



General Discussion on the Right of Persons with Disabilities to Work and Employment 22 and 24 March 2021

Written submission of Mental Health Europe (MHE)

About Mental Health Europe

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

The Right to Work and Employment from the Perspective of Psychosocial Disability

Work is central to the life and identity of many people: it provides a source of income and the possibility to contribute to society. For people with psychosocial disabilities, work is not only a right they should be granted on an equal basis with others to be included in society, but it can also be an important step on the road to recovery.

The process of recovery for persons with psychosocial disabilities is deeply personal and unique: there is no standard formula for recovery as the process can change from one person to the other. Recovery is not about curing the medical symptoms of a psychosocial impairment, but finding a way to live a satisfying, hopeful and contributing life with no restrictions or discrimination from societal barrier. Recovery is also about cooperation and collaboration with others: these can be supportive peers or professional relationships, family connections or close friendships. What works well is people working together in partnership towards a common goal, sharing knowledge, expertise and learning from each other.

The right to work and employment for persons with psychosocial disabilities should therefore be understood and fit into this broader framework where all the stakeholders involved indiscriminately join force to fruitfully contribute to the recovery process of the individual. For more information on the topic, see [MHE's Short Guide to Personal Recovery in Mental Health](#).

The Barriers to Work and Employment for Persons with Psychosocial Disabilities

The levels of employment of persons with disabilities remain low due to persisting societal barriers. In the case of the European Union (EU), for instance, only 50.8% of persons with disabilities are in employment, compared to 74.8% for persons without disabilities.¹ This data concerns the employment situation before the coronavirus pandemic and does not include persons with disabilities living in institutions, suggesting that the unemployment levels of persons with disabilities might be even higher. Additionally, as statistics are not disaggregated by disability, the exact rates of employment for people with psychosocial disabilities are unknown.

Yet, significant barriers for people with psychosocial disabilities who wish to enter the labour market remain. Stigma and the misconception of being “unfit” to work is one of the pervasive challenges that people with psychosocial disabilities encounter in the workplace. Consequently, these barriers lead to fear of repercussions and unfair treatment, which prevent people with psychosocial disabilities from disclosing their status and requesting reasonable accommodations.

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

Finally, another significant aspect hindering the right to work and employment of persons with psychosocial disabilities is the denial of legal capacity. This can limit and prohibit the possibility for an individual to enter in contracts or start their own business. Legal capacity deprivation is a major barrier to employment and self-employment, as well as entrepreneurship, the development of cooperatives and the starting of businesses. The full and adequate implementation of Article 27 cannot therefore ignore the implementation of Article 12 of the UN CRPD and the establishment of supported-decision making schemes that break down barriers faced by people with psychosocial disabilities. Until legislations and policies will continue foreseeing the deprivation of legal capacity, persons with psychosocial disabilities will never be fully equal before the law and the full enjoyment of any of their rights will always remain limited.

The Impact of the Coronavirus Pandemic on Mental Health and its Consequences on Psychosocial Impairments

One of the consequences of the pandemic is the elevated levels of unemployment and the general impact that COVID-19 is having and will continue having on mental health related to work and employment. This is particularly relevant for young people with and without disabilities, as unemployment and job insecurity can lead to the development of psychosocial disabilities that can last a lifetime. In the EU, for instance, evidence shows that youth unemployment is rising four times faster than the general rate.ⁱⁱ Since mental impairments and psychosocial disabilities can be determined by factors like employment and income, it can be predicted that higher levels of unemployment and barriers to transition into the labour market will have long-term effects on the well-being of a whole generation. For this reason, MHE believes that the General Comment on Article 27 should take a proactive approach to ensure that young people with and without disabilities are not left behind and that receive tailored support and mentoring to face the current adversities when entering and remaining in the labour market. We cannot afford to wait for the pandemic to pass or for young people to develop severe psychosocial impairments to receive the support that they need.

Support to Work and Employment for Persons with Psychosocial Disabilities

There has been an evolution in the types of supported employment for people with psychosocial disabilities in Europe. In the past sheltered workshops were the norm and these settings helped many to earn experience as well as a living. However, sheltered work is often segregated and provides poor quality and repetitive tasks, which is not in line with the UN CRPD as it does not aim to ensure access to inclusive employment in the community. The interpretation of Article 27 should therefore also include the importance of transitioning away from sheltered work towards inclusive work in the open labour market.

