



ENIL's Feedback on the Roadmap for Union of Equality: Strategy on the Rights of Persons with Disabilities 2021-2030

November 2020

Introduction

On 14 January 2020 the European Commission published a communication to prepare and Action Plan to implement the European Pillar of Social Rights (Social Pillar)¹. The Social Pillar consist of 20 principles and was endorsed by the European Parliament and all Member States in November 2017². From the start the objective of the Social Pillar was to act as a compass for better living and working conditions across Europe³. Initiatives like the Work Life Balance directive have already shown the influence of the Pillar on social and employment policy⁴. Simultaneously other recent European initiatives like the Recovery and Resilience Facility still lack a genuine social component.⁵

This shows that the impact of the social pillar is still quite fragmented across policy fields and pillar principals. The proposed Action plan is the perfect tool to address the fragmentation and ensure that the Social Pillar can take up its role as compass across policy fields. Therefore, the Action Plan should be more that a list of actions and rather aim to provide consistency, identify trends and be a guide towards a comprehensive implementation of the Pillar across policy fields.

In this position paper the European Network on Independent Living (ENIL) will focus on 3 trends which are particularly important for the inclusion of disabled people in the EU and for realizing the EU's commitment under the UN Convention on the Rights of people with disabilities (UN CRPD).

- The shift from segregation to inclusion
- The shift from pity to equal opportunity
- The shift from policy silos to cross cutting Human Rights

For each of these trend ENIL will look at the impact of the currently proposed initiatives in the communication. We will identify links to other policy initiatives as well as potential gaps. Throughout the analysis links with the different Social Pillar principals will be highlighted.

¹ https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_20

² https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/endorsing-european-pillar-social-rights_en

³ <https://ec.europa.eu/eurostat/web/european-pillar-of-social-rights>

⁴ <https://ec.europa.eu/social/main.jsp?catId=89&furtherNews=yes&langId=en&newsId=9438>

⁵ https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility_en

The shift from Segregation to inclusion

Throughout the European Union, disabled people are still segregated into large or small institutions. The current COVID-19 crisis has only confirmed the fact that isolating people in institutional care settings is a danger to both their physical and mental health.⁶

Pillar Principal 17 of the European Pillar of Social Rights specifically aims at the “Inclusion of people with disabilities.” Within this principal, the Pillar confirms that disabled people have a right to fully participate to the labour market and all aspects of society.

Being able to live your life independently according to your own choices is a prerequisite for full and equal participation. This right to Independent Living is defined in Article 19 of the UN Convention on the Rights of persons with disabilities (CRPD) and General Comment 5 which are signed and ratified by the EU all Member States.

The Action Plan to implement the European Pillar of Social Rights should ensure all initiatives to strengthen social Europe contribute to the shift from segregation to inclusion.

Initiatives

Funding and investments

The Communication on the Action Plan to implement the Pillar includes several proposals for new funding mechanisms such as the Just Transition Fund or Invest-EU and the Recovery and resilience Facility under the Green Deal Investment Plan. These new funding tools do not have explicit safeguards against investments in institutional care. Therefore there is a huge risk that segregating settings will continue to be build or refurbished, this time under the guise of transition green investments. This would be both counter to the objectives of the Pillar and against the international Human Rights obligations of the EU and the Member States under the CRPD.

The Action plan should coordinate a strict and total ban on the use of any EU funds or funding mechanisms to invest in segregating settings or move disabled people from large into small institutions. Instead investments should go towards developing real community-based services which give people the control independence and the autonomy necessary to actively participate in all aspects of society.

⁶ COVID Disability Rights Monitor: <https://enil.eu/news/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities/>

Minimum Wages

Good working conditions and wages are at the heart of chapter 2 of the European Pillar of Social Rights. This also includes a good work life balance and a safe and healthy work place. A recent survey among ENIL members showed that disabled people identify, fair working conditions as essential for the development of genuine community-based services, such as Personal Assistance. Yet for the moment EU-policy in this area obstructs rather than promotes inclusive solutions which put the user in control of the support provision as envisaged by the CRPD.

