



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

### II. Positive aspects

4. The Committee notes with appreciation that the EU is the first regional organisation to ratify a human rights treaty concluded under the auspices of the UN, thus setting a positive precedent in public international law. It notes the provisions of articles 21 and 26 of the Charter of Fundamental Rights of the European Union, explicitly prohibiting discrimination on grounds of disability and providing for equal participation of persons with disabilities in the 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 EU communication on post-2015 Sustainable Development Goals, the adoption by the Council of the European Union of conclusions on the inclusion of persons with disabilities in disaster management and its commitment to the Sendai Framework for Disaster Risk Reduction 2015-2030.
5. The Committee notes that for the 2014-20 programming period, the European Structural and Investment Funds (ESI Funds) Regulations contain provisions that reflect the entry into force of the Convention and enhance the promotion of equality, non-

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

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 failed to conduct a cross-cutting, comprehensive review of its legislation aimed at its harmonization with the Convention, and that a strategy on the implementation of the Convention across all its institutions is missing.

9. **The Committee recommends the European Union to conduct a cross-cutting, comprehensive review of its legislation in order to ensure full harmonization with the provisions of the Convention and to actively involve representative organisations of persons with disabilities and independent human rights institutions in this process. It further recommends adopting a strategy on the implementation of the Convention with an allocated budget, timeframe, as well as a monitoring mechanism.**

10. The Committee is concerned that the European Disability Strategy 2010-2020 has not had its mid-term assessment due in 2015, and there are no clear benchmarks and guidelines on how these Concluding Observations will be incorporated into the implementation of the second term 2016-2020.

11. **The Committee recommends that the European Union implement the mid-term assessment of the European Disability Strategy 2010-2020, and establish clear guidelines on the inclusion of these 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 issue relating to the 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 cross-cutting, overarching framework for the consultation between different authorities in the European Union, and persons with disabilities, including women, girls and boys with disabilities, through their representative organisations.

15. **The Committee recommends the European Union to take necessary measures to set up Structured Dialogue with an independent budget line and sufficient funding for coordination between European Union institutions, agencies and bodies, and for meaningful consultation with and participation of persons with disabilities, including women, girls and boys with disabilities, through their representative organisations.**

16. The Committee is concerned that the Declaration of Competence 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 those instruments that have no specific reference to disability 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 Directives 2000/43, 2004/113 and 2006/54 failed to explicitly prohibit discrimination based on disability and prescribe for duty to provide reasonable accommodation to persons with disabilities in the areas of social protection, health care, (re)habilitation, education and provision of goods and services, such as housing, transport and insurance.

19. **The Committee recommends that the European Union adopt its proposed horizontal Equal Treatment Directive extending protection from discrimination to persons with disabilities, including by the provision of reasonable accommodation, to all areas of competence. Furthermore, the Committee recommends that the European Union ensure discrimination in all aspects based on 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, programs and strategies, nor adopted a gender perspective in its disability strategies.

21. **The Committee recommends that the European Union mainstream women and girls with disabilities' perspective in its forthcoming Gender Equality Strategy, policies and programs, as well as a gender perspective in its disability strategies. It further 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. It further recommends that the European Union accede to the Council of Europe 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. It furthermore notes with concern the adverse effect austerity measures have on availability of support services in local communities for families with children with disabilities, 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 necessary measures, including through the use of ESI Funds and other relevant European Union funds, develop support services in local communities for boys and girls with disabilities and their families, foster deinstitutionalisation and prevent any new institutionalisation, and promote social inclusion and access to mainstream inclusive quality education for boys and girls with disabilities. It further recommends that the renewed Agenda on 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 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, that boys and girls with disabilities are not systematically involved in decisions that affect their lives and do not 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 organisations be consulted in all matters affecting them — with appropriate assistance provided, according to their disability and age.**

#### **Awareness-raising (art. 8)**

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

**27. The Committee recommends that the European Union develop a comprehensive campaign to raise awareness of the Convention 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 and training, awareness raising, public statements and other, be made accessible.**

#### **Accessibility (art. 9)**

28. The Committee is concerned that a 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.

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

#### **Situations of risk and humanitarian emergencies (art. 11)**

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

**31. The Committee recommends that the European Union take necessary measures to ensure that 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 programs 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 as well as the lack of

mechanisms to share knowledge and good practices in line with the Convention between different European Union institutions and between European Union Member States.

33. **The Committee recommends that the European Union: (a) Adopt an implementation plan, in line with the Council Conclusions of February 2015 and the Sendai Framework for Disaster Risk Reduction 2015-2030; (b) Establish a mechanism to build capacity and share good practice between different European Union institutions and between the European Union and 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 disaggregated data on 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 furthermore 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 accommodations. The migration decision-making procedure is not accessible for all persons with disabilities and information and communication is not provided in accessible formats.

35. **The Committee recommends that the European Union mainstream disability in its migration and refugee policies. In addition, the Committee recommends that the European Union issue guidelines to its agencies and Member States that restrictive detention of persons with disabilities for migration and asylum seeking purposes is not aligned to the Convention.**

#### **Equal recognition before the law (art. 12)**

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

37. **The Committee recommends that the European Union take appropriate measures to ensure that all persons with disabilities deprived of their legal capacity can exercise all the rights enshrined in European Union treaties and in European Union legislation such as on access to justice, to goods and services, including banking and employment, and to healthcare, as well as voting and consumer rights, in line with the Convention, as elaborated in the Committee's general comment No. 1 (2014) on equal recognition before the law. It further 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 organisations of persons with disabilities.**

#### **Access to Justice (art. 13)**

38. The Committee is concerned about the discrimination persons with disabilities face in accessing justice due to lack of procedural accommodation in European Union Member States.

