**Mental Health Europe’s submission to the draft General Comment on article 27 on the right of persons with disabilities to work and employment**

**06 December 2021**

*About Mental Health Europe*

[Mental Health Europe](https://www.mhe-sme.org/) (MHE) is the largest independent European non-governmental network working in the field of mental health. We are committed to the promotion of positive mental health, the prevention of mental distress and improvement of care. We advocate for social inclusion and the protection of the rights of (ex)users of mental health services, persons with psychosocial disabilities, their families and carers. We also raise awareness to end mental health stigma and discrimination. For a better understanding of the essence of our work, check our [Mental Health Europe explained](https://www.mhe-sme.org/mental-health-europe-explained/) page and [our introductory video](https://www.mhe-sme.org/mental-health-europe-explained/).

MHE would like to propose the following changes to the draft General Comment on article 27:

*Paragraph 13*

MHE would like to propose the following changes to the text to correct typos.

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| Draft text | MHE’s proposed changes |
| The Convention recognises the right of persons with disabilities to work on an equal basis with others, including the opportunity to gain a living by freely chosen or accepted work in an open, inclusive and accessible labour market and work environment. The guarantees associated work and employment should be ensure throughout the employment cycle, which includes recruitment, hiring and employment, continuance of employment, training programmes, career advancement, searching and applying for work and exiting work. | The Convention recognises the right of persons with disabilities to work on an equal basis with others, including the opportunity to gain a living by freely chosen or accepted work in an open, inclusive and accessible labour market and work environment. The guarantees associated ***with*** work and employment should be ensure***d*** throughout the employment cycle, which includes recruitment, hiring and employment, continuance of employment, training programmes, career advancement, searching and applying for work and exiting work. |

*Paragraph 14*

MHE would like to propose the following edits to have a broader overview of the obstacles faced by people with psychosocial disabilities.

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| Draft text | MHE’s proposed changes |
| Despite some progress, access to the open labour market and segregation continue to be greatest challenges for persons with disabilities. Denial of reasonable accommodation, inaccessible workplaces and harassment pose further obstacles to employment in an open labour market and work environment leading to a false choice of employment in a closed workplace on the basis of disability. […] | Despite some progress, access to the open labour market and segregation continue to be greatest challenges for persons with disabilities. Denial of reasonable accommodation, inaccessible workplaces ***~~and~~*** harassment***, stigma and discrimination*** pose further obstacles to employment in an open labour market and work environment leading to a false choice of employment in a closed workplace on the basis of disability. […] |

*Paragraph 24*

MHE would like to propose the following addition to have a broader overview of the possible grounds of discrimination. Persons with psychosocial disabilities might be required to disclose information on their past and current health status, which might not be directly related to performance or job tasks, and this can amount to discrimination.

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| Draft text | MHE’s proposed changes |
| […] Intersectional discrimination recognizes that individuals do not experience discrimination as members of a homogenous group but, rather, as individuals with multidimensional layers of identities, statuses and life circumstances. These additional grounds include age, race, indigenous, national or social origin, refugee, migrant or asylum seeker status, political or other opinion, religion, sex, sexual orientation and gender identity. | […] Intersectional discrimination recognizes that individuals do not experience discrimination as members of a homogenous group but, rather, as individuals with multidimensional layers of identities, statuses and life circumstances. These additional grounds include age, race, indigenous, national or social origin, refugee, migrant or asylum seeker status, **health status,** political or other opinion, religion, sex, sexual orientation and gender identity. |

*Paragraph 32*

MHE would like to propose the following addition to broaden the aim of occupational health policies as they should also prevent physical and psychosocial risks that might arise in the workplace.

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| Draft text | MHE’s proposed changes |
| The right to a safe and healthy work environment for workers with disabilities includes the development of a coherent national policy on occupational health in the working environment for persons with disabilities. The aim of the policy is to prevent accidents and injury arising out of, linked with, or occurring in the course of work. […] | The right to a safe and healthy work environment for workers with disabilities includes the development of a coherent national policy on occupational health in the working environment for persons with disabilities. The aim of the policy is to prevent accidents**, physical and psychosocial risks** and injury arising out of, linked with, or occurring in the course of work. […] |

*Additional paragraph to be added after paragraph 91*

MHE would like to propose a new paragraph to the text, after paragraph 91.

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| Draft text | MHE’s proposed addition |
| --- | **Article 25 on health – States Parties must ensure that employment takes place in a safe and healthy working environment that does not aggravate disability. They must also ensure that working conditions do not cause disability during the course of a working career. States parties should encourage public and private enterprises to be sensitive to and prevent psycosocial risks, harassment and violence, particularly gender-based violence, including in the cyber sphere.** |

On a final note, MHE would like to propose a topic to be further addressed in the final text of the General Comment. A barrier that hampers the full enjoyment of the right to work and employment for persons with disabilities, in particular persons with psychosocial disabilities, is the **way in which their disability is recognised and assessed in national legislation**. Definitions of psychosocial disabilities remain narrow, over-medicalised or non-existent. The continuous prevalence of the bio-medical model frames and interprets mental impairments as a series of symptoms to cure and psychosocial disability as an illness to treat. This approach hinders the understanding of mental health as a wide spectrum of experiences and feelings, and does not take into account the external barriers that might cause distress and mental impairments. The bio-medical approach implies that the variety of experiences of a person can be reduced to a disease or illness that should be solely cured medically. Such definitions are incompatible with the UN CRPD as they predominantly focus on the functional evaluation of the capabilities of a person rather than the needs and barriers faced by individuals. In addition, unclear or medical definitions of disability have assessments that require proof of impairment or duration of impairment, which can be harder to prove for people with psychosocial disabilities since their impairment is not visible and the assessment can be subjective and narrow for the reasons explained above.

MHE would like to propose to have these aspects to be more prominently addressed in the General Comment with the recommendation to States Parties that the recognition and assessment of disability, in particular psychosocial disability, must move away from a bio-medical approach and have human rights compliant criteria.