.g. the school, the Social Insurance Office and the municipality's daily activities for persons with intellectual disabilities (see LSS under Article 19). The Government has highlighted the fact that persons with intellectual disabilities, who have daily activities in accordance with LSS, have remained in that activity without moving on into working life. In 2008, as a result, the Government commissioned responsible authorities and players to co-operate so that the group in daily activities, who are close to the labour market, have increased opportunities for paid work.

²⁶⁸ CRPD/C/SWE/1, para. 259.

²⁶⁹ CRPD/C/SWE/1, para. 261.

Young persons with a disability that entails reduced capacity to work are exempted from the requirement to have reached the age of 25 in order to participate in labour market policy programmes. If the Public Employment Service's work on matching jobs does not produce results, a period of work experience or working life-oriented rehabilitation may be offered²⁷⁰.

- Promote employment opportunities and assistance

Unemployed individuals with disabilities that entail reduced capacity to work may, via the Public Employment Service, receive separate financial support when starting a business, with the aim of making it easier for unemployed persons to start up a business, either on their own or with others²⁷¹.

Workers with disabilities who require personal assistance may receive it in 2 ways: the first scheme offers funds to cover the appointment of an existing employee to assist the worker with disability, while the second option covers workers with disability who require assistance in both their personal and professional lives, who are eligible for a specific allowance to cover the hire of a personal assistant who will provide them with the necessary support in both their private and job-related tasks²⁷².

- Employment in the public sector

The Swedish supported employment programme is known as Special Introduction and Follow-Up Support (SIUS). The programme begins with personal support provided to the job seeker by an SIUS Consultant. The consultant also performs outplacement and then offers guidance to both employee and employer during the introduction and adaptation period.

The Safety Employment Scheme concerns those people with disability who are not able to compete on the open labour job market because of a reduced working capacity. The scheme is somewhat similar to a supported employment plan in that it applies to ordinary workplaces and enables the employer to receive

²⁷⁰ CRPD/C/SWE/1, para. 263-265.

²⁷¹ CRPD/C/SWE/1, para. 247.

²⁷² EBU questionnaire.

a high level of personal assistance, support and wage subsidies without time limitation.

A specific subsidy is available for sheltered employment in the public sector for employees whose working capacity is severely reduced by a functional disability²⁷³.

- Employment in the private sector, affirmative action programmes, incentives and other measures

The Public Employment Service has been commissioned to procure rehabilitation and other support services in social enterprises for persons with mental disabilities. The majority of the employees in work-integration social enterprises are people who, due to a disability, have not had the opportunity to establish themselves or who have lost contact with the labour market.

The number of social enterprises in Sweden has increased, and around 7,000 people work in social companies, representing an increase from approximately 4,000 in 2007. This refers to all those who regularly perform work in the enterprises, i.e. both employees and individuals who in various ways are participating in rehabilitation, work training, practical work experience or day-to-day activities, etc.

In April 2010, the Government decided on an action plan for work-integration social enterprises. In this action plan, a number of initiatives were decided on, to be implemented with the aim of facilitating more and growing social enterprises²⁷⁴.

On the other hand, a person with disabilities who is willing to create his or her own job is supported through a specific scheme in Sweden. A Special Business Start-up allowance is available to cover the costs of workplace equipment. In addition, people with disabilities are entitled to the same support measures as any other self-employed person, including a wage payment to support them during the first 6 months of their new business²⁷⁵.

²⁷³ EBU questionnaire.

²⁷⁴ CRPD/C/SWE/1, para. 256-258.

²⁷⁵ EBU questionnaire.

- Provision of reasonable accommodation

The Discrimination Act contains provisions regarding reasonable accommodations in the field of working life²⁷⁶. Reasonable measures that may be considered include those that are intended to improve physical access to the workplace and associated premises, as well as to make the premises usable for persons with disabilities. This may include technical devices and special work tools or changes to the physical working environment, and may entail stronger lighting for a person who is visually impaired, technical devices to facilitate lifting and transport, computer support, etc. Changes to work duties, working hours and working methods may also be appropriate²⁷⁷.

- Acquisition of work experience in the open labour market

Employers who have signed the General agreement with the Labour Union in their relevant job branch are eligible for the work placement programme. This allows the employer to become acquainted with the disabled worker and to introduce each task and it allows the disabled job seeker to gain experience and learn on the job²⁷⁸.

- Vocational and professional rehabilitation, job retention and return to work programmes

New health insurance rules have applied since 1st July 2008. A rehabilitation chain has been introduced with the aim, through early initiatives, of providing more people on sick leave with the potential to return to work. The Government intends to achieve a more active sick leave process that includes access to support and rehabilitation initiatives early on during an illness. The reform applies to all those on sick leave, regardless of the cause.

The health insurance reform has been highlighted by the OECD, which observes for example that the reform entails great strides in the right direction and that Sweden has succeeded in breaking the negative trend of significant isolation due to a high level of sickness absence. However, it is important to

²⁷⁶ CRPD/C/SWE/1, para. 17.

²⁷⁷ CRPD/C/SWE/1, para. 33.

²⁷⁸ EBU questionnaire.

ensure that the aims of the reform are maintained, for example that the person who is seriously ill and who cannot work should be able to receive remuneration, and at the same time that the reform should increase the driving forces and support for those who can return to work.

Major changes such as the health insurance reform may, however, lead to individuals being affected by unreasonable, unintended consequences. The government intends to continue monitoring developments in this respect, and in the near future to review whether the regulations and their application have had any unintended consequences for individuals²⁷⁹.

CONCLUDING OBSERVATIONS

49. The Committee is concerned that the trends in the employment of persons with disabilities are controversial. The recent trends are unclear, but, overall, unemployment is higher for persons with disabilities than for the general population. Promising achievements have been made with respect to support for personal assistants and the support provided by the public employment service; however, the 100 per cent increase in the number of registered unemployed persons with disabilities since 2008, due to changes in the insurance scheme, is quite alarming. The Committee is also concerned that, with respect to employment and income, a significant gender gap remains between women with disabilities and men with disabilities.

50. The Committee recommends that the State party take measures to improve opportunities for persons with disabilities to obtain work on the basis of the report presented by the FunkA Inquiry (Funk A-utredning). It further suggests that the State party increase measures of support, including, inter alia, personal assistance in employment, technical assistance in performing in the workplace, reduced social fees, financial support to employers, rehabilitation and vocational training, and that it put in place measures to narrow the employment and pay gender gap. The Committee recommends that the State party assess the impact of the use in the labour market of the term “people with reduced capacities or limitations” to refer to persons with disabilities, and revise it in accordance with the principle of non-discrimination²⁸⁰.

