### European Disability Forum – Oral submission for the General Comment on Article 27

**Wednesday, 24 March 2021 from 12:30 p.m. to 2:30 p.m (GVA time), topic: Best practices and recommendations on the right to work and employment for persons with disabilities.**

The right to work is one of the key principles of the CRPD. Barriers to employment frequently come up as one of the main concerns of persons with disabilities living in the European Union. However, the process of removing the barriers to employment is showing slow progress around the globe, and not least in Europe. We also see limited progress on the change of mind sets concerning what constitutes an “inclusive open labour market” and how to make these spaces accessible for persons with disabilities.

It is therefore of paramount importance that we see this new General Comment emerge, shining light on not only how to foster more employment in the open labour market, but also how to ensure employment of quality that respects the rights of workers with disabilities.

In this presentation, although there are numerous issues we would like to raise, here we will address what we consider to be the most pressing issues.

### On fair wages and reasonable working conditions

**(Relating to Article 27 point 1b and point 2)**

Workers with disabilities, no matter where they are employed, should be guaranteed the status of “employee”, and thus entitled to all the rights attached to this status in their country. This means a guarantee of minimum wage in countries where this exists, or a wage equivalent to that generally received in their sector of work in countries without laws on minimum wage. It also means entitlement to paid annual leave, sick leave, educational leave, unemployment benefits and all other social protection mechanisms, as well as the right to exercise trade union rights, again in line with the national norm. Workers in sheltered working conditions (see below for definition) should not be exempt from this.

### On reasonable accommodation

**(Relating to Article 27 point 1.i)**

The provision of reasonable accommodation should be driven by the requirements of the person with disabilities and not the preferences of the employer. Reasonable accommodation should comprise options for flexible working arrangements, as well as support or adjustments to the workplace in line with the person’s needs. This could include things such as (although not exclusively): physically accessible working spaces (including toilets, canteens, elevators etc.), the provision of assistive devices or technology needed to work, sign language interpretation when required, and work material in accessible formats such as Braille or easy-to-read language. Support should also be given for the provision of workplace assistance, mentoring and coaching if the employee with disabilities requires this. Furthermore, it should take into consideration the need for some employees to work in closed office spaces as opposed to open-plan settings because of sensory issues.

States Parties to the Convention should foresee financial support in the form of grants to help businesses make necessary adjustments to the workplace and/or purchase assistive devices and technology or employ support workers/interpreters/personal assistants when needed. It is particularly important to support small and medium-sized enterprises in covering any costs incurred. National employment legislation should also oblige large companies and public sector employers to foresee a budget specifically for reasonable accommodation and accessibility. States Parties should also invest in training and awareness-raising of employers and persons with disabilities on what is meant by reasonable accommodation, accessibility and inclusion in the workplace.

### On protection from in-work poverty

**(Relating to Article 27 Point 1b)**

Adequate income for persons with disabilities requires more than ensuring the respect of national or sectoral minimum wage policies. The extra cost of living for persons with disabilities, because of the need to pay out-of-pocket to compensate for inaccessible structures, is such that a salary alone is rarely enough to bring a person with disabilities out of poverty. As such, the concept of “reasonable remuneration” needs to take into account the way salaries are compatible with social welfare systems. States Parties should allow persons with disabilities to retain entitlement to disability allowance when in employment, to compensate for the extra cost of living. Improving one’s quality of life by taking up paid employment should not be penalised by loss of support mechanisms and disability “benefits”.

### On the transition towards employment in an inclusive open labour market

**(Relating to Article 27 Point 1j)**

Of particular importance should be the support towards preparing people for work in the open labour market, as well as making the open labour market inclusive enough to be able to welcome workers with disabilities. This means that, where sheltered work settings exist, there should be a focus on enabling workers to make the transition towards mainstream work settings in line with their skills, should they wish to. This can sometimes be achieved by what is referred to as “supported employment” where assistance is offered to support an employee with disabilities in adapting to a new work environment.

### Definition of sheltered workshops

The General Comment on Article 27 should clearly define what the CRPD committee understands by “sheltered workshops” and the “open labour market”. The notion of “sheltered workshops” refers to a working environment that employs persons with disabilities in settings that are largely separate from workers without disabilities. They are, in other words, work settings foreseen specifically for persons with disabilities. In some countries the legal status of people employed in sheltered workshops might differ from that of the open labour market, with an impact on salary norms and other rights. This is not the case in all countries. In this sense what is classed as a “sheltered workshop” by default differs from the inclusive “open labour market”.