



ALTERNATIVE REPORT TO THE UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES



EDF ALTERNATIVE REPORT ON THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

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Endorsed by

European Women's Lobby

ILGA Europe, the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association

AGE Platform Europe

International Disability and Development Consortium

European Foundation Centre, European Consortium of Foundations on Human Rights and Disability

Mental Disability Advocacy Center

European Association of Service Providers for persons with disabilities



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ABBREVIATIONS

COHOM	Council's working group on human rights
CTO	Community treatment order
DPO	Disabled People's Organisation
ECHR	European Convention on Human Rights
EDF	European Disability Forum
EAA	European Accessibility Act
EPSO	European Personnel Selection Office
EURES	European job mobility panel
EU-SILC	EU statistics on income and living conditions
FREMP	Council's working group on fundamental rights, citizens' rights and free movement of persons
ICT	Information and communications technology
IDA	International Disability Alliance
JSIS	EU Joint sickness and insurance scheme
LGBTI	Lesbian, gay, bisexual, transgender and intersex
MDGs	Millennium Development Goals
SEN	Special educational needs
SSGI	Social services of general interest
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN CRPD	United Nations Convention on the Rights of Persons with Disabilities



A. INTRODUCTION

1. Context

This alternative report is submitted by the European Disability Forum (EDF) on the occasion of the European Union's first report to the UN Committee on the Rights of Persons with Disabilities.

EDF is the European umbrella organisation representing the interests of 80 million persons with disabilities in Europe. The mission of EDF is to ensure persons with disabilities have full access to fundamental and human rights through their active involvement in policy development and implementation in Europe. EDF is a member of the International Disability Alliance (IDA) and works closely with European institutions, the Council of Europe and the United Nations.

The purpose of EDF's alternative report is to inform the UN CRPD Committee how the UN Convention on the Rights of Persons with Disabilities (UN CRPD) has been implemented by the European Union and its institutions, agencies and bodies. This report based its analysis on the gaps in the EU 'Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities by the European Union' of 5 June 2014 (hereafter: the EU CRPD Report) and seeks to complement it where relevant with information received by EDF members and partner organisations.

EDF's report is divided into two parts: the first part examines the implementation of the UN CRPD in the EU's legislative and policy work in general and the second part considers the internal implementation of the CRPD by the EU as a public administration. For each article, the report lists the main concerns and provides recommendations to improve implementation of the CRPD in the EU.

2. Methodology

This report has been written by the EDF secretariat on the basis of input received from its members and other civil society organisations through a questionnaire sent out in May 2013, contributions received on specific articles in May 2014 (contributors are listed below) and during hearings organised by EDF and the European Economic and Social Committee in the



course of 2013 and 2014. Consultations for feedback on the draft versions of the report took place between July and December 2014. These consultations closely involved the EDF Executive Committee, the Board of Directors, the larger EDF membership and interested civil society organisations. The comments received are included in the final version of the report. The report was compiled and coordinated by former EDF Director Carlotta Besozzi (until 15 October 2014), Acting Director Javier Güemes (October until December 2014), current EDF director Catherine Naughton and Human Rights Officer An-Sofie Leenknecht.

It should be noted that the EU CRPD Report is a Commission staff working document. This report has not received political endorsement from other EU institutions and the Commission itself since it has only been adopted at the administrative level of the European Commission.

B. CITIZENS' SUMMARY

EDF's report examines the European Union's implementation of the Convention on the Rights of Persons with Disabilities (UN CRPD). The report is divided into two parts: the first part examines the implementation of the Convention in its policy work and the second part looks at the internal implementation of the Convention by the EU as a public administration. For each article, the report lists the main concerns and provides recommendations for improving implementation within the EU.

As an introductory remark, EDF's alternative report highlights that the overall purpose of the UN CRPD - to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities - has not been realised today in the European Union. Freedom of movement, as one of the key principles and rights of all EU citizens, is not being met for persons with disabilities or their families in the EU. Persons with disabilities are still discriminated against in many areas of life and since the financial and economic crisis, are experiencing increased poverty and social exclusion.

EDF's main concerns and recommendations are as follows:

1. The EU does not have a specific strategy aimed at the overall implementation of the UN CRPD by all EU institutions. The main strategy on which the EU relies is the European Disability Strategy 2010-2020 which is limited in scope, lacks funding for its implementation and does not contribute to reaching the targets on employment, social inclusion and poverty reduction for persons with disabilities foreseen in the Europe 2020 Strategy.



→ We call for the development of a European Disability Pact to be included in the Europe 2020 Strategy as a horizontal flagship calling for the employment, social inclusion and poverty reduction of persons with disabilities, supported by a sufficient financial allocation.

2. The Commission-funded study on challenges and good practices in the implementation of the UN CRPD did not amount to a review of existing EU legislation and policy to establish compatibility with the CRPD.

→ We call for a comprehensive screening exercise to be carried out of all EU instruments, including those instruments which do not mention persons with disabilities. If necessary, existing instruments should be modified or abolished in order to ensure full compliance with the UN CRPD. The outcomes of the screening process should be made publicly available and disseminated in accessible formats.

3. The impact assessment guidelines of the Commission pre-date the UN CRPD and do not adequately assess if policies are UN CRPD compliant.

→ We call for the impact assessment guidelines to include a mandatory tool and adequate methodology to ensure that all EU legislation and initiatives are UN CRPD compliant.

4. Existing EU legislation relating to the rights of persons with disabilities, such as the Employment Equality Directive and the EU package of Passenger Rights, lack effective implementation and enforcement.

→ We call for the EU to ensure effective implementation and enforcement of current and upcoming EU legislation and its compliance with the UN CRPD.

5. There is no clearly structured or documented process for the consultation of persons with disabilities and their representative organisations. Consultation continues to be ad hoc across all institutions.

→ We call for the EU to develop a code of conduct for consultation and involvement of persons with disabilities and their representative organisations, inclusive of women, men, girls and boys and older persons with disabilities in all decision-making processes of the EU institutions. This code of conduct should pay particular attention on how to consult and involve persons with intellectual and psychosocial disabilities.



6. EU anti-discrimination legislation is inconsistent in its scope and creates a hierarchy between the different grounds for discrimination. Persons with disabilities are only protected against discrimination in employment and vocational training.

→ We call for the EU to adopt the proposed Article 19 Directive which aims to protect persons with disabilities against discrimination in social protection (including social security and social advantages), health care and (re)habilitation, social, education, as well as access to and supply of goods and services, such as housing, transport and insurance; it should also take specific account of multiple and intersectional discrimination and ensure compliance with the UN CRPD, in particular the recognition that the denial of reasonable accommodation is a form of discrimination. This Directive should put in place strong mechanisms for sanctions and remedies to punish non-compliance with higher penalties and injunctive reliefs in cases of multiple and intersectional discrimination.

7. To date there has been no campaign either in the EU or within EU institutions to raise awareness of the rights of persons with disabilities and the UN CRPD.

→ We call for the EU to launch an accessible, visible, well-organised and resourced public campaign to raise awareness on persons with disabilities' rights and their ability to live and work in society, including those of women and girls with disabilities. This campaign should communicate a real, positive and inclusive image of all persons with disabilities, as well as the diversity existing among them.

8. The inaccessibility of goods and services prevents persons with disabilities from participating actively and fully in the internal market of the EU and moreover, it deprives them of one of the basic freedoms under EU Treaties: the freedom of movement.

→ We call for the EU to publish and swiftly adopt the European Accessibility Act covering a maximum of policy areas including transport, the built environment, emergency services, and information and communication technologies (ICT) amongst others. In order to guarantee its effectiveness, it should have the form of a legally binding Directive and should provide for coherent enforcement and a complaint mechanism.

9. Persons with disabilities, whose legal capacity has been denied or limited, are unable to enjoy and exercise an array of rights that come from EU law, such as the right to a fair trial, to decide where to live, to sign employment or commercial contracts, to make financial transactions, or to vote in European and local elections.



→ We call for the adoption of a Communication to Member States on the implementation of EU legislation on access to justice, access to good and services, including banking and employment, as well as health, voting and consumer rights provisions in line with Article 12 of the UN CRPD. It should clearly prohibit discrimination in exercising rights and accessing these services on the basis of disability and/or legal capacity status and ensure informed consent.

10. Some Member States have used Structural Funds to maintain and promote a system of institutional care, rather than developing community-based alternatives in line with the UN CRPD. This results in the continuation of human rights violations in institutions within the European Union.

→ We call for the EU to fund services which make it possible for all persons with disabilities, including persons with psychosocial disabilities to live independently in the community, and to withdraw funding for projects which perpetuate the institutionalisation and segregation of persons with disabilities. The Commission should support the development of national plans for the transition from institutional to community-based living that should include a moratorium on new admissions and individual care plans for every person and child concerned.

11. Persons with disabilities cannot transfer their social security benefits from their Member State of origin when they move to a different Member State temporarily which limits their EU's citizenship right to move freely within the EU. Even when they move to a different Member State permanently, they often have difficulties in getting their disability status recognised and face additional bureaucratic burdens.

→ We call for the EU to promote a stronger coordination of social security systems among EU Member States to ensure and facilitate the transfer of social protection, disability and personal assistance benefits to another Member State in order that EU citizens can exercise their right to freedom of movement.

12. Very little reliable data on persons with disabilities is available at EU level. A precise assessment of the situation of persons with disabilities across Europe is therefore not possible.