While vocational training and transitional employment are sometimes seen as potential means to support an individual to enter the labour market,ⁱⁱⁱ the most efficient and impactful approach to meaningfully support a person with psychosocial disabilities to enter and remain in the labour market is the “place and train” model or Individual Placement and Support (IPS). This method works by placing someone in employment and then supporting and training them in an inclusive work environment. For people with psychosocial disabilities wishing to enter or return to the open labour market, this type of method has shown the best results in getting people into employment as well as for the duration of employment and levels of pay.^{iv} It has also been shown not to increase readmissions to hospital.^v

For more information on IPS and other good practices to support people with psychosocial disabilities in entering and remaining into the labour market, see [MHE’s Toolkit on Article 27 of the UN CRPD](#).

MHE's recommendations on the General Comment on Article 27

Taking into account the barriers and solutions on the right to work and employment for persons with psychosocial disabilities, the General Comment on Article 27 should:

- Include, under the obligations of States Parties, the implementation of specific measures to address the barriers faced by people with psychosocial disabilities, in particular stigma and misconception. These measures may include – but are not limited to – programmes tackling mental health stigmatisation and awareness-raising campaigns, as well as programmes and policies to support people with disabilities, including persons with psychosocial disabilities, to enter and remain in the labour market;
- Remind States Parties that the recognition and assessment of disability, in particular psychosocial disability, must move away from a bio-medical approach and have human rights compliant criteria;
- Stress that the right to work and employment cannot be fully achieved without the adequate implementation of Article 12 and reaffirm States Parties' obligations in "refrain[ing] from any action that deprives persons with disabilities of the right to equal recognition before the law"^{vi}, including by replacing substitute decision-making regimes with supported decision-making;
- Take a proactive approach in the guideline provided to ensure that the interpretation of Article 27 includes measures to prevent the raise of mental impairments related to work and employment. This is particularly urgent at the moment given the negative impact of the coronavirus pandemic on individuals, specifically on young people;
- Specify that, among the various types of supported employment, the place and train model or IPS is the one showing the most benefits and results. States Parties should be encouraged to implement this approach and provide the necessary resources for its application.

Additional resources

While thanking and appreciating the possibility of sending our input to feed into the general discussion on Article 27, this written contribution should be considered as a summary of the extensive body of work done by MHE on the above-mentioned topics over the years. For more information, including good practices and concrete examples, please refer to the following material:

- MHE's Toolkit on Article 27 of the UN CRPD: <https://www.mhe-sme.org/library/toolkit-on-article-27-of-the-uncrpd/>;
- MHE's Short Guide to Personal Recovery in Mental Health: <https://www.mhe-sme.org/guide-to-personal-recovery/>;
- MHE's report on Implementing Supported Decision-Making (done in collaboration with the European Network of Human Rights Institutions - ENNHRI): <https://www.mhe-sme.org/implementing-supported-decision-making/>.

ⁱ European Disability Forum (EDF), *Poverty and Social Exclusion of Persons with Disabilities: European Human Rights Report*, Issue 4 (2020), available at <https://www.edf-feph.org/publications/european-human-rights-report/>.

ⁱⁱ International Labour Organisation, European Youth Forum et al., *Youth & Covid-19: Impacts on Jobs, Education, Rights and Mental Wellbeing* (2020), available at <https://www.youthforum.org/youth-covid-19-impacts-jobs-education-rights-and-mental-wellbeing>.

ⁱⁱⁱ For more information on vocational training and transitional employment, see MHE's Toolkit on Article 27 of the UN CRPD, available at <https://www.mhe-sme.org/library/toolkit-on-article-27-of-the-uncrpd/>.

^{iv} Hoffmann et al., *Long-term effectiveness of supported employment: 5-year follow-up of a randomized controlled trial* in the *American Journal of Psychiatry* (2014), available at <https://doi.org/10.1176/appi.ajp.2014.13070857>.

^v Ibid.

^{vi} Committee on the Rights of Persons with Disabilities, *General Comment No. 1, Article 12: Equal Recognition before the Law* (2014), available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>.