

# **CRPD ARTICLE 27**

## **- THE RIGHT TO WORK**

### **for migrants with disabilities**



THE RIGHT TO WORK AND  
MUTUAL INTEGRATION



ALLMÄNNA  
ARVSFONDEN

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Disabled Refugees Welcome och Independent Living Institute  
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# **Independent Living Institute**

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The Independent Living Institute (ILI) works to promote opportunities for individuals with disabilities for more personal and political power, self-determination, full participation and equality through information, education, lobby and project activities. ILI is part of the Independent Living movement. Our rights are the basis for all our efforts.

## **Disabled Refugees Welcome - The right to work and mutual integration**

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The project Disabled Refugees Welcome - The right to work and mutual integration is run by the Independent Living Institute (ILI) with financial support from the Swedish Inheritance Fund. The project is based on results from the recently completed project Disabled Refugees Welcome (DRW) that had migrants with disabilities as the target group. A strong desire expressed by the people who participated in that project was to create a new project about work.

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# Introduction

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One of the tasks of Disabled Refugees Welcome - The right to work and mutual integration is to write about the UN Convention on the Rights of Persons with Disabilities (CRPD) and the UN 2030 Agenda for Sustainable Development; focusing on the inclusion of migrants with disabilities and the right to work. That is the text you have now begun to read.

How does a person who has recently arrived in Sweden, and who has a disability, approach the Swedish labour market, and how can that person get and keep a job?

We shall see how the UN Convention on the Rights of Persons with Disabilities - Article 27 on the right to work and employment - can be used. We investigate sustainable social solutions through Agenda 2030 and how it is done in other countries and in international regulations. How do you create openings and inclusion in rights for the target group and not lock-in in, or exclusion from, our Swedish regulations/systems?

This publication has been inspired by published publications by human rights lawyers Anna Bruce and Annika Jyrvall-Åkerberg as well as interviews and lectures by Mikael Klein, Parul Sharma and Hanna Gerdes. The informed women and men on the CRPD Monitoring Committee (CRPD Committee), which published General Comment No. 8 in the fall of 2022, are indicative. Our participants in the project show us lock-ins and exclusions, but also problem solving by sharing their everyday life and reality. The contributions have shown challenges and possible ways forward in how the right to work should include migrants with disabilities in Sweden today and what changes are needed.

It lists relevant conventions as well as other documents in the labour market area and how the rights in the UN Convention on the Rights of Persons with Disabilities benefit migrants with disabilities<sup>1</sup>. It is Article 27 on the right to work and employment<sup>2</sup> that is in focus and documents that can be linked to the article. General Comment No 8<sup>3</sup> submitted by the CRPD Committee in 2022 on Article 27 with the link to goal 8 Decent work in the UN Sustainable Development Goals (Agenda 2030)<sup>4</sup>. Other articles of the CRPD are also touched upon, such as Article 5 of the CRPD on equality and non-discrimination<sup>5</sup> and Article 26 on the right to rehabilitation and habilitation<sup>6</sup>. The issue of aids and other support is also raised there. The Global Goals/Agenda 2030 also touches on goal 10 Reduced inequality and goal 5 on gender equality. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) defines economic violence<sup>7</sup>.

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1 SÖ 2008:26, *Konvention om rättigheter för personer med funktionsnedsättning och fakultativt protokoll till konventionen om rättigheter för personer med funktionsnedsättning*, Utrikesdepartementet: Stockholm (ISSN 1102-3716)

2 United Nations, 2006, *Convention on the Rights of Persons with Disabilities (CRPD) - Article 27 - Work and employment* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>)

3 United Nations, 2022, *CRPD/C/GC/8: General comment No. 8 (2022) on the right of persons with disabilities to work and employment* (<https://www.ohchr.org/en/documents/general-comments-and-recommendations/crpdcg8-general-comment-no-8-2022-right-persons>)

4 United Nation, 2015, *A/RES/70/1: Transforming our world: the 2030 Agenda for Sustainable Development* ([sdg.un.org/2030agenda](http://sdg.un.org/2030agenda))

5 United Nation, 2006, *Convention on the Rights of Persons with Disabilities (CRPD) - Article 5 - Equality And Non-Discrimination* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>)

6 United Nation, 2006, *Convention on the Rights of Persons with Disabilities (CRPD) - Article 26 - Habilitation And Rehabilitation* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>)

7 Council of Europe, 2011, *Convention on preventing and combating violence against women and domestic violence (CETS No. 210)* (<https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>)

The right to work is addressed in several conventions such as the Women’s Convention<sup>8</sup>, the Convention on the Rights of the Child<sup>9</sup> and the Covenant on Economic, Social and Cultural Rights<sup>10</sup>, the Covenant on Civil and Political Rights<sup>11</sup>, the Convention on the Elimination of All Forms of Racial Discrimination<sup>12</sup> and the Convention on the Protection of the Rights of Migrant Workers and Their Families<sup>13</sup>. In 1969, the UN General Assembly took a stand for the right to work.