→ We call for the EU to collect and disseminate disability statistical data, disaggregated by age and gender, for monitoring the situation of persons with disabilities across the EU in all areas of daily life, not only in the field of employment. It should also be ensured that when data is collected it is disaggregated by disability.



13. Although the EU is the largest donor in the field of international cooperation, it has not yet undertaken all appropriate measures to enhance EU disability-inclusive development policies and programmes. This creates incoherence in policies and programmes established with European funds and can create more barriers for persons with disabilities in the world. Furthermore, the perspective of persons with disabilities, in particular of women and girls with disabilities is not included in EU development policies.

→ We call for the adoption of an EU Disability and Development Policy and Action Plan, which takes account of the perspective of women and girls with disabilities and recognises that international cooperation is a significant tool in the promotion of the UN CRPD. The representative organisations of persons with disabilities must be involved in the design, implementation and monitoring of the action plan. In addition, the EU should take appropriate steps to mobilise resources to identify disability markers and investigate the feasibility of their implementation in all EU funded projects. This should include a systematic assessment of the UN CRPD compliance of projects in EU Development Cooperation awarding and evaluating mechanisms.

14. The involvement of the CRPD focal point, the Commission's Unit on the Rights of Persons with Disabilities, in the EU Monitoring Framework contradicts Article 33, 2 of the UN CRPD and the Paris Principles. The same unit, and the same officials, are simultaneously the focal point, and part of the Framework. In addition, the Framework does not have the capacity or resources to carry out activities and to produce documents on its own initiative.

→ We call for the EU to ensure that the established Monitoring Framework is able to promote, protect and monitor the UN CRPD in conformity with the Paris Principles, in particular its criteria of independence and allocation of sufficient financial and human resources.

To conclude, we expect the European Union to show the best possible example on the implementation of the UN CRPD. We call on the EU to fully and actively examine which actions it can take to implement the CRPD, with the meaningful and close involvement of persons with disabilities and their representative organisations.

C. GENERAL PROVISIONS OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES



Article 1: Purpose

To date, the overall purpose of the UN CRPD has not been realised in the European Union.

The European Disability Strategy 2010-2020 was adopted before the conclusion of the CRPD by the EU. The Strategy does not, therefore, look at the overall implementation of the UN CRPD by all EU institutions. Moreover, no funding was allocated for the implementation of the Disability Strategy.

The European Disability Strategy builds on a variety of EU disability policy instruments that have been developed since 1996 and is linked to the Europe 2020 Strategy¹ for a smart, sustainable and inclusive Europe. However, the European Disability Strategy did not contribute to reaching the targets on employment, social inclusion and poverty reduction for persons with disabilities as foreseen in the Europe 2020 Strategy. Despite the existing range of EU activities over the past 15 years, improvement in the human rights situation of persons with disabilities has been slow². Freedom of movement, as one of the key principles and rights of all EU citizens³ is not being met for persons with disabilities or their families in the EU. Persons with disabilities are still discriminated against in many areas of life and since the financial and economic crisis, have experienced increased poverty and social exclusion. Moreover, the European Semester process to redress macro-economic indicators in the Council of the European Union has in some cases undermined the implementation of the UN CRPD in Member States.

The model of the EU Pact for Gender Equality 2011-2020 is a good example for the development of a European Disability Pact which could be included in the Europe 2020 Strategy as a horizontal flagship calling for the employment, social inclusion and poverty reduction of persons with disabilities.

There is still resistance to the adoption of a human rights based approach to disability policy at EU and Member States' level, with particular concern for the impact this might have on social protection policies and economies⁴.

Concept of disability

The EU's 'Report on the implementation of the UN Convention on the Rights of Persons with Disabilities by the European Union' of 5 June 2014 (hereafter: the EU CRPD Report), notes that EU Treaties and the Charter of Fundamental Rights do not provide a harmonised concept



of disability and persons with disabilities. Each EU Member State uses a different definition of disability and varying criteria. Disparities in definitions cause inequalities for some groups and undermine their right to freedom of movement as enshrined in the EU Treaties, for example students with disabilities who wish to move from one country to another, employees with disabilities, and families who have children with disabilities. Accommodations made in one country are not necessarily available in other countries.

The European Disability Strategy refers to Article 1 of the UN CRPD. However the Convention's human rights model of disability is not reflected across the different EU law and policy sectors. Too often, persons with disabilities are still seen as 'vulnerable' people, for example in EU consumer policy⁵, EU civil and criminal justice policy⁶ or as 'patients' in EU research policy⁷. The European Court of Justice, despite recent improvements, is still reluctant to apply the human rights model of disability to its reasoning⁸.

In addition, when EU law or policies refer to initiatives in favour of persons with disabilities, some EU member states restrict these initiatives to an administrative medical recognition/certification of a certain degree of disability which does not always include every person with a disability in the meaning of the CRPD's concept.⁹ Lastly, the EU Report uses language which is not in line with the CRPD such as 'mental disturbance' or 'mental retardation'¹⁰.

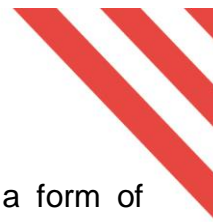
We call for

- A European Disability Pact¹¹ to be included in the Europe 2020 Strategy as a horizontal flagship¹² calling for the employment, social inclusion and poverty reduction of persons with disabilities, and supported by sufficient funding, on the model of the EU Pact for Gender Equality 2011-2020¹³;
- An EU Recommendation to ensure that a European Human Rights approach on disability is applied by the EU and its Member States when implementing all EU law and policy relevant to persons with disabilities¹⁴.

Article 2: Definitions

Denial of reasonable accommodation constitutes discrimination

The 2000 Employment Equality Directive¹⁵ defines four types of discrimination in employment.



The denial of providing reasonable accommodation is however not defined as a form of discrimination in the Directive. As recognised by the European Court of Justice¹⁶, reasonable accommodation plays an essential role in combating disability based discrimination and there is a need for this form of discrimination to be made explicit in the Directive for increased compliance with Articles 2 and 5 CRPD. For more information, please see the section under Article 5 CRPD of this report.

We call for

- The EU to issue a Recommendation to Member States to interpret the definition of denial of reasonable accommodation in the Employment Equality Directive 2000/78 in light of the CRPD and therefore as a form of disability based discrimination.

Article 3: General principles

The CRPD's general principles are not considered in any legislative initiative or specific actions taken by the European Commission. The EU has no specific tool to assess existing and new legislation, policies or actions in the light of the CCRPD's general principles and its substantive articles. The diversity of disability or of other factors such as age, ethnicity, sexual orientation, is not taken into consideration.

Article 4: General obligations

Article 4, 1 (a), (b) and (c): ensuring compliance of EU legislation and policy with CRPD

The Commission now uses impact assessment guidelines¹⁷ to assess the potential impact of different policy options¹⁸. However, the impact assessment guidelines pre-date the CRPD and do not adequately address whether policies are CRPD compliant.

As mentioned in the EU CRPD Report, the European Commission has funded a wide ranging 'Study on challenges and good practices in the implementation of the UN CRPD'¹⁹. However, that study did not amount to a review of EU legislation and policy to establish compatibility with the Convention.

Upon concluding the UN CRPD, the EU produced a Declaration of Competences which includes a list of EU instruments that refer to matters governed by the CRPD²⁰. However, this



list is not complete since it does not include instruments which do not refer directly to disability but which, by their impact on the enjoyment of the rights of persons with disabilities, should have been included, because the EU has competence in that area. In addition, since the list's adoption in 2009, new legislation has been adopted that governs matters related to the Convention and the Treaty of Lisbon²¹, which includes two explicit references to disability²², has also entered into force

Moreover, existing EU law relating to the rights of persons with disabilities, such as the Employment Equality Directive and the EU package of Passenger Rights, lack effective implementation and enforcement.

We call for

- The impact assessment guidelines to include a mandatory tool and adequate methodology to ensure that all EU legislations and initiatives are UN CRPD compliant;
- A reference to the UN CRPD in all main texts of Regulations and Directives;
- A comprehensive screening exercise of all EU instruments, including those instruments which do not mention disability, to be carried out. If necessary, existing instruments should be modified or abolished in order to ensure full compliance with the UN CRPD²³. The outcomes of the screening process should be made publicly available and disseminated in accessible formats;
- The completion and ongoing update of the illustrative list of EU instruments, which is an appendix to the Declaration of Competences, to include all existing and new EU legislation and policy referring to, and relevant to, the implementation of the UN CRPD;
- The EU to ensure the effective implementation and enforcement of current and upcoming EU legislation and its compliance with the UN CRPD;
- The EU to include persons with disabilities and to ensure compliance with the UN CRPD when undertaking and funding training seminars for professionals and staff working with persons with disabilities in the EU.

Article 4, 1 (f): Standardisation and research

Based on the legal premise of an internal single market in which there cannot be conflicting standards, in 2012, EU co-legislators adopted an updated 2012 Regulation on European Standardisation²⁴. Despite the references to the UN CRPD and persons with disabilities in



recitals 19, 22 and 24, it does not explicitly ensure that European Standards will promote universal design, and that “exclusion clauses” on the ground of disability are prohibited²⁵.