The current initiatives under the Pillar such as the Work Life Balance directive start from a traditional view on disability based on care and do not address the needs of disabled workers or employers. Similarly, the Working Time and Written statement directive do not take into account that disabled people need higher Personal Assistance Budget to be able to offer their assistance good working conditions and comply with the regulation.

The proposed directive on adequate minimum wages in the European Union on the EU should not make the same mistake. Rather than treating Community Based Services and Personal Assistance as an exception to the rule the directive should make clear that all employees, including Personal Assistants have a right to a decent minimum wage and that Member States should ensure adequate Personal Assistance Budgets to allow disabled people to offer this to their assistants.

Child Guarantee

According the Commissions background note, the objective of the Child Guarantee initiative is “to ensure access for children in need to the services they need, in particular in the field of education, care, health care, nutrition and housing.”⁷

The Action plan to implement the Pillar should ensure the child guarantee contributes to the shift from segregation to inclusion and safeguards the right of all children to grow up in a family. Therefore the action plan should make clear that there are no exceptions to the right to grow up in a family for any child. As a consequence investing EU Funds in any projects that institutionalise or segregate (disabled) children should be strictly prohibited as they violate the European Social Pillar (Principal 11) and the EU charter of Fundamental Rights as well as several international Human Rights commitments of the EU under the CRPD, and the Convention of the Rights of the Child.⁸

⁷ BACKGROUND NOTE ON THE CHILD GUARANTEE

⁸ <https://enil.eu/news/seven-priorities-for-the-new-european-child-guarantee/>

Gaps

COVID

ENIL was part of the coordinating group of the recently published COVID-19 Disability Rights Monitor.⁹ The monitor collected over 3,000 separate pieces of testimony, many of which manifestly demonstrated a complete failure by states to adopt disability-inclusive COVID responses. On the contrary the monitor highlighted the total failure of Member States to protect disabled. Strict enforcement of lockdowns or other COVID measures without taking into account disability meant that disabled people could not access essential services, including food because it was impossible to go to a shop or access accessible transport (A clear violation of Pillar Principal 20) . Instead of prioritising emergency measures to support people into the community, respondents pointed out that governments suggested re-institutionalisation and many institutions have been locked down, with well know fatal consequences. In some cases, disabled people were directly denied access to treatment for COVID-19 because of their disability (A clear violation of Pillar Principal 16).

The COVID-19 pandemic proved once more that segregating people into institutions or locking them into a network of specialized services does not protect them but instead gravely violates their Human Rights.

The Action plan to implement the Pillar should take this experience from the COVID 19 crisis into account to make crystal clear that all investments in institutions and segregating settings of any size across the EU are illegal and a breach of the Human Rights of disabled people.

Updated social scoreboard

In 2018 the social scoreboard was set-up to monitor the Member States progress towards the realization of the Pillar Principals.¹⁰ ENIL and other civil society organisations frequently highlighted that the scoreboard cannot adequately monitor progress towards inclusion of disabled people in line with the CRPD.¹¹ A recent resolution from the European Parliament echoed this concern and urged the Commission to included progress towards personal assistance and Community Based

⁹ <https://enil.eu/news/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities/>

¹⁰ <https://ec.europa.eu/social/main.jsp?catId=89&furtherNews=yes&newsId=9163&langId=en>

¹¹ <https://enil.eu/news/enil-calls-for-an-enforceable-european-social-rights-pillar/>

Support as an indicator in the EU social scoreboard.¹² In Action Plan is the ideal moment to propose an update of the social scoreboard to ensure it can actively monitor progress towards inclusion and UN CRPD implementation in all Member States.

European Communication on Independent Living

While the CRPD provides a clear way forward towards inclusion across all the Pillar principles, the practical implementation of this shift from segregation to inclusion is often complicated by a lack of common understanding on the concepts of Community Based services and Independent Living.

To remedy this and ensure all policy actions under the Pillar contribute to genuine disability inclusion, the Action Plan to implement the Pillar should highlight the need for a strong EU Communication on Independent Living. This Communication should be developed with the active involvement of disabled people, and include definitions of the key IL- terms, based on the UN CRPD and its General Comments. Common definitions will allow better monitoring, assist policy development in the EU and the Member States and make crystal clear that the availability of community-based services (CBS), controlled by the user, is essential for the successful transition towards an inclusive European Union where no one is forced to live in institutions and everyone can enjoy their Human Rights.

