

## ETUC position on a new European Disability Strategy

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The European Disability Strategy 2010-2020<sup>1</sup>, adopted by the European Commission in 2010, represented a fundamental policy instrument to empower people with disabilities so that they can enjoy their full rights. ETUC and its member organisations contributed to its development and implementation.

The current framework is coming to an end and ETUC therefore calls on the European Commission to present a new strategy as soon as possible.

Through this position paper the ETUC wants to contribute to the employment strand of the upcoming strategy.

ETUC and the European Disability Forum (EDF) have worked together to foster the implementation of the current strategy. Our close cooperation on employment and collective bargaining for persons with disabilities dates back to 2004. With this paper, ETUC also wants to relaunch the cooperation between unions and organisations representing disabled people.

The trade union movement commits to be accessible and welcoming towards representatives with disabilities throughout its structure.

Combating discrimination at work is a priority for the trade union movement. A recent report of Eurofound outlines best practices on the involvement of social partners in the drafting of new or revised legislation (for example, in Finland and Spain) and policy priorities. It also outlines several sectoral collective agreements and other joint social partners' actions including provisions providing for additional leave entitlements for workers with disabilities (Bulgaria, Germany, France, Italy, Czech Republic, Greece, Austria, Poland, Portugal, Spain and Estonia)<sup>2</sup>.

The situation in the European labour market is dire for people with disabilities, with an employment rate of 48.1% in comparison to 73.9% for the general population. Women and young people with disabilities have even lower employment rates. These figures, however, do not give an insight into quality of employment, or even if it is in the open labour market as opposed to sheltered workshops. Furthermore, these figures exclude all persons with disabilities living in institutional care.

### ***European and international legislation and political framework***

#### **UN Convention on the Rights of Persons with Disabilities (CRPD)**

This Convention is intended as a human rights instrument with an explicit social development dimension. ETUC stresses the major positive contribution represented by its adoption to protect the rights of people with disabilities. The Convention is built on the principles of non-discrimination and equality and it sets out the obligations on States to promote, protect and ensure the rights of persons with disabilities. Article 27, on work and employment, lays down commitments such as the promotion of employment opportunities for persons with disabilities both in the public and the private sector and the adaptation of the workplace for people with disabilities, among others. Along with the

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<sup>1</sup> [European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM\(2010\) 636](#)

<sup>2</sup> Eurofound (2020), *Role of social partners in tackling discrimination at work*, Publications Office of the European Union, Luxembourg.

Convention, an optional protocol was proclaimed, establishing a complaint mechanism for disabled people who allege that their rights under the Convention have been denied. ETUC urges all EU member states to ratify this optional protocol.

### UN 2030 Agenda and Sustainable Development Goals (SDGs)

While the CRPD is legally binding, the 2030 Agenda and the SDGs are a political vision for a better world to be achieved by 2030. Both political commitments provide leverage for the realisation of the CRPD. There are, in particular, two sustainable development goals that are relevant for supporting people with disabilities in the labour market: SDG 8, on good jobs and economic growth; and SDG 10, on reduced inequality.

### Treaty on the Functioning of the European Union (TFEU)

Article 19 of TFEU requires the EU to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

### EU Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation

This legislation provides protection against discrimination in the field of employment based on religion or belief, disability, age, or sexual orientation. Article 5 of the Directive, requires employers to provide reasonable adaptation of the workplace to host employees with disabilities.

### The European Pillar of Social Rights (EPSR)

The European Pillar of Social Rights politically commits the EU and its member states to important principles, including the right to fair wages, work-life balance, health and safety at work, and essential services of good quality, with the view to pave the way towards a more inclusive growth model. Principle 17 on inclusion of people of disabilities promotes the integration of people with disabilities in the labour market and can support the reinforcement of the existing European anti-discrimination framework. Other EPSR principles equally protect people with disabilities at work and in society, such as principles: 3 on equal opportunities; 4 on active support for employment; 5 for secure and adaptable employment; 6 on wages; 7 on information about employment conditions and protection in case of dismissals; 8 on social dialogue and involvement of workers; and 10 on healthy, safe and well-adapted work environments and data protection.

### ***ETUC calls for a new European Disability Strategy***

ETUC calls for a European Disability Strategy for 2021-2030. It should build on the current strategy with targeted actions and through mainstreaming of the rights of disabled people into EU policy, programmes and instruments.

The objectives that have not been achieved by the current strategy should be tackled ambitiously in the next strategy. This next strategy should address the current social and economic European context, considering the difficult situation of people with disabilities in the framework of the health and economic crisis resulting from the Covid-19 pandemic.

The new strategy should be built on the commitments under the UN Convention on the Rights of Persons with Disabilities and relevant EU legislation, as well as the European Pillar of Social Rights and the UN Sustainable Development Goals. The strategy should moreover undertake a transversal gender approach in all its strands.

The new strategy should be the main tool at EU level to ensure the full social and economic inclusion of persons with disabilities in society.

On employment, ETUC calls on the European Commission to include the following elements in the future European Disability Strategy:

### Education and culture

The strategy must fully implement the right to inclusive and mainstream education; it must guarantee accessibility and inclusion of further education and lifelong learning; ensure accessibility and support when needed in EU funding programmes, such as ERASMUS+.

