



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of the European Union*

I. Introduction

1. The Committee considered the initial report of the European Union (CRPD/C/EU/1) at its 220th and 221st meetings (see CRPD/C/SR.220 and 221), held on 27 and 28 August 2015, respectively, and adopted the following concluding observations at its 229th meeting, held on 3 September 2015.
2. The Committee welcomes the initial report of the European Union, which was prepared in accordance with the Committee's reporting guidelines, and thanks the European Union for its written replies (CRPD/C/EU/Q/1/Add.1) to the list of issues that was prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the delegation of the European Union during the consideration of the report and the responses provided by the authorities.

II. Positive aspects

4. The Committee notes with appreciation that the European Union is the first regional organization to ratify a human rights treaty concluded under the auspices of the United Nations, thus setting a positive precedent in public international law. The Committee notes the provisions of articles 21 and 26 of the Charter of Fundamental Rights of the European Union, which explicitly prohibit discrimination on the grounds of disability, and provides for equal participation of persons with disabilities in society. The Committee notes the positive trend to include the rights of persons with disabilities in the financing of its external actions, the inclusion of disability in priority areas of the European Union communication on the post-2015 Sustainable Development Goals, the adoption by the Council of the European Union of conclusions regarding the inclusion of persons with disabilities in disaster management and its commitment to the Sendai Framework for Disaster Risk Reduction 2015-2030.

* Adopted by the Committee at its fourteenth session (17 August-4 September 2015).



5. The Committee notes that for the 2014-2020 programming period, the European Structural and Investment Funds Regulations contain provisions that reflect the entry into force of the Convention and enhance the promotion of equality, non-discrimination, inclusion and accessibility for persons with disabilities through actions under the Funds.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

6. The Committee is concerned that the European Union has not ratified the Optional Protocol to the Convention.

7. The Committee calls upon the European Union to ratify the Optional Protocol to the Convention.

8. The Committee is concerned that the European Union has failed to conduct a cross-cutting, comprehensive review of its legislation aimed at harmonizing it with the Convention, and that no strategy on the implementation of the Convention across all its institutions exists.

9. The Committee recommends that the European Union conduct a cross-cutting, comprehensive review of its legislation in order to ensure full harmonization with the provisions of the Convention, and actively involve representative organizations of persons with disabilities and independent human rights institutions in the process. It also recommends the adoption of a strategy on the implementation of the Convention, with the allocation of a budget, a time frame for implementation and a monitoring mechanism.

10. The Committee is concerned that the mid-term assessment of the European Disability Strategy 2010-2020, which was due in 2015, has not yet been carried out and there are no clear benchmarks and guidelines on how the recommendations in the present concluding observations will be incorporated into the implementation of the strategy during the second half (2016-2020) of its term.

11. The Committee recommends that the European Union carry out the mid-term assessment of the European Disability Strategy 2010-2020 and establish clear guidelines for including the recommendations in the present concluding observations, with clear benchmarks and indicators, in close consultation with persons with disabilities and their representative organizations.

12. The Committee is concerned that the impact assessment guidelines only include one reference relating to compliance with the Convention.

13. The Committee recommends that the impact assessment guidelines be reviewed and modified in order to include a more comprehensive list of issues to better assess compliance with the Convention.

14. The Committee is concerned at the lack of a cross-cutting, overarching framework for consultation among different bodies in the European Union and persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations.

15. The Committee recommends that the European Union take the necessary measures to set up a structured dialogue with an independent budget line and sufficient funding for coordination among European Union institutions, agencies and bodies and for meaningful consultation with and the participation of persons with

disabilities, including women, and girls and boys with disabilities, through their representative organizations.

16. The Committee is concerned that the declaration of competence further to article 44 of the Convention has not been updated and does not comprehensively refer to legislation applicable to or affecting persons with disabilities.

17. The Committee recommends that the European Union regularly update the declaration of competence and its list of instruments to include recently adopted instruments and instruments that may not specifically refer to persons with disabilities, but that are relevant to persons with disabilities.

