**ONCE SOCIAL GROUP - CONTRIBUTION TO THE PUBLIC CONSULTATION OF THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES ON ITS OUTLINE FOR THE PREPARATION OF A GENERAL COMMENT ON ARTICLE 27 OF THE CRPD (THE RIGHT TO WORK AND EMPLOYMENT)**

ONCE Social Group welcomes the public consultation launched by the Committee on the Rights of Persons with Disabilities in relation to the preparation of a General Comment on Article 27 of the CRPD (the right to work and employment).

1. **WHO ARE WE**

ONCE is a corporation under Spanish public law that delivers specialised social services to people who are blind or partially sighted and is supportive of other persons with disabilities. ONCE, funded through the sale of responsible gaming products, promotes social enterprises. ONCE Social Group is composed of ONCE, ONCE Foundation and Ilunion, our business group. With over 72 000 employees, ONCE Social Group is the fourth largest employer in Spain and the largest in terms of number of employees with disabilities: 58% of the total, approximately 42 000 people.

1. **ONCE SOCIAL GROUP INCLUSIVE EMPLOYMENT AND SOCIAL ECONOMY MODEL FOR PERSONS WITH DISABILITIES**

The key element in ONCE’s social model is its commitment to social inclusion and inclusion in employment of persons with disabilities. We believe employment is not only a means to achieve this, but also the ultimate goal in securing full engagement in society. For this reason, all economic activities within ONCE Social Group’s three executive areas focus, along with funding the social services we deliver, on generating jobs for persons with disabilities rather than any financial target. This is the social economy perspective which we as an organisation are proud to be part of.

To achieve these goals, ONCE Social Group employs successful tools which have been tried and tested throughout our 80 years’ experience. These solutions are primarily a responsible, social-purpose lottery which, in addition to securing direct funding for our initiatives and social services, provides employment to around 20 000 people with disabilities in Spain, all of whom enjoy working conditions – salaries included – above the average for persons with disabilities in our country.

Moreover, ONCE Foundation delivers INSERTA, its specialised job placement service for persons with disabilities and a tool used by ONCE Social Group to support persons with disabilities in their efforts to become active in the labour market, train and find employment in the open market. Introduced over 20 years ago now, this successful initiative, developed and implemented with co-funding from the European Social Fund, is considered an example of good practise by the European Commission because of its characteristics and outcomes. INSERTA has a data base of more than 300 000 persons with disabilities; over 143 000 learners with disabilities have trained and acquired skills through INSERTA; and over 105 000 people have secured a job thanks to INSERTA.

Ilunion, our business group, stands out as a result of its firm commitment to employing persons with disabilities in the open, competitive labour market. It has over 45 000 employees of whom around 40% are persons with disabilities, a figure which is constantly rising. Active in more than 50 profitable and sustainable lines of business, Ilunion shows society a tangible example of how persons with disabilities can and should be part of the most competitive workforces in any sector, whether it be industrial laundries, the hospitality industry and tourism, strategic consulting or the circular economy.

1. **ONCE SOCIAL GROUP CONTRIBUTIONS FOR A FUTURE GENERAL COMMENT ON ARTICLE 27 OF THE CRPD (THE RIGHT TO WORK AND EMPLOYMENT)**

**1. Introduction**

We suggest the Committee to address also the challenges posed by the COVID pandemic, crisis and recovery in relation to the impact on employment of persons with disabilities.

Considering the variety of terminologies, regarding employment, for the purpose of the future General Comment, the following terms should be defined according to universal common characteristics:

1. Inclusive labour market: All possible types of employment freely chosen, covered by labour standards, respecting the rights of employees, offering an opportunity for career development and paying wages according to collective agreements for the sector and over the minimum wage. This type of work could take place in public employment, private employment (including by using supported employment), social economy, social enterprises, self-employment and entrepreneurship and centres or undertakings of inclusive employment.
2. Segregated sheltered employment: Employment, which is not freely chosen, is not covered by core labour standards, fails to respect the rights of employees, does not afford the opportunity for career development and does not pay at least the minimum wage. Any employment including all or any of these elements should be considered segregated employment.

**2. Normative content**

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

The Committee should also consider in this section the work modalities (on-site, remote, homeworking or mixed mode), direct and indirect discrimination, and the consideration of the denial of reasonable accommodation as a form of discrimination.

1. **Interpretation of article 27 (b): The right to equal remuneration for work of equal value**

The main causes for the wage gap also seem to be linked to horizontal and vertical segregation in employment and career development in the case of persons with disabilities, and the impact of multiple and intersectional discrimination, which prevents women with disabilities from enjoying the same employment opportunities as others.