The European Social Charter of 1961, revised in 1996<sup>14</sup>, states the same. The African Charter “On Human and Peoples’ Rights”<sup>15</sup> and the Protocol to the American Covenant on Economic, Social and Cultural Rights all enshrine the right to work.

When did people start talking about the right of people with disabilities to work? Yes, since a long time in Sweden.

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8 United Nations, 1979, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>)

9 United Nations, 1989, *Convention on the Rights of the Child (CRC)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>)

10 United Nations, 1966, *International Covenant on Economic, Social and Cultural Rights, (CESCR)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>)

11 United Nations, 1966, *International Covenant on Civil and Political Rights (ICCPR)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>)

12 United Nations, 1965, *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>)

13 United Nations, 1990, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>)

14 Council of Europe, 1996, *European Social Charter (revised) (ETS No. 163)* (<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=163>)

15 Organization of African Unity, 1981, *African Charter on Human and Peoples’ Rights* (<https://au.int/en/treaties/african-charter-human-and-peoples-rights>)

Vocational rehabilitation and vocational training have been pursued for a long time in our country and developed throughout the 1900s, sometimes niched for different groups of disabilities and linked to previous institutions. Niche and protected work is increasingly being abandoned in favour of jobs in the open labour market. This presupposes wider access to vocational training and higher education. This has also been realized in the latter part of the 1900s and early 2000s. However, unemployment rates are still frighteningly high when compared to the rest of the population. For people with disabilities, it has remained constant between 40-50% depending on which group of disabilities you measure. This is despite access to vocational rehabilitation, education and labour market policy measures, as well as technical aids and accessibility adaptations. If you are a person who has come to Sweden as a migrant with a disability, eligibility for labour market support measures are restricted until you have been granted a temporary or permanent residence permit. This also applies to other support measures which persons with disabilities who permanently reside in Sweden are entitled to.

Below we describe what these restrictions look like and how the right to work must be improved for migrants with disabilities. The legal texts below are abbreviated and to some extent rewritten to be easier to read. See the Convention for the full wording. After the legal texts, there are comments.



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## **Article 27 of the UN Convention on the Rights of Persons with Disabilities has relevance for migrants with disabilities in Sweden**

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**27.1. The right of persons with disabilities to work on an equal basis with others. To have a job and work environment that is open and promotes integration and is accessible to people with disabilities.**

a) Prohibit any discrimination based on disability that applies to all matters relating to all forms of professional activity:

*Job interviews are not covered by the sections on lack of accessibility in the Swedish Discrimination Act<sup>16</sup>.*

*Most commonly, employers choose to hire someone who is similar to themselves. This means not someone who has a disability or other ethnic origin. Sometimes it is not only discrimination based on disability in the workplace, for migrants it often becomes both intersectional and structural discrimination. Below, in the final word, the two concepts are further investigated and how it can affect migrants with disabilities. This also applies to unequal treatment.*

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16 SFS 2008:567, *Discrimination Act* (<https://www.do.se/choose-language/english/discrimination-act-2008567>)

*In a new report on intersectional discrimination from the Discrimination Ombudsman there is an example of a person who has been discriminated against both because of their ethnicity and their disability that led to the person not being employed. The person participated in the interview. The employer said that a shawl (choice of clothing) and visual impairment would not work in the workplace.*

b) Protect the rights of persons with disabilities to equal and fair working conditions as those of persons without disabilities. This includes compensation. Equal pay for equal work:

*Wage subsidies often become salary caps and people with disabilities find it difficult to get full-time employment. Women often work part-time or as hourly paid workers, or are not in the labour market at all. This also applies to migrants with disabilities, who often have low pay. The risk of falling into poverty is palpable. The lack of statistics and composite data makes it difficult to determine the prevalence of the above among migrants with disabilities and differences between women and men within the group. Economic equality and exposure to violence is also an issue. The Council of Europe Convention on preventing and combating violence against women and domestic violence ( Istanbul Convention) states that women should not be harmed by economic violence<sup>17</sup>.*

c) On the exercise of labour and trade union rights on equal terms with others:

