



### **3<sup>rd</sup> Standing Committee on Dialogue among Civilisations and Human Rights**

#### **“Access of people with disabilities to the Labour Market in the Mediterranean”**

Rapporteur: Hon. Dr Justyne Caruana (Malta)

Report unanimously adopted during the 8<sup>th</sup> PAM Plenary Session in Marseille, 21 January 2014

1. The first ever World Report on Disability produced by the World Health Organization and the World Bank in 2011, suggests that more than one billion people in the world today are living with a disability.
2. Article 27 of the Convention on the Rights of Persons with Disability (CPRD), recognizes the right of persons with disabilities to work, on an equal basis with others (See Annex 1). This includes the right to earn a living by acquiring jobs in a labour market and a working environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment.

#### **Participation in the labour market**

3. The right of persons with disability to work, apart from being a fundamental human right, also has considerable social and economic implications. Poverty and social exclusion are closely related and interlinked with disability. A key solution to overcome these problems and improve the quality of life of disabled persons is access to work. Furthermore, people with disabilities have skills, strong loyalty and register low rates of absenteeism. Several companies in Mediterranean countries already employ disabled people and consider them efficient employees.
4. Misconceptions and prejudice about the capacity of people with disabilities to perform jobs contribute to their continued unemployment, and – if employed – to their exclusion from opportunities for promotion in their careers. Misconceptions are often prevalent not only among employers, but also among family members and disabled people themselves. The social isolation that results from these misconceptions exacerbates the low self-expectation that persons with disabilities experience.
5. The participation of people with disabilities in the labour force has several advantages:
  - a. **Maximizing human resources:** productive engagement of persons with disabilities increases individual well-being and contributes to the national output and GDP.
  - b. **Promoting human dignity and social cohesion:** apart from generating an income,

employment brings substantial benefits both, on the personal aspect, as well as for society at large - adding to a sense of human dignity and social cohesion.

**c. Accommodating the increasing numbers of people with disabilities in the working age population:** the prevalence of disability is expected to increase in the coming decades because of a rise in chronic conditions, together with improved health and medical rehabilitation services that preserve and prolong life. The ageing of the world's population is also expected to increase the prevalence of disability. Labour market theory suggests, for reasons of both supply and demand, that the employment rate of people with disabilities will be lower than that of people without disabilities.

6. On the supply side, people with disabilities, will continue to experience added costs, owing to accessibility problems which are multifaceted and due to lack of observation of accessibility guidelines in several countries. Particular reference and emphasis is being made to the EU Accessibility Act and the relative discussions, documentation, timeframes and implementation targets.

7. In countries with more generous disability allowances, employment may result in a loss of benefits and health care coverage, whose value is greater than the potential wages. This may therefore lead to the benefit trap inducing these people to rely on benefits rather than seek employment.

8. On the demand side, a health condition may make a person less productive, especially if the workplace environment does not accommodate people with disabilities. In such circumstances, the person would be expected to be offered a lower market wage. The effects of a disability on productivity are hard to calculate, because they depend on the nature of impairment, the working environment and the tasks required by the job. As a result of pure discrimination, disabled people are subject to wage gaps to their detriment.

## **Employment rates**

9. In many countries data on the employment of people with disabilities is not systematically available. Responses to an International Labour Organization (ILO) survey in 2003 showed that 16 of the 111 countries and territories, had no data at all on employment in relation to disability. In low-income and middle-income countries, the availability of data continues to be limited, despite recent improvements. In many of these countries, a significant proportion of people work within the informal economy. Therefore they are not included in labour market statistics and consequently they are not covered and protected by employment legislation.

10. Non-working disabled persons often do not look for jobs and therefore, erroneously, are not counted or calculated as part of the labour force. Therefore, no labour market survey or statistics is realistic unless disabled people are included. In fact, employment rates are commonly used as an indicator of the labour market status of people with disabilities.

11. An analysis of the results of the World Health Survey for 51 countries gives employment rates at 52.8% for men with disability and 19.6% for women, compared with 64.9% for non-disabled men, and 29.9% women. Disabled women are therefore facing a double disadvantage - gender inequality and disability.

