



Position of the European Network on Independent Living (ENIL) on the draft European Pillar of Social Rights

29 June 2016



Introduction

In March 2016, the European Commission published the first outline of the European Pillar of Social Rights¹. The so-called Social Pillar aims to identify a number of essential social principles which should be common in all EU Members States. ENIL welcomes this important initiative, which shows that the European Commission is serious about its commitment to work towards a more social Europe.

In order to collect the views of different stakeholders, the European Commission has launched a public consultation² on the Social Pillar, which ends in December 2016. ENIL looks forward to the results of this consultation and is currently preparing its own survey, which will be sent to our members across Europe. Based on the experiences and recommendations of our members, we will formulate a response to the consultation.

This document presents ENIL's initial, general reflections on the Social Pillar.

General reflections on the Social Pillar

Mainstream disability in all areas of the Social Pillar

The current outline of the Social Pillar focuses mainly on ensuring disabled people's access to employment. However, to create an accessible environment which enables disabled people to be active European citizens, included in society³, disability should be mainstreamed in all areas of the Social Pillar. Like all people, disabled people face different challenges at different stages of their lives, from education to employment, and from childcare to pensions.

- **To enable disabled people to fully and actively participate in the society, attention to disability should be mainstreamed in all areas of the Social Pillar.**

The Social Pillar should focus on disability rights instead of disability benefits

In the current outline of the Social Pillar, disability is addressed in the chapter on social protection. As pointed out in Article 28 of the CRPD, it is indeed important to maintain an adequate level of social protection. Through our work within the EU Alliance Against Disability Cuts, ENIL has regularly raised the issue of the disproportionate impact of budget cuts on the standard of living of disabled people.

¹ See: http://ec.europa.eu/priorities/deeper-and-fairer-economic-and-monetary-union/towards-european-pillar-social-rights_en

² See: <http://ec.europa.eu/social/main.jsp?langId=en&catId=699&consultId=22&visib=0&furtherConsult=yes>

³ In line with Article 19 of the UN Convention on the Rights of Persons with Disabilities.



However, while we are pleased to see that the Social Pillar recognises the fact that disabled people face a higher risk of poverty and social exclusion, we would like to see disabled people approached not just as passive recipients of benefits, but as active citizens who want to participate to society.

In addition, although ENIL recognises the limited competence of the EU to legislate in the social (security) field, we would like to highlight possible ways to make the Social Pillar more ambitious within the current EU legal framework.

First of all, the EU has ratified the CRPD, which has become an integral part of EU law. The purpose of the Convention is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities”. Furthermore according to Article 26 of the EU Charter for Fundamental Rights, the Union recognises and respects the right of disabled people to benefit from measures to ensure their independence and participation in the life of the community. These commitments to the full inclusion of disabled people in the society have to be taken into account in the Social Pillar.

Secondly, while Article 153 of the Treaty on the Functioning of the European Union does not give explicit legislative powers to the EU to combat social exclusion, it does allow it to encourage cooperation between Member States through initiatives aimed at improving knowledge, and exchanging information and best practices. The Social Pillar should specify EU benchmarks on the inclusion of disabled people, supported by strong and clear definitions. The Social Pillar should also promote the exchange of good practices for inclusion in all areas of society.

- **In order to achieve the full inclusion of disabled people in society, the Social Pillar should move away from the medical approach to disability - which focuses on the person’s impairment as the cause of being unable to participate fully in society - and adopt a human rights approach, whereas disabled people are seen primarily as rights holders and it is recognised that it is the systemic, environmental and attitudinal barriers in society that are disabling.**
- **By developing EU benchmarks for inclusion beyond the area of employment and income support, the Social Pillar would contribute to EU’s commitment to enable all EU citizens to enjoy the same basic rights and freedoms in all areas of the European society. Additionally, clear EU benchmarks which commit all Member States to work towards the same goals will also stimulate the social convergence within the EU.**



Field of application

The proposed Social Pillar will be obligatory for Eurozone Member States, while other Member States can join on a voluntary basis. ENIL is concerned that this will lead to a dual track social Europe, where the protection of essential social rights varies across the Member States. As a consequence, some European citizens will have better access to social rights than others.

