

“Trade Unions against Discrimination”
ETUC project

1st Learning Seminar on Disability

Background document

1. International policy framework

The **Convention on the Rights of Persons with Disabilities (CRPD)**¹ and its Optional Protocol were adopted on 13 December 2006 by the United Nations. It is a comprehensive Human Rights treaty and the most important and widely supported Convention by UN member states in the 21st century. There have been 188 ratifications/accessions of the Convention so far, and 104 to the Optional Protocol, which establishes a mechanism for disabled people to appeal to the rights of the Convention and complain in the event of violations.

The Convention does not adopt a limited categorisation of persons with disabilities and their rights; moreover, the Convention considers persons with disabilities as subjects of rights, capable of having a voice on their own condition as well as on life and social practices in general.

According to the UN, there are **eight guiding principles** that underlie the Convention and each of its specific articles:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
2. Non-discrimination;
3. Full and effective participation and inclusion in society;
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

In its premise, the Convention also expresses concerns *“about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status”*.

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 private sector, and calls for the adaptation of workplaces for people with disabilities. The condition of disabled people is particularly critical in humanitarian crises and situations of risk (e.g., armed conflicts, forced migrations and so on, see CRPD Article

¹ Convention on the Rights of Persons with Disabilities and its Optional Protocol (A/RES/61/106), <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

11). The issue is also present in the guidelines of the International Organization of Migrations that highlights how the percentage of disabled people involved in humanitarian crises is higher than in the general population².

25 September 2015 saw the adoption of the **2030 Agenda for Sustainable Development Goals**³ (SDGs) at the United Nations in New York. The Agenda promotes an **intersectional perspective** addressing the risks of multiple disadvantage faced by women, children, older persons, refugees with disabilities, and those with socioeconomic difficulties. The Agenda sets out to empower people who are at risk of vulnerability including *“all children, youth, persons with disabilities (of whom more than 80 per cent live in poverty), people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons and migrants”*.

In the **2030 Agenda there are at least 11 references to disability**⁴: access to all levels of education (Goal 4), achieving full and productive employment and decent work (Goal 8), empowering and promoting the social, economic and political inclusion of all (Goal 10), and access to safe, affordable, accessible and sustainable transport systems (Goal 11), among others.

Disability also requires specific actions in the field of **health rights**. The WHO stated in the World Assembly Resolution 74.8⁵ to deliver a Global Report on Health Equity for Persons with Disabilities, intended to provide Member States and development partners with updated evidence, analysis and recommendations on disability inclusion in the health sector. The **WHO Resolution 74.8** affirms *“persons with disabilities face multiple and intersecting forms of discrimination and are therefore at greater risk of having unmet health needs, health and rehabilitation interventions should take into account different needs and be age-sensitive and gender-responsive”*.

2. Legislation at European level

The **Strategy for the Rights of Persons with Disabilities 2021-2030**⁶ is a comprehensive plan that lays out how the **European Union** will work to protect the rights of persons with disabilities from 2021 until 2030. The Strategy intends to tackle the diverse challenges that persons with disabilities face. This Strategy aims to make progress in all the areas of the United Nations *Convention on the Rights of Persons with Disabilities* (UNCRPD).

The European Commission regularly discusses the implementation of the UNCRPD at EU and Member State level in a high-level group on disability with the European Commission; experts from EU Member States; the European Trade Union Confederation; several EU-level NGOs, including disabled people’s organisations (DPOs). In addition, an annual work forum brings together those responsible for implementing and monitoring the Convention, civil society bodies, and DPOs from the EU and its Member States.

The **goal** of Strategy 2021-2030 is to ensure that persons with disabilities in Europe – regardless of their sex, racial or ethnic origin, religion or beliefs, age or sexual orientation – enjoy their human rights and have equal

² IOM, Emergency manual – Disability inclusion, <https://emergencymanual.iom.int/disability-inclusion>

³ Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1), <https://sdgs.un.org/2030agenda>

⁴ European Disability Forum, Human Rights Report 2018: Disability-Inclusive SDGs in Europe and in International Cooperation, <https://www.edf-feph.org/publications/human-rights-report-on-disability-inclusive-sdgs-in-europe-and-in-international-cooperation/>

⁵ WHO, The highest attainable standard of health for persons with disabilities, https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_R8-en.pdf

⁶ Union of equality: Strategy for the rights of persons with disabilities 2021-2030, <https://ec.europa.eu/social/main.jsp?catId=1484&langId=en>

opportunities, equal access to participate in society and the economy; are able to decide where, how and with whom they live; can move freely in the EU; and no longer experience discrimination.