*Because the project works to get migrants with disabilities established in the labour market we haven't found this to be*

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<sup>17</sup> Council of Europe, 2011, *Convention on preventing and combating violence against women and domestic violence (CETS No. 210)* (<https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>)

*problematic yet. Of course, this does not mean that these rights are not violated for migrants with disabilities. When it comes to organised daily activities for people with intellectual disabilities, for example, these types of employment are not counted as workplaces and are not unionised.*

d) Effective access to vocational guidance, employment services and vocational training:

*If you are a migrant with a disability, it is difficult to exercise your rights in working life, because you are not familiar with the Swedish system. In addition, support services are fragmented among many actors with many limitations and requirements. Many also lack social networks, both in personal and in working life.*

*The special services that existed as support for people with disabilities from the Swedish Public Employment Service (AF) have been partially removed, it is lacking above all before you are offered a job. Availability varies in different parts of the country. The applicant has to talk to different people all the time plus it is difficult to get a fair assessment as well support from people with specialist competence. You only get to meet with a specialist after you have been offered a job. Something that is needed much earlier, especially at the first job in Sweden. Depending on asylum status or the reasons for arriving in Sweden as a migrant, there are restrictions on what rights you have to labour market support measures and other support for people with disabilities in Sweden.*

e) Promote opportunities for employment and promotion:

*Sweden complies well with Article 27 of the Convention on paper, but not in practice. The rights contained in Article 27 are demanded by organisations of disabled people during various*

*consultations with the Swedish Public Employment Service and other authorities. But when it comes to applying for positions, HR administrators and recruitment companies are still very ignorant about what it means to recruit a person with a disability. Attitude problems and prejudices as well as lack of accessibility exclude people with disabilities and people with other ethnicities from large parts of the Swedish labour market. Very few jobs in the open labour market are offered to people with disabilities. Most often, it is necessary to use their personal networks in the labour market. They take time to build. If you are new to Sweden, you do not have such networks. Neither in the labour market nor privately.*

f) Self-employment:

*Migrants with disabilities are entitled to start-up support and start-up grants, as well as grants for assistive devices. But it is unclear whether support for other accessibility adaptations and employment assistance support are applicable. Self-employed persons with disabilities who live permanently in Sweden can apply for and receive all available benefits and subsidies.*

g) Employing people with disabilities in the public sector:

*The public sector is worse than private employers at hiring people with disabilities, why? See next point (h) for further development of the answer to the question.*

h) Promote the employment of persons with disabilities in the private sector through effective policies and measures:

*It is not clear that private employers are better at using wage subsidies than public ones. Who is best at hiring can be seen from slightly different perspectives. A number of years ago,*

*figures came out that said that private employers were better at using wage subsidies and thus indirectly would be better at employing people with disabilities. In the survey conducted by the National Association of the Visually Impaired SRF, Participation, Action, Freedom of Movement, DHR and the Swedish Association of the Deaf, SDR, about success factors in the labour market, there were significantly more who had private employers, compared to public ones. But on the other hand, just over 2 out of 3 Swedes are employed by a private employer. Judging by the figures in the report below, the distribution between state, municipal, regional and private employers is largely similar between the three groups compared – namely the population at large, people with disabilities without reduced work capacity and those with reduced work capacity. It is even the case that among those with disabilities and reduced work capacity, only 63 percent are employed privately, while the same proportion for other groups is a few percentage points higher. Thus, people with reduced work ability seem to be somewhat underrepresented among private employers<sup>18</sup>.*

- i) Ensure that reasonable accommodation in the workplace is offered to persons with disabilities:

*Reasonable accommodation in the workplace shall be offered. Arbetsförmedlingen must be involved in this and one of their specialists must support the jobseeker and inform both the applicant and the employer about technical aids and adaptations as well as other support measures that exist for people with disabilities. It would be good if this is offered at an early stage together with the establishment programme or as preparatory support for migrants with disabilities. Because as a newcomer to Sweden, you cannot be expected to know all about the Swedish system and what support you can get from diffe-*

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18 SCB 2020:2, *Situationen på arbetsmarknaden för personer med funktionsnedsättning 2020*, pp 27f (ISSN: 1654-4366)

rent authorities. MFD (Swedish Agency for Participation) has a summary on its website<sup>19</sup> and the project RTA also compiles information about support from authorities and other actors<sup>20</sup>.

j) Promoting professional experience in the open labour market:

