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**EuCIE’s position on the draft general comment on Article 27 of the *United Nations Convention on the Rights of Persons with Disabilities*.**

[**https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CallCommentsDraftGeneralComments.aspx**](https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CallCommentsDraftGeneralComments.aspx)

**submission in response to the draft general comment**

1. **Introduction to EuCIE**

EuCIE is the **European Confederation of Inclusive Enterprises** for persons with disabilities, the union of several countries to promote access to employment for people with disabilities at European level. Our Confederation aims at promoting the inclusive enterprise model based on equal opportunities for persons with disabilities as any worker, sharing the same model in many European countries.

EuCIE organizations represent the main inclusive employers in Belgium-Wallonia (Eweta), France (UNEA), Germany (Bag-if) and Spain (CONACEE), Austria and Poland among other countries and contacts; in total it is an employment model present in more **than 13 European countries and 200.000 employees and 8.000 companies involved**. Our mission is to represent all European inclusive enterprises at European level, working for their **recognition, promotion, and support**.

It is on the basis of this expertise and of the expertise of the members that it represents on employment for persons with disabilities, that EuCIE provides this written contribution.

It is EuCIE’s belief that every individual has the right to decent work in an inclusive labour market and EuCIE advocates for an inclusive labour environment. To put an end to the situation of exclusion from the labour market of persons with disabilities and to tackle their persistent situation of unemployment, immediate action must be undertaken, in particular with the expected impact of the COVID-19 pandemic on the employment of persons with disabilities. Support measures to employment models that fully respect article 27 of the UN CRPD like inclusive enterprise are key to unlock job potential and shift the focus from the disability to the skills and competences. The right to a decent job is another objective equally pursued by EuCIE.

For the purpose of this paper, EuCIE describes a decent job provided by inclusive employment model with equal remuneration for work of equal value, safe and health working conditions, labour rights, training, opportunities for career advancement, reasonable accommodation as based on Article 27 of the UN CRPD.

It is on the basis of the **contribution of our sector** towards the implementation of the UN Convention on the Rights of Persons with disabilities that **EuCIE provides our comments and suggested amendments** to the Draft General Comment on article 27 (hereinafter DGC27) proposed by the UN Committee on the Rights of Persons with Disabilities.

1. **EuCIE’s Overarching Position on the Draft General Comment on Article 27 UN CRPD**

EuCIE **welcomes the Draft General Comment on article 27 (DGC27)** as providing considerable insight and clear recommendations towards the implementation of the right to work and employment for persons with disabilities.

In many ways, it re-enforces EuCIE’s vision that **Inclusive Enterprises** **for persons with disabilities is in accordance to the article 27 of the UN CRPD**. It provides income and social impact, generating opportunities for social participation which is especially important for persons with disabilities. People are paid at legally mandated salaries and receive long-term contracts The Inclusive Enterprise works as a vehicle to address the need of the majority of persons with disabilities for a dignified and productive life just like any individual.

An Inclusive Enterprise’s main purpose is to promote, encourage, and make social change employing in their workforce the maximum of people with disabilities. The aim is to carry out this social purpose in a financially sustainable way over the long term.

Moreover, it is a wide-spread model in a number of E.U. States receiving different names but sharing common characteristics. At their best they provide goods, services, and livelihoods hiring people with disabilities as equal workers with legally mandated wage levels and social participation in the workplace. Between 30% to 80% of the employees in an Inclusive Enterprise are recognised as disabled workers. There are a number of for-profit and non-profit variants of the model with different legal structures, making it very flexible and able to develop across different State contexts. They can be structured and may take the form (depending on in which country the entity exists and the legal forms available) of a co-operative, mutual organization, a disregarded entity, a social business, a benefit corporation, a community interest company, a company limited by guarantee or a charity organization. They can also take more structures, but we pay especially attention on how social a large range of entities can adapt the model of inclusive enterprises for this purpose and **create additional value** by employing people with disabilities meeting the employment right conditions of the UN Convention on the Rights of Persons with Disabilities,

Secondly, an important **social impact** is generated and needs to be explained. Inclusive enterprises have both enterprise goals and social goals, **focusing on the employment of people with disabilities**. As a result, their social goal is embedded in their objective, which differentiates them from other organizations and corporations. An inclusive enterprise's main purpose is to promote, encourage, and make **social change** employing in their workforce the maximum of people with disabilities. Furthermore, this social purpose is carried out in a financially sustainable way and they can sustain themselves over the long term. Their models can be expanded or replicated to other communities to generate more impact.