The Strategy includes **Flagship initiatives** and indicates implementation times for them:

by end 2022: *Accessible EU.*

A package to improve labour market outcomes of persons with disabilities.

by end 2023: The European Commission will propose a *European Disability Card* that would apply to all EU countries.

Guidance recommending improvements on independent living and inclusion in the community.

by 2024: *A framework for social services of excellence for persons with disabilities.*

Disability Platform brings together national authorities responsible for implementation of the Convention, organisations of persons with disabilities and the Commission. The Platform also provides a forum to engage and work together in the preparation of policy initiatives or legislative proposals on disability and establish cooperation and coordination between the Commission and the Member States and stakeholders.

Renewed HR strategy for the European Commission, including actions to promote diversity and inclusion of persons with disabilities.

The **Disability Employment Package**⁷ is one of the seven flagship initiatives announced in the Strategy 2021-2030. It aims to support Member States in ensuring that persons with disabilities enjoy social inclusion and economic autonomy through employment. The Disability Employment Package will help develop national policies that involve persons with disabilities in the just green and digital transition.

Together with the other flagships and actions of the Disability Rights Strategy, this initiative will support the implementation of the European Pillar of Social Rights and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The Employment Package focuses on **six areas** for action:

1. Strengthening capacities of employment and integration services.
2. Promoting hiring perspectives through affirmative action and combating stereotypes.
3. Ensuring reasonable accommodation at work.
4. Retaining persons with disabilities in employment: Preventing disabilities associated with chronic diseases.
5. Securing vocational rehabilitation schemes in case of sickness or accidents.
6. Exploring quality jobs in sheltered employment and pathways to the open labour market.

The Employment Package will also support the setting and implementation of targets by Member States to close the employment gap between persons with disabilities and those without. In the Strategy, the Commission called upon the Member States to establish by 2024 targets for increasing the employment rate of persons with disabilities and for reducing the respective employment gap.

3. Trade unions and social partners guidelines and programmes of action

In the **ETUC Action Programme 2023-2027** adopted in Berlin on May 23-26 2023, the European trade unions affirmed the importance of disabled workers' rights, and express their commitment *"to guarantee equal*

⁷ Disability Employment Package to improve labour market outcomes for persons with disabilities, <https://ec.europa.eu/social/main.jsp?catId=1597&langId=en>

access for persons with a disability not only in workplaces, but also in public areas and public services". The Action Programme refers to some aspects of European Union governance on the issue of disability, urging "the European Decision-making bodies to implement the EU strategy for the rights of persons with disabilities 2021-2030 and monitor closely the Disability Employment package to set up obligations to employers for offering a reasonable adaptation of the workplace for a worker with a disability". The Action Programme 2023-2027 also considers the necessity of actively promoting inclusive trade unions, both for workers and trade unionists, concerning "women, people of colour, the LGBTI community and workers with disabilities".

The focus on disability was already present in previous **Action Programme 2019-2023**. Disability is considered among the main issues in the introductory statements as a part of a "major initiative of Trade union renewal". In this respect, the inclusion of those who are excluded from rights and protection has to consider "particularly young and precarious workers, self-employed and platform workers, workers in the informal economy, women, migrants and mobile workers, people with disabilities or affected by any form of discrimination, including on sexual orientation and gender identity".

On the topic of **labour market integration**, a special effort has to be made for people belonging to the most vulnerable groups and their intersectional dimensions, for example, "women with disabilities and older, migrant and refugee women". Gender and disability are priorities of a strategy of enrichment of the **European Pillar of Social Rights (EPSR)**. In terms of social inclusion, social protection benefits have to be ensured by public and collective systems, also by strengthening occupational rates and participation in the labour market, along with contrasting the pay gap "especially among women, youth, people with disabilities and migrants and older people of working age". Universal coverage and high-quality care provided by the welfare systems are to be improved in the field of child, health, elderly, long-term, disability and dependency care.

On the topic of **equality and non-discrimination** the Action Programme affirms that trade unions are "sometimes not fully equipped to tackle the issues facing workers, citizens and residents who suffer from direct and indirect discrimination in its varied forms". Trade unions raise the question of the non-recognition of some forms of discrimination, especially related to social origins, status, education and wealth. The Action Programme sustains the commitment of trade unions in assessing and monitoring the legislation of Member States on the topic of the protection and promotion of people with disabilities in the labour market.

The ETUC position on a new European Disability Strategy⁸ is a contribution by the European trade unions to the policy framework of the Strategy 2021-2030, with regard to the **EPSR** in **Principle 17** that affirms the integration of people with disabilities in the labour market and supports the reinforcement of the existing European anti-discrimination framework.