²⁷⁹ CRPD/C/SWE/1, para. 254-255.

²⁸⁰ CRPD/C/SWE/CO/1. para. 50.

CRPD COMMITTEE RECOMMENDATIONS

The Committee recommends that the State party take measures to improve opportunities for persons with disabilities to obtain work, to increase measures of support, including, inter alia, personal assistance in employment, technical assistance in performing in the workplace, reduced social fees, financial support to employers, rehabilitation and vocational training, and that it put in place measures to narrow the employment and pay gender gap.

The State party should assess the impact of the use in the labour market of the term “people with reduced capacities or limitations” to refer to persons with disabilities, and revise it in accordance with the principle of non-discrimination.

UNITED KINGDOM

The United Kingdom ratified the Convention in June 2009 and its Optional Protocol in August 2009. Reservations: “Work and Employment –Convention Article 27, and Education– Convention Article 24 Clause 2 (a) and 2 (b).

Regarding “Work and Employment –Convention Article 27, the United Kingdom accepts the provisions of the Convention, subject to the understanding that none of its obligations relating to equal treatment in employment and occupation, shall apply to the admission into or service in any of the naval, military or air forces of the Crown.”

Revision Process CRPD Committee
State Party report (CRPD/C/GBR/1) submitted on 24th November 2011
Alternative reports: Alzheimer society INT/CRPD/CSS/GBR/28299; Autistic Minority International INT/CRPD/CSS/GBR/28459; Black and Minority Ethnic Disabled people INT/CRPD/CSS/GBR/28468; Bond Disability and Development Group INT/CRPD/CSS/GBR/28460; British Deaf Association INT/CRPD/CSS/GBR/28469; Campaign for Freedom of Information in Scotland INT/CRPD/CSS/GBR/28462; Deaf and Disabled People Scotland INT/CRPD/CSS/GBR/28463; Deaf and Disabled People Wales INT/CRPD/CSS/GBR/28464; Deaf and Disabled People Northern

Ireland INT/CRPD/CSS/GBR/28465; Dementia Think Tank
 INT/CRPD/CSS/GBR/28300; Global Initiative to end corporal punishment
 INT/CRPD/CSS/GBR/28470; Hft Submission
 INT/CRPD/CSS/GBR/28471; Intersex Genital Mutilations
 INT/CRPD/CSS/GBR/28461; Local Government Associations
 INT/CRPD/CSS/GBR/28467; Mencap submission
 INT/CRPD/CSS/GBR/28472; Northern Ireland Civil Society
 INT/CRPD/CSS/GBR/28476; Think Tank in Dementia
 INT/CRPD/CSS/GBR/28475; UK Disabled People's Organization -
 Inclusion Scotland INT/CRPD/CSS/GBR/28473; University College
 London, INT/CRPD/CSS/GBR/28298; World of Inclusion Ltd.; United
 Kingdom Independent Mechanism (UKIM)

List of Issues (CRPD/C/GBR/Q/1) submitted on 20th April 2017

Replies to List of Issues (CRPD/C/GBR/Q/1/Add.1) submitted on 21st July 2017

Observations by the United Kingdom of Great Britain and Northern Ireland on the report of the Committee on its inquiry carried out under article 6 of the Optional Protocol (CRPD/C/17/R.3)

Concluding Observations (CRPD/C/GBR/CO/1) adopted on 3rd October 2017

Presentation of combined second and third periodic reports no later than 8th July 2023

Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention. Article 27. Work and Employment. (CRPD/C/15/R.2/Rev.1)

- Protection from discrimination

The Equality Act 2010 includes a range of provisions which protect persons with disabilities from discrimination in relation to work. In this context, work is not restricted to employment, but covers a wide range of activities including contract work, business partnerships and the holding of an office, such as a director of a company. The protection applies to all stages of employment including the initial application, working arrangements and dismissal or redundancy²⁸¹.

²⁸¹ CRPD/C/GRB/1, para. 292.

- Positive measures

The Equality Act 2010 permits ‘positive action’ to improve persons with disabilities’ participation in society. The act also includes a provision on positive action in recruitment and promotion. This provision allows an employer who is faced with choosing between two or more candidates who are equally qualified to fill a particular vacancy, to prefer the candidate from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce. In Northern Ireland similar protection is provided for persons with disabilities by the Disability Discrimination Act (DDA) 1995, as amended²⁸².

- Protection of the rights of blind and partially sighted persons

The Equality Act 2010 is the most significant piece of equality legislation for many years that has brought a new clarity and coherence to anti-discrimination legislation. Workers with disabilities have the same general employment rights as other workers.

- Labour and Trade Union Rights

Persons with disabilities are protected in employment and from unfair dismissals through legislation including the Equality Act 2010 and the DDA as amended. Persons with disabilities have the same right to decide whether or not to join, remain in or leave a trade union as persons with no disabilities²⁸³.

Persons with visual impairments in the UK belong to all manner of trade unions although that tends to be restricted to those who are employed. Many British unions now have Disability Advisory Committees and will take up cases on behalf of their members. Insofar as the sheltered and supported employment sector is concerned, many visually impaired people belong to the National League of the Blind and Disabled. This started in 1899 as the National League of the Blind, affiliated to the Trade Union Congress in 1902 and to the Labour Party in 1909²⁸⁴.

²⁸² CRPD/C/GRB/1, para. 67-68.

²⁸³ CRPD/C/GRB/1, para. 305-306.

²⁸⁴ Answers to EBU questionnaire.

- Effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training

Vocational counselling is possible through various charity organisations in the UK. There are also a number of government schemes to encourage and support unemployed persons with disabilities to move from welfare to employment²⁸⁵.

- Promote employment opportunities and assistance

The UK recognises that persons with disabilities, especially those with long-term conditions, may need more personalised support to find a job. In Great Britain, the government's new Work Programme will provide jobless persons with disabilities with the help they need to find a job, including more personalised back-to-work support for long-term workless people and for those with more significant barriers to employment²⁸⁶.

Initiatives to increase the number of employment opportunities for persons with disabilities include the UK government's new Disability Confident scheme (launched in November 2016); employers commit to offering interviews to applicants with disabilities meeting the minimum job criteria and considering them on ability alone. More than 4,000 organisations have signed up²⁸⁷.

Three and a half million working age persons with disabilities are in employment in the UK, a 292,000 increase since the same quarter in 2015. Recognising the importance of maintaining this upward trend, a range of mainstream and specialised employment support is available through Jobcentre Plus (JCP). Mainstream support includes access to JCP work coaches, who provide personalised back-to-work support, including volunteering opportunities, skills support, work experience and local activity through the Flexible Support Fund. All work coaches are trained to support people with complex needs, including persons with disabilities.