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

18. The Committee is concerned that Council directives 2000/43, 2004/113 and 2006/54 fail to explicitly prohibit discrimination on the grounds of disability and to provide reasonable accommodation to persons with disabilities in the areas of social protection, health care, (re)habilitation, education and the provision of goods and services, such as housing, transport and insurance.

19. The Committee recommends that the European Union adopt its proposed horizontal directive on equal treatment, extending protection against discrimination to persons with disabilities, including by the provision of reasonable accommodation in all areas of competence. The Committee also recommends that the European Union ensure that discrimination in all aspects on the grounds of disability is prohibited, including multiple and intersectional discrimination.

Women with disabilities (art. 6)

20. The Committee is concerned that the European Union has neither mainstreamed a disability perspective in all its gender policies, programmes and strategies, nor adopted a gender perspective in its disability strategies.

21. The Committee recommends that the European Union mainstream a women and girls with disabilities perspective in its forthcoming gender equality strategy, policies and programmes, and a gender perspective in its disability strategies. The Committee also recommends that the European Union develop affirmative actions to advance the rights of women and girls with disabilities, establish a mechanism to monitor progress and fund data collection and research on women and girls with disabilities. The Committee further recommends that the European Union accede to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) as a step to combating violence against women and girls with disabilities.

Children with disabilities (art. 7)

22. The Committee is concerned about the number of boys and girls with disabilities living in institutions across the European Union who have no access to mainstream, inclusive, quality education. The Committee notes with concern the adverse effect that austerity measures have on the availability of support services for families with children with disabilities in local communities, that disability strategies do not include children and that the European Union Agenda for the Rights of the Child has expired.

23. The Committee recommends that the European Union take the necessary measures, including through the use of the European Structural and Investment

Funds and other relevant European Union funds, to develop support services for boys and girls with disabilities and their families in local communities, foster deinstitutionalization, prevent any new institutionalization and promote social inclusion and access to mainstream, inclusive, quality education for boys and girls with disabilities. The Committee also recommends that the renewed Agenda for the Rights of the Child include a comprehensive rights-based strategy for boys and girls with disabilities and safeguards to protect their rights. The Committee further recommends that all disability strategies address and mainstream the rights of boys and girls with disabilities.

24. The Committee is concerned at the lack of awareness regarding the rights of boys and girls with disabilities and that boys and girls with disabilities are not systematically involved in decisions that affect their lives nor do they have the opportunity to express their opinion on those matters that affect them directly.

25. The Committee recommends that the European Union ensure that boys and girls with disabilities and their representative organizations are consulted on all matters that affect them and that appropriate assistance, according to their disability and age, is provided.

Awareness-raising (art. 8)

26. The Committee is concerned that awareness-raising strategies on the rights of persons with disabilities are not continuous, do not include all institutions and staff and exclude certain groups of persons with disabilities. The Committee is also concerned that capacity-building and training materials, public campaigns, statements and other documents published by the European Union institutions are not available in accessible formats.

27. The Committee recommends that the European Union develop a comprehensive campaign to raise awareness about the Convention on the Rights of Persons with Disabilities and combat prejudice against persons with disabilities, including women and girls, and especially persons with psychosocial disabilities, intellectual disabilities and older persons with disabilities. The Committee recommends that all materials related to capacity-building, training, awareness raising and public statements, among others, be made available in accessible formats.

Accessibility (art. 9)

28. The Committee is concerned that the European Accessibility Act has not yet been adopted by the European Union and that existing European policies, legislation, regulations and programmes have not been sufficiently assessed in respect of accessibility for persons with disabilities.

29. The Committee recommends that the European Union take efficient measures towards the prompt adoption of an amended European Accessibility Act that is aligned to the Convention, as developed in the Committee's general comment No. 2 (2014) on accessibility, including effective and accessible enforcement and complaint mechanisms. The Committee also recommends that the European Union ensure the participation of persons with disabilities, through their representative organizations, in the adoption process.