### Fight against discrimination

The Strategy should take ambitious steps to stop the practice whereby workers with disabilities are paid below minimum wage. It should also enforce the implementation of the existing EU Directives on non-discrimination in employment, with a particular focus on non-discrimination to access employment (recruitment). Public and private employers and employment services should have the duty to make all available vacancies known. This is an action aimed at protecting all groups in society facing barriers to access to employment, taking into account the intersectionality of discrimination whereby individuals and groups in society are often confronted with various strands of discrimination at the same time.

### Active labour market policies

The Strategy should strengthen measures for the integration of people with disabilities in the labour market, in an ordinary work environment. Further steps to fight occupational exclusion is also needed as further dismissals for incapacity in the context of the Covid-19 crisis may lead to further exclusion from the labour market and no return for workers with disability. Considering the high rates of unemployment, incentives to employ people with disabilities should be considered.

The Strategy should provide for the use of EU funds for facilitating employment of persons with disabilities in the open labour market, including investing in professional training. Workers with disabilities resulting from an accident, whether at work or otherwise, should be granted support for re-employment, continuing employment or an equivalent job reflecting the new skills of the person concerned, without loss of the working conditions enjoyed before the injury. Such schemes should also apply to those who may temporarily interrupt their job to take care of a disabled person. The Strategy should take appropriate steps to guarantee that persons with disabilities have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training. Specific efforts should be made to guarantee full accessibility and inclusion of women with disabilities in vocational education and training programs.

In the case of sheltered workshops, persons with disabilities should at least be ensured the legal status equivalent to labour rights of people working in open working environments. This would also include the application of the respective collective agreement for the economic sector. Effort should also be undertaken to train and support workers to transition towards the open labour market. In some Member States, other systems of adapted work have been implemented in which, while the labour legislation is fully observed, the objective of the transition to the open labour market should be equally sought. The strategy should end segregation in institutional care by ensuring significant investment in the transition from institutional to community living.

Workers with disabilities should be granted the transfer of entitlements of support service when moving to another EU country: this is essential to ensure free movement and equal opportunity to work.

Compatibility between income from employment and disability benefits should also be strongly encouraged across Member States. Disability benefits exist to compensate the extra cost of living with a disability and should not be lost once a person starts work. The incompatibility of salary and benefits is a form of discrimination that denies persons with disabilities of their right to improve their financial situation through employment and puts them at heightened risk of in-work poverty. The income of other family members of the disabled person granted or applying for allowances, should not be accounted for, thereby promoting the independency and autonomy of the person.

### Occupational Safety and Health (OSH)

Targeted action is required for Occupational Safety and Health risks affecting disabled workers. A preventive approach should be taken when supporting the recruitment and return to work of people with disabilities. This could be through integrated pathways combining OSH prevention with various forms of employability measures such as individualised support, counselling, guidance, access to general and vocational education and training. The lacking recognition of mental injuries as occupational disease and disabilities resulting from these injuries must also be addressed.

### Adaptation of the workplace to the functionality of a worker with disability

ETUC calls on the European Commission to strengthen obligations for offering reasonable adaptation of the workplace for a worker with disability. This includes the use of digital and electronic tools and equipment as well as software and hardware to support and make it easier for workers with disabilities to carry out their work. Maintaining personal support (i.e. in terms of mobility) and medical treatment for disabled workers, who require such support, should not be stopped as a consequence of the Covid-19 pandemic, with full observation of the occupational safety and health of the personal assistant. The adaptation of the workplace to the functionality of a worker with disability is one of the provisions of the UNCPD as “reasonable accommodation”, meaning: “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”.

The strategy should provide for investment in accessibility of the built environment and transport accessibility must be included as pre-condition in any EU initiative concerning new technologies and research, and the EU should act on ensuring availability and affordability of assistive technology.

ETUC would like to highlight the practice in the UK and in Ireland of so-called adjustment passports. Adjustment passports are a record of adjustments agreed between an employer and a worker with disability to support the latter at work because of a health condition, impairment or disability. They aim at making sure that everyone is clear and has a record of what adjustments have been agreed; reducing the need to re-assess adjustments every time a worker with disabilities change jobs, or is relocated or assigned to a new manager; and providing the basis for future conversations about adjustments.

### Collective bargaining

Workers’ representatives should be periodically consulted on the integration policies pursued at sectoral and company level.

### Funding

The implementation of the Strategy should be facilitated by EU funding, especially ESF+, to increase the resources that Member States allocate to equal opportunities, infrastructure inclusion and activation measures in the open labour market. No reduction

should be made in the provision of economic benefits as a result of the Covid-19 pandemic.

### Statistics

Accurate and periodical statistics, at an EU level, should be collected so as to monitor the employment rates of people with disabilities, disaggregated by gender and type of disability and including information about the disability pay gap.

### Awareness raising

The strategy should support and foresee campaigns on raising awareness of the barriers still faced by persons with disabilities, including invisible disabilities. Campaigns should underline multiple and intersectional discrimination faced by certain groups of persons with disabilities, particularly with regards to women and girls, LGBTI people, migrants and refugees, and ethnic minorities.