²⁸⁵ Answers to EBU questionnaire.

²⁸⁶ CRPD/C/GBR/1, para. 295.

²⁸⁷ CRPD/C/GBR/Q/1/Add.1, para. 137.

Other specialised support includes:

- New Enterprise Allowance supports unemployed people to start their own business. Around 23% of people who have started since April 2011 have a self-declared disability;
- Work Choice supports people with complex disability-related barriers into employment; and
- Specialist Employability Support provides specialist disability employment support for individuals with particularly complex barriers to work²⁸⁸.

The two main programmes, the Work Programme and Job Centre Plus, where persons with disabilities were mostly referred, had no visible impact in decreasing unemployment among them. Persons with disabilities who have had access to other programmes that have been more successful have experienced reductions in the support provided to them, in some cases resulting in loss of employment. Evidence indicates that the Work Programme helped persons with disabilities back to work to a very limited extent and that persons with substantial support needs were left aside²⁸⁹.

Northern Ireland launched its Employment Strategy for People with Disabilities in March 2016 to improve job prospects and careers for persons with disabilities. The Disability Employment Stakeholder Forum, which includes members with disabilities, will monitor progress²⁹⁰.

A 'Fairer Scotland for Disabled People' includes a commitment to reduce by at least half the employment gap between persons with disabilities and the rest of the working population. Newly-devolved services from April 2017 target persons with disabilities and will measure how many persons with disabilities are helped into work. Other measures to reduce unemployment among young persons with disabilities include increasing take up of Modern Apprenticeships by this group²⁹¹.

²⁸⁸ CRPD/C/GBR/1 para. 139.

²⁸⁹ CRPD/C/15/R.2/Rev.1, para. 107.

²⁹⁰ CRPD/C/GBR/1, para. 140.

²⁹¹ CRPD/C/GBR/Q/1/Add.1, para. 138-141.

- Employment in the public sector

Access to Work is a public scheme that supports both employers and employees in the UK. This scheme operates when adaptations to premises or specific equipment are needed. It is equally open to disabled workers who are currently employed, unemployed and about to start a new job, and self-employed. It is implemented in both the private and public sectors.

An Access to Work Adviser works with the employer, the disabled worker and sometimes with a specialist organisation, to determine which support package is appropriate and the amount of the grant. Based on this agreement, it is the responsibility of the employer (or the self-employed disabled person) to arrange the agreed support and purchase the necessary equipment. The employer can then claim repayment of the approved costs from Access to Work (up to 80%)²⁹².

- Employment in the private sector, affirmative action programmes, incentives and other measures

To support the development of a positive approach towards persons with disabilities amongst more employers, the UK government is working with committed employers, employer organisations and persons with disabilities to build employer engagement. The first practical result has been 'Clearkit' which is a free online toolkit designed to promote practical workplace solutions to the barriers that disabled people and employers face. It includes access to on-line recruitment, disability and legal experts²⁹³.

Apprenticeships are open to all suitably qualified people aged 16 and over, including persons with disabilities or people who have a learning disability. In 2009/10 learners with disabilities represented 9.7% of all apprenticeship starts in England. Apprenticeships are paid jobs, so recruitment reflects employer requirements and labour market patterns²⁹⁴.

²⁹² EBU questionnaire on the CRPD article 27.

²⁹³ CRPD/C/GBR/1, para. 303.

²⁹⁴ CRPD/C/GBR/1, para. 304.

- Provision of reasonable accommodation

The Equality Act 2010 imposes a duty on service providers to make reasonable adjustments for persons with disabilities, so that they are not placed at a substantial disadvantage to persons without disabilities, unless doing so would involve a disproportionate burden. This could involve: (1) making an adjustment to what is provided, how it is provided and the basis on which it is provided or not; (2) making an adjustment to a physical feature; or (3) providing an auxiliary aid. The act does not define reasonable adjustment nor what a disproportionate burden may be. This will depend upon individual circumstances. Ultimately, the courts will determine what adjustment should be made for a particular person with a disability. Courts can consider evidence from a service provider to determine what is reasonable²⁹⁵.

- Acquisition of work experience in the open labour market

Employment on the open labour market is part of the policy of the government in Britain, but results concerning the visually impaired public have been somewhat disappointing. This is not to say that there are no blind people working on the open market, but that the nature of their jobs has extended and changed over the years²⁹⁶.

- Vocational and professional rehabilitation, job retention and return to work programmes

RNIB and the University of Birmingham carried out a three-year, action-based research project to help improve the employment prospects of blind and partially sighted people (B/PS). Working alongside a group of employment specialists and approximately 100 B/PS people, we designed and tested a new assessment model and support strategies for people with sight loss furthest from the labour market. We developed a comprehensive employment assessment toolkit that takes account of the specific needs of B/PS job seekers. It supports employment advisors and their clients to design interventions that help clients on their path towards employment²⁹⁷.

²⁹⁵ CRPD/C/GBR/1, para. 65-66.

²⁹⁶ EBU questionnaire on the CRPD article 27.

²⁹⁷ EBU Award on Good Practices in Employment.

The employment advisor and the client can then use the results of this assessment to plan a series of actions needed to move the person closer to work and eventually into employment. The toolkit has shown very positive changes in the participants who went through the assessment process, securing an employment and entering into training courses²⁹⁸.

CONCLUDING OBSERVATIONS

56. The Committee is concerned about:

(a) The persistent employment gap and pay gap for work of equal value affecting persons with disabilities, especially women and persons with psychosocial and/or intellectual disabilities, as well as persons with visual impairments;

(b) The insufficient affirmative action measures and provision of reasonable accommodation to ensure that persons with disabilities can access employment on the open labour market, despite the obligations contained in European Union Directive 2000/78/EC on non-discrimination in the workplace;

(c) The process related to the Employment and Support Allowance and the fact that the Work Capability Assessment emphasizes a functional evaluation of skills and capabilities, rather than recognizing the interactions between impairment and barriers in society faced by persons with disabilities;

(d) The State party's upholding of its reservation to article 27 of the Convention, which disproportionately affects persons with disabilities who are actively involved in military matters.

57. The Committee recommends that the State party, in close collaboration with organizations of persons with disabilities, and in line with the Committee's report on its inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out under article 6 of the Optional Protocol to the Convention:

(a) Develop and decide upon an effective employment policy for persons with disabilities aimed at ensuring decent work for all persons with

²⁹⁸ Further information: <https://www.nib.org.uk/services-we-offer-advice-professionals-employment-professionals/employment-assessment-toolkit>.

