Hannover, 15 March 2021

# Statement Aktiv DabeiSein e.V. Hannover(in English: Hanover, Germany, Lower Saxony) Selbstbestimmung und Teilhabe mit Behinderungen(in English: Self-determination and participation with disabilities)

# on: General Comment on Article 27 of the CRPD (the right to work and employment)

Our opinion focuses only on the following bullet points contained in the draft General Comment:

* Ad 2. a. ii. (Interpretation of article 27.1 (a): Discrimination in the workplace, including workplace segregation)

We agree with the Committee's statement that "States parties are required under the Convention to move away from sheltered and segregated work employment". We strongly support the call "to modify and abolish discriminatory laws and policies".

Comment or demand from us:

From our German point of view, however, only the demand is not sufficient to call for the abolition of a directive which, for example, requires a certificate to establish an inability to work.

Justification:

We are a country characterised by bureaucratic und underpinning the state thinking. Our administrations have been practised for centuries in applying a variety of measures to discriminate against people or groups of people. As an association, we have been working for over 60 years to ensure that all persons with disabilities can participate in working life. We know from experience: People with multiple disabilities can also be employed. All that is needed is to adapt work structures and provide aids to support them. The sophisticated German legal system and the authority structures set up for this purpose do not always need laws and directives to close off support channels for people with disabilities. The General Comment must therefore not only mention a "guideline" or a "certificate" as examples of exclusion. At the very least, the text on this must be worded in such a way that these are only examples among many possibilities.

As stated in the introduction to this paragraph, it is the special worlds that must be abolished.

* Ad 2. a. ii. (Interpretation of article 27.1 (a): Discrimination in the workplace, including workplace segregation)

in conjunction with

* Ad 2. a. iii. (Interpretation of article 27 (b): The right to equal remuneration for work of equal value)

In every developed nation state, there are other measures and practices besides the objectionable regulations that complicate the goal of dissolving the special worlds. Especially in nation states with welfare state structures, social benefits also prevent people with disabilities from opting for other solutions. The nation states must therefore be called upon to

* adapt their support instruments to non-discriminatory developments,
* to help people with disabilities to overcome their fears for other ways with support measures and to take them along accordingly by
* the social status of people with disabilities is at least maintained, if possible even improved.

Minimum wages alone do not help people with disabilities in Germany.

We describe the situation in our federal state enclosed.

**Annex to the opinion**

The realised dream of parents of children born with disabilities from the end of the 1950s onwards in the centre of Lower Saxony.

We are an association to represent the interests of people with disabilities in the centre of the federal state of Lower Saxony. We came into being as a parents' association with the support of the Protestant nursing home for "juvenile cripples", Annastift Hannover. We did not want our physically handicapped children to be merely kept and cared for. Shortly after our foundation, we set up our own organisational structures as an association to support our children. The forms of support grew with the age of the children. From 1977 onwards - in terms of work and employment - it became official: 350 employees started working in a workshop for people with disabilities. We are still involved in this company today. In the course of time, employees in such a workshop could also be employed at external workplaces in companies. However, they still belonged to the workshop for people with disabilities, they were not employees of the companies themselves.

We as an association always had and still have the goal that the persons admitted to the workshops were supported in such a way that they could switch to occupational activities subject to social insurance contributions, i.e. to the first labour market in companies and enterprises.

The rude awakening of parents and fledging children with disabilities from the 1980s onwards in the centre of Lower Saxony

At the time of the founding of these two companies, we as an association were still hopeful that we had made an important contribution to social development with these forms of support and that we could continue to do so. With the political upheaval in the federal government from the beginning of the 1980s onwards, the social benefits that had been created from tax and social security contributions were seen as detrimental to the social assertion of the Federal Republic of Germany on the world markets and were gradually dismantled. This view and the political penetration of all state and social structures had considerable consequences for the support measures for this group of people.

At our association, the core group of our clientele changed. Fewer children with physical disabilities were born, but other groups were added. This was mainly due to the fact that, as a result of medical developments, children were born alive with significantly more forms of disabilities. This in itself should have led to an increase in the volume of support. However, the total amount of funding increased only slightly over the years. As a result, the funding measures for individuals decreased. In order to prevent the total volume from falling even further, the previous service providers developed a strategy to ensure that the special facilities they had built up at least remained intact and did not run the risk of being dissolved.

Only those people with disabilities whose needs were small then received needs-based individual support; those with extensive support needs fell by the wayside. It was on the verge of pushing this entire group into the significantly reduced, but above all even better flat-rate support system of care. However, its financing is shaped by the people who have become dependent on care in their last stage of life. People with disabilities who have grown up are now to be transferred to this system. Even if they remained in the previous support system, their actual needs would no longer be financed due to the capped, only fictitiously oriented compensation rates.

With regard to the funding structures for work and employment in the two-tier institutions (separate funding structures for organisations that are able to work and those that are not and complete disconnection from the primary labour market) in our regional area, permeability to the other branches was no longer possible.

End of 2008: The VN-CRPD - the chance for a rethink - but failed miserably

The Lower Saxony Ministry of Social Affairs also took up work at the management level for the new ideas emanating from the VN-CRPD, which was enacted into law in Germany in December 2008. Already at the beginning of 2010, the principle of individual support was taken up and set as a guideline for implementation in the support structures. At the same time, the "budget for work" was developed, provided with financial resources, coordinated with implementation partners and propagated for obligatory implementation on the ground.

By September 2012, this thinking had already evaporated. With the agreement of the institutions commissioned by the state, the exclusion of needs-based services for people with disabilities with a high need for support ultimately took place. The level of services that had been available in our regional part until then was considerably reduced in the facilities.

In the entire period from 2010 to 2019, in which the Budget for Work should have been implemented, only a total of less than 10 people (out of around 38,000 eligible in 2019) could be gained.

As already described, a smooth transition between the individual support structures was not conceivable at all until the Federal Participation Act was passed in 2016.

In the overall area of work and employment in our area, there have been the following lines of development since 2015:

* The parents of young people with disabilities who are preparing for the transition from school to vocational training to work tend not to take the path via the workshops, but instead their children seek the direct path to the labour market. At present, it cannot yet be assessed whether these young people or young adults will ultimately fail there due to the work structures found and not adapted to their situation.
* Parents who assess their child's disabilities so strongly that they should not go into work or employment because this would be too much for them, prefer to hand their children over to a day support centre that does not prepare them for work in a workshop.
* The inflow to the workshops in the transition from school to vocational training has measurably decreased due to this development.
* The facilities in our regional area were able to participate in a special model of transition from non-workshop to workshop funded by the state of Lower Saxony, which they also made use of. In total, out of up to 30 places (if there had been interested people, this could certainly have been increased), only just over 10 people took part. These figures speak for themselves.
* In order for a workshop for people with disabilities to be maintained for years to come, it is increasingly being assigned people who are sorted out of the primary labour market as a result of health-related consequences (mainly mentally impaired people) and are pushed into these workshops instead of being supported in the companies and administration through health management. The proportion of these persons in itself is clearly expanding; where this is encountered, the places provided for them must be expanded.

Whoever wants to change something along these lines of development, and we would like to do so, must be prepared to further develop the special structures that have developed over decades and to dissolve them in their present structure. However, this must also be effective, which is why we advocate a substantive specification of the General Comment as presented.

For the Executive Board:

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