



European Economic and Social Committee

SOC/538
UN CRPD/EU Disability Strategy

OPINION

European Economic and Social Committee

**Concluding observations of the UN CRPD Committee –
A new strategy for persons with disabilities in the European Union**
[Own-initiative opinion]

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1. **Conclusions and recommendations**

- 1.1 The ratification of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) by the European Union is a landmark for disability rights, for the EU and its Member States. The review of the EU, by the UN CRPD Committee in 2015, concludes the first period of implementation of the CRPD. The UN CRPD committee's concluding observations (COs) requires the EU institutions to meet their obligations since they should organise and coordinate the implementation of the UN CRPD according to the COs. The COs have reconfirmed that the EU policy making on the ground of disability requires a profound transformation in the way policies have been made up to now. So far, the EU has not really undertaken a real adaptation of its policy making to this new transformation required by the UN CRPD.
- 1.2 The EESC calls on the EU institutions to mainstream the COs into existing and future EU law and policy making. It also asks the European Commission (EC) to report to the UN CRPD Committee by autumn 2016.
- 1.3 The EESC considers the UN CRPD and the committee's COs to be a unique opportunity for the EC to present an EU overarching strategy on the rights of persons with disabilities (PWDs). The COs have created momentum that should be capitalised by the EU institutions, and which should lead to disability rights being included systematically in all EU legislation, policies and programmes.
- 1.4 The EESC underlines that in order to mainstream disability rights, the EC needs to undertake a cross-cutting and comprehensive mapping exercise across all its law, policies and programmes to ensure full harmonisation with the UN CRPD provisions and actively involve representative organisations of PWDs (DPOs) in this process. This mapping exercise should be accompanied by a gap analysis assessing the gaps among the current law, policy making and disability rights mainstreaming and the UN CRDP. The mapping exercise and gap analysis should be explicitly included in the revised European Disability Strategy (EDS).
- 1.5 The EESC reminds the EC of its obligation to proceed immediately with the revision and update of the Declaration of Competences and its list of instruments. It should also introduce a self-commitment to review and revise the Declaration of Competences at least once during its term of office.
- 1.6 The EESC acknowledges that the review of the EU by the CRPD Committee took place in the middle of the 2014–2020 programming period, and recognises the difficulties in mainstreaming the new disability rights agenda arising from the COs for the EU in the mid-term reviews of strategies, policies, programmes and funding instruments. However, it recommends that the EC make the utmost efforts to mainstream and include the COs in these review processes and allocate the necessary resources for the implementation of their obligations under the UN CRPD.
- 1.7 The UN CRPD provides explicitly that the representative DPOs must be consulted and involved in the process of the Convention's implementation and monitoring. The EESC calls on the EC to

carry out a genuine and meaningful structured dialogue with the European Disability Movement (under Articles 4.3 and 33.3). In addition, the EC should establish a capacity building programme for DPOs to empower them to fulfil their fundamental duties.

- 1.8 The EESC considers that the cooperation and partnership of the EU institutions in the implementation of the UN CRPD is of utmost importance. Therefore, it recommends that an interinstitutional coordination mechanism should be put in place to facilitate the swift and smooth implementation of the COs and UN CRPD, including DPOs' consultation and involvement.
- 1.9 The COs require the EDS to be profoundly reviewed and revised. Therefore, the EESC asks the EC to take stock of developments in disability rights and broaden the scope of the EDS by introducing more areas of action and linking it to the review and revision of policies, programmes and funding instruments (e.g. Europe 2020, the Gender Equality Strategy, the Children Rights Strategy, EU external action commitments) with a clear implementation timeframe, budget and specific and precise benchmarks and indicators.
- 1.10 The EU has committed itself to implement fully the Sustainable Development Goals that are set out in the UN 2030 Agenda and needs to ensure that the COs and the UN CRPD provisions are fully taken into account by the EU, both internally and externally. Therefore, the EESC strongly recommends that the EC should include the implementation of the 2030 Agenda in the revised EDS by establishing European targets and actions in order to achieve all SDGs inside the EU also for PWDs.
- 1.11 The EESC strongly believes that the EU should prevent EU funding from being used for either the creation or the continuity of operation of institutionalisation structures. The EESC fully supports the use of EU funding to create community based services for PWDs in order for them to live independently in their communities. Institutionalisation of PWDs is a violation of their rights and the EESC urges the EC to promote deinstitutionalisation more systematically and effectively through specific policies, programmes and funding instruments.
- 1.12 The EESC calls on the EC to proceed immediately with the ratification of the optional protocol to the UN CRPD, the Marrakesh Treaty and the Istanbul Convention of the Council of Europe.
- 1.13 The EESC strongly proposes to the EC to establish focal points in all EC DGs, agencies and bodies, fully including and involving DPOs in the policy making process, in order to create horizontal and vertical structures that promote the full inclusion and mainstreaming of disability rights in EU law, policies and programmes.
- 1.14 The EESC believes that the EC should initiate the process in cooperation with other EU institutions, agencies and bodies to carefully prepare and develop the new 2020–2030 Global Disability Rights Agenda, which should be fully integrated and mainstreamed in the global social and macroeconomic strategies (e.g. the Europe 2020 and its implementing mechanisms), and recommends that a working group should be set up with the participation of all stakeholders and DPOs to carry out and implement this initiative. The EESC proposes that the EC should