- disabilities, bearing in mind the State party's target of 1 million jobs for persons with disabilities, and ensure equal pay for work of equal value, focusing especially on women with disabilities, persons with psychosocial and/or intellectual disabilities and persons with visual impairments, and monitor those developments;**
- (b) Ensure that reasonable accommodation is provided to all persons with disabilities who require it in the workplace, that regular training on reasonable accommodation is available to employers and employees without disabilities, and that dissuasive and effective sanctions are in place in cases of denial of reasonable accommodation;**
 - (c) Ensure that the legal and administrative requirements of the process to assess working capabilities, including the Work Capability Assessment, are in line with the human rights model of disability, that those who conduct the assessments are qualified and duly trained in that model, and that the assessments take into consideration work-related as well as other personal circumstances. The State party must ensure that the adjustments and support necessary to access work, as well as financial support, are provided and that they are not subject to sanctions or conditional upon carrying out job seeking activities;**
 - (d) Withdraw its reservation to article 27 of the Convention;**
 - (e) Bear in mind the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.**

CRPD COMMITTEE RECOMMENDATIONS

Withdraw its reservation to article 27 of the Convention. Bear in mind the links between article 27 of the Convention and target 8.5 of the SDGs.

Ensure legal and administrative requirements of the process to assess working capabilities, including the Work Capability Assessment, are in line with the human rights model of disability. Ensure that adjustments and support necessary to access work, as well as financial support, are provided and that they are not subject to sanctions or conditional upon carrying out job seeking activities.

Develop an effective employment policy for persons with disabilities. Ensure equal pay for work of equal value. Ensure that reasonable accommodation is provided to all persons with disabilities who require it in the workplace, that regular training on reasonable accommodation is available to employers and employees without disabilities, and that dissuasive and effective sanctions are in place in cases of denial of reasonable accommodation.

BEST PRACTICES

The following are the best national employment practices for blind and partially-sighted persons that have been collected from EBU member organisations in the framework of the EBU REC Strategic Plan 2018-2021 through the European Blind Union (EBU) competition on employment best practices, and from information provided by the EBU secretariat.

UNITED KINGDOM

Employment Assessment Toolkit

RNIB and the University of Birmingham carried out a three-year, action-based research project to help improve the employment prospects of blind and partially sighted people. Working alongside a group of employment specialists and approximately 100 blind and partially sighted people, we designed and tested a new assessment model and support strategies for people with sight loss furthest from the labour market. We developed a comprehensive employment assessment toolkit that takes account of the specific needs of blind and partially sighted job seekers. It supports employment advisors and their clients to design interventions that help clients on their path towards employment. It can be used by any provider working in the welfare to work industry that supports blind and partially sighted people. The success of the toolkit is evidenced by the confidence that employment advisors expressed regarding the segmentation levels created for clients and the positive feedback from the clients who used it. RNIB has worked closely with blind and partially sighted people, employment advisors and with innovative support strategies is helping more people to attain their goals.

FRANCE

Employment quotas

In France, since 1987, any private company which employs 20 members of staff or more is obliged to have at least 6% of disabled persons in its overall workforce. A law in 2005 extended this obligation to all public administrations: the state, local authorities (regions, departments, municipalities), and hospitals. This quota has considerably helped the employment situation of disabled workers.

To fulfil legal obligations, employers can choose between four options:

- actually employing staff with disability;
- the provision of work, through subcontracting, to assistance and service centres helping persons with disabilities into work (ESAT) or Adapted Companies (EA), within the limit of 50% of the legal obligation;
- payment of a lump sum contribution to one of the two Funds for the Employment of Disabled Workers;
- reaching an agreement with relevant trade union organisations: companies reaching such agreements are freed from their legal obligation and the budget allocated to the agreement must correspond to the amount of the contribution that the company would have paid.

The two Funds for the Employment of Disabled Workers are the AGEFIPH, created in 1987 for private companies, and the FIPHFP, created in 2005 for the public sector. There is now a proposal to merge the two funds under strict state control. These funds receive the lump sum contributions paid by employers choosing this method of reaching their quota of 6% imposed by the law, as well as the fines imposed on companies or administrations which, following formal notice, fail to reach this quota. These funds are then used to pay for workspaces and the working environment to be adapted to the needs of disabled workers, their training/apprenticeship and professional integration, awareness-raising amongst employers, and for allocating start-up grants enabling disabled people to create their own jobs.

ESAT AND EA

The ESAT are not 'ordinary companies' in terms of employment legislation, but are part of a 'protected sector' and are considered 'medical-social establishments'. Only around fifteen are specialised in catering for (around 700) visually impaired people. The idea is to provide assistance and promote social inclusion. 'Support activities' are offered to disabled people, who do not have the same official status as 'employees' (they cannot join a trade union, they receive a salary of between 5% and 35% of the minimum wage (SMIC), which is complemented by a 'workplace assistance' paid by the state, thus raising their 'guaranteed remuneration' to between 55% and 110% of the SMIC).

Adapted Companies (EA): there are just over 700 Adapted Companies in France. These cater to around 30,000 workers, of which around 80% have a disability. Fewer than 10 of the companies cater specifically for visually impaired people (this represents under 300 workers.) The EA are real companies within the 'mainstream sector' and their employees have the same rights as all other workers.

Retraining Centres

Around ten CRP specialised for visually impaired people cater to approximately 500 trainees each year. Before beginning their training, people who became visually impaired at an adult age (as the result of illness or accident) are offered an 'adaptation' course which allows them, if necessary, to learn braille and mobility techniques and to learn about or become updated on adaptive computer technologies. The training courses provided are quite varied: physiotherapy, wellness technician, receptionist, communications and manual work. The running costs of the CRP are covered by the social security system, which also pays the accommodation costs of the trainees who often live far from the CRP. Trainees receive a salary paid by the state which is equal to 80% of that which they received before losing their sight.

Specialised transport services

Many regions or counties have chosen to create specialised transport services, more often than not with private companies. These services are partly

financed by the department, with a supplement paid by the beneficiary. They are essentially used to transport persons with disabilities to and from their place of work, but can also be used for leisure activities or medical needs.

The disability compensation allowance (PCH, prestation compensatrice du handicap) is unrelated to the income of the disabled worker or his or her family. As of 2005, all persons with disabilities can obtain the PCH, the aim of which is to compensate for the additional costs related to the disability (assistance of a third party, acquiring aids for independent living, upkeep of a guide dog). This allowance is a lump sum for blind and partially sighted people and it is paid according to a scale of needs recognised by a specialised commission. In all cases it is independent of income from professional activities.