*There are attitudes and prejudices that prevent migrants with disabilities from gaining professional experience in the open labour market. People are not even invited for an interview because of their name and/or disability. It is problematic that several people are offered their first internship within Samhall, which is a protected business and a state-owned company - ie not in the open labour market. It is Arbetsförmedlingen that mediates internships to Samhall. Daily activities are also a form of protected activity that should lead to work in the open labour market, but it is not clear how often this happens. Statistics and composite data would be needed to determine the situation of migrants with disabilities.*

k) Vocational rehabilitation, rehabilitation, job retention and re-entry into work:

*Within the project, we have not seen many current examples because we work with migrants who have come and are looking for their first job. What we have seen is that it can be difficult to obtain medical certificates if a person can only work part-time because of their disability.*

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19 MFD, *Broschyr för migranter med funktionsnedsättning* (webbpage - 10 language versions available) (<https://www.mfd.se/kunskap/migranter-med-funktionsnedsattning/broschyr-for-migranter-med-funktionsnedsattning/>)

20 DWR/Right to work, *Publications and tips* (webbpage) (<https://disabledrefugeeswelcome.se/en/material/>)

General Comment No. 8 from the CRPD Committee on Article 27<sup>21</sup> shows that we in Sweden must make much more effort to ensure that more people with disabilities are offered work in the open labour market. Of course, this also applies to migrants with disabilities. The support measures are: aids, including technical aids, transportation to and from work, training and internships. Labour market measures include: wage subsidies, rehabilitation compensation, income support, grants for personal assistants, new start jobs, a special support person for introduction and follow-up support – SIUS, introduction to work, equip and match, reasonable accessibility adaptations of the workplace, protected work with public employers, etc. See the full list from the Swedish Public Employment Service and their page "Help for jobseekers with disabilities or ill health"<sup>22</sup>. A lot of supported employment offered is not in the open labour market – in particular, protected work at public employers and Samhall is just protected work.

Paragraph 82 of General Comment No. 8 further explains Articles 27 and 32 CRPD (International Cooperation) and is relevant to the global sustainability goals (Agenda 2030).

Paragraph 82E. Both private and public employers must remove barriers and monitor rights to include persons with disabilities in the labour market.

Paragraph 82H. Ban all exploitation of women and children in the informal and formal sector.

In the situation where a newly arrived person with a disability in Sweden has close relatives with him or his family. So it is

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21 United Nations, 2022, *CRPD/C/GC/8: General comment No. 8 (2022) on the right of persons with disabilities to work and employment* (<https://www.ohchr.org/en/documents/general-comments-and-recommendations/crpdgc8-general-comment-no-8-2022-right-persons>)

22 Arbetsförmedlingen (webpage) *Information for jobseekers and about us and our mission* (<https://arbetsformedlingen.se/other-languages/english-engelska>)

new in General Comment No. 8 that under paragraph 82H it is related to support for related parties:

- In the case of care provided by persons with disabilities, sufficient paid parental leave must be provided.
- In the case of persons with disabilities, parental leave rights shall be the same as for others.
- Support relatives who are wholly or partially unable to be in the labour market due to providing help for family and relatives with disabilities is stated in paragraph 78.

**27.2 Ensure that persons with disabilities are not held in slavery or servitude and that they are protected on an equal basis with others from forced or compulsory labour.**

There are grey areas here, for example for EU migrants with disabilities who are undocumented. There is also trafficking, see the Women's Convention (CEDAW IV Root causes of trafficking in women and girls)<sup>23</sup>. It is, of course, criminal and must be reported to the police and the judiciary if it is discovered, not only that, but prevented so that it does not happen at all.

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<sup>23</sup> United Nations, 1979, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* (<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>)



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## **A decent standard of living**

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There are many things that must be in place in order to find a job after arriving in Sweden. Below some issues are raised and it is very much about getting guidance and advice about how Swedish society works. What rights you have as a disabled person and what rights you have as a migrant. This regulatory framework may change, among other things, through the proposals in the Tidö Agreement, which are now being examined by the government and in parliament.

Migrants with disabilities and their families are very much affected by these proposals. We have also found that lock-ins in, or exclusion from, the systems often result in one or more parts of the introduction benefit being withdrawn and income support may be reduced. Alternatively, the opportunity to study Swedish or to participate in various employment programmes run by Arbetsförmedlingen ceases. This could be, for example, the development allowance. The reasons for each exclusion vary, but when a person is in such a situation, the result is always the same. A drastic deterioration of the person's economy. The same applies the longer an exclusion from the labour market lasts. Of course, this has a huge impact on the individual and his or her family and makes it more difficult to enter the labour market. The standard of living is also deteriorating drastically.