The ETUC position reflects **the unions' engagement in the policymaking process at European level and the cooperation with social organisations representing disabled people and advocating for them**. Besides the position, the ETUC provided an analysis of the content of the strategy and created a taskforce to engage in the different elements of the employment package. The taskforce is still continuing its work, representing the ETUC in various European forums and meeting regularly to exchange views on the ongoing policy process.

The actions for tackling and contrasting discrimination at work have to pay particular attention to non-discriminatory access to employment (recruitment). In the field of active labour market policies, measures have to take place to ensure the integration of people with disabilities "in an ordinary work environment". The policy actions should orient EU funds for facilitating employment of persons with disabilities in the open labour market, including vocational guidance programmes, placement services and vocational and continuing training.

⁸ Adopted at the Executive Committee Meeting of 28-29 October 2020.

Social and industrial relations play a key role: collective agreements have to be respected and implemented in order to provide accommodation and adaption of the workplace for workers with disabilities. Social dialogue and consultation practices have to involve trade unions and CSOs. The trade unions are aware that disabled people face different forms and level of discrimination: *“the intersectionality of discrimination whereby individuals and groups in society are often confronted with various strands of discrimination at the same time”*. Raising awareness has to be promoted by public campaigns and other means by targeting specific groups and audiences, in order to *“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”*. Affordable and accurate statistical data have to be available to institutions as well as social partners for in-depth analysis of the structural discriminations that affect people with disabilities, and to take action and orient decision-making (e.g., gender pay gap, migrants and occupational rates).

The **European Economic and Social Committee (EESC)** expressed a specific Opinion on Shaping the EU agenda for disability rights 2020-2030⁹. The first recommendation focuses on governance issues and the need for better coordination between European institutions on this topic and a clarification of shared and specific competences between the EU and Member States. In a following Opinion on the European Disability Card¹⁰, the EESC stated the importance of a mutual recognition and harmonisation of disability rights among Member States, by improving the general accessibility of built environments, transport, services and goods. The right to move and reside freely within the territory of the Member States is a right to be guaranteed by providing the possibility to grant access to benefits linked to public social policies and/or national social security systems on a temporary basis.

4. Civil society organisations

The ETUC works at European level with NGOs, disabled people’s organisations and umbrella organisations to promote equality and social rights for people with disabilities. The European Disability Forum – EDF is an independent non-governmental organisation (NGO), and is an umbrella organisation of persons with disabilities that defends the interests of over 100 million persons with disabilities in Europe.

In May 2023, the EDF organised the 5th European Parliament of Persons with Disabilities in collaboration with its member organisations and the European Parliament. The EDF *Manifesto on the European elections* was adopted. This document outlines the key priorities for people with disabilities to be implemented by the European Union institutions, in accordance with the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and employed the motto of the disability movement *Nothing should be decided about us without us!*. The manifesto is aimed at political decisionmakers to:

- Guarantee the participation of persons with disabilities in the political and public life of the EU
- Realising a Union of Equality for persons with disabilities with the CRPD as its compass
- Becoming a more social Europe
- Embracing accessibility – allowing free movement in Europe
- Protecting persons with disabilities in Europe and beyond

⁹ EESC, Shaping the EU agenda for disability rights 2020-2030, SOC/616, adopted 19/12/2019, <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-eu-agenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion>

¹⁰ EESC, The European Disability Card (Exploratory opinion from the European Commission), SOC/765, adopted 27/04/2023, <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/european-disability-card>

5. Let's start thinking about... disability and intersectionality

As we have seen in the overall approach and specific statements included in the international policy framework and trade unions initiatives, **intersectionality** appears to be a key factor in the analysis and framing of the actions for promoting disabled people's rights, in recognising multiple discriminations and responding to their needs.

The **European Union Agency for Fundamental Rights (FRA)** recognises the specific conditions and needs of disabled migrants and refugees in the process of welcoming and integration¹¹. The FRA also raises questions about the underestimating of the presence of disabled people among migrants and refugees because of a lack of tools and measures to recognise them, as well as the insufficient institutional awareness of non-evident disabilities among migrants and refugees. The EU and Member States must provide an appropriate support to disabled migrants and refugees. Many people with disabilities are identified on an informal or ad hoc basis, or remain unidentified in their specific and special needs. Primary health screenings must be provided, as well as psychosocial support in the case of people who are victims of trafficking, torture and psychological traumas. It is also necessary to provide adequate access to the health system and services beyond the emergency and early phases of welcoming. Specific tools, procedures and cooperation with CSOs and NGOs are needed.