start the implementation of the 2020-2030 Global Disability Rights Agenda with the European Year of Disability Rights 2021.

- 1.15 The EESC acknowledges the EC's positive initiatives in the field of accessibility, particularly the trilogue agreement on the Directive on the accessibility of public sectors bodies' websites and the EC's proposal on the European Accessibility Act (EAA), and urges the EU institutions to conclude negotiations. However, the EESC is concerned about the horizontal equal treatment directive and calls for the negotiations to be unblocked and for the COs and the UN CRPD to be taken into account in this new phase.
- 1.16 The EESC calls on all EU institutions to ensure that austerity measures do not affect the capacity of persons with disabilities to exercise their rights as enshrined in the CRPD, and therefore asks the EC to create the necessary social protection floors to achieve this goal and respect their right to an adequate standard of living and social protection as well.
- 1.17 The EESC asks the EC and EUROSTAT to develop statistical tools to measure the impact of the implementation of the UN CRPD on PWDs, at European and national level. It also considers that the collection of data based on a human rights approach to disability and disaggregated by disability, age and gender will have a positive influence on the development and implementation of EU law, policies and programmes.
- 1.18 The EESC acknowledges that the EU has competences to accompany national measures to ensure that all EU citizens are equal before the law, that not only are they not deprived of their legal capacity and rights but they are also able to take part in the European elections and all elections throughout the EU on an equal basis with others. Therefore, it calls on the EC and specifically on DG Justice to adopt a programme based on the Open Method of Coordination to facilitate the Member States' convergence towards the principle of equal recognition before the law.
- 1.19 The EESC engages itself to lead by example in the implementation of the specific obligations, highlighted by the UNCRPD Committee, to be fulfilled by the EU as a Public administration by ensuring that its human resources, EESC members' rights and communication facilities are in compliance with the UN CRPD.

2. Introduction

- 2.1 The EESC welcomes the COs issued by the UN CRPD¹ Committee, as they provide a comprehensive programme for the EU to shift its policy making towards a people-centred and human rights based approach to disability.
- 2.2 The EESC recalls that the draft proposal for an Equal Treatment Directive was submitted by the EC before the conclusion of the UN CPRD. Moreover, the negotiations between the European Parliament and the Council of the EU have progressively introduced amendments that are not in compliance with the UN CRPD obligations. Therefore, the EESC asks the EC to introduce, in

¹ [United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#).

the current inter-institutional negotiations, a proposal to adapt the draft proposed directive to comply with the UN CRPD and of course with the COs on the ground of disability, and include the prohibition of multiple and intersectional discrimination, and discrimination by association.