### **Example**

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A person who came to Sweden a couple of years ago and who has a disability. The person was registered in the Public Employment Service programme at Arbetsförmedlingen, and trained in Swedish at SFI and also applied for

a job. Due to health problems related to their disability, the person considered that part-time work was the only option. The Swedish Public Employment Service wanted a medical certificate for this. When the person visited their health provider, they asked for papers from the Swedish Public Employment Service. The employment service said that the person should arrange a doctor's appointment himself. Then a number of letters and warnings were sent stating that the medical certificate had not been received, but only in Swedish and in letter form. The person tried to explain what was happening and was told "it's true". The person interpreted this to mean that they had done what was asked. But then the person was suspended from the programme and the development allowance stopped because they did not fulfil their obligation to report job applications.

This had major economic consequences. Income support from social services was only at the minimum level because the person was excluded from the programme. Letters had been sent from Arbetsförmedlingen and the programme, but again only in Swedish. After discussion with the person in question who had raised the alarm about their situation at RTA (our project counselling), social services and the Swedish Public Employment Service, a joint meeting could finally take place. Interpreters were used at RTA and during joint meetings. The person had not understood how the different parts affected their overall life situation. After the meeting, the person was re-enrolled in the programme and a payment plan drawn up for the rent debt that the financially very difficult situation contributed to. Here you can see how both lock-in and exclusion affect a person's entire life situation. It may be impossible to sort it out on your own without an interpreter and without getting explanations of how the systems affect each other.

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## **Rehabilitation and the right to early health examination**

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In general comment 8 from the CRPD Committee, it is expressed in paragraphs 48, 49 and 50 about the importance of the Swedish state offering good rehabilitation and habilitation. This also applies to the right to health care and early examination, as well as the identification of the needs of persons with disabilities. If you are new to Sweden, it is very important that these opportunities and rights are offered. This is crucial in order to be able to get a medical certificate and thus a referral to an assistive device provider. Depending on what disability an individual has, where they can then get or borrow aids and learn to use these. This is necessary both in order to be able to move, study and then look for work.

Today, digital media is required to be accessible to people with disabilities. It can be synthetic speech or Braille or large print software in the case of people with visual impairments. Deaf or hard of hearing people may need a writing interpreter or sign interpreter for digital forums to be accessible. Easy-to-read Swedish can be good for people with intellectual disabilities, but also good if you do not have Swedish as your first language. Many digital devices with universal design such as smartphones, tablets and computers are not available as assistive devices in Sweden. If you do not have the money to buy these, a medical certificate is needed to be able to apply for financial contributions from foundations and funds, which can provide support depending on the type of disability a person has.

Knowledge of how to apply for grants for computers and/or smartphones can be obtained with help from the project via

peer counselling (that is, a person who has applied for a grant helps other migrants with disabilities to apply for a grant. With or without an interpreter, depending on linguistic background).

### **Example**

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A person with a disability has helped several people in the project to get laptop computers. This improves their opportunities to look for jobs and practise Swedish and more. A network has also been formed where people support each other between meetings. It is an excellent example of how to support each other, as well as share experiences and knowledge.

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Outside a person's home, it is not always enough to have access to assistive devices such as a wheelchair, crutches or a white cane, to move or orient oneself. A person with a disability may need transport services to move from home to various authorities, health care, or to internships or workplaces, even to social events, you are also entitled to that! Travel to meetings with authorities, schools, employment services and more, can be difficult or impossible to carry out without transportation service. Transportation service permits are often granted with temporary permits that must be applied for again, or are not issued at all to migrants. The difficulty of obtaining permanent and accessible housing, especially in large cities, means that often a migrant with a disability has to move many times and often lives far from services, municipal offices, authorities and social institutions. In this situation, the need for transport services also increases in order to be able to prepare for internships and work.

It is being investigated within the framework of the Tidö Agreement on whether Swedish citizenship should be a requirement to be able to receive personal assistance. This causes a catch-22 for a person who needs support to be able to look for

and keep a job when citizenship is linked to income requirements. Today, it is already the case that you cannot get home help, a guide or personal assistance, until one is resident in a municipality. People in the project have testified about how difficult it has been before receiving home care services that have been crucial to managing their daily lives.

### **Example**

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A person tells the story. I came here and had no relatives with me and knew no one in Sweden. I had to ask for help from neighbours and eventually friends. I was lucky and was quickly placed in the municipality, so I was able to apply for home help.

