

The European Observatory for Inclusive Employment and Sustainable Development Goals

International Legislation Overview – Access to work and employment of persons with disabilities in international human rights and labour standards

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List of Abbreviations

CRPD	Convention on the Rights of Persons with Disabilities of the United Nations
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CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSO	Civil society organisation
DPO	Disabled People Organisation
EDF	European Disability Forum
EU	European Union
HLPF	High-Level Political Forum
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPCR	International Covenants on Civil and Political Rights
IDA	International Disability Alliance
IDDC	International Disability and Development Consortium
ILO	International Labour Organisation
MDG	Millennium development goal
NGO	Non-governmental organisation
SDG	Sustainable development goal
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNECE	United Nations Economic Commission for Europe
VNR	Voluntary national review

1. Introduction

International legislation adopted by the United Nations shape political choices and directions taken by national governments and world regional authorities (such as the European Union (EU)) in regards to the right to work of persons with disabilities. This document therefore aims to bring perspective and background information on how access to work and employment of persons with disabilities is considered in key international human rights and labour legislation. The paper first focuses on the Agenda 2030 and Sustainable Development Goals (SDGs), including implementation follow up and review. It then explains how this international Agenda and the Convention on the Rights of Persons with Disabilities (CRPD) actually reinforce each other to promote, protect and implement persons with disabilities' rights. It finally presents how employment of persons with disabilities is included in key international human rights and labour legislation, namely the Agenda 2030 and SDGs, the CRPD, the International Bill of Human rights and the International Labour Organisation (ILO) Convention No. 159 and accompanying Recommendation No. 158. Comparison and dialogue between these provisions provide an overview of all aspects related to realise the right to work of persons with disabilities.

2. The 2030 Agenda and Sustainable Development Goals: A 'plan of action for people, planet and prosperity'

2.1. Content and structure of the 2030 Agenda

[Transforming our world: the 2030 Agenda for Sustainable Development](#), usually referred to as the 2030 Agenda, sets the political vision of where our world should be within the next 15 years. Adopted on 25 September 2015 by the Governments of all 193 UN State Members, the 2030 Agenda is universal and thus applies to all countries of the world. It entered into force on 1st January 2016. Its overarching principle is that no one should be left behind.

The 2030 Agenda is composed of 5 sections:

- 1) The Preamble: it sets the vision to end poverty, protect the planet and ensure global prosperity. It lists the fundamental principles revolving around the "5 Ps" that are People, Planet, Prosperity, Peace and Partnership.

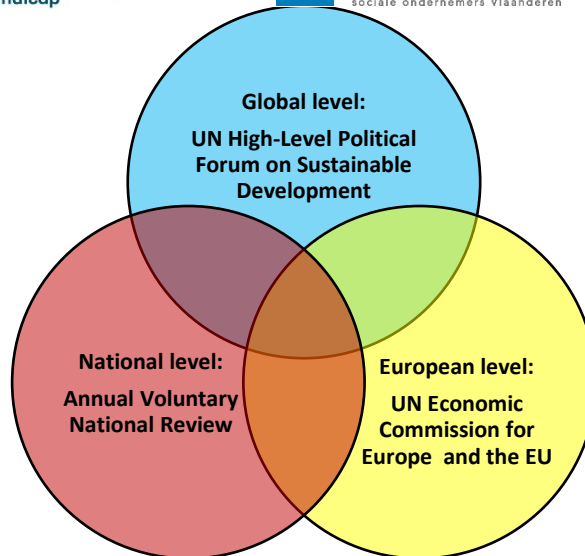
- 2) The Declaration: it is a long list of aims that are recognised as interdependent and can only be achieved all together. It underlines that sustainable developments can only be achieved by interconnecting the social, environmental and economic spheres in an overarching and balanced manner (Article 2). The Agenda is also thought “of, for and by the people” - a key criteria to ensure its successful implementation (Article 52).



- 3) The Sustainable Developments Goals (SDGs) and replacing the [Millennium Development Goals \(MDGs\)](#), the SDGs cover all aspects of people’s life ranging from ending poverty, health, education and work to energy, climate action, peace and justice. To the 17 SDGs corresponds 169 targets to be achieved by 2030 and 231 indicators meant to monitor implementation. The SDGs provide a clear policy framework calling for regulatory actions at national, regional and international levels by all countries – whether poor, middle-income or rich. While being common to all 193 UN State Members, the SDGs are nationally owned: each country defines how and to which extent they will implement the SDGs on their territory and for their people. targets:
- 4) The Means of Implementation and Global Partnership: it was the most controversial and discussed section of the 2030 Agenda because it pushed Governments to take a stand beyond words and go into actual realisation. This section lists the means that are required to implement the SDGs and reach the targets. This includes mobilisation of: financial resources (international financing, domestic resources mobilization, debt relief, trade); domestic and international capacity-building; transfer of technologies; resources of the private sector, civil society and philanthropic organizations; and revitalization of the Global Partnership that brings together Governments, the private sector, civil society, the United Nations system and other actors, including the poorest and most vulnerable.
- 5) The Follow-up and Review system: it takes places at different levels - at the UN level (the High Level Political Forum (HLPF) being at the centre), regional and sub-regional levels, as well as national and sub-national levels. The follow-up and review system is based on the key principles of being voluntary, robust, effective, participatory, integrated, efficient, data-driven and multilateral. A strong emphasis is given to statistics and data that should be comparable across countries to measure implementation and advancements of the SDGs.

2.2. The 2030 Agenda and SDGs mechanism for implementation follow up and review

The vision contained in the 2030 Agenda sets high-level political commitments to the UN State Members. Clearly Governments are challenged by its implementation. This is one of the reasons why a system aiming to follow up and review how the SDGs are implemented in each country has been put into place. The review mechanism is however voluntary-based, and not a binding one (unlike for the CRPD or other international human rights legislation). The mechanism also tries to combine and balance universal ambition (“accepted by all countries and applicable to all”, 2030 Agenda Article 4) and national ownership (“taking into account different national realities, capacities and levels of development and respecting national policies and priorities”, 2030 Agenda Article 5). This mechanism takes place at all levels from the international to the sub-national ones.



