NOTICE TO MEMBERS

29.7.2022

Subject: Petition No 1280/2021 by Daniel Hans Jan Hinkelmann (German) on greater involvement of disabled people in working life

1. Summary of petition

The petitioner is calling for greater involvement of disabled people in working life. He states that people with disabilities have no chance of getting a job on the regular labour market and then have to work in a sheltered workshop. In his view, the UN Convention on the Rights of Persons with Disabilities (CRPD) is not being properly implemented by the states in Germany and inclusion depends solely on a person’s social background. The petitioner therefore calls on the EU to legislate or use other means to ensure that the Member States implement the CRPD correctly.

2. Admissibility

Declared admissible on 23 March 2022. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 29 July 2022

The Commission’s observations

The petitioner alleges in his petition that the Commission should take action in the form of a regulation or directive to ensure a better implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) with a view to ensuring labour market participation of persons with disabilities in Germany.

Labour market participation of persons with disabilities depends on many factors. It is a priority
in the Strategy for the Rights of Persons with Disabilities 2021-2030 (the Strategy)\(^1\). The Strategy acknowledges that persons with disabilities have a lower employment rate, are disproportionately affected by unemployment, and leave labour markets earlier. In addition, the Strategy attests that a large number of persons with severe disabilities do not work in the open labour market but in facilities offering so-called sheltered employment, where schemes are diverse, and not all ensure adequate working conditions or labour-related rights for persons with disabilities, nor pathways to the open labour market. Furthermore, the Strategy points to gaps in educational attainments and adult learning between persons with disabilities and those without disabilities, due to a lack of accessibility, reasonable accommodation and support.

In the Strategy, the Commission commits itself to scale up EU action, paying particular attention to employment of persons with disabilities. As one of the seven flagship initiatives within the Strategy, the Commission will launch a package to improve labour market outcomes of persons with disabilities in 2022. This package will comprise actions in six key areas in order to foster quality and sustainable jobs for persons with disabilities:

1. strengthening capacities of employment and integration services;
2. promoting hiring perspectives through affirmative action and combating stereotypes;
4. securing health and safety at work;
5. vocational rehabilitation schemes in case of chronic diseases or accidents;
6. exploring quality jobs in sheltered employment and pathways to the open labour market.

The Commission will also provide guidance and offer mutual learning to support Member States in their implementation of the UNCRPD in this regard.

EU labour law applies equally to persons with disabilities, notably Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation without discrimination based on disability, age, religion and belief, and sexual orientation (which has been correctly transposed in Germany). In relation to persons with disabilities, reasonable accommodation shall be provided. Article 5 specifies that employers shall take appropriate measures, where needed in a particular case of recruitment or at the workplace. Such compensatory measures shall enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. The Commission monitors the correct implementation of this Directive.

Upon a request of 2020 by the European Parliament for a pilot project, the Commission is currently preparing a study on alternative forms of employment to shed more light on inclusive

---


enterprises, inclusive and other alternative employment models, working conditions and possibilities for career development.

In the Strategy, the Commission also calls upon Member States to set targets by 2024 for increasing the employment rate of persons with disabilities and to reduce the existing disability employment gap to help achieve the 2030 headline employment target proposed in the European Pillar of Social Rights Action Plan³.

Moreover, within the Strategy, the Commission plans targeted actions in the second area put forward by the petitioner, i.e. education and skills for the labour market. Through the reinforced Youth Guarantee⁴, the Commission supports the outreach to and activation of young persons with disabilities. The Council Recommendation on vocational education and training for sustainable competitiveness, social fairness and resilience of 2020⁵ invites Member States to design vocational programmes so they are inclusive and accessible to vulnerable groups, such as persons with disabilities,

At EU level, inclusive education has been put high on the education agenda. One of the six axes of the European Education Area⁶ is dedicated to inclusive education and lifelong learning for all, starting with early childhood education and care. Six axes of the European education area related initiatives such as the Pathways to School Success initiative have a special focus on groups at risk, such as pupils with disabilities and special educational needs.

As set out in the European Skills Agenda⁷, the Commission calls upon Member States to cover within their national skills strategies the specific needs of persons with disabilities and to set targets for adult learning for persons with disabilities to help achieve the target in the action plan implementing the European Pillar of Social Rights.

Within the European Semester, the Commission is monitoring developments in education, adult learning and employment of persons with disabilities in order to provide country-specific recommendations for policy action in the Member States where adequate.

Finally, in its work in this area, the Commission will take into consideration the work done by the European Parliament, in particular two recent resolutions that deal with access for persons with disabilities to employment and with the quality of jobs. These are the resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt⁸, and the resolution of 10 March 2021 on the implementation of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation in light of

⁶ COM(2020) 625 final, available at: Achieving the European Education Area by 2025
⁷ COM(2020)274 final, available at: European Skills Agenda for sustainable competitiveness, social fairness and resilience.
Conclusion

The Commission shares the general concerns of the petitioner that, despite efforts, persons with disabilities do not yet participate in employment on an equal basis with others, as set out in the UNCRPD.

With the disability employment package within the Strategy as well as with targeted actions for persons with disabilities in the area of education and skills development, the Commission will further support Member States to advance in the implementation of the UNCRPD. The Commission will also take the European Parliament’s work in this regard into account.

The existing EU labour law applies equally to persons with disabilities and already takes into account the specific situation of persons with disabilities in recruitment situations and in employment.

The Commission considers that the existing legislation and the policies in place and the future ones, notably in the implementation of the Strategy, will ensure better implementation of the UNCRPD with a view to improving labour market participation of persons with disabilities on a more equal basis in Member States, including in Germany.

---