Draft General Comment No. 8 on Article 27 of the UN Convention on the Rights of Persons with Disabilities

Submission by the European Network on Independent Living

## About the submitting organisation

The European Network on Independent Living (ENIL) is a Europe-wide network of people with disabilities. We work with disabled people[[1]](#footnote-1) across impairment groups, Independent Living organisations and their non-disabled allies on the issues of independent living. ENIL’s mission is to advocate and lobby for Independent Living values, principles and practices, namely for a barrier-free environment, deinstitutionalisation, provision of personal assistance support and adequate technical aids, together making full citizenship of disabled people possible.

## Introduction

ENIL submitted our proposals to the Committee on the Rights of Persons with Disabilities (CRPD Committee) on what we wanted to see included in the General Comment on article 27 in March this year.[[2]](#footnote-2) In our written submission, we outlined a number of specific points which should be addressed:

1. Access to personal assistance
2. Abolishing of segregated work environments and alternatives to work
3. Fair wages and working conditions
4. Disabled people as employers
5. Sufficient flexibility in social support and benefits
6. Importance of inclusive education in finding employment

Following the publication of the draft General Comment, we held an open consultation with our members and would propose these additional points to be included in the General Comment (henceforth: GC).

1. Sheltered workshops

ENIL is pleased with the Committee’s specific elaboration on sheltered workshops and how they should not be considered as a legitimate alternative to the right to work. Ideally, we feel that the GC should give real time examples of sheltered workshops that exist in different parts of the world, in order to better demonstrate that these go against the meaning of art. 27 of the UNCRPD.[[3]](#footnote-3) It would be important to add that, sometimes, “social enterprises” may in fact be sheltered workshops in disguise, for example employing people with intellectual disabilities under guardianship, without a contract or a salary.

2. Personal assistance

We are concerned about the lack of reference to personal assistance, and the emancipatory role this can have for many disabled people. We believe that personal assistance is a cornerstone for independent living and that it should be reflected in the GC.[[4]](#footnote-4) Access to personal assistance for disabled people means giving them the choice to decide when they need assistance, for instance with accessing journeys to and from work. As we stated in our initial written submission:

“ Personal assistance is considered to be a key tool for Independent Living; it is explicitly mentioned in Article 19 CRPD and defined in the General Comment No. 5 on Article 19. In a number of countries, Personal Assistance is available only to disabled people in their homes. This can be a restriction imposed by law, or it can be the result of a lack of hours or funding that is available to disabled people.” (ENIL Written Contribution, p. 1).

3. Work assessments

Another topic we wish to see in the GC, but that does not appear in the current draft is a call for the prohibition of oppressive programmes such as the UK’s Work Capability Assessment (WAC) programme, which the CRPD Committee condemned as part of their (2017) findings into the systematic human rights abuses in the UK, calling for assessments of disabled people’s eligibility to be based on a human rights model approach rather than a medical model approach. [[5]](#footnote-5)

4. The effects of austerity policies

We also wish to see recognition that austerity policies can have a disastrous effect on the lives of disabled people, prohibiting many from entering the workforce, due to cuts to public transport, work assistance programmes, personal assistance, etc.[[6]](#footnote-6) This is something which the UN has raised concern about for several years now.[[7]](#footnote-7)

5. Inclusive education

We also want to see stronger recognition of the importance of inclusive education[[8]](#footnote-8) in helping disabled people find work. Those who went to special schools or were trained in jobs no longer in demand should be provided with opportunities for further/adult learning which match the demands of the labour market and their skills and interests.

6. Flexible working conditions

One concern raised by our members was in relation to flexible working conditions so that disabled people who need additional time to perform tasks do not face undue discrimination and more accessible working hours can be made to accommodate them.[[9]](#footnote-9)

7. Monitoring mechanism

The GC could also emphasize the importance of a monitoring mechanism at the national level that assesses the inclusion of disabled persons in the workplace, and to monitor the efficiency of the public administration. A mechanism with sanctions, remedies, warnings and recommendations. For instance, when it comes to discrimination, courts and other bodies making determinations as to whether discrimination has occurred need to have the authority to determine sanctions and remedies that are both monetary and equitable.

8. Intersectionality

The importance of intersectionality was raised. For instance, disabled people who also identified on the LGBTQIA spectrum, disabled women, disabled people from ethnically marginalised groups, which included refugees, and the overlapping stigmas that these groups may face when it comes to inclusion within countries need to be addressed in relation to inclusion in the labour market.[[10]](#footnote-10)

Last but certainly not least, the accessibility of the draft GC itself was raised as an issue by ENIL members. It was agreed that the draft GC should be available in an easy read format as the language employed by the Committee in the text and the length of the draft GC (29 pages) meant that it was difficult to get through all the material and fully understand the points being raised.

1. ENIL uses the term ‘disabled people’, rather than ‘persons with disabilities’ or ‘people with disabilities’, to reflect the fact that people are disabled by the environmental, systemic and attitudinal barriers in society, rather than by their impairment. This is in line with the social model of disability. [↑](#footnote-ref-1)
2. [ENIL’s Written contribution](file:///C%3A%5CUsers%5CFrank%20ENIL%5CDocuments%5CENIL%27s%20Written%20Contribution.docx) for the General Discussion on the right to of persons with disabilities to work and employment [↑](#footnote-ref-2)
3. ENIL and GUE/NGL (2020) *Lost in Interpretation: the Use of ESI Funds during 2014 – 2020 and the impact on the right of persons with disabilities to independent living*, available at: <https://enil.eu/wp-content/uploads/2020/12/Study_EP_EN_09122020.pdf> [↑](#footnote-ref-3)
4. European Network on Independent Living (2015) *Independent Living Manual*, p. 21, available at: <https://www.enil.eu/wp-content/uploads/2012/06/Independent-Living-Manual-FINAL.pdf> [↑](#footnote-ref-4)
5. <https://www.equalityni.org/ECNI/media/ECNI/Publications/Corporate/IMNI%20meetings/2017/CRPD17-1-6Jan17OverviewCRPDInquiry.pdf> [↑](#footnote-ref-5)
6. Ryan, F. (2019): *Crippled: Austerity And the Demonization Of Disabled People*  [↑](#footnote-ref-6)
7. UN Committee On Economic, Social And Cultural Rights, report into, France, Sweden, Honduras, Burkina Faso, the former Yugoslav Republic of Macedonia, Angola and the UK (2016) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20191&LangID=E> [↑](#footnote-ref-7)
8. UNCRPD art. 24 on education should be directly tied into UNCRPD art. 27 to highlight the link between the two articles, not just regarding vocational training but from early childhood education. Furthermore, the GC should stress how those who are placed in segregated school settings face larger obstacle trying to access today’s employment market and that therefore special schools should be abolished/phased out in favour of mainstream schooling. [↑](#footnote-ref-8)
9. Report on the need for flexible working conditions <https://workplaceinsight.net/flexible-working-practices-help-half-disabled-employees-stay-work-claims-report/> [↑](#footnote-ref-9)
10. European Network On Anti-Racism (ENAR) report (2020) on racism and intersectional discrimination in Europe, <https://www.enar-eu.org/intersectionalityreport> [↑](#footnote-ref-10)