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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Council Conclusions on the inclusion of persons with disabilities in the labour market <i>- Approval</i>

Delegations will find attached a set of draft Council Conclusions on the inclusion of persons with disabilities in the labour market, prepared by the Presidency. The draft conclusions were discussed during two meetings of the Social Questions Working Party and were subject to an informal written consultation of delegations (ST 14058/22). The text presented in Annex reflects the text agreed by delegations through that informal written consultation, with the only difference being the paragraphs numbers, which have been arranged in sequential order.

The Committee is invited to confirm the agreement reached at Working Party level and to forward the attached draft conclusions to the meeting of the Council (EPSCO) on 8 December 2022 for approval.

Draft Council Conclusions**on the inclusion of persons with disabilities in the labour market****ACKNOWLEDGING THAT**

1. The European Union is founded on the values of human dignity, freedom, and respect of human rights and committed to combating discrimination, including on the grounds of disability, as set out in the Treaty on European Union, the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights. The EU is also committed to fostering a high level of employment.
2. The European Pillar of Social Rights (EPSR), jointly proclaimed by the European Parliament, the Council and the Commission in 2017, declares that everyone has the right to equal opportunities (principle 3), to active support to employment (principle 4), to a healthy, safe and well-adapted work environment and to data protection (principle 10), and to access to essential services (principle 20). The EPSR also declares that persons with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs (principle 17). The EPSR Action Plan of 4 March 2021 sets out three new EU headline targets to be achieved by 2030, to increase employment and participation in training as well as to reduce the number of people at risk of poverty and social exclusion. These headline targets were welcomed by EU leaders in the Porto Declaration and at the June 2021 European Council meeting. The EPSR Action Plan also recognises the contribution of persons with disabilities in achieving the 2030 targets, including by proposing a new headline indicator on the disability employment gap in the Social Scoreboard.

3. The EU and its Member States are parties to the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD). A large majority of Member States has also ratified its Optional Protocol, adopted on 13 December 2006 by the General Assembly of the United Nations. Article 27 of the UNCPRD enshrines the right of persons with disabilities to work on an equal basis with others in an open and inclusive labour market¹.
4. Directive 2000/78/EC lays down a general framework for combatting discrimination on various grounds, including disability, as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment. Ensuring equal access to employment, providing reasonable accommodation at work and combatting discrimination on the grounds of disability are key measures for fostering inclusive and sustainable employment for persons with disabilities.
5. Directive 2019/882 European Accessibility Act, adopted in 2019, requires that certain products and services placed on the European market be accessible, which facilitates independent living for persons with disabilities and allows for a more inclusive society and labour market.

¹ The interpretation of Article 27 is explained in General Comment No 8 on the right to work and employment, published by the UN Committee on the Rights of Persons with Disabilities on 9 September 2022.

6. The European Commission has pledged to create a Union of Equality, to which the Strategy for the Rights of Persons with Disabilities 2021-2030, adopted by the Commission on 3 March 2021, makes an important contribution. The Strategy aims to improve the lives of persons with disabilities in the EU and beyond, supporting the implementation of the UNCRPD as well as the principles of the EPSR. The Strategy also aims at fostering access to quality and sustainable jobs and indicates that participation in employment is the best way to ensure economic autonomy and social inclusion. It calls on Member States to, *inter alia*, establish, by 2024, targets for increasing the employment rate of persons with disabilities and reducing employment rate gaps between persons with and without disabilities to help achieve the 2030 headline employment target proposed in the EPSR Action Plan.
7. In its Conclusions of June 2021, the Council welcomed and endorsed the Commission's Strategy for the Rights of Persons with Disabilities 2021-2030, and invited Member States, *inter alia*, to continue developing and updating their national strategies and policies to implement the UNCRPD, in line, as appropriate, with the Strategy.
8. The Disability Employment Package, a flagship initiative within the framework of the Strategy for the Rights of Persons with Disabilities 2021-2030, contains a set of non-legislative measures (including guidelines and examples of positive action), aimed at improving labour market outcomes for persons with disabilities. It covers six areas of action: strengthening the capacities of employment and integration services; promoting hiring perspectives through affirmative action and combating stereotypes; ensuring reasonable accommodation at work; retaining persons with disabilities in employment; preventing disabilities associated with chronic diseases; securing vocational rehabilitation schemes in case of sickness or accidents, and; exploring quality jobs in sheltered employment, and pathways to the open labour market.