Furthermore and contradicting the spirit of Article 4.3 of the UN CRPD, the Regulation does not establish an effective representation and participation mechanism for persons with disabilities and their representative organisations on an equal basis with other stakeholders in the development of standards and does not require the European Standardisation Organisations to make the standardisation process accessible (buildings, meetings, materials etc. The result of this has been that even in the development of European Standards funded by the EU and targeting persons with disabilities, such as under Mandate 376 (accessibility requirements of ICT products and services), users’ organisations had only “observer” status, without voting rights inside the European Standardisation Organisations and were excluded from final decisions²⁶. Finally, there have not been any initiatives from EU institutions to build the capacity of organisations of persons with disabilities to participate in standardisation.

Even though the EU has indeed funded research projects in the field of disability, there is still a predominant medical, therapeutic and rehabilitation-oriented approach that has been pointed out by some studies²⁷, although there are now an increasing number of projects focusing on equality, non-discrimination and accessibility as well. However, the new EU Research & Innovation Framework Horizon 2020 (2014-2020)²⁸ does not address disability from a human rights perspective and the accessibility and universal design perspective is not mainstreamed in the work programmes. In addition, there is no specific requirement for projects to use accessible means of information and communication. Further, research on gender equality has not taken into consideration the intersectional discrimination that women and girls with disabilities face.

We call for

- Accessibility and universal design, as well as the gender perspective, to be mainstreamed in all EU-funded research and innovation programmes, and to be part of the award criteria to fund projects in order to avoid the creation of new barriers for persons with disabilities;
- The reform of the European Regulation on Standardisation in order to set up a binding pre-requisite of a universal design approach, as well as to ensure the participation of persons with disabilities and their representative organisations on an equal basis with other stakeholders, especially if the standard is mandated in support of EU legislation. This participation will also entail that the drafting process of Standards is accessible



and that there are appropriate resources to build the capacity of Disabled People's Organisations (hereafter: DPOs) to get involved in standardisation initiatives at national, EU and international level;

- EU funding mechanisms to be used to build the capacity of these representative organisations; to ensure that persons with disabilities and their representative organisations are partners on an equal basis with others in EU research initiatives; this should include additional funds to cover disability-related costs, and must require that all information and communication is accessible for persons with disabilities.

Article 4,3: Participation of persons with disabilities and their representative organisations

Historically persons with disabilities, including children with disabilities and their representative organisations, have been consulted and involved with decision making processes on disability policies by the European institutions²⁹. However the process for consultation is not clear or documented, nor has it been adapted to meet the requirements of the UN CRPD. Consultation therefore continues to be ad hoc (across all institutions). For example, representative organisations were not involved in the preparation of the EU Report on the implementation of the CRPD³⁰; and the European Parliament Disability Intergroup, despite being the only platform allowing a structured and regular dialogue between the Parliament and persons with disabilities and their representative organisations, is not a permanent body and cannot represent the official view of the Parliament. There is a need for a consistent approach in line with the CRPD which would provide a framework for all institutions' engagement with representative organisations.

Article 4, 3 CRPD also explicitly mentions consultation with children with disabilities through their representative organisations. However, the EU is currently not meeting this obligation because it fails to consult and involve children with disabilities through their representative organisations and to provide opportunities for children with disabilities to express their views in decision-making processes.

As mentioned under this report's section under Article 9 CRPD, communication and consultation tools, such as the online public consultations of the European Commission are not accessible. In addition, the EU offices in some Member States³¹ do not (systematically) invite persons with disabilities and their representative organisations to relevant meetings and



events. If people are invited, accessibility and the provision of reasonable accommodations are not always ensured³².

We call for

- The development of a code of conduct for consultation and involvement of persons with disabilities and representative organisations of persons with disabilities, including of women, men, girls and boys and older persons with disabilities in all the decision-making processes of the EU institutions. These consultation guidelines should pay particular attention on how to consult and involve persons with intellectual and psychosocial disabilities;
- The EU to ensure long term capacity building support to increase the capacity of representative organisations of persons with disabilities in order to allow them to be meaningfully involved, participate as partners on an equal basis with others and deliver results in the development and implementation of the UN CRPD by the EU;
- The establishment of a regular State of the Union meeting on disability after the one that took place between the Presidents of the European Commission, European Parliament, and European Council in December 2011.

D. INFORMATION RELATING TO SPECIFIC RIGHTS

Article 5: Equality and non-discrimination

The European Union has a clear competence to combat discrimination based on disability when developing and implementing its policies and activities (Article 10, Treaty on the Functioning of the EU - TFEU³³) and to adopt legislation to combat such discrimination (Article 19 TFEU).

The EU's anti-discrimination legislation is inconsistent in its scope and creates a hierarchy between the different grounds of discrimination. Persons with disabilities are only protected against discrimination in employment and vocational training³⁴. Anti-discrimination protection for other discriminatory grounds, such as race, ethnic origin³⁵ and gender³⁶ goes much further. A proposal for a Directive³⁷ which would extend this protection to other areas of life, such as social protection, social advantages, health, access to and supply of goods and other services available to the public, including housing, education and insurance has been on the table of the Council of the European Union since 2008³⁸.



Under the Employment Equality Directive, national equality bodies and ombudspersons are not required to cover discrimination on the ground of disability (contrary to the ground of racial discrimination), as is unfortunately the case in some EU countries³⁹. At the same time, the involvement of an equality body could be an effective way of finding an amicable solution in cases of discrimination in employment, as proven by the examples of countries where this practice already exists. Their intervention is competent, informal, free of charge and impartial⁴⁰.

The 2014 Commission report on the implementation of the Employment Equality Directive found that further efforts are needed to apply the Directive in practice, in particular through policy action, awareness raising and training⁴¹.

Moreover, EU anti-discrimination legislation⁴² does not protect against multiple or intersectional discrimination (based on age, sexual orientation, gender identity, race, ethnic and social origin).

We call for

- The EU to adopt the proposed Article 19 Directive, as amended by the European Parliament, which aims to protect persons with disabilities (amongst other groups) against discrimination in social protection (including social security and social advantages), health care and (re)habilitation, social, education, as well as access to and supply of goods and services, such as housing, transport and insurance; it should also take specific account of multiple and intersectional discrimination and ensure its compliance with the UN CRPD, in particular the recognition that the denial of reasonable accommodation is a form of discrimination. This Directive should put in place strong mechanisms for sanctions and remedies to punish non-compliance with higher penalties and injunctive reliefs⁴³ in cases of multiple and intersectional discrimination;
- An obligation to increase equality bodies' and ombudspersons' competences to cover complaints of disability based discrimination;
- The funding of training on the concepts of reasonable accommodation and multiple and intersectional discrimination by and for persons with disabilities, for civil servants, private organisations, trade unions, equality bodies and ombudspersons.



Article 8: Awareness-raising

To date there has been no proactive, comprehensive, inclusive and accessible awareness-raising campaign on the rights of persons with disabilities and the CRPD in the EU or within EU institutions. Even the fact that the EU has concluded the CRPD is not featured in a visible way on the websites of the EU institutions.⁴⁴

The EU CRPD Report does outline the actions that the European Commission has undertaken to raise awareness on disability issues. However, it does not state that any specific actions have been developed as a result of the conclusion of the CRPD or that have been undertaken by other EU institutions. For instance, the European Day of Persons with Disabilities was established in 1993. In the same way, the 'For Diversity: Against Discrimination' campaign was launched in 2009; while this campaign focuses on non-discrimination including on the grounds of disability, it is not a campaign to raise awareness specifically on disability, nor as an action to promote the implementation of the UN CRPD. The EU CRPD Report states that the EU supports the Member States campaigns, but does not describe how it does this.

The EU has funded the organisation of training on EU law and policy⁴⁵, including CRPD specific training. However, representative organisations of persons with disabilities were not fully included in either mainstream training or in the disability specific training.

We call for

- The launch of an accessible, well-organised and resourced public campaign to raise awareness on persons with disabilities' rights and their ability to live and work in society, inclusive of women and girls with disabilities. This campaign should communicate a positive and inclusive image of all persons with disability, as well as the diversity existing among them;
- The EU to issue a Communication to EU institutions and to Member States calling for a commitment to include disability, including its gender perspective, in all its mainstream campaigns⁴⁶, key speeches and events of EU institutions' leaders dealing with internal and external policies and the different EU funding programmes; at the same time the EU must ensure that all campaigns, speeches, events and funding programmes are fully accessible to all persons with disabilities and the information is public and provided in accessible formats, with key information available in easy to read language and speech recognition formats;



- The development of a code of conduct for the institutions' spokespersons and communication departments to be aware of the UN CRPD and to use language that is compliant with the UN CRPD;
- The close involvement of representative organisations of persons with disabilities in the development of training on the CRPD organised or funded by the EU for its staff, relevant professionals at the EU and Member State level and for persons with disabilities.

Article 9: Accessibility

Since accessibility is a very wide-ranging topic it covers many issues and the EU thus has many competences, both directly and indirectly. While, for example, accessibility of the built environment is primarily a competence of Member States, the EU can nevertheless have a strong influence via legislation on public procurement⁴⁷ or via European standards⁴⁸. In other areas such as transport⁴⁹ accessibility, which is a shared competence, the EU can also legislate directly.

The inaccessibility of goods and services prevents persons with disabilities from actively and fully participating in the internal market of the EU⁵⁰ and thus deprives them of one of the basic freedoms under the EU Treaties: the freedom of movement. At EU level, general legislation on accessibility does not exist. The potentially most important piece of legislation to explicitly tackle accessibility is the expected European Accessibility Act (EAA), which still has to be published by the Commission and which is supposed to cover the accessibility of a wide range of goods and services on the internal market of the EU amongst others. This proposal is part of the European Disability Strategy and has been included in several European Commission work programmes, though it has not yet been published for reasons that remain unclear⁵¹.