2.2.1. At global level: the UN High-Level Political Forum on Sustainable Development

The [UN High-Level Political Forum on Sustainable Development \(HLPF\)](#) is the main UN platform supervising follow up and review of the 2030 Agenda and SDGs implementation. It aims to keep an ambitious Agenda implementation by providing political guidance and facilitating exchange of experiences among countries. It is tasked with overseeing national monitoring processes to take stock of progresses and producing thematic reviews to keep track of challenges faced during implementation, successes and lessons learnt. It also plays a role in ensuring coordination of sustainable development policies among the various bodies implementing the Agenda. It is composed of all UN States Members and States members of specialized agencies. It meets every 4 years at the level of Heads of State and Government under the auspices of the [General Assembly](#) for 2 days, and every year under the auspices of the [Economic and Social Council](#) for a period of 8 days, including a 3-day ministerial segment. The HLPF reporting takes place annually in July in New York.

In 2012 at the Rio+20 Conference, UN State Members agreed to engage into multi-stakeholder partnerships and foster participation of all private, public and civil organisations involved in the realisation of sustainable development. This was further strengthened with the adoption of the 2030 Agenda: Goal 17 'Partnerships for the Goals' emphasizes the different aspects of global partnerships in relation to finance, technology, capacity-building, trade and other structural questions.

In relation to persons with disabilities, the Stakeholder Group of Persons with Disabilities for Sustainable Development is the focal point for the UN Department of Economic and Social Affairs (UN DESA), Economic and Social Council (ECOSOC) and the General Assembly for all UN sustainable development policies. Its scope covers the Rio+20 outcome, and notably the 2030 Agenda and SDGs. It is a recognized other stakeholder group within the UN and as such part of the Major Groups and other Stakeholder Coordination Mechanism.

2.2.2. At world region level: UN Economic Commission for Europe and the European Union

The regional level (understood here as a world region) has a role to play in the 2030 Agenda and SDGs realisation. World regions can support coherence in strategy formulation and programme implementation based on the specificities of each situation and existing frameworks. At this level mostly soft tools are used: this includes sharing of best practices, peer learning and capacity building and transfer of technologies. Follow up and monitoring is supported by one of the 5 UN Regional Commissions. The UN Economic Commission for Europe (UNECE) is the one covering Europe, North



America, Russia, Central and Western Asia. Yearly Regional Forums on Sustainable Development (RFSD) are organised.

The first three European Regional Forums took place in Geneva in 2017, 2018, and 2019. The 2019 conference focus was on the impact of technology, digitalisation and artificial intelligence on sustainable development, as well as data and statistics for progress measurement of SDGs. For the EU, the EU Fundamental Rights Agency, the European Commission, and representatives of the Permanent Delegation of the European Union to the UN Office in Geneva participated. UNECE also has a constituency group engaging for the rights of persons with disabilities.

Besides, the European Union (EU) adopted its own set of policies and tools to provide guidance for implementation and review for the 18 Member States, shortly after the 2030 Agenda adoption. In 2016, the EU presented a strategic package for achieving sustainable development in Europe and around the world. Composed of a Communication and Staff Working Document, the package mainly recalled how existing EU legislation and policies contribute to the Agenda 2030. It did not provide any new information and explanations as to how the EU intends to implement the Agenda. In 2017, the Council adopted a new [European Consensus on Development](#), which brought new perspective on SDGs realisation in the EU. In particular, it referenced inclusion of persons with disabilities and proposed real policy efforts to align 2030 Agenda and CRPD implementation and monitoring. The same year the EU multi-stakeholder platform on SDGs was created: it gathers individuals and organisations to support and advise the European Commission and other institutions on the SDGs realisation in the EU. In parallel, civil society got organised and created SDGs Watch Europe. Persons with disabilities are only represented, through the European Disability Forum (EDF) in the latter.

2.2.3. At national level: UN State Members

The 2030 Agenda is ambitious in the world it is calling for and that is why national ownership is strongly reaffirmed throughout the document. UN State Members can prioritise and carry out what they consider to be nationally acceptable. They play the most substantial role in implementation and financing by adopting national plans and setting up monitoring mechanisms. UN States Members are accountable to the HLPF and follow up takes place through annual Voluntary National Review (VNR). These voluntary country reviews started in 2016 and takes place every year since. They aim to track progress in the implementation of the 2030 Agenda, SDGs and targets, in all countries and in a manner that respects the SDGs universal and integrated nature and all dimensions of sustainable development. Countries present them during the 3-day ministerial segment of the annual HLPF meeting. VNR are based on set principles: substantive and knowledge based with a particular focus on the poorest, most vulnerable people and those furthest behind.

Practically, there is no standardised format but common reporting guidelines are proposed. “Countries are expected to show what steps the country has taken to implement the 2030 Agenda, including the goals and targets, and provide an assessment of the results on the ground. Implementation needs to be more visible over time and be indicative of exactly what concrete, tangible steps it has taken to ensure that the 2030 Agenda is met. The effective implementation of the SDGs depends on their incorporation into all relevant national frameworks. The VNR needs to analyze how well such frameworks are aligned with the SDGs and determine whether there are critical gaps. Countries should be specific about the main challenges and difficulties they face in implementing the SDGs, and are encouraged to provide an analysis of the causes of these challenges and difficulties.”¹

An overview of the thematic focus of the HLPF annual meeting and VNR that took place for the Observatory national members is described below:

Year	Global level: Theme of the HLPF meeting	National level: Country – Observatory national partners
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¹ <https://sustainabledevelopment.un.org/vnrs/>