UNDERLINING THAT

9. There is a considerable gap between the employment rate of persons with and without disabilities (24.2 percentage point gap, 50.8% for persons with disabilities vs. 75% for persons without disabilities²). The situation is even worse for women with disabilities, only 48.3% of whom are in employment, compared to 53.9% of men with disabilities³. The unemployment rate of persons with disabilities in the EU is 17.1% compared to 10.2% of persons without disabilities, and the activity rate of persons with disabilities is only 61.0% compared to 82.3% for persons without disabilities. Persons with disabilities face more difficulties in finding employment and are therefore more likely to become long-term unemployed or inactive. When employed, persons with disabilities often work in sheltered employment rather than in the open labour market⁴, or in lower qualified, lower paid (as evidenced by the 16% average annual wage gap) and less secure jobs with less access to training opportunities, which puts them at a higher risk of in-work poverty. In addition, the COVID-19 crisis has disproportionately affected persons with disabilities, in many cases hindering their labour market participation, for example due to an insufficient accessibility of teleworking solutions.

10. Fostering the employment of persons with disabilities in quality jobs is crucial for ensuring a well-functioning and inclusive labour market. In the current context of demographic decline as well as labour and skills shortages, tapping the potential of persons with disabilities is also a way of achieving a higher overall employment rate in line with the employment target set out in the EPSR Action Plan. This is also relevant in the context of the green and digital transitions, which offer new employment opportunities for persons with disabilities.

² Data source: Eurostat. European Commission (2021): [European Comparative data on Europe 2020](#)

³ Data source: 2021 Gender Equality Index, [European Institute for Gender Equality \(europa.eu\)](#)

⁴ European Commission and the Disability High Level Group (2016): Eight Disability High Level Group Report On The Implementation Of The UN Convention On The Rights of Persons with Disabilities

11. For persons with disabilities, labour market participation and access to quality jobs are particularly important as vehicles for social inclusion and financial independence. However, persons with disabilities, especially women, still face a variety of obstacles in accessing the open labour market and retaining formal employment. These obstacles concern both the demand side (e.g. discrimination, stigma, misconceptions regarding the cost of workplace adjustment and provision of reasonable accommodation, misperceptions of productivity, lack of information or awareness on available support) and the supply side (e.g. level of education and skills, need for personalised support including in job search and fear of stigmatisation), as well as contextual and institutional factors (ableism, barriers in access on an equal basis with others, including to essential services such as transport, as well as to the built environment and digital environment and the inability for workers with disabilities to retain access to disability allowance when employed).

12. Persons with disabilities are a very diverse and heterogeneous group. They sometimes face multiple forms of discrimination and some have complex needs, requiring a personalised approach and support tailored to specific individual situations. In order to match persons with suitable jobs, it is necessary to assess the needs of each individual, including in terms of their disability, the support they require at the workplace, their career development prospects, as well as their social support needs. In this context, attention should also be paid to persons in a vulnerable situation, taking into account the gender equality perspective and the intersectional dimension. Inclusive education and adequate social services, effective employment services, including affirmative action, reasonable accommodation in the workplace, vocational rehabilitation and sheltered employment are all important factors that play a role in ensuring that persons with disabilities can access and participate in the open labour market.