**iv. Interpretation of article 27 (b) part II: Applying health and safety considerations in a non-discriminatory way**

In situations of risk and humanitarian emergencies, it must be ensured that persons with disabilities are not discriminated against in access to employment and their right to employment due to erroneous stereotypes[[1]](#footnote-1).

**v. Interpretation of article 27 (b) part III: Measures to eliminate discriminatory attitudes and harassment, particularly against women, migrants and refugees with disabilities**

In their joint statement on ending sexual harassment against women and girls with disabilities, UN Women, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities recommend working in partnership to prevent all instances of sexual violence, including sexual harassment against women with disabilities in occupational employment centres, and to ensure that all instances of sexual harassment are identified, investigated and prosecuted.

**vii. Interpretation of article 27 (d) and (j): Access to inclusive education and inclusive vocational training**

It is vital that specialised technical and vocational education and training (TVET) services targeting persons with disabilities focus their activities on occupations that require higher qualifications and are more in demand by employers.

The fact that vocational training is considered non-compulsory training is used as an excuse for the lack of suitable support for learners with disabilities, so it is evident in the statistics on students with education needs that their participation in formal training after compulsory secondary education drops drastically in comparison with their engagement in compulsory stages of education, indicating that persons with disabilities are excluded from formal education systems. This is particularly important when it is considered that within the group of younger people with disabilities (up to 30 years old), the prevalence of intellectual disabilities can be significant, despite the fact that such disabilities are significantly less prevalent within the overall group of persons with disabilities of working age. For this reason, it is critical that States parties ensure support in vocational training and in other non-compulsory formal training processes, with the same level of compliance for education authorities and centres of learning as during compulsory education. The level of support has significantly improved, for instance in universities, where the universities themselves have developed support units for students with disabilities. Failure to provide such support in vocational training reduces further the employment possibilities of young people with disabilities and the norm in such cases is to move towards special support centres, thus abandoning the previous pathway towards inclusion and entering a circle of benefits and dependence.

The productive transformation and the need for employees with and without disabilities to gain new employment competencies and skills to retain their jobs make it essential to offer employees with disabilities qualified and quality training throughout their professional careers.

It is also essential that there be continuous co-ordination and interaction between disability-targeted employment services and mainstream employment services, and social and education services. Public employment services must ensure there are specialist practitioners available in numbers proportional to the prevalence of unemployed persons with disabilities of working age in the population, and these professionals must seek to activate and support them. This can be ensured by deploying specialised public servants in employment services or by incorporating external practitioners from bodies specialising in service delivery agreements/contracts. There are already examples of good, efficient practises involving public-private co-operation using this approach in some European countries.

1. **Interpretation of article 27 (f): Self-employment, microfinance, business development services**

To the historical situations of discrimination and lack of equal opportunities for persons with disabilities, the last few years have also seen a widening of the social gap caused by the growth of inequalities, the lack of jobs and their precarious nature, deregulation processes in labour relations, non-inclusive digitalisation, the lack of employment opportunities, transformation and polarisation in employment, and discussions and revisions concerning the sustainability of social protection systems, etc. New realities which could further hinder equal access to employment and job retention for persons with disabilities and the internal dynamics of the mainstream labour market (a general paucity of employment opportunities) are increasingly becoming barriers which prevent and/or restrict the right to employment which persons with disabilities and other disadvantaged groups enjoy. In this context, ‘new economies’ and other types of businesses (social enterprises) are coming to the fore in the framework of the social economy. They aim to provide solutions to the inequalities the mainstream system generates by applying their own values and principles and putting the person before profit, becoming corrective types of enterprises which ensure those individual rights the pure logic of the market cannot guarantee. The development of these enterprises creates a dynamic for activities which focuses on purpose and social values. We enjoy a wide and rich variety of organisational forms founded in differing national and social welfare contexts but which share common values, features and goals and combine sustainable economic activities with a positive social footprint, while adapting goods and services to needs.

It is in this area, the area of social enterprises within the context of the social economy, where we find collective forms of entrepreneurship driven by persons with disabilities themselves (co-operatives and other social economy solutions) or the organisations representing persons with disabilities and/or their families (types of social companies) that seek to offer decent jobs and productive employment opportunities, paying salaries commensurate with the job performed and the sector, but under no circumstances lower than the minimum wage. They guarantee safety and protection in the workplace, offer prospects for career and personal development, ensure the engagement of the employee in decisions affecting his or her professional career, make sure reasonable accommodations are provided and promote equal opportunities and equal treatment. These business initiatives are fully in line with the mandates set out in article 27 and must be viewed as initiatives by persons with disabilities themselves and examples of collective entrepreneurship by persons with disabilities themselves or by the organisations representing them.

Companies run by persons with disabilities should also be taken to mean any business initiative promoted by persons with disabilities or their representative organisations using either traditional business solutions or social economy, collaborative economy or collaborative work solutions, etc.