2016	Ensuring that no one is left behind	France: persons with disabilities are mentioned once in Goal 3
2017	Eradicating poverty and promoting prosperity in a changing world	Belgium: persons with disabilities are mentioned in Goals 1, 3, 4, 5, 8 and 10 Netherlands: there is no mention of persons with disabilities and only a broad focus on civil society organisations Slovenia: references on persons with disabilities in Goals 1, 5 and 8. Sweden: persons with disabilities are specifically referenced in Goals 1, 3, 4, 8, 10, 11 and 16
2018	Transformation towards resilient and sustainable societies	Spain: persons with disabilities are specifically mentioned in Goals 3, 4, 5, 8, 10, 11 and Goal 16 through the Spanish Disability Strategy Action Plan and as part of mentions to Civil Society Organisations.
2019	Empowering people and ensuring inclusiveness and equality	-
2020	To be decided	Countries scheduled: Slovenia

Finally, the EDF has analysed all VNR reports produced by EU Member States so far and how they report on persons with disabilities. Very few members took an approach mainstreaming the ‘Leave No One Behind’ principle and ever fewer addressed systematically the rights of persons with disabilities. EU Member States tend to report only on Goals 8 and 10 about respectively access to the job market and political, economic and social inclusion of persons with disabilities. There is not much data disaggregated by disability.

2.3. Data and indicators

In parallel to the 2030 Agenda drafting, the UN Statistical Commission created the [Inter-Agency and Expert Group on SDG indicators](#) (IAEG-SDG) to develop the global indicator framework. The Inter-Agency is composed of representatives of national statistics offices and worked with various stakeholders, including civil society, to define the UN-SDGs set of indicators. These global indicators are used by UN States Members in their VNR report. “They are also used to inform the annual progress on the Sustainable Development Goals prepared by the Secretary-General. Data is collected by the national statistical systems and is made available in an international data series maintained by the UN. Global indicators are complemented by indicators at the regional and national levels to be developed by the UN States Members, in line with global aspirations but taking into account national circumstances.”

Key considerations to define the indicators included relevance, measurability and adopting a limited number of indicators. “To address inter-linkages between the goals and limit the number of indicators, some multi-purpose indicators have been identified to measure progress in more than one target. However where needed, several indicators per target are proposed to cover different elements.”

At the end 3 tiers of indicators were agreed upon:

- Tier 1: Indicator conceptually clear, established methodology and standards available and data regularly produced by countries
- Tier 2: Indicator conceptually clear, established methodology and standards available but data are not regularly produced by countries
- Tier 3: Indicator for which there are no established methodology and standards or methodology/standards are being developed/tested.

To monitor inclusion of persons with disabilities, the 2030 Agenda reaffirms the need to produce disability disaggregated data (Article 74 (g)). This overlaps with CRPD Article 31 ‘Data and statistics’. An additional key message is included in the opening statement of the global indicator framework: all indicators ‘...should be disaggregated, where relevant, by income, sex, age, race, ethnicity, migratory status, **disability** and geographic location, or other characteristics...’. This means that all VNR and the global annual progress on the Sustainable Development Goals should work towards disaggregating indicators by disability where possible. To recall, there are 11 indicators relating to persons with disabilities and they are classified as follows:

- One indicator is in Tier I
- Four indicators are in Tier II, including Indicator 8.5.2: Unemployment rate, by sex, age and persons with disabilities (custodian agency: ILO)
- Five indicators are in Tier III (for instance, two indicators on accessibility), including Indicator 8.5.1: Average hourly earnings of female and male employees, by occupation, age and persons with disabilities (Custodian agency: ILO)
- One indicator (4.5.1) is in all three tiers

At EU level, EUROSTAT, the EU agency working on statistics, proposed its own EU-SDGs system composed of 100 indicators structured along the 17 Goals. While this uses existing data and collection mechanisms, these indicators are poorly aligned with the SDGs targets and corresponding indicators. In this framework, there are 15 disability related indicators but none relating to Goal 8:

- Goal 1 ‘No poverty’: 5 times
- Goal 2 ‘Zero hunger’: 1 time
- Goal 3 ‘Good health and well-being’: 2 times
- Goal 6 ‘Clean water and sanitation’: 1 time
- Goal 7 ‘Affordable and clean energy’: 1 time
- Goal 10 ‘Reduced inequalities’: 1 time
- Goal 11 ‘Sustainable cities and communities: 3 times
- Goal 16 ‘Peace, justice and strong institutions’: 1 time

In 2017, EUROSTAT published its first annual monitoring report of the SDGs implementation in the EU and Member States using its EU-SDG sets of indicators (Eurostat, 2019). There are strong discrepancies in regards to disability indicators and the situation could not be well assessed. Further work appears needed in this area.

3. Persons with Disabilities in the 2030 Agenda and CRPD

The 2030 Agenda and SDGs emphasize human rights and dignity of all, especially of vulnerable groups and persons with disabilities. They are built upon existing international instruments and laws relating to human rights adopted since 1945, including the CRPD. Interdependent linkages between both the Agenda and the CRPD can thus be established.

3.1. Persons with disabilities in the 2030 Agenda

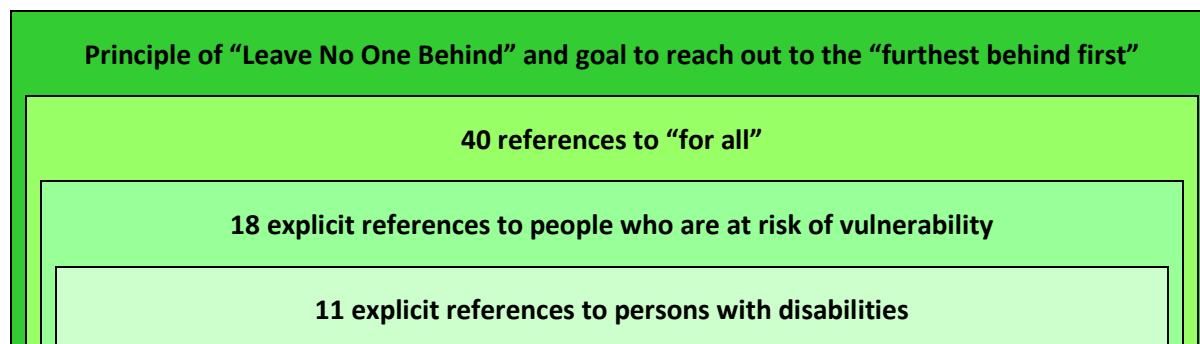









Table 1: concentric circles of principles and references pointing out to persons with disabilities in the 2030 Agenda