The French Federation of the Blind has published a booklet entitled *'Working together! Good practices with a visually impaired co-worker'* ; in order to welcome a partially sighted person at work. This booklet describes the basic rules of well-being at work so everyone can work together and exchange in an atmosphere of mutual respect.

GERMANY

iBoB (inklusive Bildung ohne Barrieren - Inclusive Education without Barriers) is a best practice administered by the German Association of Blind and Partially Sighted Students and Professionals with funding from the Federal Ministry of Labour and Social Affairs. The project started in 2016 and runs until 2019, with ongoing operation projected beyond that date. It has an overall staff of eight, comprised of DVBS employees and freelancers. All its services are offered free of charge.

iBoB facilitates inclusive lifelong learning for blind and partially sighted professionals. The main tool for iBoB is its project website, which bundles the services of the project. In addition to the preparation of accessible training material, iBoB provides two services: on the one hand, it offers counselling and information; and, on the other, it presents accessible lifelong learning courses. iBoB relies on a mentoring approach to turn the overall needs-based analysis into individual recommendations and improvements for blind and partially sighted professionals. iBoB provides the most comprehensive database of lifelong

learning opportunities for blind and partially sighted professionals. On a dedicated website, 86 accessible courses are listed for the information of interested participants²⁹⁹.

ITALY

With the aim of changing attitudes of mistrust and prejudices, in 2016 the Lazio Regional Government launched a programme aimed at setting up almost 300 internships for persons with disabilities in companies. The Italian Union of the Blind and Partially Sighted identified and contacted blind and partially sighted people in the area, who received training in the main screen readers in use and key mobility tools. At the same time, the Italian Union of the Blind and Partially Sighted looked for companies willing to accept interns with disabilities, drawing managers' attention on the opportunities offered by such internship scheme and interns themselves.

The next step was to bring together the blind or partially sighted applicants who fulfilled the requirements and the companies previously contacted. More than 40 visually impaired people took part in this internship scheme.

The experiences covered a large range of work activities; some trainees performed administrative tasks within associations, but there was also an intern who administered the website of a coffee sales company and another who tuned pianos in a shop selling musical instruments. Other interns had their work experience at travel agencies and international tour operators, an office for environmental protection, some legal departments, training centres, call centres, etc. In several cases host companies needed our advice and support at the beginning of the internship and, at a later stage, they expressed a very positive feedback confirming their willingness to accept new interns.

Today, work experience placements are a training practice recognized by all companies and they should be made available especially to persons with disabilities with the support of efficient implementation measures.

²⁹⁹ Best Practices on Accessibility – Employment. EBU 2018 Competition.

MONTENEGRO

A year ago, the Union of the Blind of Montenegro created a portal called 'employPWD.me', the goal of which is to connect and enable effective communication between employers and unemployed persons with disabilities.

In addition to opportunities for unemployed persons with disabilities to learn about their rights in the field of employment, the portal is a place for efficient and professional networking between employers and unemployed persons with disabilities, with the possibility of access to a large number of relevant and applicable legal regulations and other documents, as well as different types of forms related to incentives and the benefits of employing people with disabilities.

As a unique space on the internet addressing all aspects of the employment of persons with disabilities in one place, employers can get acquainted with the biographies of unemployed persons with disabilities, watch their short video presentation, self-presentation, highlighting of some important skills, professional qualifications and other capabilities.

This portal is one of the most important activities of the Union of the Blind and a team of experts and administrators are working on its development, updating and enhancing it almost daily. Currently, we are in the process of developing mobile applications for IOS and Android thanks to funding from Telenor Foundation.

A good legislative framework and the existence of numerous benefits and incentives for the employment of persons with disabilities stands in opposition to persistent and strong prejudices and stereotypes. Through blogs and interesting stories, substantiated with different experiences of persons with disabilities from the sphere of employment, we want to encourage employers to employ workers with disabilities. The blogs offer positive experiences from individuals (both people with disabilities and employers). This will encourage sceptical employers and less secure persons with disabilities to begin thinking about the importance and simplicity of employment for persons with disabilities.

SPAIN

Bearing in mind the Spanish regulatory framework and the employment services offered to citizens at the state level, people with severe visual impairment (ONCE's members) enjoy access to an internal and personalized service called Employment Support Service, where an employment support specialist guides and advises them individually and offers a series of programs that complement those offered by public authorities.

The employment programs delivered by ONCE are:

Orientation and labour inclusion program: an analysis is made regarding the real employment possibilities for members who apply. Once the person is in a position to submit applications in accordance with his or her profile, the demand and acquisition of offers is managed by carrying out a business prospecting. The Employment Support Specialists will advise employers on the benefits and grants available under current legislation in each case but, above all, they focus on informing potential employers about the capacities and profiles of the ONCE members seeking jobs.

Training program for employment: in this case a package of training activities is agreed, such as: advice and assistance to take part in training offered by the market and announcements for members from the ONCE Directorate of Education, Employment and Cultural Promotion regarding collective training actions on transversal matters to improve their training and possibilities to gain employment.

Support is also offered from ONCE to members interested in applying for public competitive exams to join the civil service.

Support for self-employment: this is an alternative that allows our entrepreneurial members to start up a self-employment project. In this case, ONCE provides the individual with advice and support concerning funding, and members have access to a range of financial solutions including low-interest loans, non-refundable grants to enable start-up, and assistance to develop and/or re-launch self-employment projects.

Also, in 2016, a total of 3,739 members found positions outside the main ONCE activity (lottery tickets sale), and 2,657 of them became employed outside ONCE, ONCE Foundation and the ILUNION Group.

CONCLUSIONS AND RECOMMENDATIONS

The right to work is a fundamental human right. It is essential for realizing other human rights and forms an inseparable and inherent part of human dignity. The Convention on the Rights of Persons with Disabilities, in article 27, sets out the right to work for persons with disabilities and establishes the legal framework for state obligations in relation to work and employment of people with disabilities. States Parties to the Convention recognize this right and should take appropriate steps to safeguard and promote its realization. This report gathers information compiled through the process of following up the realisation of this right according to the Convention by States Parties.

Taking into account the process used to conduct the study, the lack of specific data in relation to persons with visual impairment and the right to work and employment in the different European countries has become evident. Likewise, the difficulties faced by organizations wishing to participate in this report - due to lack of information, resources and organisational capacities - has become clear. Inputs from national organisations were very limited.