13. Social services should be used as a tool for active inclusion, as adequate access to quality inclusive and accessible social services is a basic precondition for enabling persons with disabilities to actively participate in the labour market. Personalised provision of social inclusion services, such as counselling, mentoring, social work as well as support, should be offered to persons with disabilities to overcome their adverse social situation, enhance their employability and find employment. In addition, individualised measures and support services, such as personal assistance, transport and interpretation services should be available when needed to ensure equal access to employment. Employment services should provide support such as guidance and counselling, job mediation, ergo-diagnostics, retraining and career guidance, as well as cooperation with employers and schools, in particular local employers and schools providing education to persons with disabilities. It is necessary to systematically support the development of social and integration services so that they have adequate capacity and funding.
14. In order to improve the labour market outcomes of persons with disabilities, it is necessary to promote synergies and cooperation between all relevant services, providers and actors, including health and rehabilitation services, social services, employment services, employers, the social partners, NGOs, organisations of persons with disabilities, patients' organisations, schools and municipalities. Stakeholder participation at regional and local level is also particularly important.
15. The social economy complements Member States' action in delivering quality social services, and so plays a vital role in facilitating the social and labour market participation of persons with disabilities. Social enterprises, in particular, may promote active citizenship and are an excellent example of an 'economy that works for people'. They offer opportunities for upskilling, thus supporting persons with disabilities in preparing for and participating in the open labour market. In order to promote the labour market participation of persons with disabilities, it is important to foster social enterprises and make full use of their potential to act as bridges from quality sheltered employment into the open labour market.

16. Access to the open labour market for persons with disabilities should be promoted through various tools, such as financial contributions to employers, tax deductions, hiring incentives and quotas. Many Member States have established a quota system obliging employers to either hire a minimum proportion of persons with disabilities or incur a monetary cost, e.g. in the form of penalty. The challenge of ensuring the effectiveness of the quota system lies in finding the balance between motivating employers to bear the potentially additional costs of employing persons with disabilities and the monetary cost of not reaching the quota. Hiring should also be promoted by fighting stereotypes and misconceptions, such as those concerning administrative costs, absences and limited performance, as well as by providing information to employers on available support, by promoting the sharing of good practices, through diversity awards, etc. The transition from economic inactivity into employment should be supported by inclusive social security systems and should not lead to a reduction in disability benefits compensating for the extra costs of living related to disability.
17. Practices such as the adaptation of workplaces and organisation of working time, e.g. through part-time work, are highly effective for the inclusion of persons with disabilities in the open labour market. Throughout the COVID-19 pandemic, there has been an increasing use of flexible forms of work, in particular telework. These practices, and in general the use of accessible and inclusive IT solutions and tools, should be promoted as a means to unlocking the potential of persons with disabilities and contributing to creating work conditions that are more conducive to the equal participation of persons with disabilities. Employers, especially small and medium-sized businesses, should be supported, when necessary, in their efforts to improve their practices and work organisation. It is key that employers receive support, including financial support, for providing reasonable accommodation in the workplace, and at home in the case of telework, and for acquiring necessary equipment, such as accessible and inclusive communication tools, technological solutions and software. Appropriate health and safety conditions should also be ensured.

18. It is important for persons with disabilities to have access to comprehensive rehabilitation services which support their participation in the labour market, help prevent psychological problems and social exclusion, support vocational education and training and foster the development of skills, including IT skills. In order to ensure the efficient and timely provision of these services it is necessary to promote links and synergies among employment, health, social and work rehabilitation services, including through the introduction of individual case management. The outcomes of comprehensive rehabilitation, leading to an improved work capacity with the aim of obtaining quality employment, could be taken into account before decisions on the granting of a disability/invalidity pension are taken.
19. The European Social Fund Plus (ESF+) Regulation seeks to promote the inclusion in society of persons with disabilities on an equal basis with others and supports Member States' efforts to implement the UNCRPD. Furthermore, the ESF+ aims at promoting employment through active interventions enabling inclusion in the labour market, in particular for young people, for long-term unemployed people, for disadvantaged groups and for inactive people, as well as through promoting self-employment and the social economy. The ESF+ should also contribute to ensuring accessibility for persons with disabilities with a view to improving inclusion in employment, education and training, thereby enhancing those persons' inclusion in all spheres of life.