The EU CRPD Report also mentions several pieces of legislation that allow Member States to include accessibility requirements in legislation relating to consumer protection, transactions, public procurement and the use of EU funds like the European Structural and Investment Funds⁵². However, implementation of these provisions has not been successful at Member States' level. In addition, the EU lacks initiatives on other important areas, such as transport and the built environment, and does not have a systematic mechanism in place to mainstream accessibility in all relevant EU legislation and policy.



As for accessibility to information and communication technologies and systems, according to the Commission proposal for a Directive on the Accessibility of Public Sector Bodies' Websites⁵³, just 10% of the websites are accessible, and less than one third are public websites. Despite the commitments in the European Disability Strategy 2010-2020⁵⁴ and the Digital Agenda for Europe⁵⁵ to deliver accessibility to websites, the Commission proposal (still in draft) addresses only twelve "types of websites of public sector bodies"⁵⁶. As a result, the vast majority of public services and basic services that people access online, such as utilities, transport, postal services or financial services are not covered by the Commission proposal⁵⁷. In addition, the proposal fails to recognise the major switch from desktop to mobile access, including through applications. Lastly, the proposal does not include an effective enforcement mechanism as other EU legislation does⁵⁸, giving persons with disabilities no right to redress.

The lack of accessibility in public sector bodies' websites at Member State level also happens when Member States procure other information and communication technologies (ICT) products and services. Despite the obligation of the Public Procurement Directive 2014/24⁵⁹ to include accessibility criteria when drafting technical specifications, there has not been any initiative put in place at EU level to fully implement this provision to promote the procurement of accessible goods and services.

Also with regard to access to electronic goods and services, in the recently adopted e-identification Regulation⁶⁰, Member States are not obliged to ensure accessibility for persons with disabilities⁶¹ and there is not a single mention to this provision of accessibility in the Commission mandate to develop the European Standard on e-signature⁶².

In a nutshell, the EU has no EU-level specific accessibility legislation, and is not mainstreaming accessibility and universal design in EU legislation and policies. In addition, the EU faces problems with the implementation of accessibility provisions in the existing legislation. Therefore, there is also a need for raising awareness on the rights of persons with disabilities and the UN CRPD among policy-makers and citizens, as well as strengthened coordination between the Commission and Member States in this area.

We call for

- The publication and the swift adoption of the European Accessibility Act covering a maximum of policy areas including transport, the built environment, emergency services, ICT, etc. In order to guarantee its effectiveness, it should have the form of a



legally binding Directive⁶³ and it should provide for a coherent enforcement and complaint mechanism;

- The adoption of the Directive on Accessibility of Public Sector Bodies' Websites with a broad scope and a strong enforcement mechanism;
- Specific indicators to monitor the implementation of accessibility provisions in EU legislation, in particular under the Structural Funds Regulation No 1303/2013⁶⁴. Effective mainstreaming of accessibility in all EU legislation and policies and organising training of EU staff is also essential;
- The inclusion of information on accessibility⁶⁵ in the EU web portal on public procurement, referring to different resources such as toolkits, publications, the existing legal framework, a helpdesk, clear coordination among Member States, best practices, as well as an experts' advisory group to the European Commission in which organisations representing persons with disabilities are involved⁶⁶;
- The inclusion of accessibility following the "Universal Design" approach in EU legislation concerning new physical environments, services and goods, as well as alternative means of communication such as easy-to-read, Braille speech to text support and sign language.

Article 10: Right to life

The EU has the competence to carry out actions to support, coordinate or supplement the actions of Member States in the area of the protection and improvement of human health⁶⁷. Human dignity and the right to life are founding values of the European Union⁶⁸.

Persons with disabilities, in particular persons with intellectual and psychosocial disabilities are at high risk of human rights abuse, including violations of the right to life.⁶⁹ When placed, against their will in institutions, they may be subject to forced treatment, violence, unhygienic conditions, use of physical constraints, lack of food, water and appropriate health care, all of which put their life in danger⁷⁰. All too often there is no effective investigation into the circumstances of the person's death. The European Court of Human Rights recently found a violation of the right to life under the European Convention on Human Rights in the case of a young man with intellectual disability who was abandoned in an institution at birth and died in a psychiatric hospital at the age of 18⁷¹.

We call for



- The EU to research and promote comparative analysis on the situation in all Member States on the right to life of all persons with disabilities and in particular their right to informed consent in an accessible form of communication⁷² to medical treatment, especially the withdrawal of treatment, nutrition or other life support;
- The EU to research and collect information into deaths in institutions and promote the opening of investigations with effective sanctions for perpetrators (both state and non-state) and elimination and abolition of practices and treatment which put at risk people's lives.

Article 11: Risk and humanitarian emergency

The EU has competence to carry out activities and formulate a common policy in the area of humanitarian aid, within the framework of its External Action policy⁷³. In the field of civil protection, the EU has competences to carry out actions to support, coordinate or supplement Member States' actions⁷⁴.

So far not enough effort has been made to include persons with disabilities in a structured way in EU humanitarian policies and programmes and to involve them in the development of these EU policies and funded projects. Despite the fact that training⁷⁵, capacity building and knowledge sharing can be considered as opportune instruments, there is little evidence that the EU and in particular the EU Humanitarian Aid and Civil Protection department is engaging in such activities. The lack of a disability marker or disability disaggregated indicators applied to the outcomes of EU humanitarian aid projects makes any form of monitoring of the inclusion of persons with disabilities in EU-funded humanitarian aid projects difficult.

With regard to civil protection, the EU created a European Union Civil Protection Mechanism⁷⁶ with the aim of strengthening and facilitating cooperation between the EU and Member States in the field of civil protection, but missed this opportunity to include the needs of persons with disabilities⁷⁷. However, natural and man-made disasters constitute a high risk for persons with disabilities. For example, Deafblind, hard of hearing and deaf people cannot be reached by radio broadcasts or loudspeaker messages.

We call for

- The revision of the European Commission Humanitarian Aid and Civil Protection policies and guidelines to ensure that Disaster Risk Reduction management and humanitarian aid is accessible to and inclusive of persons with disabilities, in



consultation with civil society and especially representative organisations of persons with disabilities. As a result of this revision, a disability indicator or marker should be developed to monitor disability inclusion in EU funded humanitarian aid projects. This revision should also lead to the design of a sectorial policy on disability, paying specific attention to the rights of women and girls with disabilities. The Civil Protection policy should include guidelines for Member States on accessible information and communication in emergency situations to ensure that the entire population has an equal access to emergency services and is prepared, alerted and protected⁷⁸;

- The identification of mechanisms to share knowledge and good practices between different EU institutions and between the EU and its Member States on disability inclusion in humanitarian aid and civil protection, including through training of civil servants at the EU External Action Service and Commission.

Article 12: Equal recognition before the law

The European Union has a clear competence to combat discrimination based on disability when developing and implementing its policies and activities (Article 10 TFEU⁷⁹) and to adopt legislation to combat such discrimination (Article 19 TFEU). Equal recognition before the law falls directly within this competence as persons with disabilities are often denied or restricted their legal capacity on the basis of disability based discrimination.

Furthermore, the EU has competence in the areas of employment, consumers' rights, access to justice, health, freedom of movement, data protection⁸⁰ and, indirectly in areas such as independent living⁸¹ and the right to vote and stand for elections⁸² where persons with disabilities whose legal capacity has been denied or restricted are unable to enjoy and exercise their rights in these fields. Decisions of persons with disabilities under plenary or partial guardianship may not be legally recognised and they may be denied a right to a fair trial, to take decisions about where to live, sign employment contracts or commercial contracts, make financial transactions, or vote in European and municipal elections. As a result, the way the EU and Member States discriminate against some individuals to exercise their legal capacity has a massive impact on the exercise of a wide range of EU rights.

No comprehensive data are available, as most governments do not hold data on the number of people under guardianship⁸³. There is also a lack of research and data on appropriate ways to organise supported decision-making and to ensure that the rights, will and preferences of the person are respected.



We call for

- The adoption of a Communication to Member States on the implementation of EU legislation on access to justice, access to good and services, including banking and employment, as well as health, voting and consumer rights provisions in line with Article 12 CRPD and which clearly prohibits discrimination in exercising rights and accessing these services on the basis of disability and/or legal capacity status and that informed consent is ensured;
- Supporting European research, comparable data collection and exchange about the transition from substituted decision-making to supported decision-making and investment in projects introducing supported decision-making through relevant funding programmes. This includes the research framework programmes as well as programmes in the areas of social innovation, justice, health, education and training.

Article 13: Access to justice

The EU has shared competences in the area of freedom, security and justice⁸⁴ and has taken significant steps to ensure that EU citizens are respected when they come into contact with a criminal justice system. Of relevance for persons with disabilities are the common minimum standards for procedural rights for victims of crime⁸⁵ or persons suspected or accused of crime⁸⁶ that the EU has developed.

These standards refer to the fact that persons with disabilities can find themselves vulnerable in the justice system. The assessment of this 'vulnerability' or of the protection needs of an individual is determined by his or her 'personal characteristics', including disability (Article 22 Victims' Rights Directive). Framing the needs of persons with disabilities in the context of the justice system however as an issue of 'vulnerability' rather than an obstacle in the environment is not in line with the human rights based approach to disability in the UN CRPD.