- 2.3 The EESC underlines that the austerity measures have had a negative impact on the living conditions of PWDs and their families. The levels of poverty, exclusion, discrimination and inequalities have been increased as a result of the economic crisis, which has become in many Member States a human rights crisis, leaving a large number of PWDs and their families completely unprotected. Therefore, the EESC calls on the EU to establish minimum social protection floors in order to protect the rights of PWDs and their adequate standard of living and social protection. This mechanism should be included in the European Semester process.
- 2.4 Furthermore, the UN CRPD Committee has recommended that the EU should create an overarching UN CRPD strategy applicable to all EU institutions with specific budget allocations integrated in the Multiannual Financial Framework. The EESC therefore considers that a high-level meeting of the leaders of EU institutions and bodies is needed to initiate the process of preparing and adopting an inter-institutional UN CRPD agenda with specific goals to be achieved and targets to be met. The overarching strategy should identify responsibilities for each EU institution for CRPD implementation.
- 2.5 There is a need for the EU to set up a genuine and meaningful structured dialogue with European representative organisations of PWDs (DPOs), ensuring both their capacity to effectively and meaningfully participate in EU law and policy making and also to proactively carry out their advocacy CRPD campaigns. Moreover, the EU needs to ensure that the DPOs have the financial capacity to support their work. Therefore, a budget line for DPOs' capacity building needs to be specifically established.
- 2.6 Overarching and transversal mainstreaming and implementation of the UN CRPD provisions by the EU and the development of a new EU CRPD agenda requires the creation of a participatory governance and partnership framework through which all main actors and stakeholders will be able to take part fully in policy making, together with the EU institutions, in an inclusive manner.
- 2.7 The European Commission should immediately and urgently undertake a mapping exercise and a gap analysis of all EU internal and external policies and programmes, ensuring that they comply with the CRPD provisions. In addition, all EU global strategies and policies need to comply with the COs, including the 2020 Strategy and the European Semester, European Pillar of Social Rights, the UN 2030 Agenda and funding instruments such as the ESIF.
- 2.8 It is of paramount importance that the implementation of the COs by the EU should be addressed at the highest political level. More specifically, the EC should include in its 2017 work programme a policy initiative specifically dedicated to this purpose. The full mainstreaming and integration of the COs in the EU policies and programmes requires that the EC draw up an overarching CRPD strategy. The EESC calls on the European Commission to initiate the process to achieve the overarching CRPD strategy as a matter of urgency with the full consultation and involvement of DPOs.

2.9 2021 will be the 10th anniversary of the conclusion of the UN CRPD by the EU. The EESC considers that this will be an appropriate year to be the second European Year of PWDs. The EESC notes that the first European Year of PWDs was organised by the EC in 2003. Therefore, the EESC proposes that the EU institutions begin preparing immediately and take the necessary steps to declare 2021 the second European Year of Disability Rights.

3. Concluding observations – an opportunity for a more inclusive EU for PWDs

3.1 General principles and obligations (Articles 1-4)

3.1.1 Although the EU has ratified the UN CRPD, the EU has still not undertaken a cross-cutting and comprehensive review of EU legislation, policies and programmes. The EESC calls on the EC to carry out this review urgently. In addition, the EC should appoint a UN CRPD focal point in each Directorate General, mandating to carry out this task.

3.1.2 It is regrettable that the EU has not ratified yet the Optional Protocol to the Convention. Therefore, the EESC calls on the EU to proceed without any further delay with the ratification of the optional protocol, paving the way for PWDs to make a complaint to the UN CRPD Committee in case of violation of their rights as enshrined in the Convention.

3.1.3 The human rights' approach to disability should be fully embraced and integrated in EU law and policy making. The EESC calls on the EU institutions' legal service to carry out a comprehensive study on the implications for the EU legal system of the ratification of the UN CRPD in order to place it as an adequate framework of law and policy making. The EU legal services are not taking sufficient account of EU obligations towards the UN CRPD.

3.1.4 The EESC calls on the EC Secretary-General to review the impact assessment guidelines and modify them to include a more comprehensive list of issues and questions in order to better assess compliance with the Convention.

3.1.5 The UN CRPD Committee has asked the EU to submit a review of the Declaration of Competences and its list of instruments by autumn 2016 taking into account the comprehensive view established in the Concluding Observation 17. The revision of the aforementioned declaration should take place at least once per term of office.

3.2 Specific rights (Articles 5-30)

3.2.1 The EC has not put in place an EU non-discrimination and equality strategy for PWDs which complies with the UN CRPD provisions and the COs, therefore the EESC calls on the EC to take immediate action regarding the horizontal equal treatment directive (see point 2.2) and also proceed to a review of the employment equal treatment directive 2000/78/EC.