20. The Conference on the Integration of Persons with Disabilities into the Labour Market, held by the Czech Presidency in Prague on 20 and 21 September 2022, at which the Commission launched the European Disability Employment Package, confirmed the relevance of the six main areas of the Package. Participants emphasised the importance of increasing the number of persons with disabilities in the labour market. They also stressed, *inter alia*, the need to provide vocational training opportunities for persons with disabilities, with an emphasis on IT skills, including the use of digital technologies. In the light of the discussions that took place at the conference, it is clear that the diversity of the needs of persons with disabilities should be recognised and their motivation should be suitably addressed. The measures set out in the Package are targeted first and foremost at employers. The conference therefore confirmed the importance of supporting open market employers in their efforts to recruit and retain people with disabilities. At the same time, the role of employers in the sheltered labour market as well as social enterprises in supporting progressive inclusion and transition to the open labour market needs to be recognised and promoted.
21. This set of Conclusions builds on previous work and political commitments from the European Parliament, the Council, the Commission and relevant stakeholders in this area, including the documents listed in the Annex.

THE COUNCIL OF THE EUROPEAN UNION INVITES THE MEMBER STATES, IN LINE WITH NATIONAL COMPETENCES, AND TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES, TO:

22. Implement relevant guidelines and actions included in the Disability Employment Package, put forward by the Commission in collaboration with the Disability Platform and the social partners, and support, where relevant, the implementation of the Action Plan for the Social Economy, presented on 9 December 2021.
23. Develop case management methods for supporting persons with disabilities on the path to the open labour market, including close cooperation between employment services, organisations of persons with disabilities, health services, social security institutions, social services and vocational rehabilitation services.
24. Support measures to ensure the prevention of risks for persons with disabilities in the workplace, especially in the area of health and safety and any form of discrimination or abuse.
25. Use the potential of social enterprises that have expertise in integrating and combining social and entrepreneurship approaches, for supporting the labour market inclusion of persons with disabilities.
26. Create and strengthen regional cooperation networks involving all stakeholders and actors with a role in promoting the employment of persons with disabilities.
27. Develop efficient and effective systems and incentives to encourage employers on the open labour market to employ persons with disabilities and thus reduce the wage gap between persons with disabilities and persons without disabilities, while respecting the autonomy of the social partners.

28. Promote and support employment of persons with disabilities within the public sector, including by ensuring accessible and inclusive workplaces.
29. Support the vocational education and training of persons with disabilities, taking into account technological progress in the development of their IT skills.
30. Foster the development of accessibility skills by digital professionals in order to make digital products and services accessible for persons with disabilities thereby leading to more inclusive workplaces.
31. Consider regularly (re)assessing the outcomes of the comprehensive rehabilitation of persons with disabilities in terms of their working capacity before possibly granting disability/invalidity pensions, including to those in work.
32. Facilitate transitions of persons with disabilities from social and vocational rehabilitation to the labour market, including by setting up a system that responds to individual needs for labour market participation and work rehabilitation.
33. Promote the use of all available tools, in particular career guidance, work capacity assessment and training on reasonable accommodation, in order to identify the concrete needs of persons with disabilities with a view to facilitating their employment on the open labour market.
34. Strive to ensure that social protection policies effectively contribute to facilitating the employment of persons with disabilities, including where appropriate through compensation for the extra cost associated with disability even for those who are employed, while also providing a decent living standard and all necessary support to those who are and will remain outside the labour market.