In some States the sector is large enough to play an important role in the value chain of companies as suppliers, distributors, and retailers. While employment and business goals are central to the model, the guiding principles of the organisations are a concern with the social economy and outcomes for people rather than purely profit.

EuCIE and its inclusive enterprise are interested in inclusive employment and services **model that serves all kind pf disability, adapting jobs to their needs**. As examples, this would include, but are not restricted to, persons who experience:

• intellectual disabilities

• autism, or autistic spectrum conditions

• developmental disabilities (e.g. ADHD, dyslexia)

• hearing loss or impairment

• vision loss or hearing loss

• physical disabilities

• mental health issues

• brain injury

• invisible disabilities (e.g. disfigurement)

Different from other employment models the **most outstanding characteristic of Inclusive enterprises is that they are based on the fundamental right to work and employment enshrined in Article 27 of the UN Convention on the Rights of Persons with Disabilities** (equal opportunities, equal remuneration and safe and healthy working conditions). It means:

An ordinary enterprise or entity with social aims

• Active on the ordinary work sector

• 30% to 80% of the employees in an inclusive enterprise are recognized as disabled workers

• All kind of disabilities in the Inclusive Enterprise workforce

• Ordinary law and collective agreement salaries

• Long-time contracts

• Social security benefits, unemployment pension, retirement pension.

• Large range of activities and sectors

Impact on the worker with disabilities well-being:

• Free choice working

• Integration into working life

• Social impact on people with disabilities, on enterprises, on costumers and on society.

• Stable and disability-friendly employment

• Different from the protected or sheltered environment that is linked to the socio-medical framework.

EuCIE advocates for an **inclusive labour environment**. To put an end to the situation of exclusion from the labour market of persons with disabilities and to tackle their persistent situation of unemployment, **immediate action must be undertaken, much of which is suggested in DGC27**. This is even more important given the expected impact of the COVID-19 pandemic on the employment of persons with disabilities. In our view, support measures are key to unlock job potential and shift the focus from the medical approach to the disability to the labour skills and competences.

The **right to a decent job** is another objective equally pursued by EuCIE, which we define as providing for equal remuneration for work of equal value, safe and health working conditions, labour rights, training, opportunities for career advancement and reasonable accommodation. Making **inclusive enterprise model part of the *General Comment on the right of persons with disabilities to work and employment* and of the policy recommendations** related to employment model which respect the article 27 UNCRPD could be a inflection point for a more social, more inclusive and more human world where persons with disabilities can enjoy **equal opportunities, equal remuneration and safe and healthy working conditions.**

Precisely for this reason, this submission provides **concrete suggestions** about how to amend the draft General Comment to **place an even greater emphasis on the participation of persons with disabilities in inclusive enterprises** in the general labour market.

In our view, the model of Inclusive enterprises is insufficiently reflected in the proposed General Comment. **Inclusive enterprises** are an important model to create real, open and inclusive labour market opportunities for all persons with disabilities and to **fully respect and implement the human rights of Art. 27 UNCRPD**.

In particular, **we agree to the significant majority of the proposed DGC27**; namely the parts related to:

1. Introduction.
2. Human rights model of disability
3. Normative content
   1. Just some additions to the points 17 and 18
   2. In full to the rest
4. States Parties Obligations
   1. General Obligations (in full)
      1. Some additions to point 46
   2. Core Obligations
      1. Some additions to point 72
      2. In full to the rest
5. Relationship with other specific articles of the Convention (in full)
6. Implementation at the national level
   1. Addition to point 96.g.
   2. In full to the rest

For the points in which we make additions, **EuCIE proposes concrete suggested amendments**. These suggested amendments relate primarily to the topic of inclusive enterprises which – in **the proposed DGC- insufficiently considers** in Europe today and it could be a great opportunity for transition from other models to a more inclusive work.

Inclusive enterprises can be an **important instrument** in the toolbox required to **create real, open and inclusive labour market opportunities for all** persons with disabilities. This is particularly the case for ensuring that **persons with all kind of support needs are not left behind** and are not excluded from open and inclusive labour market opportunities.

1. **EuCIE’s Suggested Amendments**

EuCIE suggests to the UN Committee on the Rights of Persons with Disabilities to consider the following amendments to the draft General Comment on Article 27 (DGC27) as proposed.