From pity to equal opportunities

Several Commission documents, including the recent Roadmap for a new disability strategy, continue to highlight access to employment as essential for the full inclusion of disabled people in the EU. It is therefore surprising that the entire Chapter 2 of the Pillar on Fair working conditions does not include a single reference to disability or inclusion. This can't be explained by a lack of data as figures by Eurostat clearly show that 67% of non-disabled people in the EU have a job compared to only 47% of disabled people.¹³ Reports and testimonies by civil society also clearly illustrate the issues of poverty and insufficient support in employment.¹⁴

The issue here is that The European Pillar of Social Rights continued to see disabled people as passive objects of pity rather than equal participants to all aspects of society. The Action Plan to implement the Pillar cannot afford to repeat this mistake.

¹² https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.html

¹³ https://ec.europa.eu/eurostat/statistics-explained/images/8/8c/Infographic_Disability_statistics_final.png

¹⁴ <http://www.edf-feph.org/persons-disabilities-experiences-poverty-and-social-exclusion>

Initiatives

Reinforced Youth Guarantee

The current Youth Guarantee is unavailable for many disabled young people. The reason for this is that disabled people who receive a disability benefit or allowance are not counted as job seekers and so not eligible under the Youth guarantee.¹⁵ This again points to a very passive view towards disability which does not recognise disabled people full employees how need to be rewarded for their work on an equal basis. Disability benefits allow disabled people to cover the extra cost related to disability and support and should not be depended on income from employment.

The Reinforced Youth Guarantee should acknowledge this flow in the old Youth Guarantee and allow disabled people to fully apply to the programme. Furthermore The Reinforced Youth Guarantee should include funding to ensure young people can request support or accommodations (accessibility, Personal Assistance, Sign Language) to access jobs on an equal basis to fully to accommodate any support accommodations to

European Unemployment Re-insurance Scheme

Throughout the EU disabled people who enter the labour market risk losing their disability allowance.¹⁶ This link between employment and disability benefits is a huge barrier to access the Labour Market. Furthermore it does not recognise the fact that disability allowance is meant to cover disability-related extra costs of living and should therefore not be linked to employment.

The European Unemployment Re-insurance Scheme should recognise this and include a clause to ensure that disabled people continue to have access to their disability benefits before, during and after their employment. Access to unemployment benefit should also not be linked to or restrict access to disability benefits.

European Education Area

¹⁵ <https://www.donegaldaily.com/2016/07/06/marian-harkin-argues-that-young-people-with-disabilities-are-not-given-equal-access-to-youth-guarantee-scheme/>

¹⁶ https://www.europarl.europa.eu/doceo/document/EMPL-PR-657235_EN.pdf

Pillar Principal 1 refers to inclusive education. However the recent Commissions proposal for a new Digital Education Action Plan did not take into account inclusion or the need for accessible online tools.¹⁷

A 2019 Report on PISA and the EU establishes a clear link between the OECD Programme for International Student Assessment' (PISA) and the European Education Area.¹⁸ However, a recent ENIL report showed that the PISA testing excludes, rather than includes, disabled students.¹⁹

to realize the goal of inclusive education and other rights protected by the pillar the Action Plan should put inclusion at the heart of the European Education Area and ensure active involvement of disabled people in every step of its development.

Gaps

Minimum income

While the Communication on the Action Plan to implement the Pillar includes a proposal on minimum wage, there is no initiative related to minimum income (Pillar Principal 14). According to the EU-SILC statistics from 2018 29.5% of disabled women and 27.5% of disabled men are at risk of poverty and social exclusion in the EU compared to 22.4% of the general population. Disabled people are also more likely to face in-work poverty (11% versus 9.1%).²⁰

Therefore, in order to advance the realization of the rights protected by the Social Pillar, the Action plan should include a European income guarantee to monitor and compare the adequacy of social protection and minimum income schemes in the Member States

Access to essential services

Pillar Principal 20 addresses access to essential services, including transport, digital communication and financial services.