The standards do not guarantee full and accessible information and communication for all persons with disabilities at all phases in the legal proceedings⁸⁷. Persons with disabilities are often excluded from participation in the proceedings due to the inability of the authorities to provide information or to communicate in a manner that is fully accessible to them. It is therefore necessary to complete these standards by explicitly spelling out what meaningful and accessible communication and information⁸⁸ is for all persons with disabilities⁸⁹.



Many persons with disabilities, including women with disabilities⁹⁰, currently do not have access to justice⁹¹ because their legal capacity has been removed or restricted. Many persons with intellectual disabilities and persons with psychosocial disabilities are deemed unfit to stand trial and subjected to detention for the purposes of “treatment”. They are thus denied the right to a fair trial, the presumption of innocence, and often subjected to indefinite detention and forced treatment without any conviction having been made.

In addition, inaccessible victim support services are a significant barrier for many victims with disabilities, in particular women with disabilities and persons with intellectual and psychosocial disabilities who most often do not benefit from these services⁹². Mechanisms for reporting abuse and bullying do not take into consideration the needs of women and children with disabilities since their testimonies are either discredited or they require the ability to use certain forms of communication and to have access to them⁹³.

Discriminatory violence against persons with disabilities is an important phenomenon that has progressively been recognised in a number of EU jurisdictions⁹⁴. The new EU 2014-2020 Fundamental Rights and Citizenship Programme⁹⁵ reflects the gap and includes actions to “prevent and combat all forms of violence against children, young people and women, as well as violence against other groups at risk”. However, this funding programme does not explicitly include the possibility to conduct work on disability hate crime.

As the Employment Equality Directive does not require it, most organisations of persons with disabilities cannot represent a person with a disability who is a victim of employment discrimination in court.

The European Court of Justice has begun to take the UN CRPD into account in its rulings, for example in the area of protection against employment discrimination⁹⁶. However, the Court’s overall approach and case law, as in other important EU policy areas such as freedom of movement or road safety for example, is contrary to the CRPD⁹⁷.

We call for

- The EU standards on criminal justice to be revised in order to move the emphasis from the vulnerable individual with a disability to the procedural and age accommodations needed in the legal proceedings, including through fair trial guarantees by eliminating unfitness to stand trial and ensuring meaningful and



accessible communication, support and information to ensure effective participation of all persons with disabilities, including those deprived of their legal capacity⁹⁸ at all stages of the judicial proceedings. These standards should condemn discriminatory violence based on a person's disability and ensure accessible victims' support services for all persons with disabilities;

- The EU to fund appropriate training and capacity building on access to justice for persons with disabilities and for the professionals working in the field of justice administration, including prison and police staff, with the involvement and close consultation of representative organisations of persons with disabilities;
- The European Court of Justice to ensure that its decisions, rules and procedures and practices are aligned with the CRPD and that training on the CRPD is organised for its judges and staff.

Article 14: Liberty and security of person

The EU has shared competences in the area of freedom, security and justice and has a mandate to frame a common policy on asylum, immigration and external border control⁹⁹.

In most European countries, compulsory psychiatric detention and/or treatment is legally permitted on grounds linked to the existence of an actual or perceived psychosocial or intellectual disability. In some countries, community treatment orders (CTOs), i.e. mandatory outpatient treatment, are used which carry the constant threat of involuntary detention and which effectively restrict freedom of movement due to requirements for reporting for treatment. Furthermore, unequal detention regimes for people with psychosocial disabilities exist as part of penal systems¹⁰⁰. These persons are declared unfit to stand trial and are unlawfully detained on the basis of this declaration. However, EU policy documents such as the Commission's Green Paper on improving the mental health of the population¹⁰¹, condones involuntary treatment and placement only as a last resort¹⁰².

Children often have no say in where they are being placed when taken into alternative care. In addition, older people with dementia face similar practices in nursing homes or other care facilities hosting older people¹⁰³.

In addition, migrants and asylum-seekers with disabilities continue to be detained throughout Europe, often in conditions which do not take into account the necessary support and reasonable accommodations that they need. The migration decision-making procedure is not



accessible for all persons with disabilities and information and communication is not provided in accessible formats.

Disabled prisoners are often placed at significant disadvantage due to the inaccessibility of the prison environment and the lack of provision of reasonable accommodations¹⁰⁴. As a result, disabled prisoners face several obstacles in preserving their dignity, being autonomous and leading their daily living with respect to their hygiene, nutrition and mobility, and participating in the life of the prison on an equal basis with others¹⁰⁵. The European Court of Human Rights ruled that the denial of the provision of reasonable accommodation to a disabled prisoner constitutes inhuman and degrading treatment¹⁰⁶.

We call for

- The EU standards on procedural safeguards for vulnerable people suspected or accused in criminal proceedings to ban detention based on a person's disability and to ensure substantive and procedural guarantees on an equal basis with others in the context of criminal proceedings and in particular to ensure that penalties applicable to persons with disabilities are subject to the same guarantees and conditions as those applicable to any other person who is the subject of criminal proceedings;
- The EU to issue guidelines to Member States to prohibit restrictions to the right to liberty and freedom of movement on the basis of actual or perceived disability including involuntary detention in psychiatric hospitals and mandatory outpatient treatment;
- The EU to issue guidelines to its agencies and Member States that detention of persons with disabilities for migration and asylum seeking purposes is arbitrary, unnecessary and disproportionate. Less restrictive alternatives to detention must be made available and explored first, and reasonable accommodations and support must be provided when implementing these alternatives to detention;
- EU funding that goes to prison and detention centers, to be used to make them accessible for persons with disabilities and ensure that disabled prisoners receive the necessary support and reasonable accommodations when being detained.

Article 15 – Freedom from torture or cruel and inhuman or degrading treatment or punishment

The EU has shared competences in the area of freedom, security and justice and supporting competence in the areas of research and technological activities¹⁰⁷.



As a peremptory norm of international law, the prohibition on torture, cruel, inhuman or degrading treatment or punishment is absolute. Having the status of *jus cogens*, the right is non-derogable, and Article 15 CRPD extends this to protection from “medical or scientific experimentation” without consent. It further places an obligation on EU institutions to take “all effective legislative, administrative, judicial or other measures” to prevent violations. This requires EU institutions to go beyond merely assessing compliance of EU policy and secondary legislation with the CRPD to assessing the *effect* of all actions of EU institutions, particularly in relation to persons with disabilities who have their liberty restricted and those in health care settings¹⁰⁸.

Firstly, persons with disabilities in Europe are at higher risk of incidences of torture, violence and abuse in places of detention as well as in mental health facilities, social care institutions, boarding schools, hospitals or prisons¹⁰⁹. However, despite the progress made in this regard by the EU in the new Structural Funds regulations¹¹⁰, this has not been followed up systematically in the partnership agreements. The European Commission continues to fund segregation and institutionalisation of people with disabilities through financing provided to Member States under these funds, leaving them at significantly greater risk of torture, ill-treatment and forced medical treatment¹¹¹.

Secondly, as mentioned in the EU CRPD Report, guidelines¹¹² have been adopted to support and strengthen efforts to prevent and eradicate torture and ill-treatment in all parts of the world. However, these guidelines apply only to EU relations with third countries. As a result, the EU fails to address the incidences of torture and inhuman or degrading treatment that all people, including persons with disabilities, face in Europe today.

Finally as mentioned in the EU CRPD Report, respect for the integrity and dignity of persons needs to be identified and properly addressed in the EU Research & Innovation framework, Horizon 2020 (2014-2020). The guidance note on research ethics specifies that informed consent is required when the research involves the participation of human beings, when the research uses human genetic material or biological samples and when the research involves personal data collection¹¹³. In addition, research that is funded under the current and future EU Research Programmes should ensure compliance with Article 15, 2 CRPD and not fund research and technology activities and projects that allow the use of net beds, restraints and other non-consensual practices used against persons with intellectual and psychosocial disabilities in psychiatric hospitals and institutions.

We call for



- Training and guidelines for European Structural and Investment Funds' managing authorities in order to ensure that future EU funds are used to end segregation and institutionalisation and to develop community-based services and support;
- The adoption of guidelines for EU Member States calling for the prevention of persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment, including intrusive medical interventions in places of detention, including mental health facilities, boarding schools, hospitals and prisons in the European Union;
- The funding of research into situations of violence, exploitation and abuse experienced by persons, and in particular women and girls with disabilities in institutional settings, and into the development of applications aiming at developing CRPD compliant alternatives to involuntary placement and treatment for persons with intellectual and psychosocial disabilities in the EU;
- The amendment of the Guidance note on research ethics to include an obligation to provide supported decision-making mechanisms for persons with disabilities to ensure their free and informed consent in line with Article 12 CRPD.

Article 16 – Freedom from exploitation, violence and abuse

The EU has shared competence in the area of freedom, justice and security, including judicial cooperation in criminal matters.

The EU has taken several steps to increase the protection and promotion of women and children's rights in situations of violence, abuse and exploitation¹¹⁴. The EU legal framework on women and children's rights has recently been strengthened in this area¹¹⁵, however the perspective and needs of all women, men, girls and boys with disabilities has not been fully taken into account.