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Accessible teaching in Swedish within SFI (Swedish for Immigrants) is necessary to be able to look for work. Lack of accessibility impacts people with disabilities differently in different municipalities. Here it is very important to work solution-focused and to spread good examples. When you find accessible and workable solutions that everyone can participate in, including newly arrived people with disabilities, you can disseminate the results to other organisations that organise language teaching.

### **Example**

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Refugees from Ukraine did not normally receive SFI, although some municipalities made exceptions. Härnösand has worked successfully with deaf people from Ukraine. Several are already in jobs and sign language communication has been established. It is absolutely crucial that you have made an effort and gained access to communication in sign language and then introduced Swedish sign language and work.

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## **Residence permits - temporary and permanent. Paid work as part of total income can provide a residence permit and the opportunity for family reunification.**

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Work and livelihood is something that has further increased in importance in the political proposals aimed at changing the regulations for migrants in Sweden and presented in the Tidö Agreement. For migrants with disabilities, this increases the need to enter the labour market.

According to court cases, employment at Samhall is not treated as paid employment. Anna Quarnström (lawyer at the Swedish Association of the Visually Impaired) represents a migrant with a disability who cannot count work at Samhall as income in the income from employment requirement. However, the case is still pending. Actually, no subsidised income is counted as income when assessing compliance with the income requirement. So neither allowances for daily activities nor benefits that you receive are counted. So this problem affects a much broader group than just those who work at Samhall.

It is, of course, very stressful for a person and their relatives to constantly be reassessed their residence permit. If one or both adult parents or guardians in a family do not find work, you often end up in poverty that affects everyone in the family, including the children. Article 22 of the Convention on the Rights of the Child on the best interests of the child also states that disabled parents or guardians must be able to carry out their parenthood and be a good guardian of a child, despite a

disability. The support that the parent or guardian needs to be able to provide good support for their children should also be provided to migrants with disabilities who have children.

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## **General Comment No 8, paragraph 9: The right to work is a fundamental human right and an essential element of human dignity.**

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UN Committee Comment No. 8 wants all countries to move away from sheltered work and promote work only in the open labour market. Sheltered employers such as Samhall and daily activity providers etc. must therefore cease. If so, how should the transition to the open labour market take place in Sweden and what preparedness is there to accelerate this transition? Several people involved in the Right to Work project have been offered a first work experience at Samhall. Only Arbetsförmedlingen (the Swedish Public Employment Service) can direct applicants to an internship at Samhall. The applicant cannot contact Samhall directly. At a meeting with Samhall, it was said that Samhall could immediately take in more young people under the age of 35 if more people were referred to Samhall by the Swedish Public Employment Service.

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## **Arbetsförmedlingen's support in assessing previous professional experience.**

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Migrants with disabilities usually have gained work experience and skills in their home country, unless the person left their home country at a very young age. Arbetsförmedlingen validates these skills according to Swedish experience and educational qualifications/grades. The practice of validation of a range of skills, if you have a disability, leaves much to be desired here in Sweden due to ignorance of how people with disabilities function in the labour market here in Sweden. It is important not to let attitudes and prejudices affect any validation. Migrants with disabilities have been able to get by in environments with great challenges and their work experience should be valued higher and be used in the Swedish labour market.

Article 27 of the Convention on the Rights of Persons with Disabilities addresses the right to get and keep a job, career paths and more, freely on the open labour market. How can we make it into fulfilled rights that also apply to groups that are subjected to several types of discrimination? How can migrants with disabilities take part in all these segments of the Swedish labour market? It is important to first enter the labour market in general, and then be able to develop all the other parts. Networks in the labour market and personal networks are often the way in for those of us who have disabilities. If you are new to Sweden, you often do not have such networks.



## Example

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A person tells the story. My non-disabled relative is a very good accountant and has practised the profession for many years in our home country. They had applied for over 100 jobs and had not been invited to a single interview. Finally, we told a Swedish woman who had become our friend. She went to her LinkedIn profile and wrote to some contacts. A few days later, the relative was interviewed and got a job as an accountant. Here you see the power of networks and contacts. If you are both a migrant and have a disability, this is even more important for your skills to be noticed rather than presumed obstacles to employment. Or you just get eliminated without any real assessment. If people with disabilities are to have a chance in the open labour market, one must look at ability and competence. As long as there is structural discrimination in the labour market and as long as people with disabilities are denied the right to support, the barriers to the open labour market are enormous.

