***Draft General Comment on article 27***

***on the right of persons with disabilities to work and employment***

***Poland’s comments***

* The issue of the sheltered labour market is present in the public debate in Poland. There are various opinions among persons with disabilities as to whether a sheltered labour market is justified or not. The will of persons with disabilities themselves to work in a sheltered or open labour market should always be taken into account when applying the Convention.
* The Ministry of Family and Social Policy perceives the sheltered labour market as an alternative to work and employment opportunities for persons with disabilities who do not have the opportunity to work on the open market, or who consciously choose employment on the sheltered labour market. Employment on the sheltered labour market is currently understood, according to Polish legislation (Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities), as employment in occupational workshops and sheltered workshops. The former are financed entirely from public funds and all income is allocated to the rehabilitation of employees.
* The second type of employers are entrepreneurs competing on the labour market with other companies in a given sector on the free market. They make use of various support instruments provided for in the law, but in order to operate they need to make a profit. Ultimately, we would like the protected labour market to focus on vocational activity centres, perhaps in a slightly modified formula in relation to the present one. The Ministry of Family and Social Policy recognizes that, wherever possible, work in the open labour market is desirable as providing the fullest opportunity to choose work and work in an open, inclusive and accessible work environment, in accordance with Article 27 of the Convention on the Rights of Persons with Disabilities.
* Nevertheless, taking into account the possibility for persons with disabilities to freely choose the environment and type of work, while respecting the choice, willingness and ability of certain groups of persons with disabilities to work in the so-called protected labour market, sees the need to retain it. It provides opportunities for those persons with disabilities who do not find themselves on the open labour market to take up employment and perform work and to earn money. At the same time, the Ministry is working on instruments to encourage and support employment on the open labour market, creating opportunities for development and experience. The Ministry considers it appropriate to take into account the currently functioning employment solutions for persons with disabilities.

Furthermore, it would like to draw attention to the provisions concerning the sheltered market:

* Concerning points 16 and 17

Sheltered employment exists in the Polish employment system for persons with disabilities. However, persons with disabilities have the choice to work on the open or sheltered labour market. They cannot be forced to work in the sheltered labour market. In this sense, Polish legislation does not violate a provision of the Convention. It should also be pointed out that irrespective of whether a person with disabilities is employed on the open or sheltered labour market, he or she must receive at least the minimum wage and, moreover, be protected against discrimination. The provisions concerning the conclusion of employment contracts of indefinite duration apply equally to the open and protected labour markets.

* Concerning point 97 g

Not every person with disabilities can work in the open labour market. Due to health limitations, some people may not be able to work outside the sheltered labour market.

For this reason, the call for a compulsory transition from sheltered to open labour market may not be feasible.