The entire 2030 Agenda is based on the principle of ‘Leaving No One Behind’ (Preamble Paragraph 2) and goes even a stretch further by “reach[ing] the furthest behind first” (Article 4). It sets a vision whereby a “just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met” is built (Article 8). People who are at risk of vulnerability should be empowered and this includes “(...) 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” (Article 23). Consequently an inclusive oriented terminology was adopted throughout the document. Mentions of “for all” and for “men and women” are repeatedly used in the Agenda (42 in total). There are 18 references to the people who are more at risk of vulnerability: exactly 1 in the Preamble, 6 in the Declaration, 10 in the SDGs section as well as 1 in the Follow-up and Review. All goals and targets are universal by nature and thus applicable to all individuals, including those with disabilities. 13 of the Goals are of particular relevance to persons with disabilities. All-inclusive terminology –being it “for all”, “for men and women” or “for vulnerable people”- is also directly applicable to women, men, girls and boys with disabilities. There are finally 11 explicit references to disability or persons with disabilities: 3 in the Declaration, 7 in the SDGs and 1 in the Follow-up and Review.

2030 Agenda and related documents	Explicit references to “vulnerable” people	Explicit references to persons with disabilities and links to disability disaggregated indicators
Preamble	Paragraph on partnership	
Declaration	Paragraphs 6, 8, 16, 23, 25 and 39	Paragraph 19: human rights and non-discrimination on the basis of disability Paragraph 23: persons with disabilities are listed under “vulnerable groups” Paragraph 25: access to education
SDGs	Goal 1: No poverty Target 1.3: ensure social protection for the most vulnerable people Target 1.4: equal rights to economic resources and access to natural resources, property and lands, basic and financial services, new technologies Target 1.5: build the resilience of the poor and/or vulnerable people to climate change and other economic and social shocks Goal 2: Zero hunger Target 2.1: access to safe, nutritious and sufficient food to vulnerable people Goal 4: Quality education	Goal 1: No poverty: Target 1.3: it does not mention persons with disabilities specifically - 1 disability disaggregated indicator Goal 4: Quality education Target 4.5: equal access to all levels of education and vocational training for persons with disabilities - 1 disability disaggregated indicator Target 4.a: build or renovate disability friendly education facilities - 1 disability disaggregated indicator Goal 8: Decent work and economic growth

	<p>Target 4.5: equal access to all levels of education and vocational training for all and vulnerable people</p> <p>Goal 6: Clean water and sanitation Target 6.2: access to adequate and equitable sanitation and hygiene for vulnerable groups</p> <p>Goal 11: Reduced inequalities Targets 11.2: access to safe, affordable, accessible and sustainable transport systems for all, Target 11.5: reduce the number of vulnerable people affected by direct economic losses relative to global gross domestic product caused by disasters</p>	<p>Target 8.5: promote full and productive employment, decent work and equal pay for persons with disabilities</p> <ul style="list-style-type: none"> - 2 disability disaggregated indicators <p>Goal 10: Reduced inequalities Target 10.2: empower and promote the social, economic and political inclusion of persons with disabilities</p> <ul style="list-style-type: none"> - 1 disability disaggregated indicator <p>Goal 11: Sustainable cities and communities Target 11.2: accessible transport systems</p> <ul style="list-style-type: none"> - 2 disability disaggregated indicators <p>Target 11.7: access to green and public spaces to persons with disabilities</p> <ul style="list-style-type: none"> - 2 disability disaggregated indicators <p>Goal 16: Peace, justice and strong institutions Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels (without specific mention of persons with disabilities though)</p> <ul style="list-style-type: none"> - 2 disability disaggregated indicators <p>Goal 17: Partnerships for the Goals Target 17.18: capacity-building of national institutions to produce high-quality, timely and reliable disability disaggregated data</p>
Means of implementation and Global Partnership		
Follow-up and review	Paragraph 74(e): follow-up and review systems will pay specific attention to vulnerable people	Paragraph 74(g): follow-up and review systems will be based on data disaggregated by disability
Indicators		A key message presented in the introduction of the indicator framework is that all indicators <i>'...should be disaggregated, where relevant, by income, sex, age, race,</i>

						
						<p><i>ethnicity, migratory status, disability and geographic location, or other characteristics....'</i> / all reviews should be working towards disaggregating indicators by disability where possible, as the global indicator framework notes in its opening statement</p>

3.2. The 2030 Agenda and the Convention on the Rights of Persons with Disabilities

The 2030 Agenda and the CRPD share the same spirit of respecting, protecting and fulfilling human rights and equality, fighting discrimination on disability ground and empowering people at risk of vulnerability, including persons with disabilities. There is however a major difference. Adopted in 2008 by the UN, the CRPD is a strong legal framework for disability rights worldwide and Member States, which have ratified the CRPD and its Optional Protocol, are legally bound to progressively implement it. The 2030 Agenda and SDGs are “only” a political commitment (meaning it has no legal obligations) but it creates a worldwide voluntary based review mechanism. The 2030 Agenda therefore represents political momentum to push for disability rights and is an advocacy platform to create disability inclusive regulations, policies and programme around the world. The CRPD serves as a guiding framework to the SDGs realisation. This is the only way forward to ensure that exclusion and inequality are not created or perpetuated.

Since the 2030 Agenda was built upon existing international human rights standards and national legislation, there is a considerable overlap between the Goals and the articles of the CRPD. This is further illustrated in the below graphic (©EDF) and table.