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It is labour-intensive for jobseekers to apply for internships and jobs. It cannot be expected that they will advise the ones to inform people who work at temporary work agencies and HR administrators about what support and benefits for employment are available. There are so many human resources that are not being utilised, you can see that clearly in our project. Everyone is constantly looking for a job but almost never gets called for an interview. Here, the project also works with peer counselling. We guide/educate on how to write a CV and a cover letter for an application. We provide guidance on how to inform about your disability and when, as well as what support you are entitled to. Some have received similar support at

Arbetsförmedlingen, but often not from people who have their own disability, nor from people who are migrants themselves. It might not be a problem in itself, but the point is that there is a lack of knowledge and understanding of what consequences shortcomings in the guidance can have.

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## **Sweden in the world and membership of the EU**

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The Convention on the Rights of Persons with Disabilities has now been ratified in 186 countries, which provides an excellent basis for cooperation and exchange of experiences globally. This means that many countries of origin from which migrants come have most likely ratified the Convention. It has been translated into many languages and can therefore be downloaded in native languages with one click online. Agenda 2030 - the global sustainability goals are a political agreement that applies within and between countries. The global sustainability goals are universal. It opens up for cooperation between countries as well as regionally and globally.

Both Agenda 2030 and the Convention on the Rights of Persons with Disabilities have been approved and are being worked on within the EU. There is another interesting advocacy work to follow.

Gerald Quinn, UN Special Rapporteur on the Convention on the Rights of Persons with Disabilities, argues that the EU now uses the rights in the CRPD more successfully in the decision-making process in the EU. They influence various decrees and regulations before they are decided and tested against current

legislation. This is not done as consistently at national level in the Member States. The ratification of the Convention at EU level has given impetus to act and include the rights of persons with disabilities, even if an area of activity regulated by the EU has at first been difficult to access and narrow. In the area of the labour market in the EU, there are two stated objectives. People with disabilities should have access to jobs in the open labour market. The second is about wage setting and the right to a fair wage. All in accordance with Article 27 of the Convention on the Rights of Persons with Disabilities.

Anna Bruce (senior researcher at the Raoul Wallenberg Institute for Human Rights and Humanitarian Law) wants to bring this to the local level. In Sweden, the municipalities should test the rights in the Convention, both against the political work and against current legislation. If the rights are more far-reaching in the CRPD, these are the ones that should apply. It would speed up the Swedish implementation of CRPD, if the rights in CRPD are integrated into political decisions and regulations.

Ola Linder (lawyer at Funktionsrätt Sverige) also mentions the EU's way of using CRPD in the decision-making process as exemplary. The rights of the Convention are used much more effectively in advocacy work. We should learn from this in Sweden when we want to include rights in political work and in society.

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## **Agenda 2030 - the global sustainability goals**

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Objective 8 - Employment and decent work, paragraph 5

**By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value**

This political agenda supports the rights expressed in Article 27 of the CRPD. Migrants with disabilities are definitely part of this. The work in municipalities and regions will support this. SKR (organisation of municipalities and regions) has a position paper that has been prepared together with disability rights organisations where the CRPD's articles have been named and which agenda 2030 goals apply linked to the articles. By combining rights with political work, sustainable solutions and results will emerge. Both through the use of Article 27 in the CRPD and sub-goal 8.5 in Agenda 2030.

The social goals in Agenda 2030 are set to create social sustainability also for people with disabilities. Migrants with disabilities should also be covered by the right to work. This is supported, among other things, by goal 10 Reduced inequalities within countries, which is a portal goal that can be measured against all other goals in the agenda.

Goal 8 - work and decent work, paragraph 8

**Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.**

Here, labour migrants are highlighted, but also migrants and gender equality. It may well be relevant when it comes to work for migrants with disabilities. Also when you look at the content of the Istanbul Convention on Economic Violence and Gender Equality.

A report on economic inequality was produced in 2018 by MFD (the Swedish Agency for Participation) and JÄMO (the Swedish Gender Equality Agency). It states that women with disabilities are less represented in the labour market than men with disabilities in Sweden. Also compared to the population in general. Women with disabilities are more likely to work part-time than men with disabilities who have jobs. There are also more hourly contracts among women with disabilities that do not lead to permanent employment. This has not been measured among migrants with disabilities, but it is important to obtain statistics and data so that we know if there are inequalities in that group as well when it comes to the right to work and gender equality.

We have shown examples of unequal treatment above. Reducing inequalities and discrimination is addressed in both the Convention and the Agenda. Reduced inequality within Sweden and non-discrimination is what we work for. When it comes to migrants with disabilities, they are subject to several forms of discrimination, which means that it is usually intersectional.