The Department of Economic and Social Affairs of the UN estimates there are between 180 and 220 million young people with disabilities worldwide, and nearly 80 percent of them live in developing countries. Young people with disabilities are among the poorest and most marginalised of the world's youth. All of the discriminations that affect young people living in specific social and economic conditions (access to education, employment, healthcare and social services) become more critical for young people with disability. A UN consultation¹² involving tens of disabled young people highlighted the principles to be taken into account by the institutions focusing on the main areas of needs and social rights: education, sports and recreational activities, social relations, removing obstacles for the voice of disabled young people to be heard in decision-making processes and forums.

Activist groups and advocacy organisations in the field of LGBTQI+ rights are raising the issue of disability. LGBTQI+ persons with disabilities are particularly affected by intersectional discrimination across multiple areas such as access to healthcare, employment, education and legal protection. Tackling bias and clear discrimination is necessary, but at the same time activism and social action need to work on raising awareness in local communities, social spaces, and also have to reshape the approach to participation in activist and advocacy groups themselves, in order to recognise the multiple and intersectional identities and conditions of disabled people¹³.

Women and girls with disabilities experience much more critical conditions than other vulnerable disabled groups. In the field of work, women with disabilities often face a double discrimination: occupational rates and the gender pay gap are even worse than for disabled workers and women in general. Dunja Mijatović, the Council of Europe Commissioner for Human Rights, stated¹⁴ that women and girls with disabilities are more likely to experience violence and abuse. The social risks lie on the intersection between health and the

¹¹ FRA, Thematic focus: Migrants with disabilities, <http://fra.europa.eu/en/content/thematic-focus-migrants-disabilities>.

¹² UN – United Nations Logo Department of Economic and Social Affairs Youth, Youth with disabilities, <https://www.un.org/development/desa/youth/youth-with-disabilities.html>

¹³ Bridging Identities: Navigating life at the Intersection of Disability and LGBTQI+, <https://www.edf-feph.org/blog/bridging-identities-navigating-life-at-the-intersection-of-disability-and-lgbtqi/>.

¹⁴ Council of Europe, Commissioner of Human Rights, Addressing the invisibility of women and girls with disabilities, <https://www.coe.int/en/web/commissioner/-/addressing-the-invisibility-of-women-and-girls-with-disabilities>

psychosocial dimension (sexual and reproductive health) and the vulnerability of emergencies and conflict situations.

6. Fact and figures¹⁵

The percentage (2021) of disabled European citizens aged 15-64 who report a basic activity difficulty is 14% (15.1% for women, 12.9% for men).

Occupation: less than one person out of two with basic activity difficulty is employed, showing a difference of about 20 percentage points between the occupational rates of people without and with basic activity difficulties. 51.3% of persons with disabilities in the European Union are employed, compared to 75.6% of persons without disabilities. For women with disabilities the figure is even lower, with an average employment rate of only 49%. Young persons with disabilities aged 20 to 29, for their part, have an average employment rate of only 47.4%¹⁶.

Poverty and income inequalities: 29.7 % of the EU population with a disability was at risk of poverty or social exclusion, compared with 18.8 % among people with no limitations. 68.2 % of the EU population with a disability would have been at risk of poverty, but after taking account of social transfers (such as benefits, allowances and pensions) the share was 21.1 %. People with a disability are more likely to face in-work poverty than people with no disability: in the EU, 10.7 % of employed persons with a disability were at-risk-of-poverty in 2021, while this rate was 8.7 % among employed persons with no disability.

Financial situation: 41.6 % of people in the EU with a disability could not afford a one-week annual holiday. 11.0 % of people in the EU with a disability could not afford to eat meat, fish or a vegetarian equivalent at least every other day. 38.8 % of people in the EU with a disability could not meet unexpected financial expenses.

Housing conditions: 72 % of the EU population aged over 16 with a disability owned their own home, while 28 % lived in rented accommodation. The housing cost overburden rate for people in the EU with a disability was 9 % (ranging from 1 % in France to over 20 % in the Netherlands and Greece), compared with 7 % for those with no disability.

Elderly needs for help and assistance: in 2019, almost half of the EU elderly population (people aged 65 and over) reported difficulties with at least one personal care or household activity. 46.6 % of the EU elderly population with a severe difficulty in personal care or household activities reported a lack of assistance with those activities. Almost 30 % of the EU elderly population with a difficulty in personal care or household activities used home care services for personal needs.

¹⁵ Eurostat, Disability statistics: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Disability_statistics

¹⁶ European Disability Forum, 7th Human Rights Report. The Right to Work: The employment situation of persons with disabilities in Europe, <https://www.edf-feph.org/publications/human-rights-report-2023-the-right-to-work/>