Access to mainstream services is indeed key to realize the right to Independent Living. Yet Segregating services like sheltered workshops, special schools or special transport are often the only option for disabled people, because mainstream services are not available or accessible on an equal basis.

¹⁷ <https://enil.eu/news/ec-proposes-new-digital-education-action-plan/>

¹⁸ https://ec.europa.eu/education/news/pisa-2018_en

¹⁹ <https://enil.eu/news/how-inclusive-is-pisa/>

²⁰ <https://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions>

In line with the objective of the Social Pillar, the EU charter of Fundamental rights and the CRPD, the Action Plan to implement the Pillar should call for a European mechanism to on the one hand monitor and stimulate investments in inclusive services and on the other hand sanction Member States that make investments in segregating services.

Silo to Human Rights

Social rights cannot be realized in isolation. To recognise this, the social pillar was set-up as a compass to guide European and national policy towards a more inclusive European Union in which everyone can fully participate.²¹ In the same spirit the Action plan to implement the Pillar should aim to align different European policy initiatives and ensure consistency with the long term social and Human Rights commitments of the European Union.

Initiatives/Gaps

Different plans and strategies towards one goal

The proposed Pillar initiatives include several plans and strategies to strengthen aspects of social policy in Europe. Some strategies like the proposed green Paper On Ageing, the Initiative on Roma Equality and Inclusion, the European Gender Equality Strategy and the European Disability strategy focus on certain groups. Other strategies and plans , like the European Green Deal Investment Plan, The Action Plan for the Social Economy, the Long term vision for Rural Areas or the SMEs Strategy are more economic.

The Action plan to implement the European Pillar of Social Rights should set clear, long term social objectives for the EU and coordinate the different strategies towards realization of these objectives. This should be done with respect to, but not in fear of, EU competences.

Furthermore, the action plan should ensure European social policy in the respects the Human Rights obligations of the EU across policy fields.

For example, at first glance the UN CRPD might appear to apply specifically to disabled people and so Pillar Principal 17. However, looking closer you realize that the CRPD does not create new rights, it rather clarifies how States Parties should realize and protect existing human rights for people *'who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'*. As

²¹ <https://www.robert-schuman.eu/en/european-issues/0493-the-social-dimension-at-the-heart-of-europe>

a consequence, the Convention applies to all people who face barriers to fully participate in society.

Therefore the action plan should aim to remove policy silos, in order to avoid that different strategies contradict each other (like the above mentioned risk of Green Deal Investments into segregating institutions for disabled people). Ensuring a consistent and comprehensive approach towards clear social objectives will give all people in Europe the confidence and the support to fully access their human rights

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About ENIL

The European Network on Independent Living (ENIL) is a Europe-wide network of disabled people, with members throughout Europe. ENIL is a forum for all disabled people, Independent Living organisations and their non-disabled allies on the issues of Independent Living. ENIL represents the disability movement for human rights and social inclusion based on solidarity, peer support, deinstitutionalisation, democracy, self-representation, cross disability and self-determination.

ENIL's mission is to advocate and lobby for Independent Living values, principles and practices, namely for barrier-free environment, provision of personal assistance support and adequate technical aids, together making full citizenship of disabled people possible. ENIL's activities target European, national and local administrations, politicians, media, and the general society. ENIL works to strengthen the empowerment of disabled people mainly through providing resources for peer counselling and peer training. ENIL enhances the European disability network by providing the arena for the sharing of experience of services and in providing economical, logistics and technical expertise. This as well as by being a strong network of grassroots activists.

ENIL works directly with disabled individuals, organizations (mainly Centres of Independent Living), politicians, social agents, media, the business world and any individual or organization interested in learning about Independent Living history, values, principles and its practical application.

That which makes ENIL different from other disability-related European organizations is its make-up of strong grassroots guided by the social model approach; the dedication of us as members to promote, advocate and lobby for social change (empowerment of disabled people to take control over their lives); and the transferability of the Independent Living principles into applicable practices. ENIL represents a disability movement for human rights and social inclusion based on solidarity, peer support, deinstitutionalization, democracy, self-representation, cross disability and self-determination.