Situations of risk and humanitarian emergencies (art. 11)

30. The Committee is concerned that the emergency number 112 is not fully accessible across the European Union to all persons with all types of disabilities and that the civil protection policies of its member States are not in line with the new Council conclusions on disability-inclusive disaster management.

31. **The Committee recommends that the European Union take the necessary measures to ensure that the emergency number 112 is fully accessible across the European Union to all persons with all types of disabilities and that all aspects of disaster risk-reduction policies and programmes are inclusive of and accessible to all persons with disabilities.**

32. The Committee is concerned about the lack of inclusion of persons with disabilities in all European Union policies and guidelines on humanitarian aid and the lack of mechanisms to share knowledge and good practices that are in line with the Convention among the different European Union institutions and among its member States.

33. **The Committee recommends that the European Union: (a) adopt an implementation plan in line with the Council conclusions on disability-inclusive disaster management of February 2015 and the Sendai Framework for Disaster Risk Reduction 2015-2030; (b) establish a mechanism to build capacity and share good practices among the different European Union institutions and among its member States on disability-inclusive and accessible humanitarian aid; (c) establish a monitoring and accountability framework for the implementation of European Union policies and programmes, including the collection of data disaggregated by sex, disability and age.**

34. The Committee notes with deep concern the precarious situation of persons with disabilities in the current migrant crisis in the European Union. It is also concerned that refugees, migrants and asylum seekers with disabilities continue to be detained within the European Union in conditions which do not provide appropriate support and reasonable accommodation. The Committee is concerned that the migration decision-making procedure is not accessible for all persons with disabilities and that information and communication are not provided in accessible formats.

35. **The Committee recommends that the European Union mainstream disability in its migration and refugee policies. The Committee also recommends that the European Union issue guidelines to its agencies and member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the Convention.**

Equal recognition before the law (art. 12)

36. The Committee notes with deep concern that across the European Union, the full legal capacity of a large number of persons with disabilities is restricted.

37. **The Committee recommends that the European Union take appropriate measures to ensure that all persons with disabilities who have been deprived of their legal capacity can exercise all the rights enshrined in European Union treaties and legislation, such as access to justice, goods and services, including banking, employment and health care, as well as voting and consumer rights, in line with the Convention, as developed in the Committee's general comment No. 1 (2014) on equal recognition before the law. The Committee also recommends that the European Union step up efforts to foster research, data collection and exchange of good practices on supported decision-making, in consultation with representative organizations of persons with disabilities.**

Access to justice (art. 13)

38. The Committee is concerned about discrimination faced by persons with disabilities in accessing justice, owing to the lack of procedural accommodation in European Union member States.

39. **The Committee recommends that the European Union take appropriate action to combat discrimination faced by persons with disabilities in accessing justice by ensuring that full procedural accommodation and funding for training justice personnel on the Convention are provided in its member States.**

Liberty and security of the person (art. 14)

40. The Committee is concerned about the involuntary detention of persons with disabilities in psychiatric hospitals or other institutions on the basis of actual or perceived impairment.

41. **The Committee recommends that the European Union take all possible measures to ensure the liberty and security of all persons with all types of disabilities in line with the Convention and the Committee's guidelines on article 14 (2015).**

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

42. The Committee is concerned that research funded by the European Union is not accompanied by ethics guidelines to ensure that all persons with disabilities involved in such research are enabled to give their informed consent.

43. **The Committee recommends that the European Union review its ethics guidelines regarding research and especially set good practice examples by developing consent forms in accessible and easy-to-read formats, and prevent substituted decision-making in this area.**

Freedom from exploitation, violence and abuse (art. 16)

44. The Committee is concerned that persons with disabilities, especially women, girls and boys, and older persons, are subjected to violence, abuse and exploitation, especially in institutional settings.