12. A recent study from the Organization for Economic Co-operation and Development (OECD) demonstrated that in 27 countries, persons with disabilities in the working age bracket experienced a significant labour market disadvantage, and worse labour market outcomes and conditions of employment than persons without disabilities. On average, their employment rate at 44% was over half that for persons without disability (75%). The inactivity rate was about 2.5 times higher among persons without disability (at 49% and 20% respectively).

13. The employment rate varies considerably for people with different disabilities. Individuals with mental health difficulties or intellectual impairments experience the lowest employment rates.

14. In many countries, labour markets for the disabled are largely informal, with many self-employed workers. People with disabilities may need flexibility in the scheduling and in other aspects of their work in order to give them proper time to prepare for work, to travel to and from work, and to deal with health concerns. Contingent and part-time work arrangements, which often provide flexibility, may therefore be attractive to them. But such jobs may provide lower pay and fewer benefits. Health issues are the most important factor explaining the high prevalence of contingent or part-time work.

## **Wages**

15. Employed people with disabilities earn less than their counterparts without disabilities. Also as stated above, women with disabilities commonly earn less than men with disabilities, which again, highlights the wage gap discrimination. The wage gaps between men and women, with and without disabilities, are thus of equal importance as the difference in employment rates. Empirical research found that discrimination is a major cause for reduced wages and employment opportunities.

16. The extent of the wage gaps between developed and developing countries is still unclear. Further research is needed in this area, based on nationally representative data, especially within the Mediterranean region, where disability is on the increase.

## **Barriers to entering the labour market**

17. Lack of access to education and training, or to financial resources, may be responsible for the exclusion of persons with disabilities from the labour market. The nature of the workplace or the employers' perceptions of disability and disabled people, are also important factors. Social protection systems may create incentives for people with disabilities to exit employment and rely on disability benefits, therefore creating a benefit trap. More research is needed on factors that influence labour market outcomes for persons with disabilities such as:

### *a. Education*

Young people with disabilities often lack access to formal education or to opportunities to develop their skills, particularly in the increasingly important field of information technology and ICT. All countries should make the best efforts to develop inclusive education, in order to enlarge formal education, even in the university degrees.

### *b. Physical access*

Accessibility is at the heart of Article 27 of the CRPD covering the employment of persons with disabilities. While no specific references are made in this article to the provision of either personal assistance or special equipment, it requires State Parties to ensure that reasonable accommodation is

provided to persons with disabilities in the workplace. Employers must cater for people with disabilities and ensure their inclusion in the workforce.

*c. Economic and financial access*

Lack of easy access to funding is a major obstacle for anyone wanting to set up a business. For a person with a disability, particularly a disabled woman, it is usually even more difficult given the frequent lack of collateral and guarantees. Potential lending institutions or banks wrongly perceive people with disabilities to be high risk for loans, making it difficult for people with disabilities to obtain funds for investment.

## **Addressing the barriers to work and employment**

18. A variety of mechanisms have been used around the world to address barriers to the labour market<sup>1</sup>, but not all of these are accessible to workers in the informal sector, which predominates in many countries. Evidence on the costs and individual and social benefits, and outcomes of these mechanisms is at best weak, and sometimes even contradictory. More research is needed to understand which measures improve labour market opportunities for people with disabilities.

## **Laws and regulations within PAM States:**

19. Laws and regulations affecting employment for people with disabilities, vary from anti-discrimination laws and affirmative action, general employment laws regulating retention, to other employment-related issues of those who become disabled while working. However, the implementation and effectiveness of disability protection provisions varies considerably and these are often poorly enforced.

## **According to a very recent report on human rights, the situation in PAM states can be summarised as follows:**

20. Discrimination of people with disabilities is banned by law in many PAM states. Many, including Malta, are signatories to the Convention on the Rights of Persons with Disabilities.

21. Some states require commercial companies and public offices to ensure that disabled persons make up a percentage of the total workforce. This requirement is in place in many countries, including Syria<sup>2</sup>, Palestine<sup>3</sup>, France<sup>4</sup>, Italy<sup>5</sup>, Greece<sup>6</sup> and Portugal<sup>7</sup>.

---

<sup>1</sup> Laws and regulations; tailored interventions; vocational rehabilitation and training; self-employment and microfinance; social protection; work towards a change of attitude.

<sup>2</sup> In companies with more than 50 employees, 2% must be persons with disability.