A 2014 EU-wide survey on violence against women shows that women with disabilities experience more violence than women without disabilities¹¹⁶. There is a continued lack of attention paid to women with disabilities in terms of prevention, care and recovery, as well as barriers to their accessing specialised community services; moreover, it is almost impossible for women who are legally incapacitated – precisely those who are most at risk of falling victim to violence and abuse - to access justice.



With regard to children, the 2011 EU Agenda for the Rights of the Child¹¹⁷ recognises the particular vulnerability of children with disabilities and highlights the need to provide them with special protection. However, it falls short of a specific forward-looking action plan to promote the full participation of children with disabilities in society. Moreover, the EU has highlighted that well-functioning child protection systems are a pre-condition for a child's effective access to support services and respect of their rights¹¹⁸. Several EU Member States are currently reviewing their child protection systems. The EU is currently preparing Guidelines for Member States on child protection systems¹¹⁹ and it is important that the rights of children with disabilities should also be mainstreamed in these guidelines.

We call for

- The adoption of EU policy measures on gender-based violence and violence against children to protect women, men, boys and girls with disabilities, as well as parents of children with disabilities both within and outside their home, from exploitation, violence, abuse, and bullying and to facilitate their access to justice and national child protection systems through community-based services and support. This should include the ratification and implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)¹²⁰ and recognise bullying as a form of abuse in EU legislation;
- The funding of research initiatives and development of indicators to study the situation of women, men, girls and boys with disabilities in relation to violence, not just in European statistics on those who are killed as a result of gender-based violence, but also in statistics on ill-treatment. These studies should result in the evaluation and monitoring of policies and measures taken to prevent and combat violence against women, men, girls and boys with disabilities and domestic violence;
- The promotion of the development of appropriate training materials on the prevention of and response to violence against women, men, girls and boys with disabilities for all sectors, in collaboration with women and children with disabilities.

Article 17: Protecting the integrity of the person

The EU has shared competence on common safety concerns in public health matters¹²¹ and supporting competence in health protection¹²². The EU has competence to carry out research and technological activities to define and implement programmes.



Persons with intellectual and psychosocial disabilities, including children¹²³ in the EU experience involuntary placement and involuntary treatment. Research has shown that these experiences are ‘overwhelmingly negative’ and cause trauma and fear¹²⁴. Many women with disabilities are still denied the right to reproductive freedom under the pretext of their wellbeing. Forced sterilisation, female genital mutilation and coerced abortion are just some clear examples of denial of rights that many women and adolescents with disabilities suffer, without giving their consent or fully understanding the intentions¹²⁵.

We call for

- The EU to adopt public health policy measures to ensure the protection of the integrity of all persons with disabilities and in particular their right to informed consent to medical treatment;
- The EU to promote and undertake research to publicise the reality of sterilisation in persons with disabilities in Member States, taking into account gender, age and type of disability and providing accurate statistics on forced and therapeutic sterilisation.

Article 18: Liberty of movement and nationality

Article 18 CRPD addresses both the right of liberty of movement and rights related to nationality. The right of liberty of movement is addressed under Article 20, personal mobility. This section of EDF’s alternative report focuses on barriers faced by persons with disabilities in applying for nationality, asylum, family reunification or residence permit.

The right to EU citizenship

Every person holding the nationality of a Member State shall be a citizen of the Union¹²⁶. The conditions for acquisition and loss of nationality of an EU Member State are the competence of the Member State itself. However, having the nationality of an EU Member State automatically brings EU citizenship¹²⁷ which gives the individual additional rights and protection, such as the right to vote and stand in EU elections and the right to free movement¹²⁸ within the EU.

Persons with disabilities who are third country nationals however face discrimination and obstacles in obtaining the nationality of an EU Member State and as a result do not have access to the fundamental rights given to each EU citizen. Certain requirements¹²⁹ that EU Member States impose in the application process are discriminatory and often no appropriate



disability-related accommodations and adaptations are provided for passing obligatory tests¹³⁰. In addition, other conditions make applying for nationality by persons with disabilities who are living in poverty more difficult, such as having sufficient financial resources to support oneself¹³¹.

The right to family reunification and residence permits

The EU has the competence to develop a common immigration policy for third country nationals residing legally in Member States. To this purpose, the EU can adopt legislative measures for the conditions of entry and residence, and standards on the issue by Member States of long term visas and residence permits, including those for the purpose of family reunification¹³².

Third country nationals with disabilities face obstacles in obtaining family reunification and a residence permit for the EU, including for a short stay. There are significant barriers in actually obtaining the relevant permit for short stays for persons with disabilities since conditions under which permits for short stay are delivered are not accessible and reasonable accommodations are not provided. Also, consulate buildings that deliver the visa are often far away from, places of residences of the person or are not accessible.

The right to asylum

The EU has the competence to develop a common policy on asylum with a view to offering appropriate status to any third country national requiring international protection¹³³. The EU has a mandate, among others, to adopt legislative measures that include a common procedure for granting and withdrawing of uniform asylum status and to adopt standards concerning the reception conditions for asylum applicants¹³⁴.

Research shows that 2.5 to 3.5 million refugees worldwide have a disability¹³⁵. Special measures should be taken by the EU to allow persons with disabilities to seek asylum and to be received in dignity. These people should be supported in their right to asylum in case they are not able to reach the EU territory to claim asylum. The EU introduced new provisions for vulnerable persons and persons with 'special reception needs', including health care. Member States shall also take into consideration the 'situation of vulnerable persons' when providing accommodation¹³⁶. However, it is imperative that these measures are meaningful and effective in practice for persons with disabilities and that Member States implement them in a way that will support persons with disabilities through the provision of reasonable



accommodation and accessibility, as well as disability-specific medical care. Asylum seekers, including those with disabilities should in principle, never be detained when they reach an EU border¹³⁷.

In addition, deprivation of legal capacity also creates an obstacle in certain EU Member States to persons with disabilities who wish to apply for family reunification, a residence permit or asylum.

We call for

- The EU to ensure that all EU common policy standards with regard to EU citizenship, family reunification, residence permit and asylum are implemented by Member States in line with the UN CRPD and that accessibility and reasonable accommodation provisions are ensured in its application processes and conditions, while taking disability specific measures to prevent violence and abuse against women, men, girls and boys with disabilities, and to avoid placement in detention centres. Discrimination in access to these rights cannot be based on the legal capacity status and informed consent needs to be ensured. The EU should promote accessible consulates and training on the CRPD of consular personnel.

Article 19: Living independently and being included in the community

EU competence for the promotion of independent living and inclusion in the community is shared with Member States. EU funding instruments (e.g. European Structural and Investment Funds¹³⁸) can be used to fund social and health infrastructures to promote transition from institutional¹³⁹ to community-based services, as well as accessibility and equal opportunities for persons with disabilities¹⁴⁰. However, the institutionalisation of persons with disabilities has been exacerbated by the use of Structural Funds by some Member States to maintain and promote a system of institutional care that excludes persons with disabilities, rather than to develop community-based alternatives in line with the CRPD. This leads to a continuation of human rights violations in these institutions within the European Union¹⁴¹.

Some of the “community-based” or “independent living” services which are being supported in fact remain institutional in character due to the fact that residents are not able to choose where/with whom they will live, and staff are not properly trained to work in the new services¹⁴².



Children with disabilities are disproportionately represented in institutions and EU Member States which ban the institutionalisation of children under a certain age, often allow for exceptions for children with disabilities¹⁴³.

The involvement of persons with disabilities and their organisations has been inadequate, both in terms of access to Structural Funds due to lack of technical assistance and participation in the Monitoring Committees, to which they were neither invited nor had voting rights¹⁴⁴.

The new Structural Funds Regulations set ex ante conditionality which identifies the need for a “national strategic framework for poverty reduction [...] that [...] includes measures for the shift from the institutional to community-based care”¹⁴⁵. The Commission should verify that this provision is being adequately implemented before giving the funds to a country. Moreover, the Regulations set out ‘transition from institutional care to community-based services’ as an investment priority.

We also see trends¹⁴⁶ in many Member States to subject people in their own homes in the community to various forms of involuntary treatment¹⁴⁷. The EU must make sure that no EU funds support the development of community-based services that maintain such practices.

The quality of social services provided to persons with disabilities has been hindered in the EU due to the economic crisis and related budget cuts¹⁴⁸. Moreover, there is no European quality system to guarantee a minimum level of quality of services for all. Information and communication on community support and services is not accessible for all persons with disabilities.

With the support of the Commission, the Social Protection Committee¹⁴⁹ adopted a document in 2010 establishing quality principles and criteria for social services¹⁵⁰. The framework is not legally binding and there is no proof of its implementation. The list of actions in the European Disability Strategy¹⁵¹, provides for an action to develop and disseminate a quality framework for community-based services that is inclusive of persons with disabilities. This action has not yet been implemented¹⁵².

The UN CRPD Committee in its observations relating to Belgium¹⁵³, expressed concerns about French persons with disabilities being forced to move to institutions in Belgium and Luxembourg because the French government is not able to support their independent living in France. Moreover, the quality of the services provided in these Belgian and Luxembourg



institutions is inadequately supervised and therefore not guaranteed. This example highlights how freedom of movement of goods, services and persons has been used to circumvent regulations and to undermine the right of persons with disabilities to live independently in the community; surely this demands an EU level response.