45. **The Committee recommends that the European Union take the necessary measures to mainstream disability in all legislation, policies and strategies for combating violence, abuse and exploitation, and provide effective protection from violence, abuse and exploitation to all persons with all types of disabilities inside and outside of the home environment.**

Protecting the integrity of the person (art. 17)

46. The Committee is concerned that persons with disabilities are exposed to involuntary treatment, including forced sterilization and abortion, in European Union member States.

47. **The Committee recommends that the European Union take all possible measures to ensure that the individual's right to free, prior and informed consent to treatment is upheld and supporting decision-making mechanisms are provided in European Union member States.**

Freedom of movement (art. 18)

48. The Committee is concerned at the barriers faced by persons with disabilities and persons with family members who have disabilities when moving to live or work in another European Union member State, irrespective of the length of the stay.

49. **The Committee recommends that the European Union take immediate action to ensure that all persons with disabilities and their families can enjoy their right to**

freedom of movement on an equal basis with others, including with regard to the portability of social security benefits, in a coordinated manner across its member States.

Living independently and being included in the community (art. 19)

50. The Committee is concerned that across the European Union, persons with disabilities, especially persons with intellectual and/or psychosocial disabilities still live in institutions rather than in their local communities. It notes that, despite changes in regulations, the European Structural and Investment Funds continue to be used in different member States for the maintenance of residential institutions rather than for the development of support services for persons with disabilities in local communities.

51. The Committee recommends that the European Union develop an approach to guide and foster deinstitutionalization and to strengthen the monitoring of the use of the European Structural and Investment Funds so as to ensure that they are used strictly for the development of support services for persons with disabilities in local communities and not for the redevelopment or expansion of institutions. The Committee also recommends that the European Union suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached.

Personal mobility (art. 20)

52. The Committee is concerned about the varied practices of different national enforcement bodies in charge of implementing the rights of passengers with disabilities in different European Union member States, which may lead to unequal treatment and restrictions to the enjoyment of rights by passengers with disabilities.

53. The Committee recommends that the European Union strengthen the monitoring of the implementation of legislation on passenger rights and to harmonize the work of the national enforcement bodies in order to ensure the effective and equal enjoyment of rights by all passengers with disabilities across the European Union, including the implementation of the European Mobility Card. It also recommends that the European Union harmonize its existing legislation on passenger rights to bring it into line with regulations concerning the rights of maritime passengers.

Freedom of expression and opinion, and access to information (art. 21)

54. The Committee is concerned that across the European Union, persons with disabilities do not always have access to information and communication in accessible formats and technologies appropriate to different kinds of disabilities, including sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication of their choice, including easy-to-read formats.

55. The Committee recommends that the European Union take the necessary measures to enforce the implementation of its legislation on access to information and communication so as to facilitate access in accessible languages, formats and technologies appropriate to different kinds of disabilities, including sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication of their choice, including easy-to-read formats, for all persons with all types of disabilities, and to promote official recognition of sign language and Braille.

Respect for home and the family (art. 23)

56. The Committee is concerned that austerity measures have resulted in cuts in social services and support to families and community-based services, among others, which restrict the right of persons with disabilities to family life, and the right of children with disabilities to live in family settings.

57. The Committee recommends that the European Union take appropriate measures to ensure that its economic and social policies and recommendations promote support for families with persons with disabilities and ensure the right of children with disabilities to live in their communities.

58. The Committee is concerned that the long-awaited maternity leave directive has been withdrawn and that equal rights for women, mothers and fathers, children and adults with disabilities are not adequately addressed in the European Union work-life balance policy.

59. The Committee recommends that the European Union ensure that people with disabilities and families of persons with disabilities are included in the newly announced road map, "New start to address the challenges of work-life balance faced by working families".

Education (art. 24)

60. The Committee is concerned that in different European Union member States, many boys and girls, and adults with disabilities cannot access inclusive, quality education in line with the Convention.