You may also not immediately see that your rights are being violated when subjected to discrimination on multiple grounds. Sometimes it can be unintentional, so-called structural discrimination when laws and different regulations and structures clash or cause a person to be subjected to discrimination without intention. This form of discrimination is also not easy to detect. The Non-Discrimination Ombudsman has just produced a report on intersectional discrimination when someone is subjected to several forms of discrimination. Intersectional discrimination needs to be both made visible and to have methods to counteract it developed. People affected need to know where to turn. If you have been discriminated against, you can turn to the Non-Discrimination Offices or the Non-Discrimination Ombudsman and, ultimately, the courts. It is the discrimination agencies, the Discrimination Ombudsman and civil society that can develop methods to see and counteract intersectional discrimination. Research and studies are conducted in academia.

General Comment No. 8, paragraph 80 to the CRPD - On the need to highlight and combat structural and intersectional discrimination - proposes the collection of varied disaggregated data and statistics to monitor the absence of such discrimination. It also includes those who work in the informal sector and those who are self-employed.

The Government's disability policy goals are also important when it comes to seeing how the right to work for migrants with disabilities can become a reality.

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## Final words

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A roadmap must be established where civil society and authorities set a timeline and measures to be able to work with General Comment No. 8 to CRPD in Sweden.

The overall readiness to receive persons with disabilities in the open labour market is still low compared to the general population. For migrants with disabilities, both women and men, the situation is even worse, preparedness is almost non-existent. Basic support measures in the labour market area are not available. Migrants with disabilities suffer from lock-in and exclusion from various systems, both social insurance and labour market policy support measures, as well as a lack of rights that other persons with disabilities who live permanently in Sweden receive. According to proposals in the Tidö Agreement, people will be required to qualify in order to get access to welfare in Sweden. Even in those parts of welfare where citizenship is not required, you will be required to have a job. This becomes a catch-22 for migrants with disabilities even when it does not go as far as a requirement for citizenship. It is the qualification requirement for welfare in general that is a very problematic political strategy.

The risk of direct and indirect discrimination is both tangible for migrants with disabilities. Many discrimination cases never reach a decision in our courts or at the DO, the Discrimination Ombudsman or the discrimination agencies. But indirect, intersectional and structural discrimination is present and is more difficult to see, as it involves several grounds for discrimination. The Convention against Racial Discrimination shows similar links.

Public actors, with support from civil society, should work with the rights in the Convention according to the model from the EU both locally in the municipalities and nationally in Sweden. This would increase migrants' opportunities to enter the Swedish labour market.

It is more relevant than ever for migrants with disabilities to be able to exercise their fundamental human right to work. You need income from work to be able to get a permanent residence permit as well as the right to family reunification in order to build a sustainable future in Sweden.

The first step on the way to a job is often an internship and then it is about getting and keeping a job. We would like to stress that it is not a question of getting and keeping just any work. It is about getting a good job based on the individual's own preferences and skills with sustainable working conditions. This is to be able to fulfil Swedish intentions with the incorporation of General Comment No. 8 CRPD.

It is necessary for migrants with disabilities to be able to obtain knowledge and guidance about Swedish society and how the Swedish labour market works. The various authorities that work with the target group in some context must make migrants with disabilities visible and increase knowledge about the group's situation. It is complex and requires cooperation between relevant authorities and also with relevant civil society organisations and academia. The rights in Article 27 of the Convention on the Rights of Persons with Disabilities and in goals 8.5 and 8.8 of Agenda 2030 include migrants with disabilities including their right to work. SKR must support municipalities and regions that have good examples in the area in disseminating these, within the framework of the implementation of Agenda 2030 and the Convention on the Rights of Persons with Disabi-



lities. In this way, social sustainability in the labour market can include migrants with disabilities.

Disaggregated data and statistics must also be collected to measure change and development of migrants' right to work.

A big thank you to all of you who contributed with knowledge and your testimonials and stories. This text could never have been done without your insights and experiences. As always, it is in the basic idea of ILI's work, also in this project, that it is those who are affected and who are rights holders who can describe their situation and their needs in order to be able to exercise their rights. The right to work is an important cornerstone for gaining influence and power over one's own life and being able to pass it on to others in the group. It is real "empowerment" that makes a difference in everyday life, for women and men who are migrants with disabilities and who live here in Sweden.

The accumulated knowledge and the will to achieve integration into the labour market indicates that cooperation and the purging of outdated views such as "lack of work ability" must begin to be about skills and abilities, as well as sufficient support. In order for migrants with disabilities to have power over their lives and a decent standard of living, the path goes through the right to work. Obviously including available support measures and according to the individual's ability.