<sup>3</sup> The Palestinian Authority has adopted a law that states that a minimum 5% of employees in the public sector shall be people with disability. However, according to some human rights organizations it is not complied with in practice.

<sup>4</sup> The law stipulates that companies with more than twenty employees must have persons with a disability making up 6 percent of the workforce.

<sup>5</sup> The law states that all companies with 15-35 employees must hire a person with disability and companies with 36-50 employees must employ two. In larger companies the percentage is as high as 7%.

<sup>6</sup> Five percent of the administrative positions in the public administration should be for disabled, and 80 percent of switchboard positions are reserved for disabled. The law enforcement is however inadequate.

<sup>7</sup> Since 3 February 2001, in the Portuguese Law it is compulsory for the public sector to admit a minimum of 5% of employees with disability in each 10 candidates (Executive Law n° 29/2001)

22. Countries, such as Tunisia and Italy, offer tax relief and benefits to companies that employ people with disability.

23. Nevertheless, the situation of persons with disabilities remains problematic and unsatisfactory in countries like Syria, Morocco, Palestine, Egypt, Jordan, Libya, Andorra, Bosnia and Herzegovina, and Croatia where access barriers, isolation and discrimination towards persons with disability are still reported.

24. Even in countries like France and Italy, where several laws and initiatives have been put in place to safeguard the rights of persons with disability, unemployment rates among people with disability remain, nevertheless, alarmingly high.

### **Promotion of social inclusion and cohesion through employment of persons with disability and assistance to employers and entrepreneurs**

#### **Affirmative action**

25. In the year 2000 the Council of the European Union called on its member states to introduce, by 2006, policies on the employment of people with disabilities. In response, Portugal, for instance, drew up a National Action Plan that included affirmative action to raise the number of people with disabilities in employment. In Israel, affirmative action requirements for employers, set out in the Equal Rights for Persons with Disabilities Law of 1998, have been judicially upheld as legal, applying to hiring. The national plan for the 'Integration of People with Disabilities' was in force in Portugal from 2006 until 2009. Following this plan, in 2011 the government approved a proposal for a national disability strategy that brings together a range of inter-ministerial measures, respecting the principles approved by the Convention on the Rights of Persons with Disabilities, which Portugal signed immediately.

#### **Tailored intervention**

##### **Quotas**

26. Many countries stipulate quotas for the employment of people with disabilities in the public and private sectors, believing that this could correct labour market imperfections and prevent discrimination. However, no thorough impact evaluation of quotas on employment of persons with disabilities has been performed.

27. For example, the rate in Malta stands at 2%, but considering that the law was enacted in 1969, the results were very poor and the quota was never really enforced, not even in public employment. Turkey has a 3% quota for firms with more than 50 workers, with the state paying all the employers' social security contributions for disabled workers up to the limit of the quota, and half the contributions for disabled workers above the quota.

28. In most countries of the Organisation for Economic Co-operation and Development (OECD), the quota application ranges from 5% to 7%. Quotas always attract controversy in whatever context they are invoked or applied. They can be unpopular with employers, who would often rather pay a fine than attempt to respect their statutory quotas. Among disabled people's organizations, quotas are sometimes regarded as diminishing the potential value of workers with disabilities, especially in view of the fact that the convention stipulated the enjoyment of equal rights as do most of anti-discriminatory laws in various countries.

## **Incentives to employers**

29. If employers are expected to bear the cost of providing reasonable adaptations, the likelihood of hiring people with disabilities decreases considerably. To counter these obstacles, various financial incentives can be offered:

- Tax incentives are often offered to employers, especially SME's.
- Government employment agencies can provide advice and funding for employment-related accommodation and adaptations.
- Workplace modifications can be supported by the state.

## **Special employment programmes**

30. Special employment programmes contribute substantially towards employment of people with severe disabilities, particularly those with intellectual impairments and mental health conditions.

## **Supported employment**

31. Supported employment can integrate people with disabilities into the competitive labour market. It provides employment coaching, specialized job training, individually tailored supervision, transportation, and assistive technology. The targeted end result is to enable disabled people to learn and give a better performance at work.