We call for

- European Structural and Investment Funds to fund services which facilitate the enjoyment of the right to live independently in the community by all persons with disabilities, including people with psychosocial disabilities¹⁵⁴. Children with disabilities should have the possibility to be placed into families or family type environments. The Structural Funds which are applied to the institutionalisation and segregation of persons with disabilities should be ended, by withdrawing the money if this happens. The Commission should support the development of national plans for transition from institutional to community-based living that should include a moratorium on new admissions and individual care plans for every person and child concerned;
- Research projects and data collection to be funded in order to gather detailed information on both the number of residential institutions and on the conditions in which residents live in them;
- The EU to promote campaigns de-stigmatising disability and informing persons with disabilities themselves, families, professionals and the general public about the rights of disabled persons to live in the community and the irreversible harm that institutionalisation may cause;
- The involvement of persons with disabilities and their representative organisations in the monitoring of the use of the Funds, by calling on Member States to respect Article 5 of EU Regulation No 1303/2013 stating the obligation to involve civil society in all the phases of the use of the Funds;
- The development of a legally binding quality framework for community-based services, including habilitation and rehabilitation services for persons with disabilities;
- The EU to prevent Member States from using freedom of movement of persons, goods and services to undermine the right of persons with disabilities to live independently in the community.

Article 20: Personal mobility



The EU has shared competences with Member States in the area of transport which also includes Passengers' Rights, one of the areas where EU legislation is very prominent and far-reaching. The EU can also enhance personal mobility by promoting mutual recognition of social security rights as well as standardisation of goods and services to facilitate cross-border movements.

Persons with disabilities are in practice restricted in their freedom of movement within the EU. They cannot for example transfer the social security benefits of their Member States of origin when they move to a different Member State temporarily, and when they move to a different Member State permanently, they often have difficulties in getting their disability status recognised and face additional bureaucratic burdens¹⁵⁵. This affects, amongst others, persons that make use of sign language interpreters or personal assistants. However, the EU has recognised the existing problems with portability of social security benefits and aims to promote the portability of these rights under the EU Disability Strategy. In addition, the EU has already achieved a mutual recognition of public health insurance schemes with the "European Health Insurance Card" (EHIC) which illustrates that the EU can do more to encourage Member States to cooperate on social security related issues¹⁵⁶.

Another important area of legislation covering personal mobility of persons with disabilities is the EU package of Passenger Rights legislation. Even though it is already fairly comprehensive, it still has gaps and it is not always implemented fully by Member States. For example, Regulation 261/2004 on air passengers' rights¹⁵⁷ has a limit on liability for mobility equipment. Regulation 1371/2007 on rail passengers' rights¹⁵⁸ has many exemptions to the rights of rail passengers: the right to assistance does not specify during which hours this assistance has to be provided and is subject to pre-notification¹⁵⁹. As a result, seamless travel is not yet possible since the accessibility of transport is still patchy¹⁶⁰. Another aspect which makes the Passengers Rights less effective is the fact that transport operators are still able to evoke "safety reasons" to justify the denial of boarding to persons with disabilities. This is especially concerning in air travel since the European Air Safety Agency proposes to require specified categories of passenger to travel with a safety assistant¹⁶¹. Within this proposal airlines will have the power to decide who the safety assistant will be, when this person is required and who would bear the costs.

The EU market for services, mobility aids, devices and assistive technologies still remains fragmented. There is also a lack of standardisation and interoperability of goods and services in the EU. Persons with disabilities are discriminated against in the provision of services such



as travel insurance and affordability of mobility aids and assistive technologies is also a problem¹⁶².

In short, these obstacles occur mainly because of a lack of harmonisation of EU rules regarding portability of social security benefits and assistance as well as a lack of awareness of the particular challenges that persons with disabilities face in terms of mobility.

Furthermore, regulatory barriers prevent persons with disabilities from obtaining adequate mobility aids or services in cross-border situations. The lack of support for innovation and research to improve interoperability and innovative solutions at EU-level also contributes to this issue.

We call for

- The promotion of stronger coordination of social security systems among EU Member States¹⁶³ to ensure portability of social security benefits for short-term stays in other Member States (e.g. internships, student exchange, etc.), including, for example, personal assistance;
- The adoption of EU legislation to guarantee that personal assistants can travel for free on all transport modes if they accompany a person with a disability;
- Support for efforts to create a seamless, multi-modal travel chain and ticketing system to facilitate travelling for persons with disabilities;
- Stricter enforcement of the Passenger Rights legislation and better implementation and quality control of the assistance offered at airports and stations;
- The removal of technical, regulatory and other barriers to cross-border acquisition of products and services that enhance personal mobility.

Article 21: Freedom of expression and opinion, and access to information

Although each Member State has a regulatory body concerning the field of audiovisual media, the EU has the competence to legislate in terms of free movement of services in the internal market and citizens' access to new and diverse services. With regard to this aim, the Audiovisual Media Services Directive, Article 7, requires Member States to “encourage” media providers to make their services accessible, although it is limited to “visual or hearing disabilities”¹⁶⁴. Thus, the implementation of this Article differs depending on the EU Member State. According to a comparative study on the implementation of this Directive, just ten



countries report on having introduced requirements with regard to the level of subtitling, the level of sign language interpretation and the level of audio description¹⁶⁵.

A similar situation (also with similar shared competences between the EU and regulatory bodies at national level) can be found with the 2009 reform of the “Telecom Package”¹⁶⁶ on electronic communications, which takes into account the needs of persons with disabilities. However, full equivalence of access and choice among Member States is still not guaranteed, as different studies show¹⁶⁷. As a result, persons with disabilities can still not enjoy some services and benefit from the competition among different service providers on the same conditions (including but not limited to functionalities, prices and tariffs) as their peers without disabilities.

Additionally, the obligation to provide accessible emergency services in the Universal Service Directive¹⁶⁸ is not respected in all EU Member States¹⁶⁹, despite the demands of DPOs and the European Parliament¹⁷⁰.

With regard to EU consumer rights in which the EU also has shared competences on consumer protection according to Article 169 of the TFEU, the relevant legislation does not consistently take accessibility into account. For example, the 2011 Directive on Consumer Rights¹⁷¹ does not explicitly require traders to provide information in accessible formats and communication channels for persons with disabilities, even though information provision is one of the core rights under the Directive. Another problem of the Consumer Rights Directive is that certain services are excluded from the scope of the Directive such as financial services (e.g. insurance) and social and health care services.

We call for

- The EU to ensure that all public information is provided in alternative formats for persons with disabilities, including the recognition of sign language and ensuring also that such information facilitates equal access to emergency services for persons with disabilities;
- The EU to ensure that persons with disabilities have equal access to and choice in telecommunications products and services;
- The EU to produce guidelines on external communications in compliance with the UN CRPD;
- The EU to strengthen the accessibility requirements of audiovisual products and services in the future revision of the Audiovisual Media Service Directive to make sure



that the needs of persons with all kinds of disabilities¹⁷² are taken into consideration in the audiovisual content and the functionalities of different platforms such as smartphones, tablets or digital and smart TVs.

Article 22: Respect for privacy

The EU has shared competences with regard to the internal market and consumer protection¹⁷³. The current EU legal framework on data protection does not fully take into account the rights of persons with disabilities, and in particular respect for their privacy. The proposed EU legislative reform package on the protection of personal data to strengthen individual rights and tackle challenges of globalisation and new technologies¹⁷⁴ is, broadly speaking, an improvement on the current situation. However, the gaps in the current EU legal framework are not comprehensively addressed in the data protection reform package. Unless the final text adequately addresses the issues listed below in order to comply with fundamental rights and freedoms, the result would be an increasing risk for the privacy of persons with disabilities and their families.

Firstly, Article 9 of the proposed General Data Protection Regulation sets out a general prohibition on processing specific categories of personal data, such as data on health. However, this prohibition does not apply 'where the data subject is physically or legally incapable of giving consent'. This exception to the general prohibition rule affects persons with intellectual disabilities and persons with mental health problems, including people with dementia and dependent older people who may be deprived of their legal capacity in some Member States¹⁷⁵.

Secondly, the proposed Regulation also contains loopholes that are likely to result in discriminatory profiling of persons with disabilities. In its Article 20, the Regulation relies on the "anonymisation" and "pseudonymisation"¹⁷⁶ of personal data, but without acknowledging the challenges that they imply. Due to the far-reaching capacity of current technology, it is and will be possible to re-identify the individuals¹⁷⁷. Current proposals establish that profiling the individuals could happen in the absence of specific consent, and redress would be possible only ex post and in the event of demonstrable harm. This profiling implies a serious risk of unreliable and discriminatory profiles – unknown by the individuals – that could be particularly harmful for persons with disabilities¹⁷⁸.

We call for



- The EU legal framework on data protection and in particular the proposed Data Protection Package to be brought into line with the UN CRPD. Specifically, persons with disabilities who are deprived of their legal capacity should be protected from abuse and supported when providing consent on the use of their personal data;
- A more far-reaching transparency and monitoring mechanism regarding the technologies being used to process data, as well as clear information to users about these processes and how their personal data will be used.

Article 23: Respect for home and family

Most matters related to home and family fall under the competence of Member States; however, the EU is competent on judicial cooperation in civil and criminal matters. The right of persons with disabilities to be parents is violated in many EU Member States.

Legal systems allow forced sterilisation or forced abortion without the consent of the person. Persons with disabilities are often seen and judged by judicial authorities, social services and by society in general as less fit to have, and take care of, children. These prejudices lead to attempts to persuade them to be sterilised or have abortions. Furthermore, legal decisions against a father or mother with a disability are not uncommon in separation or divorce proceedings.