Based on the information provided by organizations of persons with visual impairment, we have also found that on occasions actions and policies are supported that are not aligned with the general recommendations made by the United Nations Committee on the Rights of Persons with Disabilities. For instance, the existence of permanent specific programs for persons with visual impairment instead of promoting actions that include persons with disabilities in

mainstream programmes, or the classification of certain jobs so that they are carried out specifically by people with visual impairment.

Some States Parties draft their reports using an assistentialist approach. On many occasions, they talk a lot about gaining employment from the point of view of persons with disabilities having the necessary skills and capabilities to carry out a job and not so much about the barriers faced in order to accomplish this goal. Arrangements are found whereby persons with a certain category of disability are effectively confined to certain occupations or to the production of certain goods, and this is a violation of their right to work. Terminology and classifications such as 'being fit for work' or registration as a 'person with reduced working capacity' are common and the sheltered employment model is widespread, so the level of inclusion in the general labour market is very low.

There are estimated to be over 30 million blind and partially sighted people in geographical Europe and, on average, 1 in every 30 Europeans experiences sight loss. There are four times as many partially sighted people as blind persons. The average unemployment rate of blind and partially sighted persons of working age is over 75 percent, and more women are unemployed than men³⁰⁰.

The 15 European states which have taken part in this report are: Austria, Belgium, Czech Republic, Croatia, Cyprus, Denmark, Germany, Hungary, Italy, Montenegro, Portugal, Serbia, Spain, Sweden and the United Kingdom. All of them have participated in the reporting procedure and constructive dialogue with the United Nations Committee on the Rights of Persons with Disabilities and answered the EBU questionnaire on article 27.

It is a fact that the social model of disability is not yet a reality in Europe and the implementation of the UN Convention on the Rights of Persons with Disabilities and the fulfilment of human rights regarding employment in the EU remain unresolved. The use of the medical model of disability to assess people's capacity for work, in conflict with the Convention, is common.

There is insufficient comprehensive data on the situation of people with disabilities in terms of employment, and particularly in the private sector. Persons

³⁰⁰ EBU web: <http://www.euroblind.org>.

with disabilities, especially women, are particularly affected by unemployment. States must collect disaggregated statistical data on the employment rate and situation of persons with disabilities, disaggregated by sex, age, type of disability, employment and salary.

Regarding the situation in all the European countries involved in the study, **discrimination** in employment on the grounds of disability is prohibited by national legislation. However, this situation has not effectively been implemented as there are still many obstacles to the employment of people with visual disability, such as the persistence of stereotypes and prejudices in the world of work. Anti-discrimination legislation covers direct and indirect discrimination as well as the denial of reasonable accommodation, although this concept in practice is not always clear.

In some countries we find explicit reference to the concept of ‘discrimination by association’ as well as the concept of disability-based protection against violence and harassment. For example, in Cyprus, the Independent Monitoring Mechanism mentions explicitly associative discrimination as a result of the difficulties encountered by relatives of persons with disabilities who are obliged to combine their professional life with their care duties under inflexible working conditions³⁰¹.

As regards **positive measures**, we find measures such as individual funding (e.g. wage support and funding for workplace adaptation and equipment); project support and accompanying help (e.g. personal assistance, clearing, projects to help people obtain qualifications and employment projects), provision of interpreters for people who are deaf, employment of readers for blind workers, and financial support with regard to transport and accommodation costs. For instance, in Denmark the flex job-system has been established.

In Cyprus, by law the right to vocational rehabilitation specifically for persons with visual disabilities is ensured and provides exclusive priority to individuals who acquire a diploma from the School for the Blind as telephone operators.

³⁰¹ Independent Monitoring Mechanism (IMM) report, para. 74.

In Spain there are support measures that range from subsidies to encourage the recruitment of persons with disabilities or to adapt workplaces to measures making it easier for them to set themselves up as self-employed including, among others, reduced social security payments.

In Sweden, examples of initiatives include the strengthening of the 'work-first principle', for example through tax reductions for those in work. A gender equality bonus has been introduced in parental insurance in order to encourage a more even take-up of parental leave. Tax rebates for household services have been introduced, making it easier for women and men to combine working life with family life.

In Portugal, agreements have been established with large national companies in order to increase employment opportunities for persons with disabilities within the framework of corporate social responsibility.

For the **protection of the rights of blind and partially sighted people**, in some countries accessibility and personal mobility are facilitated by specific technical measures in transport and cities. Moreover, access to cultural services and availability of official information for persons with visual impairment is promoted. Measures have been adopted to ensure accessibility of public services and public transport and guarantee accessible environments in line with universal design principles. In most countries, guide dogs are allowed on public transport and they have free access to public spaces. Disability organisations generally offer rehabilitation and orientation and mobility training services.

In Austria, relevant laws on social compensation provide for monthly cash benefits which cover both the additional costs related to disability as well as providing a subsistence allowance in the form of a minimum income. There are also measures regarding preferential access to vacant positions. In Serbia, an insured blind person is entitled to assistive devices for the visually impaired. In Spain, ONCE offers members its Employment Support Service in 22 centres distributed nationwide. This service is responsible for the social and labour-market inclusion of ONCE members and for providing them with support to retain their jobs. These services are free-of-charge for both employers and ONCE members, and the ONCE Social Group employs a total of 68,467 employees, of which 38,780 (57%) have a disability.

In Montenegro, the indirect protection of persons with disabilities has been prescribed in a way that a worker who takes care of people with severe disabilities has the right to work part-time hours and such working hours are considered full-time for the exercise of the labour based right

Regarding **Labour and Trade Union Rights**, in general there are no specific provisions in relation to persons with disabilities and they are included in trade unions in the same way as any other worker. In some cases, positive measures are in place (although this is not common), such as in Flanders (Belgium) which supports the hiring by trade unions of diversity advisors, who are responsible for raising awareness among trade union leaders, officials and activists in enterprises and organizations concerning proportionate participation of at-risk groups in the labour market. Workers with disabilities in sheltered workshops are often not considered to have equal decision and participation rights as compared with other employees.

Concerning **effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training**, persons with visual impairment make use of professional vocational counselling mostly in the areas of: Labour Code (employment contract and extra-work agreement requirements and terms, employment termination options, registration at the unemployment office, employment options in parallel with disability income), CV and cover letter formulation, where to look for job offers, etc. In addition, professional vocational counselling is also involved in the area of adaptive equipment, specifically in how such equipment might be helpful in performing a job. Another related area is independent mobility and spatial orientation training.

In several countries there are schemes which provide grants for persons with disabilities who do not have the financial means for self-employment. The amount of the grant approved mainly covers the purchase of machines and other equipment, raw materials and working capital. Germany points out the considerable restrictions young people with disabilities and, in particular, young women with disabilities experience when it comes to choosing a vocational training program.