Figure 1 - Link between the SDGs and the CRPD



SDGs	Related CRPD articles
Goal 1: No Poverty	All Convention articles
Goal 2: Zero Hunger	Article 28 – Adequate standard of living and social protection
Goal 3: Good Health and Well-Being for People	Article 10 – Right to life Article 11 – Situations of risk and humanitarian emergencies Article 23 – Respect for home and the family Article 25 – Health

	Article 26 – Habilitation and rehabilitation
Goal 4: Quality Education	Article 24 – Education
Goal 5: Gender Equality	All Convention articles
Goal 6: Clean Water and Sanitation	Article 28 – Adequate standard of living and social protection
Goal 7: Affordable and Clean Energy	Article 28 – Adequate standard of living and social protection
Goal 8: Decent Work and Economic Growth	Article 27 – Work and employment
Goal 9: Industry, Innovation, and Infrastructure	Article 9 – Accessibility Article 20 – Personal mobility Article 21 – Freedom of expression and opinion, and access to information
Goal 10: Reducing Inequalities	Article 5 – Equality and non-discrimination
Goal 11: Sustainable Cities and Communities	Article 9 – Accessibility Article 11 – Situations of risk and humanitarian emergencies Article 19 – Living independently and being included in the community Article 29 – Participation in political and public life Article 30 – Participation in cultural life, recreation, leisure and sport
Goal 13: Climate Action	Article 21 – Freedom of expression and opinion, and access to information Article 25 – Health
Goal 16: Peace, Justice and Strong Institutions	Article 4 – General obligations Article 10 – Right to life Article 13 – Access to justice Article 15 – Freedom of torture or cruel, inhuman or degrading treatment or punishment Article 16 – Freedom from exploitation, violence and abuse Article 18 – Liberty of movement and nationality Article 29 – Participation in political and public life
Goal 17: Partnerships for the Goals	Article 32 – International cooperation

4. Employment of persons with disabilities in the SDGs, CRPD and other key international human and labour rights legislation

Access to work, labour and employment is considerably covered by international human rights standards and also specifically for men and women with disabilities.

4.1. Access to work for persons with disabilities in the SDGs and CRPD

4.1.1. SDG 8: Decent work and economic growth for persons with disabilities

SDG 8 ‘Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’ is the main Goal related to employment. It is about economic matters with the overarching rationale of boosting economic growth and creating decent work in view of eradicating –extreme- poverty. Measures target creation of employment and work opportunities for everyone. This includes provision of the highest possible quality education to young people and of

skills matching the labour market needs (Target 8.6) to have a chance to find a job. Once on the labour market, decent work can be understood as work that is productive and delivers a fair income and provides social protection for families. It covers rights to equal pay for equal job (Target 8.5), to be free from forced labour, exploitation and slavery (Target 8.7), to enjoy one's labour rights, social dialogue and security at the workplace (Target 8.8) and to access financial services (Target 8.10). This can be achieved by creating "dynamic, sustainable, innovative and people-centred economies". Local communities and institutions should "foster community cohesion and personal security" that are favourable to profitable work environment to everyone.

Fight against discrimination based on age, gender and disability is strongly reaffirmed in Target 8.5. The main focus is on youth unemployment but all groups at risk of exclusion from or facing severe disadvantages accessing the labour market due to discriminations are mentioned, women and persons with disabilities in particular. Two corresponding indicators relating to men and women with disabilities have also been included: they are indicator 8.5.1 'Average hourly earnings of female and male employees, by occupation, age and persons with disabilities' and indicator 8.5.2 'Unemployment rate, by sex, age and persons with disabilities'.

4.1.2. CRPD Article 27: Access to work and employment

"The CRPD brought a holistic and integrated human rights approach to address social and economic equalities faced by persons with disabilities" (Quinn, 2002). The CRPD Article 27 'Work and employment' sets a clear long-term target: persons with disabilities shall have access to all forms of employment (meaning being self-employed, working for Government authorities at national and sub-national levels and for the private sector) without discrimination on the basis of disability. Employment and work are meant to earn a living, lead a life of dignity and get community or social recognition. They shall have free choice over the job they want to do and not be confined to low waged work, manual positions or handicraft only. They shall also receive a salary for their work equal to what a person without a disability would get. Practically persons with disabilities should benefit from mainstream technical and vocational training, poverty reduction and livelihood related programmes and placement services provided by Government authorities and other stakeholders. Accessibility of the work environment (including provision of reasonable accommodation meaning a specific practical support to a person with a disability in a given situation) should be provided, as well as referral to rehabilitation and disability specific services for workers who acquire a disability during their professional carrier.

The spirit of the Convention gives priority to work in open, accessible and inclusive work environment. Including references to sheltered, customised or supported work settings was a highly debated issue during the CRPD drafting process (EASPD, 2012) but decision was made not to mention any alternate forms of employment. Article 27 must however be read in conjunction with other CRPD Articles. Article 8 'Awareness raising' (2)(a)(iii) encourage States Parties to "promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market". Article 19 'Living independently and being included in the community' recognises the right of persons with disabilities to live in inclusive settings. "It means exercising freedom of choice and control over decisions affecting one's life with the maximum level of self-determination and interdependence within society" (CRPD Committee, 2017). Lack or progression in realising this article strongly impacts the lives of persons with disabilities, especially in access to education, vocational training, work and employment. Another key Article to understand CRPD provisions on work and employment is Article 26 'habilitation and rehabilitation'. It emphasizes vocational ability and (re-)habilitation programmes in conjunction with the employment sector (among others). This indirectly recognises the role that sheltered workshops and other customised environments have played in paving the way towards social and economic inclusion of persons with disabilities, especially those with severe and/or multiple impairments, in some countries and instances. Despite necessary criticism, sheltered settings have supported some persons with disabilities in gaining skills and accessing work by being holistic structures (providing all together education, vocational training, (re-

)habilitation and employment, and using multi-sector staff and team) and mobilising multi-sector staffs.