1. **Suggested Amendment to 17. of the DGC27:**
2. *The Committee observes that sheltered workshops include a variety of practices and experiences, which are characterized by at least some of the following elements:*
3. *They segregate persons with disabilities, even segregating persons by severe and not-sever disabilities or by kind of disabilities, that is, they separate them from the rest of the society and bring them together on their own;*
4. *They are organized around certain specific activities without labour, productive or economic value that persons with disabilities are deemed to be able to carry out;*
5. *They focus and emphasize medical and rehabilitation approaches;*
6. *They do not effectively promote transition to the open labour market;*
7. *Persons with disabilities do not receive equal remuneration for work of equal value,*
8. *Persons with disabilities are not remunerated for their work on an equal basis with others, and*
9. *Persons with disabilities usually do not have regular employment contracts in sheltered workshops, and therefore are excluded from working relations schemes and social security schemes.”*

**EuCIE motivation for the amendment**:

In the last years, different from other points of views that segregate persons with disabilities from the persons without disabilities and also by form of disability based on medical approach, the inclusive employment has evolved into more modern and inclusive structures, which provide conditions increasingly in line with the principles established by the UN CRPD as they offer decent employment conditions to persons with all kinds forms of disabilities (in line with our above definition of decent jobs) and with persons without disabilities. A medical approach cannot be accepted for segregation in employment.

1. **Suggested Amendment to 18. Of the DGC27:**

*“Sheltered workshops for persons with disabilities are not to be considered as a measure of progressive realization of the right to work, which is only evidenced in employment in an open and inclusive labour market. It is important not to confuse sheltered workshops with cooperatives, or jobs organized or run by persons with disabilities or other employment models like inclusive enterprises for persons with disabilities in which labour laws are generally respected.”*

***EuCIE motivation for the amendment:***

EuCIE believes the proposed draft of this article to be inaccurate given that there is models like inclusive enterprise for persons with disabilities that they have not to be confused with the practices not aligned with the UNCRPD.

An inclusive enterprise is created for the employment of people with a disability or disadvantage in the labour market with the following criteria: market-oriented production of goods and services to pursue its social mission; a minimum of 30% of its employees will be people with a disability; every worker is paid a wage appropriate to their work; work opportunities should be equal between disadvantaged and non-disadvantaged employees. They may also provide skill training with the aim of moving people through into more inclusive employment.

As mentioned before, the objective of this paper is to notice the last model: **Inclusive Enterprises and its accordance to the article 27 of the UN CRPD**. It provides income and social impact, generating opportunities for social participation which is especially important for persons with disabilities. People are paid at legally mandated salaries and receive long-term contracts. The Inclusive Enterprise works as a vehicle to address the need of the majority of persons with disabilities for a dignified and productive life just like any individual.

**C. Suggested Amendment to 42. of the DGC art. 27:**

*“42. The promotion of opportunities for freely chosen work requires accessible information on entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models such as cooperatives or inclusive enterprises….”*

**EuCIE motivation for the amendment*:***

*As mentioned before, inclusive enterprises should always be mentioned as an e,ployment model and a model for the realisation of human rights in the field of employment.*

**C. Suggested Amendment to 46. Of the DGC27:**

*“46. The Committee has recommended strategies to States Parties to increase the employment of persons with disabilities in the public sector that are equally applicable to the private sector. Specific affirmative action measures such as quotas or or the purchase of services from inclusive enterprises to increase the employment of persons with disabilities in the private sector may be required. At the same time, quotas alone are insufficient to promote the employment of persons with disabilities and can be resisted by persons with disabilities if the system focuses on impairment rather than ability. Quotas also raise issues of confidentiality. Other affirmative action measures could include targeted funding to promote the employment of persons with disabilities such as modifications of the working environment, apprentice wage supports, payroll tax deductions, and wage subsidies..”*

**EuCIE motivation for the amendment:**

Whilst we accept that quotas in private sectors are needed increase the employment of persons with disabilities, they are often insufficient to achieve a high rate of employment. For this reason, we recommend to establish also alternatives measures oriented to use inclusive procurement contracting inclusive enterprises for persons with disabilities who work in the open labour market and have a decent and adapted job. Those operators from the private sectors who have limited capacity it would be a good solution to externalize this process and contribute to fulfill the quota; maximizing then the labour opportunities for persons with disabilities.