Consider including the concept of Supported Entrepreneurship to indicate that persons with greater needs in terms of accessing employment require support-based solutions to launch their initiatives which must be in line, although in some aspects different from, solutions for supported employment.

**ix. Interpretation of article 27(g) Employment of persons with disabilities in the public sector**

Include not only access to employment opportunities in the public sector, but also those recruitment processes where on occasions positions are left vacant once people have successfully undergone the recruitment process. Furthermore, where people take up a post for which they have passed the admission tests, include ongoing assessment of these new employees to ensure working conditions are truly inclusive. In many cases there are situations where a lack of inclusion occurs because no work has been performed with other public employees in the context of the person with disabilities in order to raise awareness and provide support when they join to help them settle in suitably, offering relationships in the work setting where the individual feels fully included. In this respect, supported employment should also be promoted in the public sector, while ensuring administrative procedures are adjusted accordingly.

**x. Interpretation of article 27 (h): Affirmative action programs and special attention to persons with disabilities who are particularly excluded from the labour market.**

Regarding quota systems, a critical review of models in place should in no case contemplate their elimination. For organisations specialised in the placement of persons with disabilities in the labour market, the existence of quota systems is the first port of call when making businesses aware of their responsibility to include persons with disabilities in their workforces, in order to then go on to develop co-operation programmes to attempt to introduce gradually persons with disabilities and higher support needs. The areas requiring assessment when seeking to improve quota systems are the following:

* Choosing a quota for all businesses which is objectively linked to the prevalence of disability within working age persons with disabilities and is applicable from the very first employee on.
* The previous point must be combined with a public record of all businesses that comply with the quota and those that do not. This public record is not only to be able to assess compliance with laws and regulations and gauge progress in implementing policies such as those involving subsidies, for instance, and evaluate their efficacy, but also because it enables us to clearly identify those businesses which are compliant for the purpose of public procurement or socially-responsible procurement by companies.
* Devise some type of combination of the scope of action of public labour inspection and the amounts imposed as sanctions due to lack of compliance which is exemplary and will truly act as a deterrent (and exposing cases of serious non-compliance).
* The quota system could be honed to improve employment opportunities for different groups of persons with disabilities.
* There should be a review of the alternative compliance mechanisms, such as procurement from special employment centres or donations, to avoid situations where compliance is contrary to the spirit of the law and some companies are allowed to meet the alternative compliance mechanisms permanently and without making progress in direct recruitment.

There is an evident need for a public register of those companies which comply with the quota system, or for some other official means of verification.

Supported employment is the main way to drive effective inclusion in employment for people who are deafblind, people who have intellectual disabilities and people who have psychosocial disabilities, three of the groups with the lowest employment rates. Depending on public programmes which are normally regional in scope to cover the costs associated with job coaches to support employees with disabilities and employers makes this type of support totally reliant on policy decisions and public programmes involving bureaucracy that makes it impossible for social entities to include all the people with disabilities who need it in this kind of employment. We suggest moving forward towards a model of supported employment based on a conceptualisation as a ‘service for the person with disability and the employer’ and in which the responsibility for recruiting lies with the employer, with supported employment viewed as a reasonable accommodation for certain groups of people with these support needs. Furthermore, these people may not need any other type of adjustment made to their workplace and so they find themselves at a disadvantage in terms of accessing funding for their inclusion in employment as job coaches are not part of workplace reasonable accommodations in the same way as, for instance, a specific piece of furniture or fitting and assistive devices and technologies. The same reasoning can be applied in the case of personal assistants in the workplace.

States parties must offer encouragement to social enterprises, among other modalities, as a model of collective social entrepreneurship driven by persons with disabilities themselves or by organisations representing them or their families. As set out in the International Labour Organisation publication ‘Decent work for persons with disabilities: promoting rights in the global development agenda’ (Geneva, 2nd edition, 2015), the social enterprise sector has considerable growth potential and may offer significant possibilities for new employment opportunities for persons with disabilities in the future.

1. **Interpretation of article 27 (i): The obligation to provide reasonable accommodation in the workplace and the denial of reasonable accommodation as a form of disability-discrimination, including in recruitment processes**

In the field of reasonable accommodation, a reference to the development of assistive technologies and other types of technology is worthy of inclusion. These technologies are enabling people with disabilities to overcome barriers which just a few years ago seemed to be insurmountable.

1. **Interpretation of article 27 (k) Return-to-work programmes**

States parties should also ensure compatibility between disability-related social benefits and holding a job and between grants and incentives for businesses to recruit and job retention.

**3. States parties’ obligations**

1. Immediate obligations
2. Non-discrimination, particularly on the basis of disability or multiple grounds

States parties must promote programmes and policies to facilitate job retention or finding employment in another company, and develop programmes to facilitate retaining or new qualifications for those employees with disabilities who are forced to change occupations.