More recently, the CRPD Committee took a firm position in regards to sheltered forms of employment for persons with disabilities. The CRPD Committee is a UN body which function is to supervise and support State Parties in the Convention implementation. For that purpose, it issues General Comments that are legal commentary. Published in 2018, General Comments No. 6 on Equality and non-discrimination provides additional understanding on how to interpret and apply the equality and non-discrimination provisions contained in the CRPD, including in relation to access to work and employment. The Committee emphasizes “transition away from segregated work environments for persons with disabilities and support their engagement in the open labour market, and in the meantime also ensure the immediate applicability of labour rights to those settings” (Article 67(a)). It then focuses on the role of supported employment, including of work assistance, job coaching and vocational qualification programmes with the aim to protect the rights of workers with disabilities and ensure the right to freely chosen employment” (Article 67(b)). It finally re-iterates that lack of reasonable accommodation at the workplace shall be considered as discrimination on the basis of disability (Article 67(d)).

4.1.3. CRPD Article 27 implementation

The CRPD Committee also reviews State Parties reports, which lists national progress against each Article of the Convention. “In its concluding observations on the implementation of the right to work and employment in State reports reviewed to date, the Committee has expressed concern at the high unemployment and underemployment of persons with disabilities; the lack of disaggregated data on labour force participation; the lack of monitoring of compliance with legal provisions; the additional discrimination faced by women with disabilities as reflected in gender gaps in employment and pay; and cultural barriers and prejudices that hinder labour force participation.” (ILO, 2015).

4.2. Other international human rights and labour standards laws

In addition to the Agenda 2030, SDGs and CRPD, other international legislation relating to either human or labour rights have an impact on national obligations towards access to work and employment of persons with disabilities. Among the extensive sets of existing UN provisions, priority is given on the International Bill of Human Rights, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons) and accompanying Recommendation No. 168.

The International Bill of Human Rights is composed of the Universal Declaration on Human Rights (UDHR) adopted in 1948, as well as of the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social, and Cultural Rights (ICESCR), both adopted in 1966 by the UN General Assembly. These three documents make up the basis of all international human rights legislations and have become binding over the years through customary international law. None of these three documents mention persons with disabilities as a specific group who is more subject to human rights violation than others. However, it is commonly understood that persons with disabilities are de facto covered by the terminology “all people”, “all human beings” or “everyone”. Also, UDHR Article 2 and ICCPR Article 2 state that “everyone is entitled to all the rights and freedoms, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. In 1994, the UN Committee on the ICESCR also clarified that persons with disabilities are explicitly covered by the wording “other status” (General Comment No. 5 on Persons with disabilities). Similarly, the CEDAW does not make any specific references to girls and women with disabilities. It is nonetheless commonly accepted all CEDAW articles apply to girls and women with disabilities as well. CEDAW Article 11 deals with all work and employment related rights.

Furthermore, international legislation relating to the right to work of persons with disabilities have been adopted by the International Labour Organization (ILO). The ILO is the UN agency for the world of work. It sets international labour standards, promotes rights at work and encourages decent employment opportunities, the enhancement of social protection and the strengthening of dialogue on work-related issues. The ILO has a unique structure, bringing together governments, employers' and workers' representatives. Conventions depicting recognition and adoption of international labour standards are adopted by the International Labour Conference (often called the international parliament of labour) and they are legally binding once ratified by an ILO Member States. On the contrary, recommendations are intended to guide national actions but are not due to be implemented by Member States. The ILO has adopted many documents dedicated to the situation of persons with disabilities or referring to the specific employment situation of persons with disabilities:

- 1930: ILO [Forced Labour Convention No. 29](#)
- 1944: ILO Employment (transition from war to peace) recommendation No. 71: right to useful forms of employment for persons with disabilities
- 1955: ILO vocational rehabilitation (disabled) recommendation No. 99
- 1959: [ILO Convention No. 105](#) concerning the Abolition of Forced Labour
- 1983: [ILO Convention No. 159](#) on Vocational Rehabilitation and Employment (Disabled Persons) is the landmark ILO Convention in regards to work of persons with disabilities. Until the CRPD came into force, it was the only internationally-binding multi-lateral treaty solely devoted to persons with disabilities. It emphasizes the role of State Parties in adopting, implementing and review national policy to improve persons with disabilities' access to vocational guidance, vocational training and placement. It entered into force on 20 June 1985. It was accompanied by [ILO Recommendation No. 168](#), also adopted in 1983. The Recommendation provides further explanations as to how ILO Convention No. 159 should be understood.
- 1998: ILO Declaration on Fundamental Principles and Rights at Work with a four-year reporting cycle examining 4 labour rights including (d) elimination of discrimination in respect of employment and occupation

The international human and labour rights legislation cover a wide range of rights and freedoms for people, including working and active men and women with disabilities. They are further detailed and compared in a table in Section 4.3 below.

4.3. Considerable overlap between the 2030 Agenda, CRPD, International Bill of Human Rights, ILO Convention NO. 159 and Accompanying Recommendation No. 158

As far as access to work for persons with disabilities is considered, there is a considerable overlap between the 2030 Agenda, SDGs and CRPD. Clearly the CRPD guides implementation of the SDGs and all principles spelled out in the Convention apply to most SDGs, if not all. Besides, the SDGs and CRPD, which joined international legislation more recently, incorporate "older" provisions and further elaborate them for persons with disabilities. Key topics, which are addressed in all these UN documents, are listed in the below table:

Topics	2030 Agenda	CRPD	International bill of Human Rights	ILO Convention n°159	ILO Recommendation n°168
Right to work and earn a living	Target 8	Article 8 'Awareness raising' (2)(a)(iii): recognition of persons with	UDHR Article 23(1): right to work UDHR Article 23(3): "just and favourable		Paragraph 7: Right to productive work and meaningful occupation according to one's