32. Under social corporate responsibility, enterprises seek to give employment opportunities for persons with disabilities alongside non-disabled people to fully implement inclusion policies and initiatives. Recent estimates suggest there are around 3800 social firms in Europe, predominantly in Germany and Italy, employing around 43,000 people with disabilities.

33. On the other hand sheltered employment provides employment in separate facilities, either in a sheltered business or in a segregated part of a regular enterprise. For example, in France, sheltered employment offers regular pay and full social security coverage for people with one third or less work capacity loss, and merely symbolic remuneration for those with more than two thirds of work-capacity loss.

34. While controversial - because they segregate people with disabilities and are associated with the charity ethos - sheltered workshops offer the opportunity to discover the individual's potential and promote ability not disability. A recent European trend has been for sheltered workshops to become social firms.

## **Employment agencies**

35. General employment agencies have been encouraged – and in some cases required by law – to serve job seekers with disabilities in the same setting as other job seekers, rather than referring people with disabilities to special placement services.

36. The 'raison d'etre' behind the provision of employment services for people with disabilities is changing. There has been a move from a model of job placement that tried to fit people into available job openings, to a "person-centred" model involving the interests and skills of the individual. The aim is to find a match that will lead to longer term employment and a life-long career.

37. A shift has also been registered from sheltered employment towards supported employment

– that is, from “train and place” to “place and train”. The idea is to employ people first, before they are trained, to help dispel beliefs that disabled people cannot perform a particular job.

### **Disability management**

38. Disability management refers to interventions applied to individuals in employment who develop a health condition or disability. The main elements of disability management are generally effective case management, education of supervisors, workplace accommodation and an early return to work with appropriate supports.

39. People with disabilities are not a homogeneous group, and subgroups require tailored approaches. Particular issues arise for people who have intermittent or episodic problems, such as those with mental health difficulties. Different cases require different treatment and different solutions.

40. Research established considerable differences between countries in the proportion of people who return to work after the onset of disability, with figures ranging from 40% to 70%. Organizations with established disability management programmes, have improved the rates of return to work.

### **Vocational rehabilitation and training**

41. Vocational rehabilitation services develop or restore the capabilities of people with disabilities, so they can participate in the competitive labour market. The services usually relate to job training, counselling, and placement.

### **Training programmes**

42. Traditional and mainstream training programmes have had limited success. Alternative forms of training, such as community-based vocational rehabilitation, which involve local artisans providing trainees with the skills to become self-reliant in the community, and peer training programmes, which encourage local entrepreneurs to teach technical and business skills to people with disabilities improve the self-confidence of trainees, and raise their awareness of the wider business environment.

43. **Mentoring** programmes, through collaboration between the government and private sector, provide summer internships to hundreds of young people with disabilities, and in many cases lead to permanent placements at the employers offering the internships.

### **Self-employment and microfinance**

44. Funding to help start small businesses can provide an alternative to scarce formal employment and informal employment. For self-employment programmes for people with disabilities to succeed, marketing skills, access to credit, and long-term support and follow-up are needed. The International Study on Income Generation Strategies analysed 81 self-directed employment projects and highlighted four success factors:

- a self-directed identity (self-confidence, energy, risk-taking);
- relevant knowledge (literacy and numeracy, technical skills, business skills);
- availability of resources (advice, capital, marketing assistance);
- an enabling social and policy environment (political support, community development, disability rights).

45. Many people with disabilities have few assets to secure loans, and may have lived in poverty for years. Despite being open to all, anecdotal evidence suggests that very few people with disabilities benefit from microfinance programmes. Some microfinance programmes have been set up by disability NGOs, and others target people with disabilities, but more evidence is needed on their effectiveness.

46. Both mainstream microfinance, and provisional schemes run by NGOs and disabled people's organizations, are essential to achieve wider coverage and sustainability, given that microfinance has a great social and economic impact for persons with disabilities.

### **Social protection**

47. Long-term disability benefits can provide disincentives for people to seek employment and return to work. One reason is that the benefit provides a regular income – even though small – that the person can rely on. Loss of this regular payment and reliance on menial, low-paid work may result in no regular income and little sense of security.

48. However, social assistance benefits can also have positive effects on employment for people with disabilities. Returning to work after disability may involve a period of unemployment and income insecurity. Social assistance programmes therefore need to take this into account when planning the transitional phases away from and back onto benefits. Such transitions should be factored into the benefit programmes so that people feel an incentive to work, while at the same time being secure in the knowledge that a benefit is still available should they not succeed.