3.2.2 The EC should include the perspective of women and girls with disabilities in its gender equality policy, including the data collection efforts of the European Gender Equality Institute. Moreover, the EC's strategic engagement for gender equality 2016-2019 and its legislative and

policy work on work-life balance should fully integrate the rights of women and girl with disabilities. The EESC calls on the EU to swiftly ratify the Council of Europe's Istanbul Convention.

- 3.2.3 The EU should include and integrate in the renewed EU Agenda for the Rights of the Child a comprehensive rights-based strategy for boys and girls with disabilities, and mainstream the rights of children with disabilities in all EU disability policy. Children with disabilities and their families should also be involved in all EU decision-making in compliance with Article 4.3 of the UN CRPD.
- 3.2.4 The EU should also recognise the specific situation of young people with disabilities and the fact that they often face multiple forms of discrimination in their daily lives, specifically regarding equal opportunities for young people in the labour market and active participation by young people with disabilities in society at large. The EU should therefore assess the specific situation of young people with disabilities living in the EU and suggest relevant improvements². Furthermore, the EU should make sure that this perspective is included in the next EU Youth Strategy.
- 3.2.5 The EU should organise and carry out a comprehensive campaign to raise awareness about the Convention in cooperation with public media (including social media) in order to combat prejudice against PWDs. It is of paramount importance that PWDs themselves participate, through their representative organisations, in this campaign.
- 3.2.6 The EU should promote, facilitate and finance the training for transport and tourism staff in awareness and disability equality, and encourage the collaboration and the exchange of good practice among the European organisations working in the disability field and public and private bodies responsible for transport. All materials related to capacity-building, training, awareness-raising and public statements, among others, should be made available in accessible formats.
- 3.2.7 The EESC welcomes the EC's proposal for the European Accessibility Act (EAA), which needs to comply fully with Article 9 and other provisions of the UN CRPD, together with effective and accessible national enforcement and complaint mechanisms. It calls on the EU institutions to take on board the conclusions and recommendations of the EESC opinion³ on the EAA and ensure the participation of PWDs, through their representative organisations, in the adoption process.
- 3.2.8 The EESC welcomes the inter-institutional agreement in the trilogue on the proposal for a directive on the accessibility of public sector bodies' websites and urges the institutions to convert this into a decision and the national governments to transpose the provisions of the proposal as a matter of urgency. The EESC is also welcomes that a substantial number of

² [OJ C 181, 21.06.2012, p. 2](#)

³ EESC opinion on "European Accessibility Act" (OJ not yet published).

recommendations adopted in its opinion⁴ have been incorporated in the final text of the Directive.

- 3.2.9 The EU has not yet substantially included sufficient measures for PWDs in the disaster risk reduction strategies. Therefore, the EESC calls for a framework for disaster risk reduction for PWDs in Europe to be adopted by the Council of the EU.
- 3.2.10 The EU should put in place all the necessary measures to make the 112 emergency number accessible to all. The EESC highlights the need that equally appropriate measures guaranteeing accessibility at national emergency points should be urgently taken.
- 3.2.11 The EESC calls on the EU and its Member States to adopt a human rights approach to migration and refugee policies, as regards PWDs. In addition, the EESC underlines that disability can quite often be a reason for persecution and discrimination in some countries and therefore it calls on the EU authorities to develop guidelines and carry out information campaigns (accessible to PWDs) for its agencies and Member States on disability, migration and asylum and systematically mainstream disability in EU migration and refugee policies.
- 3.2.12 The EU should embrace a human-rights-based approach to disability in situations of risk and emergency, by adopting an implementation plan in line with the Council's conclusions of February 2015 on disability-inclusive disaster management and the Sendai Framework. In addition, there is a need for the raising of awareness and the provision of information to PWDs and officials of emergency and civil protection services on disaster-risk reduction initiatives.
- 3.2.13 The EC should play a leading role in the area of justice and human rights of PWDs. The EESC calls for a European conference to be held by DG Justice, targeting all justice services in the EU, including a reflection on the rights to accessing justice of PWDs and the way these rights are connected with other rights, such as legal capacity and equal recognition before the law.
- 3.2.14 The EC should provide the necessary funding for training the EU and national justice officials in EU legislation and UN CRPD. In addition, the EESC urges the EU and national courts to apply their internal rules and instructions in a way that facilitate access to justice for PWDs. The General Recommendations of the UN CRPD Committee should also be taken into account in the administration of justice at both EU and national level. Moreover, the EESC recommends that the DG Justice should utilise the Open Method of Coordination in order to achieve a balanced and coordinated approach by the Member States to this very important issue, thus paving the way for a European response to equal recognition before the law. The EC should create European standards and promote benchmarking in access to justice.
- 3.2.15 The EESC calls on the EU institutions and the Member States to abolish discriminatory guardianship laws enabling all PWDs to exercise their political rights on an equal footing with others. It notes that reasonable accommodation and accessibility in respect to voting procedures, facilities and materials is indispensable.