		<p>disabilities' contributions to economic activities</p> <p>Article 27 'Work and employment'</p> <p>Article 26 'Habilitation and rehabilitation'</p> <p>State Parties should take measures to attain and maintain maximal vocational ability</p>	<p>remuneration ensuring for [one]self and [one's] family an existence worthy of human dignity"</p> <p>ICESCR Article 1(1): "Right of self-determination and [...] to freely pursue [one's] economic development"</p> <p>ICESCR Article 6(1): Right to work</p>		<p>"individual suitability for such employment"</p> <p>Paragraph 8: Right to information about persons with disabilities' rights to employment</p>
<p>Access to the open labour market for persons with disabilities</p>	<p>Target 10.2: empower and promote the social, economic and political inclusion of all irrespective of disability (among other grounds)</p>	<p>Article 3 'General Principles'</p> <p>Article 19 'Living independently and being included in the community'</p> <p>Article 27 'Work and employment'</p>		<p>Article 3: Access to the open labour market</p>	<p>Paragraph 10: conformity of employment and salary standards applicable to workers without disabilities</p> <p>Paragraph 11(a): create "job opportunities for persons with disabilities on the open labour market, including financial incentives for employers and reasonable adaptations to workplaces, equipment and jobs"</p> <p>Paragraph 11(i): dissemination of information about employment integration of persons with disabilities</p> <p>Paragraph 11(l): applied research to further the participation of persons with disabilities in ordinary working life</p>

<p>Sheltered employment and linkages with the social economy sector</p>				<p>Article 3: appropriate vocational rehabilitation measures are made available to all categories of disabled persons</p>	<p>Paragraph 11(b) and (c): government support for sheltered employment for persons with disabilities run by NGOs Paragraph 11(e) and (f): promotion of cooperatives and small-scale industry Paragraph 11(m): elimination of exploitation in training and sheltered employment</p>
<p>Non-discrimination based on disability Equal chances, opportunities and treatment at work</p>	<p>Declaration Paragraph 19</p>	<p>Article 3 'General Principles' Article 5 'Equality and non-discrimination' Article 27 'Work and employment' (1) (a)</p>	<p>ICESCR Article 7(c): "Equal opportunity for everyone to be promoted in [one's] employment to an appropriate higher level, subject to no considerations other than those of seniority and competence"</p>	<p>Article 4: Principle of equal opportunity between disabled workers and workers without disabilities; Promotion of positive discrimination measures; Equal opportunity and treatment principle should not be considered as discrimination against other workers</p>	<p>Equality of opportunity and treatment in employment (Paragraph 7) and in vocational rehabilitation settings and employment assistance (Paragraph 8) Paragraph 9: positive discrimination measures</p>
<p>Access to all sectors of employment (meaning public and private sectors, and self-employment)</p>		<p>Article 27 'Work and employment' (1) (g): public sector Article 27 (1) (h): private sector Article 27 'Work and employment' (1) (f): Self-employment</p>			

<p>Free choice of employment, economic or working activity</p>		<p>Article 27 'Work and employment' (1)</p>	<p>UDHR Article 23(1): "free choice of employment" ICESR Article 6(1): "Right to gain one's living by work which one freely chooses or accepts"</p>		<p>Paragraph 8 Paragraph 11 (m): elimination of exploitation in training and sheltered employment</p>
<p>Free from forced labour, exploitation, abuse and slavery</p>	<p>Target 8.7</p>	<p>Article 5 'Equality and non-discrimination' (3) Article 16 'Freedom from exploitation, violence and abuse' Article 27 'Work and employment' (2)</p>	<p>UDHR Article 4: Freedom from slavery and servitude ICCPR Article 8: freedom from slavery (8(1)), servitude (8(2)) and "forced or compulsory labour" (8(3))</p>		<p>11(m): elimination of exploitation in training and sheltered employment</p>
<p>Open, inclusive and accessible work environment Reasonable accommodation</p>		<p>Article 2 'Definitions' "Reasonable accommodation" Article 9 'Accessibility' Article 27 'Work and employment' (1): inclusion in mainstream workplace Article 27 'Work and employment' (1) (i) reasonable accommodation</p>	<p>Paragraph i: provision of special equipment, personal assistance, income support and adaptations to the work place. While the concept of personal assistance was not included, there is now an explicit reference to "reasonable accommodation"</p>		<p>Paragraph 8: adapted workplaces, job design, tools, machinery and work organisation Paragraph 11 (g) (h): accessibility and removal of barriers Paragraph 11 (j): exemption of taxes of training material and specified assistive devices Paragraph 11 (k): flexible job arrangement Paragraph 13: social support measures</p>
<p>Education, technical and vocational training, life-long learning opportunities</p>	<p>Target 4.3 Target 4.5 / Persons with disabilities are specifically mentioned in this target</p>	<p>Article 27 'Work and employment' (1) (d) Article 24 'Education' (5)</p>	<p>ICESCR Article 6(2): access to technical and vocational guidance and training programmes ICESCR Article (10): right to primary, secondary and tertiary education</p>	<p>Article 7: "provid[e] and evaluat[e] vocational guidance, vocational training, placement, employment and other related services to enable</p>	<p>Paragraph 8: equality of opportunity and treatment in vocational rehabilitation settings and employment assistance</p>

				<p>disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations”</p> <p>Article 9: ensure training and availability of rehabilitation counsellors and other suitable-qualified staff responsible for the vocational guidance, vocational training, placement and employment of pwds</p> <p>Article 1(2): the “purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society”</p>	<p>Paragraph 11 (d): government support for vocational guidance and training and placement services for persons with disabilities run by NGOs</p> <p>Paragraph 11 (m): elimination of exploitation in training and sheltered employment</p> <p>Paragraph 12: all forms of training should be made accessible to persons with disabilities</p> <p>Paragraph 22 to 30: proper training of personnel involved in provision of vocational rehabilitation and employment services</p>
<p>Decent working conditions (ex: safe, healthy, just, fair, favourable conditions of work)</p>	<p>Target 1.3 Target 8.5 Target 4.4</p>	<p>Article 27 ‘Work and employment’ (1) (b)</p>	<p>UDHR Article 23(1): “right to just and favourable conditions of work”</p> <p>ICESCR Article 7: “Right of everyone to the enjoyment of just and favourable conditions of</p>		<p>Paragraph 10: conformity of employment and salary standards applicable to other workers</p>