49. The growth in disability benefit costs and the low employment rates for people with disabilities are concerns for policy-makers in developing countries, with disability beneficiary rates representing around 6% of working age population in OECD countries. Spending by public finances on disability benefits is rising to as much as 4–5% of GDP in countries such as the Netherlands, Norway, and Sweden. People with mental health difficulties make up the majority of claims in most countries. The recurring trend however is the benefit trap.

50. System reform to replace passive benefits with active labour market programmes providing occupational health services and support reintegration, together with stronger work incentives for workers and better employment supports, can help disability beneficiaries into work, as evidenced in Hungary, Italy, the Netherlands and Poland.

51. The work disincentives of benefit programmes, together with the common perception that disability is necessarily an obstacle to work, give rise to significant social problems. Disability should be recognized as a health condition, interacting with contextual factors, and should be distinct from eligibility for and receipt of benefits, just as it should not automatically be treated as an obstacle to work. Assessment should focus on the capacity for work, not disability.

52. Time-limited disability benefits may be another way to increase employment for disabled people, with particular importance for younger people. A critical factor in making the limited duration of the benefit, an incentive to return to work, is the way in which the time-limited programme is linked to the permanent programme. But there is no firm evidence on the effectiveness of time-limited benefits in encouraging the return to work.

### **Conclusions and recommendations**

53. Almost all jobs can be performed productively by someone with a disability, and given the right environment, most people with disabilities can be productive. But persons with disabilities experience significantly much higher rates of unemployment than persons without disabilities. Many factors lie behind this, including lack of access to education and vocational rehabilitation and training, lack of access to financial resources, disincentives created by disability benefits, the inaccessibility of the workplace, and employers' perceptions of disability and disabled people.

54. In this regard, one must acknowledge the latest positions on the Rights of People with Disabilities taken in last October by the UNGA and the IPU respectively.

55. In a document issued by the IPU 'Call to Act – Ensuring the Participation of Persons with Disabilities in Political and Public Life', it was recommended to all Member Parliaments and Associate Countries to harmonize their legislation in accordance with the convention on the Rights of People with Disabilities. The IPU also encouraged the establishment of a working group, composed of parliamentarians engaged in the rights of persons with disabilities and include parliamentarians with disabilities. A call was made to ratify the Convention on the Rights of People with Disabilities and its Optional Protocol, as well as ensure that all new legislation is coherent with the CRPD.

56. The outcome document of the high-level meeting of the UN General Assembly on the realization of the Millennium Development Goals and other internationally agreed development goals for persons with disabilities (A/68/L.1), underline the need for urgent action by all relevant stakeholders towards the adoption and implementation of more ambitious disability-inclusive national development strategies. It also calls for ensuring that all development policies take into account the needs of, and benefit all persons with disabilities including women, children, youth, indigenous peoples and older persons who can be subject to discrimination. The United Nations system, as well as Member States, were urged to stay engaged in the realization of the Millennium Development Goals and other internationally agreed development goals for persons with disabilities towards 2015 and beyond.

57. In improving labour market opportunities for people with disabilities many stakeholders have a role, including government, employers, disabled people's organizations, and trade unions.

## **Recommendations to PAM national Parliaments and other international Parliaments**

### **a. Laws and regulations**

Enact and enforce effective anti-discrimination legislation.

Ensure that public policies are harmonized to provide incentives and support for individuals with disabilities to seek employment, and for employers to hire them.

### **b. Changing attitudes**

Promote awareness among employers of their duty not to discriminate, and of the means available to them to support the employment of people with disabilities.

Instil a belief among the public that people with disabilities can work, given the proper support.

Lead by example in promoting the employment of disabled people in the public sector.

### **c. Public programmes**

Make mainstream vocational guidance and training programmes accessible to people with disabilities.

Make mainstream employment services available to persons with disabilities on an equal basis with other job seekers.

Develop services tailored to individual and community needs, rather than services of a "one-size-

fits-all” nature.

Ensure that mainstream social protection programmes include people with disabilities, while at the same time supporting their return to work, and not creating disincentives to those seeking work or returning to work.

