**Equal Rights Trust**

**Oral Intervention: General discussion on the right of persons with disabilities to work and employment**

*March 2021*

The Equal Rights Trust is an independent, international organisation which works in partnership with civil society organisations and other equality defenders to support efforts to secure the adoption, enforcement and implementation of anti-discrimination laws. In the last decade, we have supported disabled persons organisations (DPOs) to document and challenge discrimination against persons with disabilities in countries ranging from Kenya to Kyrgyzstan. We are currently partnering with Saraki, a Paraguayan DPO, in a major new initiative which aims to improve the implementation of Articles 5 and 27 of the CRPD throughout Latin America.

We congratulate the Committee on the Outline for a forthcoming General Comment on the right to work and employment and thank you for the opportunity to comment on it. Our comments focus on the intersection between Article 27 and Article 5, and in particular on ensuring consistency between the forthcoming General Comment and the Committee’s General Comment 6, in five key areas:

1. The Outline provides a detailed discussion of each of the paragraphs of Art. 27, with the exception of the opening paragraph. We urge the Committee to include a discussion on this paragraph, and to take the opportunity to emphasise the three guiding principles which it articulates: (i) that persons with disabilities have a right to work on an *equal basis with others*; (ii) that the right to work is a right to *gain a living by work freely chosen*; (iii) that the right to work is a right to *work in an environment which is inclusive*. While these points may appear self-evident, we consider it essential that the Committee articulates clearly that Article 27 establishes a *positive obligation on states to ensure equal enjoyment of the right to work*, and that this necessitates both the removal of discriminatory barriers and positive, proactive measures to enable freedom of choice and equal participation.
2. The discussion of Art 27(1)(a) should, in our view, reiterate and refer to the definition of the right to non-discrimination as set out by the Committee in its General Comment 6. Thus, we would recommend that the Committee notes that states have an obligation to (i) prohibit direct and indirect discrimination, harassment and failure to make reasonable accommodation (ii) address multiple and intersectional discrimination.
3. In the discussion Art 27(1)(b), we would recommend that the Committee makes specific reference to the right to just and favourable conditions of work and equal opportunities – elements of the right which are not covered in the Outline – to reflect the importance of ensuring equality in all aspects of the employment relationship. We would propose that the Committee states clearly that policies permitting persons with disabilities to be paid lower wages *are discriminatory*, rather than that they *appear* to be so. We would ask that in discussing harassment, the Committee reiterates the definition provided in its General Comment 6.
4. In the discussion of Art 27(1)(h), we would recommend that the Committee discusses the full range of policies and measures to promote employment, noting that affirmative action programmes should be part of a holistic policy response. We would ask that the Committee reiterates its statement in General Comment 6 that states are required – not only permitted – to institute specific measures. We would also urge the Committee to note that states must ensure that such measures do not reinforce stereotypes or serve to limit choice.
5. In section 3 of the Outline, we would respectfully recommend that the Committee clarifies that states’ obligation to respect entails an obligation to repeal discriminatory laws and policies as well ensuring that public authorities do not discriminate in their employment practices. We would recommend that in discussing states’ “Immediate obligations”, the Committee refer again to the definitions of discrimination provided in General Comment 6, and notes in particular obligations to eliminate indirect discrimination.

Finally, we would urge the Committee to consider expanding beyond the existing Outline, to examine the links between Article 27 and other Convention provisions. In particular, we call on the Committee to examine the importance of awareness-raising, sensitisation and education (Article 8) with employers as a means to the achievement of Article 27, and the need for states to generate, analyse and publish – in forms accessible to all – quality data on employment and establish systems for the sharing of such data (Article 33).