61. The Committee recommends that the European Union evaluate the current situation and take measures to facilitate access to and enjoyment of inclusive, quality education for all students with disabilities in line with the Convention, and include disability-specific indicators in the Europe 2020 strategy when pursuing the education target.

Health (art. 25)

62. The Committee is concerned that discrimination on the grounds of disability is not explicitly prohibited in the field of health care. It notes the barriers faced by persons with disabilities in accessing health care in different member States.

63. The Committee recommends that the European Union explicitly prohibit discrimination on the grounds of disability in the field of health care and take measures to ensure access to quality health care for all persons with all types of disabilities. It also recommends that the European Union evaluate the impact of the European Parliament and the Council of the European Union Directive 2011/24/EU on patients' rights in cross-border health care with regard to gaps in access for persons with disabilities, including accessible information, reasonable accommodation and training of professionals.

Work and employment (art. 27)

64. The Committee is concerned about the high unemployment rates for persons with disabilities, especially women with disabilities and persons with intellectual and/or psychosocial disabilities, in comparison with other population groups in the European Union.

65. The Committee recommends that the European Union take effective action to measure the employment of persons with disabilities and to increase their employment

rate in the open labour market, including by providing training for member States on reasonable accommodation and accessibility in the context of employment.

Adequate standard of living and social protection (art. 28)

66. The Committee notes with deep concern the disproportionately adverse and retrogressive effect that the austerity measures in the European Union have on the adequate standard of living of persons with disabilities.

67. **The Committee recommends that the European Union take urgent measures, in cooperation with its member States and representative organizations of persons with disabilities, to prevent further adverse and retrogressive effects of the austerity measures on the adequate standard of living of persons with disabilities, including by setting a social protection floor that respects the core content of the right to an adequate standard of living and to social protection.**

Participation in political and public life (art. 29)

68. The Committee notes with deep concern that across the European Union, persons with disabilities, especially those deprived of their legal capacity or residing in institutions, cannot exercise their right to vote in elections and that participation in elections is not fully accessible.

69. **The Committee recommends that the European Union take the necessary measures, in cooperation with its member States and representative organizations of persons with disabilities, to enable all persons with all types of disabilities, including those under guardianship, to enjoy their right to vote and stand for election, including by providing accessible communication and facilities.**

Participation in cultural life, recreation, leisure and sport (art. 30)

70. The Committee is concerned that the European Union has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, which provides for access to published material by blind persons and persons with visual impairments or print disabilities.

71. **The Committee encourages the European Union to take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

72. The Committee is concerned at the lack of consistent and comparable data on persons with disabilities in the European Union, and the lack of human rights indicators.

73. **The Committee recommends that the European Union develop a human rights-based indicators system in cooperation with persons with disabilities and their representative organizations, as well as a comparable comprehensive data collection system, with data disaggregated by gender, age, rural or urban population and impairment type.**

International cooperation (art. 32)

74. The Committee notes with concern the lack of a systematic and institutionalized approach to mainstream the rights of persons with disabilities across all European Union international cooperation policies and programmes. The Committee also notes the lack of

coordination and coherence among European Union institutions and the lack of disability focal points. It is also concerned that European Union international development funding is used to create or renovate institutional settings for the placement of persons with disabilities, segregated special education schools and sheltered workshops, contrary to the principles and provisions of the Convention.

75. The Committee recommends that the European Union adopt a harmonized policy on disability-inclusive development and establish a systematic approach to mainstream the rights of persons with disabilities in all European Union international cooperation policies and programmes, appoint disability focal points in related institutions and take the lead in the implementation of disability-inclusive Sustainable Development Goals. The Committee also recommends that the European Union identify and put in place mechanisms to disaggregate data on disability in order to monitor the rights of persons with disabilities in European Union development programmes. It further recommends that the European Union interrupt any international development funding that is being used to perpetuate the segregation of persons with disabilities, and re-allocate such funding towards projects and initiatives that aim at compliance with the Convention.