35. Make use of the available EU funding instruments, in particular the ESF+, to support the labour market inclusion of people with disabilities, e.g. through improving the accessibility and inclusiveness of employment and career guidance services and promoting integrated pathways for the labour market inclusion of people with disabilities.
36. Consider policies in all areas covered by the Strategy for the Rights of Persons with Disabilities 2021-2030 to support the implementation of the calls to Member States included therein. These calls concern:
- establishing, by 2024, targets for increasing the employment rate of persons with disabilities and reducing employment rate gaps between persons with and without disabilities to help achieve the 2030 EU headline employment target put forward in the EPSR Action Plan;
 - strengthening the capacities of employment services for persons with disabilities and enhancing work with social partners and organisations of persons with disabilities to that end;
 - facilitating self-employment and entrepreneurship, including for persons with intellectual and psychosocial disabilities, by providing support on legal and business matters, *inter alia* by using EU funds.
 - setting targets for the participation of adults with disabilities in learning with a view to increasing their participation and ensuring that national skills strategies cover the specific needs of persons with disabilities, so as to help achieve the target set down in the Skills Agenda and in the EPSR Action Plan.
37. Help to implement and disseminate, where relevant, the deliverables of the Disability Employment Package at national level and among all relevant actors in order to maximise the effect of that initiative.

INVITES THE COMMISSION TO

38. Continue monitoring the situation of persons with disabilities in the areas of employment, education and training, poverty and social exclusion also in the context of the European Semester. Special attention should be paid to women with disabilities and, to the extent possible, persons facing multiple forms of discrimination.
39. Support and monitor the implementation of the initiatives set out in the Disability Employment Package.
40. Support and monitor the implementation of relevant measures set out in the Action Plan for the Social Economy that fall within its remit.
41. Support and facilitate mutual learning and the exchange of good practice in the area of the inclusion of persons with disabilities in the labour market.
42. Through existing programmes support education and training of persons with disabilities, in particular in the area of digitalisation.
43. Help disseminate the practical tools and guidelines of the Disability Employment Package.

44. Continue to support the work of the Disability Platform in order to facilitate the implementation of the Strategy for the Rights of Persons with Disabilities and to promote exchanges between all stakeholders at European level.

INVITES THE EMPLOYMENT COMMITTEE (EMCO) AND THE SOCIAL PROTECTION COMMITTEE (SPC) TO

45. Continue to take into consideration the area of inclusion of persons with disabilities when monitoring employment and social development in the EU, in cooperation with the Commission.

References

1. EU interinstitutional

European Pillar of Social Rights

https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

European Inclusion Summit 2020: [Declaration by the EU Member States' Representatives of the interests of persons with disabilities.](#)

The European Pillar of Social Rights Action Plan (6649/21 + ADD 1 + ADD 2)

Building an economy that works for people: an action plan for the social economy (14890/21 + ADD 1)

2. EU legislation

Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16-22)

Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services. (OJ L 151, 7.6.2019, p. 70-115)

Regulation (EU) 2021/241 of the European Parliament and of the Council establishing a Recovery and Resilience Facility. (OJ L 57, 18.2.2021, p. 17-75.)

3. Council of the European Union

Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities

Council Conclusions on the Strategy for the Rights of Persons with Disabilities 2021-2030 (9749/1/21 REV 1)

Council Conclusions on strengthening the application of the Charter of Fundamental rights (6795/21)

Council Conclusions on [Improving the employment of people in a vulnerable position in the labour market](#); (14646/19)

[Council Conclusions on Access to sport for persons with disabilities](#). (OJ C 192, 7.6.2019, pp. 18-22)

Council Conclusions on the Economy of Wellbeing (13432/19)

Council Conclusions in Support of the implementation of the European Disability Strategy 2010-2020 (11843/11)

4. European Commission

Commission Communication (COM (2010) 636 final): [European Disability Strategy 2010-2020](#).

Commission (SWD(2020) 291 final): [Evaluation of the European Disability Strategy 2010-2020](#).

Commission Communication (COM (2021) 101 final): [Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030](#).

Commission Communication: Building an economy that works for people: an action plan for the social economy (2021)

The European Pillar of Social Rights Action Plan (6649/21 + ADD 1 + ADD 2)

5. European Parliament

EP Resolution on Equal treatment in employment and occupation in light of the UNCRPD

6. United Nations

UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106, available at:

<https://www.refworld.org/docid/45f973632.html>

