



ENIL short analysis of the Concluding Observations from the UNCRPD expert committee on the EU

For the 1st time in history, the EU was examined by a UN human rights treaty body and received recommendations to strengthen their approach to the rights of persons with disabilities in Europe.

On 27 and 28 of August, the European Union was examined for the first time by a UN human rights committee (CO) in Geneva- the expert committee on the rights of persons with disabilities. Having ratified the UN Convention on the Rights of Persons with Disabilities in 2010, the EU was called to present its progress on the implementation of the Convention.

ENIL was present for the EU review in Geneva to witness a historical and constructive dialogue between the UN and the EU.

The concluding observations and recommendations from the UN Committee were recently published (on September 7th) and stipulate how the EU should promote and protect the rights of disabled people in Europe in areas including: freedom of movement, non-discrimination, independent living, education, employment, legal capacity, etc.

The UN's concluding observations to the EU can be found on the UN website:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1&Lang=en

The Freedom Drive is one of the first opportunities for MEPs to discuss the Concluding Observations with disability activists. This document is very relevant and should guide all EU institutions, including the Parliament, on disability related policy.

Within one year the UN requires the EU to provide feedback on:

- The progress in its independent monitoring mechanism.
- The adoption of the long awaited European Accessibility Act.
- The review of its Declaration of competences (this means the EU should update policy areas to apply with the Convention).

Within 4 years the UN committee will carry out a follow-up review. During this review the EU will have to explain which steps have been taken to implement the recommendations. The next progress report is to be submitted by January 2019. ENIL will continue working actively to promote Independent Living and the Convention based on the UN's concluding observations and the first-hand experience of our members throughout Europe.



Important actions the EU should take:

1. The CO gives clear guidelines in its review on the implementation of **Article 4 ‘general principles and obligations’ CRPD**:
 - To conduct a cross cutting comprehensive review of legislation to ensure full harmonisation with the CRPD and involve DPOs and NHRIs in this process
 - This means that the EU should modify or abolish all existing instruments that are contradictory with the CRPD.
 - The impact assessment guidelines to be reviewed and modified in order to include a more comprehensive list of questions (currently there is only one question) to better assess compliance with the Convention.
 - This means that the EU should include a comprehensive list of questions in the “Better Regulation guidelines and toolbox” to adequately assess whether proposed legislation and policies are compliant with the Convention and all its provisions.
 - To adopt a comprehensive strategy to implement the Convention across all EU institutions and Member States with budget, timeframe and a monitoring mechanism.
 - To undertake a mid-term review of the European Disability Strategy 2010-2020, making a link with the CO, and close consult with DPOs in this exercise.
 - To set up a structured dialogue for persons with disabilities and their representative organisations in all EU decision making processes, with an independent budget and sufficient funding for consultation with and the participation of persons with disabilities.
2. The Committee recommends the EU to designate **focal points in all EU institutions**, bodies and agencies, and the establishment of an **inter-institutional coordination mechanism** for the implementation of the Convention (Article 33, 1 CRPD).
3. The CO calls on the EU to adopt **equal treatment** legislation extending protection against discrimination of persons with disabilities, including prohibiting multiple and intersectional discrimination to all areas of its competence
 - This means that the EU should prohibit discrimination based on disability and include the duty to provide reasonable accommodation in the areas of social protection (health care, (re)habilitation, education and provision of goods and services, such as housing, transport and insurance) (Article 5 CRPD).
4. The CO calls on the EU to mainstream **women and children with disabilities’ rights** in EU’s upcoming Gender Equality Strategy. The position of woman and children with disabilities should also be taken into account in the policy on work-life balance and the upcoming EU Agenda on the rights of the child. The EU should also reaffirm its commitment by ratifying the Council of Europe’s Istanbul Convention (Articles 6 and 7 CRPD).



5. The CO calls on the EU to run a **campaign to raise awareness** of the Convention and to combat prejudice against persons with disabilities. All materials related to training and capacity building, awareness raising, public statements and other should be made accessible. (Article 8 CRPD)
6. The CO recommends the EU to ensure that all persons with disabilities currently deprived of their **legal capacity** can exercise all rights enshrined in EU Treaties and EU legislation. Those rights include access to justice and goods and services (including bank and employment services), health care and **voting rights**. The EU should also promote research, data collection and exchange of good practices on supported decision making in consultation with representative organisations of persons with disabilities (Article 12 CRPD). With regards to voting rights, the EU should provide accessible communication and facilities in cooperation with the Member States and DPOs (Article 29 CRPD).
7. The EU has to take action to guarantee **access to justice, prohibit involuntary detention and treatment, including forced sterilisation and abortion**, and include the disability perspective in EU policy on **violence, abuse and exploitation** (Articles 13 to 17 CRPD)
 - this means that in all EU legislation, policy, research and funding programmes on justice, health, violence, abuse and trafficking the perspective and needs of persons with disabilities need to be taken into account.
8. The EU has to ensure immediately the **freedom of movement** of persons with disabilities and their families, including the portability of social security benefits for workers with disabilities and for short-term stays in other Member States for students or interns (Article 18 CRPD).
9. The Committee recommends the EU to develop an approach to guide Member states' efforts of **deinstitutionalisation** and to strengthen the monitoring of the use of the European Structural & Investment Funds with the meaningful engagement of representative organisations of persons with disabilities. The funds should be used strictly for the development of support services for persons with disabilities in local communities and not the re-development or expansion of institutions. The EU should suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached (Article 19 CRPD).
10. The EU should 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** (Article 28 CRPD).
11. The Committee recommends the EU to adopt EU disability-inclusive policy on **humanitarian aid and international cooperation** (Article 11 and 32 CRPD).
12. In relation to the EU public administration, the Committee recommends the EU to guarantee access for all children with disabilities to **inclusive and quality education in European schools**, and to apply a human rights based approach to disability in the **EU health care coverage**.