39. **The Committee recommends that the European Union take appropriate action to combat discrimination persons with disabilities face in accessing justice by providing full procedural accommodation within its Member States, and the provision of funding for training of justice personnel on the Convention.**

#### **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 which ensure that all persons with disabilities involved in such research are enabled to give informed consent.

43. **The Committee recommends that the European Union review its ethics guidelines on research in this regard 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 with disabilities are subjected to violence, abuse and exploitation, especially in institutional settings.

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

**Protecting the integrity of the person (art. 17)**

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

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

**Freedom of movement (art.18)**

48. The Committee is concerned at the barriers faced by persons with disabilities and workers 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 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 local communities. It further notes that in spite of changes in regulations, in different Member States the ESI Funds continue being used for maintenance of residential institutions rather than for 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 deinstitutionalisation, to strengthen the monitoring of the use of ESI Funds - to ensure they are being used strictly for the development of support services for persons with disabilities in local communities and not the re-development or expansion of institutions. It further 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 practice 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 restricts the enjoyment of rights of passengers with disabilities.

53. **The Committee recommends that the European Union strengthen the monitoring of the implementation of passenger rights' legislation and to harmonise the work of the National Enforcement Bodies in order to ensure the effective and equal enjoyment of rights of all passengers with disabilities across the European Union, including the implementation of the European Mobility Card. It further recommends that the European Union harmonise its existing passenger rights' legislation to be in line with regulations concerning maritime passengers' rights.**

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

54. The Committee is concerned that across the European Union persons with disabilities cannot always access information and communication in accessible formats and technologies appropriate to different kinds of disabilities, including in 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 measures and enforce the implementation of its legislation on access to information and communication to facilitate access in accessible languages, formats and technologies appropriate to different kinds of disabilities, including in 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 measures to ensure that its economic and social policy and its recommendations promote support to 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 is further concerned that equal rights for women, for mothers, for fathers, and for children and adults with disabilities are not adequately addressed in European Union work and life-balance policy.

59. **The Committee recommends that the European Union ensure that people with disabilities and families of persons with disabilities be included in the newly announced roadmap "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 target on education.**

**Health (art. 25)**

62. The Committee is concerned that disability-based discrimination is not explicitly prohibited in the field of health care. It furthermore notes the barriers persons with disabilities face in accessing health care in different Member States.

63. **The Committee recommends that the European Union explicitly prohibit disability-based discrimination 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 further recommends that the European Union evaluate the impact of its Cross-Border Healthcare Directive 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 groups of population in the European Union.

65. **The Committee recommends that the European Union take effective actions to measure the employment of persons with disabilities and to increase their employment rate in 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 the austerity measures in the EU 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 organisations of persons with disabilities, to prevent further adverse and retrogressive effect of austerity measures on the adequate standard of living of persons with disabilities, including by the provision of a minimum social protection floor.**

**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 participation in elections is not fully accessible.

69. **The Committee recommends that the European Union take measures, in cooperation with its Member States and representative organisations 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 elections, including by the provision of 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 allows access to published material to blind persons, persons with visual impairments or print disabilities in accessing printed materials.

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/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 amongst the European Union institutions, as well as the lack of disability focal points. It is also concerned that European Union international development funding is utilized 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 harmonised 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, to appoint disability focal points in related institutions, and take the lead in the implementation of disability-inclusive 'Sustainable Development Goals'. The Committee further recommends that the European Union identify and put in place mechanisms to disaggregate data on disability to monitor the rights of persons with disabilities in European Union development programmes. The Committee recommends that the European Union interrupt any international development funding that is being used to perpetuate the**

**segregation of persons with disabilities, and reallocate 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 is adequately resourced. Moreover, the European Commission is designated as both the focal point (art. 33.1) and part of the monitoring framework (art. 33.2).

**77. The Committee recommends that the European Union take measures to decouple the European Commission's roles - by its removal from the independent monitoring framework - to ensure full compliance with the Paris principles, and that the latter has adequate resources to perform its functions. It further recommends that the European Union consider the establishment of an inter-institutional coordination mechanism and designation of focal points in each EU institution, agency and body.**

**D. EU 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 EU 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 necessary measures to ensure that all employees 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 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, physical, procedural, including those relating to legal capacity, at European courts.**

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

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

**83. The Committee recommends that the European Union take necessary measures to ensure full application of web accessibility standards to 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 of persons with disabilities' choice, including in easy-to-read format, in official interactions.**

**Education (art. 24)**

84. The Committee is concerned that not all students with disabilities receive the reasonable accommodation they need to enjoy their right to inclusive quality education in European Schools in line with the Convention, and that the latter do not comply with the non-rejection clause. It is further 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 necessary measures to ensure that all students with disabilities receive the reasonable accommodation they need to enjoy their right to inclusive quality education in European Schools. It recommends European Schools to implement a no-rejection policy based on disability and ensure quality inclusive education for all students with disabilities.**

**Health (art. 25)**

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

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

**Work and employment (Art.27)**

88. The Committee is concerned that European Union institutions do not play a role model with regard to employment of persons with disabilities.

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

**Follow-up and dissemination**

90. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information in writing on the measures taken to implement the Committee's recommendations as set forth in **paragraphs 17, 29, and 77** above (Declaration of competence, European Accessibility Act & Monitoring mechanism).

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

92. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

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

**Next report**

94. The Committee requests the State party to submit its **2<sup>nd</sup> and 3<sup>rd</sup> reports no later than 23 January 2019**, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports 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 set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.

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