1. Provision of reasonable accommodation

Regarding more flexible (and reduced) working hours, it must also be recalled that this typology of measures can be adopted generally in order to make progress on seeking a work-life balance, and we must make sure that employees with disabilities do not suffer discrimination in this area.

**5. Implementation at national level**

1 Repeal or amend all laws and labour market regulations which discriminate against persons with disabilities and/or are incompatible with CRPD article 27.

2 Foster an intersectional approach; in addition to incorporating the rights of persons with disabilities in mainstream employment legislation, specific employment legislation must be adopted, in close co-operation with organisations of persons with disabilities and their families, which takes a holistic approach and is conceived from an explanatory view to guide the system towards a contextual understanding of the pre-existing reality, the issues identified, actions, the social context and persons with disabilities.

3 Include explicitly in employment laws and regulations non-discrimination in its multiple forms and the denial of reasonable accommodation as a form of discrimination. Reasonable accommodation must be mandatory in such laws and regulations.

4 Adopt legislation and positive action measures to make progress in overcoming vertical segregation (concentration in low hierarchy position) and horizontal segregation (where access is limited to certain professions which are the most basic, least secure and lowest paid).

5 Adopt legislation making it illegal for persons with disabilities to receive a salary lower than the minimum salary and guaranteeing the principle of equal pay for work of equal value, paying particular attention to the gender-based wage gap

6 Ensure policies and programmes are in place that guarantee the engagement of persons with disabilities throughout their working life in training, qualification systems and systems to acquire skills (primarily digital skills). Productive transformation and the need for employees with and without disabilities to gain new employment competencies and skills to retain their jobs make it essential to offer employees with disabilities qualified and quality training throughout their professional careers.

7 Foster policies and programmes allowing mixed forms of training-employment and positive action measures to cover and minimise the negative impact of ‘transition periods’ between activity and inactivity and being employed and being unemployed.

8 Ensure the full inclusion of persons with disabilities in employment services, TVET systems and professional skills development. Link mainstream and specific services and foster co-ordination and interaction of mainstream and specific employment services with education and social services.

9 Legally establish support roles to foster the full participation of persons with disabilities in trade unions and encourage co-operation and interrelationships among social actors and organisations of persons with disabilities in order to foster a deeper understanding of disability in labour relations, collective bargaining processes and equal engagement in trade unions by persons with disabilities without discrimination.

10 Through positive action measures, support and promote the participation of persons with disabilities in all social economy solutions, including co-operatives. Provide specific positive action measures to boost all types of entrepreneurship among persons with disabilities.

11 Foster and encourage the establishment of social enterprises as a model for collective social entrepreneurship driven directly by persons with disabilities themselves or by the organisations that represent them or their families and harnessing the potential to generate employment for persons with disabilities. Ensure that these social enterprises meet the requirements set out in article 27 and offer decent employment and the necessary reasonable accommodations.

12 Put in place positive action measures (financial incentives, lower social contributions, wage subsidies, tax breaks, etc.) to foster the recruitment of persons with disabilities in all types of jobs and introduce enhanced positive action measures where different types of factors combine to cause intersectional discrimination, with a particular focus on the gender approach.

13 Promote legislation to ban participation in public tender processes if the quota system in place is not applied or if the employer has been sanctioned for discrimination towards persons with disabilities, to give a higher appraisal to tenders that include the recruitment of a higher percentage of employees with disabilities than that set out in the quota established, and to set aside reserves in public tendering processes for social enterprises run by persons with disabilities, by organisations of persons with disabilities or by organisations representing them.

14 Put in place programmes and support policies for employers for cases of acquired disability in order to foster job and talent retention and relocation within the same company or recruitment by another company, and promote programmes for those employees with disabilities who must change position to train or gain new qualifications.

15 Ensure disability-related welfare and social security benefits are compatible with employment.

16 Harness the employment opportunities and new job prospects offered by new technologies to persons with disabilities. Identify and study these new opportunities in consultation with public- and private-sector employees, trade unions, public employment services and organisations of persons with disabilities.

17 Promote special training and ongoing education programmes so that persons with disabilities are able to acquire the digital skills they need, paying particular attention to persons with disabilities who have higher levels of labour inactivity such as, among others, women.

18 Carry out regular research and statistical analysis, gathering disaggregated data by sex, age, type of disability, rurality and nationality, among others, in order to gain a deep and up-to-date understanding of the situation concerning persons with disabilities, employment and participation in the labour market. Assess policies and positive action measures to gauge their social impact and to adjust them to sudden, dramatic upheavals in the labour markets.

1. See Sendai Framework for Disaster Risk Reduction 2015-2030, United Nations Office for Disaster Risk Reduction (2015) [↑](#footnote-ref-1)