Design safety net interventions to promote labour market inclusion of disabled people by including assistance and support services or covering the additional costs incurred by those who enter employment – such as the cost of travel to work and of equipment.

Adjust disability assessment systems so that they assess the positive aspects (as opposed to disability) and capacity to work.

Monitor and evaluate labour market programmes aimed at facilitating and increasing employment of persons with disabilities and scale up those that deliver results with focus on inclusive, not segregated solutions.

Provide adequate and sustainable funding for training programmes, to build a skilled workforce of people with disabilities.

#### **d. Data collection**

Include persons with disabilities in labour market data collection activities, for instance in the labour force survey.

Use internationally agreed (for example ILO) labour market indicators to measure and monitor the labour market status and livelihood experiences of people with disabilities.

#### **Recommendations to Employers**

Hire people with disabilities, making reasonable accommodation available where needed.

Set up disability management programmes to support the return to work of employees who become disabled.

Develop partnerships with local employment agencies, educational institutions, skill training programmes, and social enterprises to build a skilled workforce that includes people with disabilities.

Ensure that all supervisors and human resources personnel are acquainted with the requirements for accommodation and non-discrimination regulations with regard to individuals with disabilities.

For larger businesses, aim to become model employers of people with disabilities.

#### **Recommendations to other organizations: NGOs including disabled people’s organizations, microfinance institutions, and trade unions**

For organizations providing mainstream training opportunities, include people with disabilities.

Provide targeted support when mainstream opportunities are not available.

Support community-based rehabilitation to enhance the development of skills and enable people with disabilities to make a decent living.

Where the informal economy is predominant, promote micro-enterprises and self-employment for people with disabilities.

For microfinance institutions, improve access to microfinance for persons with disabilities through better outreach, accessible information and customized credit conditions.

Support the development of networks of people with disabilities, which can campaign for their rights.

For labour unions, make disability issues, including accommodation, part of their bargaining agendas.

## Annex 1

PAM countries signatories to the CPRD



### Development and human rights for all Convention and Optional Protocol Signatures and Ratifications

#### COUNTRIES AND REGIONAL INTEGRATION ORGANIZATIONS

##### Declarations and Reservations

Country	Convention Signature Date	Protocol Signature Date	Convention Ratification Date	Protocol Ratification Date
Albania	22-12-2009	--	11-2-2013	--
Algeria	30-3-2007	30-3-2007	4-12-2009	--
Andorra	27-4-2007	27-4-2007	10-10-2013	10-10-2013
Bosnia and Herzegovina	29-7-2009	29-7-2009	12-3-2010	12-3-2010
Croatia	30-3-2007	30-3-2007	15-8-2007	15-8-2007
Cyprus	30-3-2007	30-3-2007	27-6-2011	27-6-2011
Egypt	4-4-2007	--	14-4-2008	--
France	30-3-2007	23-9-2008	18-2-2010	18-2-2010
Greece	30-3-2007	27-9-2010	31-5-2012	31-5-2012
Israel	30-3-2007	--	28-9-2012	--
Italy	30-3-2007	30-3-2007	15-5-2009	15-5-2009
Jordan	30-3-2007	30-3-2007	31-3-2008	--
Lebanon	14-6-2007	14-6-2007	--	--
Libya	1-5-2008	--	--	--
Malta	30-3-2007	30-3-2007	10-10-2012	10-10-2012
Mauritania	--	--	3-4-2012	3-4-2012
Monaco	23-9-2009	--	--	--
Montenegro	27-9-2007	27-9-2007	2-11-2009	2-11-2009
Morocco	30-3-2007	--	8-4-2009	8-4-2009
Portugal	30-3-2007	30-3-2007	23-9-2009	23-9-2009
Romania	26-9-2007	25-9-2008	31-1-2011	--
Serbia	17-12-2007	17-12-2007	31-7-2009	31-7-2009
Slovenia	30-3-2007	30-3-2007	24-4-2008	24-4-2008
Syrian Arab Republic	30-3-2007	--	10-7-2009	10-7-2009
The former Yugoslav Republic of Macedonia	30-3-2007	29-7-2009	29-12-2011	29-12-2011
Tunisia	30-3-2007	30-3-2007	2-4-2008	2-4-2008
Turkey	30-3-2007	28-9-2009	28-9-2009	--