⁴ [OJ C 271, 19.9.2013, p. 116](#)

- 3.2.16 Unfortunately, an unknown number of Europeans with disabilities are deprived of their liberty and security, and are subjected to forced treatment and detention, including forced sterilisation. The EESC calls on the EC to take effective measures to stop this unbearable situation, produce through Eurostat reliable data, and put in place an efficient assessment mechanism.
- 3.2.17 The EESC appeals to the EU to review its ethics guidelines regarding research, and in particular to set good practice examples by developing consent forms in accessible and easy-to-read formats and to prevent substituted decision-making in this area.
- 3.2.18 The EU should adopt legislation to harmonise protection and combat violence, abuse and exploitation, and to ratify the Council of Europe convention on preventing and combating domestic violence against women⁵. The EU needs to take European legislative and policy action against cross-border activities in EU countries involving trafficking of women and children with disabilities, and calls for the EU to combat violence against children with disabilities by means of specific measures and accessible support services.
- 3.2.19 The EC initiative on the European Pillar of Social Rights should fully integrate and mainstream the CRPD provisions and create the necessary social protection floor, and effective mechanisms to prevent and alleviate poverty, vulnerability and social exclusion among PWDs and their families, with special regard to women, children and older PWDs.
- 3.2.20 There is a clear need for the development of an EU social security benefits coordination system in the EU, including a clear framework for portability of rights with a maximum number of days for the disability recognition procedure.
- 3.2.21 The EU should elaborate and implement the long awaited and much wanted European Deinstitutionalisation⁶ strategy that should first and foremost include a very strict monitoring of the use of the ESIF funding to ensure that they are used strictly for the development of support services for PWDs to live independently in local communities. The EESC also calls for the creation of a self-sustained European De-institutionalisation Fund.
- 3.2.22 The EESC regrets that the EC has not yet produced an analysis of the impact of the ESIF on PWDs, in line with the obligation laid down by the European Social Fund regulation regarding annual reporting on the measures taken in the area of disability. It should include strengthening of the EC's monitoring of the use of the ESIF in line with the UN CRPD and in consultation with organisations representing PWDs, infringement procedures (suspension, withdrawal, recovery) launched by the EU for non-compliance with *ex-ante* conditionalities.
- 3.2.23 There is a need for more effective national enforcement bodies: their powers need to be harmonised and enhanced to facilitate the enforcement of passengers' rights on all modes of transport and the complaints procedure needs to be simplified. Furthermore, the EESC calls on

⁵ [Council of Europe conventions.](#)

⁶ [OJ C 332, p. 1, 8.10.2015](#)

the EC to guarantee free travel for carers in all modes of transport, including air travel, as is already the case under Regulation 1371/2007⁷ and Regulation 1177/2010⁸.

- 3.2.24 The EC should give full and immediate official recognition to sign language and Braille, and undertake an assessment of its communication channels and internal processes in order to produce and present information in an accessible manner for PWDs. This should include various accessible formats such as sign language, Braille and augmentative and alternative communication, including easy-to-read format. The EU should ensure that all PWDs, regardless of their financial capacity have access to inclusive education.
- 3.2.25 The EU should adopt a compulsory inclusive education exchange quality framework, establishing minimum accessible criteria to ensure mobility of all students, especially young students, with disabilities in the EU for secondary, tertiary and vocational training. All partner universities in the Erasmus student exchange programme should include accessibility to education programmes and facilities ensuring the full participation of all students, especially young students, with disabilities.
- 3.2.26 The EU should ratify the World Intellectual Property Organisation (WIPO) Marrakesh Treaty, facilitate and encourage its ratification at national level by Member States, thus allowing the free flow of accessible versions of printed material for persons with visual impairments and print disabilities.
- 3.2.27 The EESC calls on the EC to elaborate and implement a specific initiative on the application of Agenda 2030 and the Sustainable Development Goals for PWDs within the EU, and in its external policies including development cooperation and international trade.