- **In order to ensure that the rights of all European citizens are equally protected, the Social Pillar should apply throughout the EU, not just to Eurozone members.**

Enforceability

Too often, strategies to advance the inclusion of disabled people are ignored or are only partially implemented. It is therefore essential that the Social Pillar takes a legally binding form. This would ensure the protection of fundamental rights for all EU citizens and confirm EU's commitment to a triple A social Europe.

- **The Social Pillar should become a legally binding Social Framework for Europe.**

Analysis by topic

Skills, education and lifelong learning

Although Article 24 of the CRPD states clearly that all disabled people have the right to inclusive education, disabled people are not mentioned as a target group in the Social Pillar's chapter on skills, education and lifelong learning.

This is a missed opportunity, because quality inclusive education is essential to allow disabled people to discover and develop their skills and competences. This will increase their chances on the labour market and opportunities to actively contribute to the society. On top of that, inclusive education will improve the general understanding of disability among non-disabled people and decrease prejudice, which in turn will lead to a more inclusive society.

- **The right of disabled people to receive quality, inclusive education must be included in the Social Pillar's chapter on education.**



Disability

As mentioned above, the Social Pillar should move away from the medical approach to disability and adopt a rights-based approach, which seeks to empower disabled people by treating them as rights-holders in control of their lives.

Promoting a rights-based approach to safeguard fundamental rights in the EU will facilitate the portability of social rights across different Member States and allow disabled European citizens to fully exercise their European freedoms, such as the freedom of movement.

In order to achieve a fully inclusive society, enabling services should not only be provided in the area of employment, but in all relevant areas (in particular the essential services mentioned in part 20 of the Pillar).

The Social Pillar should, for example, promote the adoption of Personal Assistance systems in the Member States, based on a personal budget, as a good practice for the empowerment of disabled people across Europe. Personal budgets give disabled people the possibility to be in control and live according to their own choices and decisions.

- **The Chapter on disability in the Social Pillar should focus on rights, not benefits.**

Long-term care and housing

The field of long-term care and housing are interrelated and we are therefore addressing them together.

The European Structural and Investment Funds (ESIF) regulation promotes investments in community-based services, while prohibiting investments in institutional care. The Social Pillar presents a unique opportunity to reinforce this existing EU legislation and contribute to the process of deinstitutionalisation in the EU.⁴

The chapter about long-term care should make it clear that, instead of aiming to make the long-term care system financially sustainable, the EU and the Member States should aim to complete the transition from institutional care to community-based services. Personal Assistance and the provision of personal budgets should be featured as good practices to facilitate this transition.

⁴ Deinstitutionalisation is a political and a social process, which provides for the shift from institutional care and other isolating and segregating settings to independent living. Effective deinstitutionalisation occurs when a person placed in an institution is given the opportunity to become a full citizen and to take control of his/her life (if necessary, with support). Essential to the process of deinstitutionalisation is the provision of affordable and accessible housing in the community, access to public services, personal assistance, and peer support. Deinstitutionalisation is also about preventing institutionalisation in the future; ensuring that children are able to grow up with their families and alongside neighbours and friends in the community, instead of being segregated in institutional care.



The availability of accessible housing is, of course, a precondition to achieve full deinstitutionalisation. The Social Pillar's chapter on housing should take this into account by recognising that access to affordable, accessible housing is essential in order to complete the deinstitutionalisation process and a prerequisite for the inclusion of disabled people in the community.

- **Both the chapters on long-term care and housing in the Social Pillar should make clear that deinstitutionalisation is an absolute priority for the EU and that investments in (long-term) institutions are prohibited by EU law.**

Access to essential services

The inaccessibility of essential communication, transport and financial services is one of the greatest barriers to full participation and inclusion of disabled people. Although the need to make services accessible for disabled people is recognised in the text of the Social Pillar, the reference to disabled people is not included in the recommendation at the end of the paragraph on accessible services.

- **In order to ensure access of disabled people to essential services, the recommendation should explicitly mention the need to make essential services accessible.**

Conclusion

ENIL believes in the potential of the European Pillar of Social Rights to become a reference framework for social rights across Europe and contribute to EU's commitment to achieve a triple A social Europe. In order to fully unlock the potential of the Social Pillar for disabled European citizens, the Pillar must adopt a human rights perspective on disability, as outlined in the CRPD. The approach to disability in the Social Pillar must go beyond care and benefits, and focus instead on mainstreaming disability rights throughout different areas of the Pillar.

Contact person:

Frank Sioen, ENIL's Advocacy officer, frank.sioen@enil.eu