			<p>work”, including fair wages and equal remuneration for equal work (7(a)(i)); “Decent living for [the workers] and their families” (7(a)(ii))</p> <p>Safe and healthy working conditions (7(b))</p> <p>This applies to all workers with disabilities whether in sheltered facilities or in the open labour market</p>		
<p>Right to equal pay for equal work or the principle of “Equal remuneration for work of equal value”</p>			<p>UDHR Article 23(2): right to equal pay for equal work without any discrimination</p> <p>ICESCR Article 7(a)(i): <i>“Equal remuneration for work of equal value”</i></p> <p>ICERD Article 5: equal pay for equal work</p>		<p>Paragraph 10: conformity of employment and salary standards applicable to other workers</p>
<p>Labour and trade unions rights</p>	<p>Target 8.8</p>	<p>Article 27 ‘Work and employment’ (1) (c)</p> <p>Article 12 ‘Equal recognition before the law’</p>	<p>UDHR Article 23(4): “Right to form and to join trade unions for the protection of one’s interests”</p> <p>ICESCR Article 8(1)(a): right to join and form trade unions</p> <p>ICCPR Article 22: “right to form and join trade unions for the protection of one’s interest”. These trade union-related rights apply equally to</p>		

			workers with disabilities and regardless of whether they work in special work facilities or in the open labour market (8(1)(a))		
Protection against unemployment and access to employment services (ex: career counselling, guidance and opportunities, jobs placement services)		Article 27 'Work and employment' (1) (e), (j) and (k)	UDHR Article 23(1): "Protection against unemployment"	Article 7: "provid[e] and evaluat[e] vocational guidance, vocational training, placement, employment and other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations" Article 9: training and availability of rehabilitation counsellors and other suitably qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons	Paragraph 3: in providing (un)employment services, mainstream ones with necessary adaptations should be prioritised (over special services meant for persons with disabilities) Paragraph 8: equal opportunity and treatment when providing employment assistance Paragraph 11 (b): government support for vocational training, guidance and placement services for persons with disabilities run by NGOs Paragraph 11 m: elimination of exploitation in training and sheltered employment Paragraphs 22 to 30: proper training of personnel involved in provision of vocational rehabilitation and employment services

Right to social protection			UDHR Article 23(1): Right to social protection ICESCR Article 9: Right to social security, including social insurance		Paragraphs 39, 40 and 41: linkages between vocational rehabilitation and social security schemes
Access to financial and insurance services	Target 8.10	Article 12 'Equal recognition before the law' (5)			
DPOs participation		Article 33(3) 'National implementation and monitoring'		Article 5: consultation with DPOs in regards to policy implementation	Paragraph 15: call for DPOs in organising and operating vocational rehabilitation Paragraph 38: contribution of and coordination with DPOs
Coordination with social partners				Article 5: consultation with organisations of employers and workers in regards to policy implementation	Paragraph 15: call for social partners in organising and operating vocational rehabilitation Paragraphs 31 to 37: social partners contribution and coordination
Adoption of public legislation and policies		Article 4 'General obligations' (1)		Article 2: "formulate, implement and periodically review national policy on vocational rehabilitation and employment of persons with disabilities" The Convention emphasizes national level of action as the most appropriate one to tackle lack of access to work and employment for	Paragraph 3: adoption of "measures which are appropriate to national conditions and consistent with national practice" Paragraph 11 (i): dissemination of information about employment integration of persons with disabilities Paragraph 16: information dissemination and awareness raising

				persons with disabilities. Article 6: adoption of laws, regulation or any other appropriate national measures to realise the Convention	about employment of persons with disabilities 42: coordination with other social affairs policies and programmes
Statistics and data collection with disability disaggregated indicators		Article 31 'Statistics and data collection'			
Remote and rural areas				Article 8: "establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities"	Paragraph 15 and 20: remote and rural areas and communities Paragraph 21: same level of services provided to persons with disabilities in urban and rural or remote areas
Gender and diversity of disability				Article 4: Equality of opportunity and treatment for disabled men and women workers	Paragraph 4: "vocational rehabilitation should be made available to all categories of disabled people"

5. Signatures and ratification dates of international human and labour rights treaties by the EU and the 6 countries represented in the Observatory

	EU	Belgium	France	Netherlands	Slovenia	Spain	Sweden
ICCPR	n/a	Signature: 1968 Ratification: 1983	Ratification: 1980	Signature: 1969 Ratification: 1978	Ratification: 1992	Signature: 1976 Ratification: 1977	Signature: 1967 Ratification: 1971
ICSECR	n/a	Signature: 1968 Ratification: 1983	Ratification: 1980	Signature: 1969 Ratification: 1978	Ratification: 1992	Signature: 1976 Ratification: 1977	Signature: 1967 Ratification: 1971
CEDAW	n/a	Signature: 1980	Signature: 1980	Signature: 1980	Ratification: 1992	Signature: 1980	Signature: 1980

		Ratification: 1985	Ratification: 1983	Ratification: 1991		Ratification: 1984	Ratification: 1980
CRPD	Ratification:	Signature: 2007 Ratification: 2009	Signature: 2007 Ratification: 2010	Signature: 2007 Ratification: 2016	Signature: 2007 Ratification: 2008	Signature: 2007 Ratification: 2007	Signature: 2007 Ratification: 2008
ILO Convention No. 159	n/a	Ratification: 2015	Ratification: 1984	Ratification: 1988	Ratification: 1992	Ratification: 1990	Ratification: 1984

6. Conclusion

“The field of employment is one in which disability-based discrimination has been prominent and persistent” (ICESCR, 1994). Sadly this statement has not much changed over the past fifteen years and male and female workers with disabilities still face significant challenges in accessing work and employment. As we have discussed in this paper, the rights of persons with disabilities to pursue economic activities and earn a living as any other people have now been well included in international legislation. They have also been ratified by the EU and all six countries, which are members of the European Observatory for inclusive employment and the SDGs. It is now time to act and realise these provisions to their fullest potential, which is exactly what the Observatory work aims to contribute with.

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