3.3 **Specific obligations (Articles 31-33)**

- 3.3.1 The EESC urges Eurostat to organise a conference in order to agree on a unified mechanism for all EU Member States' statistical offices, providing follow up to CO 71. There is a need to create a European disability statistical human rights mechanism, disaggregated by disability, gender and age to collect operational information for European and national policies targeting PWDs.
- 3.3.2 The EC should systematically mainstream the rights of PWDs in all the EU's international cooperation policies and programmes. The EESC welcomes the EU pilot project "Bridging the gap" and calls for the adoption of a disability EU funding programme for the rights of PWDs. This funding programme should be implemented, as is the case in some European countries, in close cooperation with European DPOs as intermediate bodies, being responsible for directing, managing and defining policy and funding priorities. It is important to make sure that European funding is not provided for projects which do not comply with the UN CRPD provisions.

⁷ [OJ L 315, p. 14, 3.12.2007](#)

⁸ [OJ L 334, p. 1, 17.12.2010](#)

3.3.3 The EC needs to fully comply with the CO 75 by creating and establishing focal points in all Directorates-General, agencies and bodies. All focal points should hold at least three meetings every year, and representatives of DPOs should attend and fully participate. On 3 December every year, the EC should issue its annual report on the implementation of the UN CRPD by the EU and its Member States.

3.3.4 The EESC welcomes the EC's decision to withdraw from the independent monitoring framework, paving the way for the creation of a truly independent mechanism under the supervision of a governing body made up of the members of the independent framework. However, in order for the EU framework to be able to carry out its tasks effectively, financial and human resources should be allocated as a matter of urgency.

3.4 **Compliance of the EU institutions with the Convention (as public administrations)**

3.4.1 There is a very clear need for the EU institutions to revise their human resources policies and align them with the UN CRPD provisions in order to ensure that PWDs and workers with relatives with disabilities receive reasonable accommodation and support to be able to strike a proper balance between work and family obligations. The EESC calls on the EU to revise its joint sickness and insurance scheme, the pension system and the disability-related social security and social protection measures in order to ensure non-discrimination and equal opportunities for all PWDs, inter alia, by recognising disability-related health needs as being distinct from an illness and promoting independent living and working through the provision of full reimbursement of the additional cost of the necessary equipment or service.

3.4.2 It is crucial that all EU institutions proactively undertake initiatives to comply with the accessibility provisions of the Directive on access to public sector bodies' websites with a concrete deadline, setting a good example in this fundamental area of disability rights.

3.4.3 The EESC calls on the EC and the Board of Governors of the European schools to adopt a plan and allocate the necessary financial and human resources to developing and implementing an inclusive quality education system at all levels in the European schools, ensuring reasonable accommodation, support and a non-rejection policy for all students with disabilities in primary and secondary education.

3.4.4 Since the employment of PWDs in the EU is at a low level, the EESC calls on the EU institutions to put in place a positive action employment scheme (including specific competitions) to increase the number of PWDs employed in their services by providing reasonable accommodation and support. The implementation of this policy needs to be reviewed every two years in order to evaluate whether correction measures are needed.

3.4.5 The EESC asks the EU institutions, agencies and bodies to ensure that the existing staff regulations are fully and effectively implemented in line with the UNCRPD and that internal rules and implementing provisions are developed in full compliance with the Convention's provisions.

3.4.6 The EESC commits itself to developing a structure to implement the COs in-house, with regard to human resources policy, communication facilities with citizens and EESC members, and full inclusion and equality for EESC members with disabilities. It will also make sure that this is promoted in its relationships with the business community, trade unions and civil society. This new policy will be developed in close cooperation with its Permanent Study Group on Disability Rights.

Brussels, 19 October 2016

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The President of the European Economic and Social Committee