National implementation and monitoring (art. 33)

76. The Committee notes with concern that the European Union framework for implementation and monitoring of the Convention is not fully in line with the Paris Principles nor adequately resourced. Moreover, the European Commission is designated as both a focal point (art. 33.1) for implementation and a mechanism for monitoring the implementation (art. 33.2) of the Convention.

77. The Committee recommends that the European Union take measures to decouple the roles of the European Commission in the implementation and monitoring of the Convention, by removing it from the independent monitoring framework, so as to ensure full compliance with the Paris Principles, and ensure that the framework has adequate resources to perform its functions. The Committee also recommends that the European Union consider the establishment of an inter-institutional coordination mechanism and the designation of focal points in each European Union institution, agency and body.

D. European Union institutions' compliance with the Convention (as public administrations)

Equality and non-discrimination (art. 5)

78. The Committee is concerned that not all employees or delegates of the European Union who are persons with disabilities, or have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships equally.

79. The Committee recommends that the European Union take the necessary measures to ensure that all employees of the European Union who are persons with disabilities, or who have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships on an equal basis with others.

Access to justice (art. 13)

80. The Committee is concerned about the lack of access to justice for persons with disabilities in European courts.

81. The Committee recommends that the European Union guarantee full access to justice and eliminate all barriers, including physical and procedural barriers, and those relating to legal capacity, in European courts.

Freedom of expression and opinion, and access to information (art. 21)

82. The Committee is concerned that not all the websites of the various European Union institutions are fully implementing accessibility standards. It is concerned about the lack of information in sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication for persons with disabilities, including easy-to-read format.

83. The Committee recommends that the European Union take the necessary measures to ensure the full application of web accessibility standards to the websites of all European Union institutions and to offer information in sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication for persons with disabilities, including easy-to-read formats, in official interactions.

Education (art. 24)

84. The Committee is concerned that not all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools in line with the Convention, and that the schools do not comply with the non-rejection clause. It is also concerned that European schools are not fully accessible to children with disabilities nor do they provide for inclusive, quality education.

85. The Committee recommends that the European Union take the necessary measures to ensure that all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools. It also recommends that European schools implement a non-rejection policy on the grounds of disability and ensure inclusive, quality education for all students with disabilities.

Health (art. 25)

86. The Committee is concerned that European Union staff members with disabilities or who have family members with disabilities are discriminated against by European Union health insurance schemes.

87. The Committee recommends that the European Union revise its Joint Sickness and Insurance Scheme so as to comprehensively cover disability-related health needs in a manner that is compliant with the Convention.

Work and employment (art. 27)

88. The Committee is concerned that European Union institutions are not role models with regard to employment of persons with disabilities.

89. The Committee recommends that the European Union increase employment of persons with disabilities in all European Union institutions.

Follow-up and dissemination

90. The Committee requests the European Union to submit within 12 months and in accordance with article 35 (2) of the Convention information in writing on the measures taken to implement the Committee's recommendations set out in paragraphs 17, 29 and 77 above, regarding the declaration of competence, the European Accessibility Act and the monitoring mechanism, respectively.

91. The Committee requests the European Union to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the European Union transmit the present concluding observations for consideration and action to its institutions, bodies, agencies and member States, as well as officials in relevant departments of the European Commission, members of relevant professional groups, such as education, medical and legal professionals, and the media, using modern social communication strategies.

92. The Committee strongly encourages the European Union to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic reports.

93. The Committee requests the European Union to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, persons with disabilities and members of their families, in national and minority languages, including sign language, and accessible formats, and to make them available on the Europa website on human rights.

Next report

94. The Committee requests that the European Union submit its combined second and third periodic reports no later than 23 January 2021 and to include therein information on the implementation of the recommendations in the present concluding observations. The Committee invites the European Union to consider submitting the above-mentioned report under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the date on which the report is due. The written replies to the list of issues will constitute the report.