**D. Suggested Amendment to 72. of the DGC27:**

*“72. The Committee’s jurisprudence on article 5 of the Convention sets out the immediate steps States Parties are required to undertake to achieve de facto equality and ensure non-discrimination on the grounds of disability in relation to the right to work and employment. In particular, to ensure the provision of reasonable accommodation as set out in article 5(3) and article 27(1)(i) and to achieve or accelerate de facto equality in work and employment through specific measures pursuant to article 5(4) States Parties should:*

*a. Facilitate—*

*i. the transition away from segregated work environments and support persons with disabilities engagement in the open labour market, and in the meantime ensure the immediate applicability of labour rights to segregated employment settings*

*ii. universally applicable occupational health and safety measures, including occupational safety and health regulations that are non-discriminatory and inclusive*

*b. Recognize—*

*i. the denial of reasonable accommodation as discrimination and prohibit multiple and intersectional discrimination, and harassment*

*ii. right of persons with disabilities to have access to trade and labour unions*

*c. Promote—*

* + 1. *the right to supported employment or inclusive enterprises employment, including to work assistance, job coaching and vocational qualification programmes; protect the rights of workers with disabilities; and ensure the right to freely chosen employment*
    2. *work in inclusive and accessible, safe and healthy working environments in the public and private sectors*

*(…)”*

**EuCIE motivation for the amendment:**

It is important to underline once again that is need to promote other models like supported employment or inclusive enterprise for persons with disabilities since they are in line with the UN CRPD

EuCIE underlines that the social economy, including inclusive enterprises, led persons with disabilities are part of those making significant on implementing the principles of the UN CRPD.

**E. Suggested Amendment to 96. of the DGC27:**

*“97. In the light of the normative content and obligations outlined above, States parties should take the following measures to ensure the full implementation of article 27 of the Convention:*

*a. Develop an understanding of the place of ableism in the world of work and the social meanings of work, in the context of intersectional attitudes, stigma and discrimination;*

*b. Carry out studies on barriers for accessing the right to work by persons with disabilities, and identify the specific challenges that groups of persons with disabilities face to realize that right, as well as study and highlight innovative practices and solutions that emerge from safeguarding and promoting the right to work of persons with disabilities;*

*c. Review and harmonize mainstream national employment legislation, policies and programmes, as well practices, with the Convention, repeal discriminatory laws and regulations that are inconsistent with the Convention and change or abolish customs and practices that are discriminatory against persons with disabilities; ensure accessibility and provision of reasonable accommodation; use targeted measures to promote inclusion of persons with disabilities;*

*d. Ensure that this review extends to the public and private spheres, covers areas including national employment policies; employment in sectors of the economy; gender equality in work; promotion of youth employment; and measures for other groups; occupational safety and health measures; transition from formal to informal economy; and protections against violence, including gender based violence, harassment and forced labour;*

*e. Ensure that safeguarding and promoting the right of persons with disabilities to work is a substantial presence in emerging areas of the changing world of work and labour markets, including: digital work and the digital economy, regulation of the gig and platform economies, economic reactivation or recovery from crisis, a fair transition to a green economy, and use of artificial intelligence in recruitment and work; and telework;*

*f. Ensure that measures taken to safeguarding and promoting the right to work recognize the diversity of persons with disabilities, their professional experience and skills, and interests in work;*

*g. Expeditiously phase out sheltered workshops, by adopting concrete action plans, with resources, timeframes and monitoring mechanisms that ensure the expeditious transition from sheltered workshops to inclusion in the labour market. For persons with disabilities who remain in sheltered workshops, the States parties should:*

*I. Review the laws, policies, approaches and assumptions on which the promotion of sheltered employment have been based;*

*II. Closely consult with and actively involve persons with disabilities, and their representative organizations as a matter of priority, in the design, implementation and monitoring of transition processes;*

*III. Provide alternatives and support to them to transit from these sheltered workshops to employment models that fully respects Article 27 in the open labour market as inclusive enterprises;*

*(…)”*

***EuCIE motivation for the amendment:***

Same motivation of Amendment B: The employment models not aligned to the article 27 of the UNCRPD, should evolve to a more inclusive model. At this point, EuCIE suggest to embrace inclusive enterprise model for person as the reference and a solution for it. **and its accordance to the article 27 of the UN CRPD**. It provides income and social impact, generating opportunities for social participation which is especially important for persons with disabilities. People are paid at legally mandated salaries and receive long-term contracts. The Inclusive Enterprise works as a vehicle to address the need of the majority of persons with disabilities for a dignified and productive life just like any individual.

F. **Suggested Amendment to 97. of the DGC art. 27:**

*“97. ….*

* 1. *Carry out studies on barriers for accessing the right to work by persons with disabilities, and identify the specific challenges that groups of persons with disabilities face to realize that right, as well as study and highlight innovative and inclusive practices, models and solutions that emerge from safeguarding and promoting the right to work of persons with disabilities;…*

***EuCIE motivation for the amendment:***

*We believe there is an urgent need to examine the impact of inclusive employment in inclusive enterprises in a holistic manner: Impact for persons with disabilities (employee status, self-awareness), impact in society (making persons with disabilities visible in the normal world of work), impact for the state (fiscal).*