In Spain, supported employment, by which we mean the range of guidance measures and personal support programmes in the workplace, is secured

through specialised job coaches whose task is to facilitate social and employment-related adjustments needed by persons with disabilities who face particular difficulties to join the mainstream labour market.

In order to **promote employment opportunities and assistance**, it is a fact that employers are often reluctant to hire persons with disabilities, considering that they deem they are not capable of performing certain tasks and/or that their employment would be too expensive. Some countries such as the Czech Republic offer financial support to persons with disabilities who decide to become self-employed. In Austria, the turnover of businesses run by blind people are exempt from VAT by virtue of the Value Added Tax (VAT) Act, and another option that is being promoted is teleworking in countries such as Belgium.

Job centres provide counselling and guidance but this is often considered to be deficient. In Cyprus, the advisors of the Employment Department are specially trained to serve vulnerable groups, including persons with disabilities. In general, as is pointed out by Germany, the long timeframe for granting assistance or assistive technologies places unnecessary burdens on persons with disabilities. In Croatia, accessibility of information and communication technologies for the visually impaired is provided in the main libraries in the county through a project managed by the Ministry of Culture.

In Italy, all public offices and private companies with a switchboard of at least 5 telephone lines must hire one visually impaired telephone switchboard operator. Public offices with switchboards and more than one operator must reserve no less than 51% of all positions for visually impaired people.

As far as **employment in the public sector** is concerned, most countries have quotas or companies may comply by acquiring certain amounts of goods or services from companies employing over 50 % of disabled individuals. Although the employment of workers with disabilities in the public sector is regulated by law, it is mostly NGOs which employ people with disabilities; most public enterprises prefer to pay a fine for not hiring enough workers with disabilities.

When filling a vacant position, public employers are under an obligation to give a person with disability who has difficulty finding employment in the ordinary labour market preferential access to the vacant position if, in the opinion of the employer, the person with a disability has the same qualifications as other applicants.

In some countries, such as Denmark, the Ministry of Defence is exempted from the prohibition against differential treatment and discrimination on account of age and disability. Cyprus and the UK have also presented reservations to the ratification of the CRPD in this regard.

Regarding **employment in the private sector, affirmative action programmes, incentives and other measures**, there are subsidies for employers who hire people with disabilities and compulsory quota systems. In some cases, employers are motivated to employ persons with disabilities in the open labour market by income tax deductions. They can also receive integration subsidies, wage subsidies, job safeguarding subsidies, grants for wage/training costs or subsidies to adapt facilities to make them more barrier-free. In many cases there are projects and organizations working on the inclusion of workers with disabilities in the open labour market. Private and public entities which do not comply with their legal obligations are subject to administrative sanctions, the revenue of which is sometimes allocated to a special fund for the employment of people with disability. However, on many occasions these sanctions are not imposed.

Many workers with disabilities are in the sheltered sector, but in general the information obtained does not specify if they have a visual impairment. Workers in these day care centres have regular working hours in which they produce goods or provide services, but their work is not classified as gainful employment. Many such workplaces also operate as subcontractors to other companies in the non-sheltered sector. In general, workshops offer an employment opportunity to people who, because of the nature or severity of their disability, cannot be employed on the open labour market. The law stipulates that workshops should prepare people for the primary labour market; however, the greatest problem is that transition to the primary labour market is only successful for a very small percentage of those employed in workshops. Salaries are, in general, substantially below minimum wage and trade union rights are not recognised in some cases.

In Hungary, the National Employment Foundation has devised and supported transition models intended to ensure mobilisation towards the open market by improving the chances of employees to seek jobs and by creating an interest on the employers' side. It has delivered a programme entitled 'encouraging the employment activity of employers and employees with changed work abilities',

the aim of which was to explore the secondary elements of encouragement (not based on state subsidies) that can convince open market players about the advantages of employing people with changed capacity for work.

Provision of **reasonable accommodation** is quite vague in the legal system of European countries and lack of awareness amongst employers is widespread. In general, policy actions include ways to ensure reasonable adaptation of workplaces: adaptation of a workplace and working conditions; compensation for the difference due to reduced work efficiency; co-financing of personal assistant costs (helper at work); co-funding of interest on loans; and co-financing of work therapist costs. Reimbursing local and point-to-point travel costs related to travelling to work and gaining work experience between the place of residence and the place of work is also provided.

Concerning **acquisition of work experience in the open labour market**, there are many projects and organizations working on the inclusion of workers with disabilities in the open labour market, such as the training centre of the Austrian Federation of the Blind and Partially Sighted, SEBUS, which provides vocational training and assists with the application process and job interviews. In Sweden, employers who have signed the general agreement with the Labour Union in their relevant job branch are eligible for the work placement programme. This allows the employer to become acquainted with the disabled worker and to introduce each task, and it allows the disabled job seeker to gain experience and learn on the job.

In some countries the law does not provide for supported employment. General experiences show people with visual impairment have the chance to be employed in social and IT fields, mainly in the non-profit sector and NGOs. Those persons with visual impairment having higher level education and qualifications have better chances, and it is with fortune that we can mention legal fields as a good example for that, as many lawyers and teachers with a visual impairment work in their own professions. Many people with visual impairment work as therapeutic masseurs and in physiotherapy. It is typically the non-profit sector, foundations and associations where a person with visual impairment can find a job fitting his or her qualifications and skills, either in advocacy fields or other services. There are also many telephone operators. Nowadays, persons with reduced working capability, including visually impaired people, tend to be offered jobs in call centres.

With regard to **vocational and professional rehabilitation, job retention and return to work programmes**, in Denmark, during rehabilitation with a job plan, the person receives rehabilitation benefits to the amount of the highest daily cash benefits. In other cases, the employer is paid a higher subsidy for the creation of sheltered jobs and sheltered workshops when employing a person with a more severe disability. The transition from sheltered employment to the open labour market is very difficult. In Austria in the field of social insurance the motto is 'rehabilitation rather than granting a pension'.

In Montenegro and in accordance with the law, the Employment Agency of Montenegro organized funds for professional rehabilitation and the employment of persons with disabilities, with resources provided from the special contribution paid by employers to the state.

In order to improve the situation, EBU member organisations have put in place some actions that have been considered by the EBU to be best employment practices. The following is a selection of some of these projects:

- In Great Britain, the development by RNIB of a comprehensive employment assessment toolkit that takes account of the specific needs of blind and partially sighted job seekers and supports employment advisors and their clients to design interventions that help clients on their path towards employment.
- In France, the use of employment quotas and the use of the Funds for the Employment of Disabled Workers, raised from fines imposed on employers and used to develop better accessibility conditions and promote reasonable accommodation measures.
- Also in France, the disability compensation allowance is not linked to the income of the disabled workers or their families and is to compensate for the additional costs related to disability.
- ESAT, which are not 'ordinary French companies' in terms of employment legislation but are part of a 'protected sector', provide assistance and foster social reintegration. 'Support activities' are offered to persons with disabilities, who do not have the same official status as 'employees' (they cannot join a trade union and they receive a salary of between 5% and 35% of the minimum wage (SMIC), which is complemented by a 'workplace assistance' paid by the state).

- In France, Adapted Companies (EA) are real companies within the 'ordinary sector' in which their employees have the same rights as any other workers.
- Retraining Centres for persons who became visually impaired at an adult age who are offered an 'adaptation' course which allows them, if necessary, to acquire braille and mobility techniques and to learn about or become updated on adaptive computer technologies. The running costs of CRP are covered by the social security system, which also pays the accommodation costs of trainees in France.
- In Germany, Inclusive Education without Barriers (iBoB) facilitates inclusive lifelong learning for blind and partially sighted professionals. The main tool for iBoB is its project website. It provides counselling and information and it also presents accessible lifelong learning courses. iBoB relies on a mentoring approach.
- In Italy, the Lazio Regional Government launched a programme aimed at setting up almost 300 internships for persons with disabilities in companies. The Italian Union of the Blind and Partially Sighted identified and contacted blind and partially sighted people in the area and looked for companies in which they could work as interns. This had a very positive impact in awareness raising among entrepreneurs.
- the Union of the Blind of Montenegro created a portal called 'employPWD.me', the goal of which is to connect and enable effective communication between employers and unemployed people with disabilities.
- The Spanish regulatory framework and the employment services offered to citizens at the state level for people with severe visual impairment (ONCE's members) are complemented by an internal and personalized ONCE service called Employment Support Service. This includes orientation and labour inclusion programmes, a training program for employment and a support programme for self-employment.

Regarding concluding observations, the United Nations Committee on the Rights of Persons with Disabilities has highlighted, among **positive aspects** in the matter of employment to be taken into account in the different European countries, the following:

- The efforts made by States Parties to bring their legislation into line with the provisions of the Convention and the policies and measures they have

adopted to ensure implementation of the rights of persons with disabilities, as enshrined in the Convention, regarding employment. It takes note of the approval of national plans for the creation of equal opportunities for persons with disabilities that include provisions regarding employment.

- The prohibition of direct and indirect discrimination of persons with disabilities in labour and labour-related laws and the denial of reasonable accommodation as discrimination.
- Enhanced quota obligations for the employment of persons with disabilities.
- The realization of reasonable accommodation and creating more inclusive mainstream initiatives to promote full and productive employment for people with disabilities.

If we take into account the **concerns** that have been highlighted in the subject of concluding observations, we will see how these coincide in general terms with those arising from an examination of the general data.

First of all, we find accessibility issues such as the content and number of obligatory and implemented accessibility standards relating to, among others, the physical environment, information and communication technology (ICT), transport and information in urban and rural areas, as one of the main concerns which impedes the possibility to gain employment.

Another important concern is the persistence of negative attitudes, stereotypes and prejudice against persons with disabilities as they are often perceived to be unfit for working life and incapable of carrying out tasks. The Committee highlights the high rates of unemployment affecting persons with disabilities, which is even higher in the case of women with disabilities, and highlights the income gap faced by women with disabilities.

The Committee regrets the low level of disaggregated data on persons with disabilities as there is very limited data on persons with disabilities and employment and especially the situation of people with a visual impairment.

One of the main concerns that is repeated in recommendations to European countries is the high number of people that work in sheltered workshops outside the open labour market and receive very little pay.

There is a low number of people with disabilities in regular employment. Another concern is that the majority of employers prefer to pay a fine rather than comply with the quota requirement established by law. In Belgium there is a lack of a quota in the private sector.

There are insufficient affirmative action measures and provision of reasonable accommodation to ensure that persons with disabilities can access employment in the open labour market, despite the obligations contained in European Union Directive 2000/78/EC on non-discrimination in the workplace.

Most of the Committee's **recommendations** are made regarding economic policies and regulations to effectively create an inclusive open labour market in accordance with the Convention. There are recommendations to eliminate discrimination regarding access to the labour market by people with severe disabilities and the Committee encourages the use of support and adjustments in order to achieve inclusive employment. Other recommendations are:

- To collect data on the employment of persons with disabilities, disaggregated by gender, age and type of impairment, and on the accessibility of workplaces in the open labour market.
- To remove any legislation limiting the rights of persons with disabilities to perform any profession on the grounds of their disability and ensure equal pay for work of equal value for all people with disabilities, regardless of their disability classification.
- To review the assessment of working capacity to eliminate the medicalized approach and to promote the inclusion of persons with disabilities in the open labour market.
- To ensure that people with disabilities enjoy effective protection against discrimination and access to vocational training, adequate accessibility and the reasonable accommodation they need, and to introduce legislation providing for effective sanctions against employers who fail to provide reasonable accommodation in the workplace.
- To put measures in place to narrow the employment and pay gender gap.
- To significantly increase, as soon as possible, the percentage of persons with disabilities working in the open labour market and adopt all necessary regulatory measures and incentives to guarantee the right of people with disabilities to employment in the open labour market, in both the private sector and the public sector, to access education and professional training

systems, and to make all workplaces and educational and professional training institutions accessible for persons with disabilities. In addition, there is a need to create employment opportunities in accessible workplaces, in particular for women with disabilities.

- To complement the quota system with other incentives for employers to hire persons with disabilities. Disincentives to employment for persons with disabilities should be analysed and remedied.
- To develop and implement, in cooperation with organizations of persons with disabilities, a plan of action to increase the level of employment of people with disabilities in the open labour market.
- To regulate and monitor reasonable accommodation, including supported employment with personal assistance, and accessibility of the workplace.
- To phase out sheltered workshops through immediately enforceable exit strategies and timelines and incentives, to promote public- and private-sector employment in the mainstream labour market, and to strengthen measures to support the transition of all persons with disabilities who are currently in sheltered workshops into formal, open labour market employment, ensuring respect for all rights in accordance with the Convention.
- To ensure persons with disabilities may exercise in practice their right to establish trade unions.
- To ensure that persons with disabilities do not face any reductions in social protection and pension insurance currently tied to sheltered workshops.
- To promote corporate social responsibility in connection with the employment of people with disabilities.

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