The EU has adopted Regulation 1259/2010 on divorce and legal separation¹⁷⁹ creating legal certainty for divorce and separation cases of couples residing in two different Member States. However, this Regulation fails to address the stigma, negative image and barriers that parents with disabilities face with regards to legal custody¹⁸⁰.

The European Commission had also proposed strengthening the rights of pregnant workers and women, including for women with disabilities, returning to work following childbirth and/or who are breastfeeding with the proposed Maternity Leave Directive¹⁸¹, which was adopted democratically by a large majority of the European Parliament on 20 October 2010. However, this proposal has been blocked by Member State governments in the Council of the European Union for over three years and the European Commission has also threatened to withdraw the proposal¹⁸².

Comprehensive information, services and support to children with disabilities and their families should be provided in order to prevent concealment, abandonment, neglect and



segregation¹⁸³. In this matter however, the EU measures lack coherence. The EU has addressed the issue of prevention of family separation, by promoting support to families to take care of their children (including through anti-poverty programmes), and by calling on Member States to stop the expansion of institutional care settings¹⁸⁴. At the same time, EU-driven austerity measures have fostered cuts in social services¹⁸⁵, in support to families and in community-based services, contributing to a re-institutionalisation of persons with disabilities.

We call for

- The swift adoption of the 2010 proposed Maternity Leave Directive;
- The EU to ensure that European legislation on parental leave and reconciliation policies are considerate of the needs of parents of children with disabilities by providing additional support and flexibility in balancing their private, family and professional life;
- The EU to provide adequate legal protection and promote training of judicial and social professionals to ensure that persons with disabilities are not discriminated against during legal and administrative proceedings concerning their sexual and reproductive rights, right to a family and legal custody of their children.

Article 24: Education

The EU has supporting competence in the field of education. It should encourage cooperation among Member States and support their actions.

Pupils and students with disabilities, especially those in need of high level support are often excluded or do not have adequate access to education services. It has been demonstrated that the financial crisis has negatively influenced efforts towards inclusive education. Evidence has shown this in Ireland or Latvia for example, where several provisions have not been implemented and deferred indefinitely for financial reasons. Under the Employment Equality Directive persons with disabilities are protected against discrimination in education only as regards vocational training. However, equal opportunities can only be achieved if the right to inclusive education is granted at all levels through the adoption of relevant legislation which will prohibit any discrimination on the basis of disability outside employment¹⁸⁶.

Learning experiences abroad should be accessible to all students with disabilities The EU Regulation and student exchange programmes (e.g. Erasmus+¹⁸⁷) have been improved in



recent years by including financial support for the mobility of students with disabilities. However, in practice disabled students face numerous barriers when trying to access the national educational services of the country of destination (attitudinal, architectural, communication and information barriers¹⁸⁸ and lack of flexibility of curricula). According to the UN CRPD, persons with disabilities must have access to all levels of education including life-long learning¹⁸⁹.

In order to develop adequate policies to ensure access to inclusive education for all persons with disabilities in the EU, there is a need for comparable and consistent EU data. However, despite several surveys and data collections carried out by the EU, the data (in EU-SILC 2011¹⁹⁰) on persons with disabilities who have completed tertiary education or who are early school leavers is lacking and not reliable. The EU growth and employment strategy¹⁹¹ has as an objective that the share of early school leavers should be under 10% and that at least 40% of 30-34 years old people should have completed a tertiary or equivalent education course. A comparative analysis showed that, in 2011, only 27% of persons with disabilities aged 30-34 had completed tertiary or equivalent education in the EU¹⁹². However, there are no indicators in the EU Strategy to specifically measure the share of persons with disabilities¹⁹³.

We call for

- The Commission to support EU countries in developing inclusive education systems by promoting the use of European funding instruments¹⁹⁴ to fund both the training of staff and accessibility. The Commission should fund research on accessible pedagogical material and reasonable accommodation in education, paying special attention to children in need of high level support;
- The Commission to promote participation of persons with disabilities in EU exchange programmes (e.g. Erasmus+ including Life-Long Learning Programmes) and to provide more accessible information on accessibility and reasonable accommodation, including information about who is responsible for the costs between the local authorities and university of the country of origin and the ones of the host country. The Commission should promote the exchange of best practices about access to exchange programmes for students and teachers with disabilities;
- The Commission to collect data and best practices at the national level to monitor the access to education of pupils with disabilities, including pupils in need of high level support and to support Member States in producing adequate reports based on comparable data and statistics;



- The Commission to include disability specific indicators in the Europe 2020 Strategy when pursuing the target on education.

Article 25: Health

In the health field, the EU shares competence with EU Member States. The EU complements Member States' policies to improve public health.

The inaccessibility of health care facilities and the lack of accessible information about health care services and entitlements have been identified as major barriers in accessing health care by European patients¹⁹⁵. There is also a need to ensure accessibility of e-health and m-health devices and services, including apps¹⁹⁶.

The lack of adequate training and flexibility for health care professionals¹⁹⁷ and misconceptions about the health care needs of persons with disabilities are also major barriers¹⁹⁸. Free and informed consent is often denied to persons with psychosocial disabilities, intellectual disabilities and persons under guardianship in their access to mental health services in the EU. The quality of treatment for psychiatric care lags behind in many Member States, which rely on the outdated biomedical approach and do not explore the perspectives offered by the social model of psychiatry. All too often medication is also offered instead of talking therapies, or a combination of both.

As a consequence, persons with disabilities tend to receive health care of lower quality that is not adapted to their needs. Research shows the strong correlation between disability and ill health. This is particularly significant for women with disabilities, 23.7% of whom reported having 'very bad health'. In comparison, less than 0.1% of women and men without disabilities declare the same condition. Research also shows a higher percentage of psychosocial disabilities and mental health problems among women, particularly migrant women¹⁹⁹.

The EU has failed to incorporate the disability perspective in an appropriate way in its relevant health instruments²⁰⁰. In addition, insufficient attention has been given to groups facing greater risk of exclusion as a result of the intersection between gender²⁰¹ and other grounds of discrimination such as disability. Consequently, the specific situation in which women and girls with disabilities often find themselves has not been adequately addressed.



In particular, access to sexual and reproductive rights is by and large impossible for many women and girls with disabilities. Informed consent about the use of contraceptives is denied, while the provision of contraceptives is often a default practice. Moreover, women with disabilities are at risk of forced sterilisation, which constitutes a serious violation of their physical integrity, the freedom of choice and the self-determination of his or her sexual and reproductive life²⁰².

In addition, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons with disabilities, including transgender persons with a psychosocial disability²⁰³, and migrants with disabilities²⁰⁴ equally face a higher risk of discrimination and harassment in health care.

The 2011 European legislation²⁰⁵ on cross-border health care does not guarantee patients with disabilities, in the same way as their peers without disabilities, access to affordable health care in EU Member States other than their own, since it has left the implementation of the most important provisions to the discretion of the Member States²⁰⁶.

Finally, in many EU Member States private health insurances discriminate against persons with disabilities, who are excluded or have to pay a higher rate for their insurance.

We call for

- The EU to ensure that persons with disabilities travelling to another EU Member State for health care can rely on a European cross-border benefit package including treatment of chronic disabilities as well as an accessible, reliable and effective complaints and redress body;
- The Commission to ensure that e-health services, as well as mobile health devices and services are fully accessible and safe to use for disabled patients, family members, personal assistants and health care staff;
- The EU to facilitate equal access to disability specific health care services for persons with disabilities, as well as to mainstream services, such as dental and eye care, sexual and reproductive health and preventive services, including telemedicine;
- The EU to promote the development of guidelines on free and informed consent and training of health care professionals on disability awareness and provision of reasonable accommodation, with a particular attention to women, children, older and LGBTI persons with disabilities and to persons with disabilities who have communication difficulties;
- The EU to promote prevention and health promotion campaigns in accessible formats, with special efforts to reach specific groups of persons with disabilities with evident



health disparities, such as women with disabilities and persons with intellectual disabilities;

- The EU to collect data and promote research on sexual and reproductive rights of women and girls with disabilities.

Article 26: Habilitation and rehabilitation

Habilitation and rehabilitation services fall under the definition of social services of general interest (SSGIs). The Commission defines SSGIs as: on the one hand 'statutory and complementary social security systems' addressing 'main risks of life', and on the other hand 'essential services supplied directly to the person'²⁰⁷. EU competence in the field of habilitation and rehabilitation is not clearly defined as in some cases it has supporting competences and in others it is shared with Member States. Habilitation and rehabilitation services are not sufficiently guaranteed in the EU²⁰⁸.

Habilitation and rehabilitation services should help persons with disabilities have access to the open labour market and supported employment. The Commission published a study on supported employment which showed that the position and status of Supported Employment across the EU is unclear and funding is unstable and unpredictable²⁰⁹.

High quality services should be promoted and guaranteed by the EU. Persons with disabilities, and in particular persons in need of high level support, may benefit from tailor made habilitation and rehabilitation services promoting inter alia early intervention. In this respect, inequalities in the quality of habilitation and rehabilitation services exist among EU countries, preventing persons with disabilities and their families from moving across the EU. Continuity of service delivery is a key characteristic for efficient results of rehabilitation services. In 2014, the EU adopted legislation on public procurement²¹⁰ that makes it possible to reserve contracts for non-profit organisations that deliver social, health and other services provided directly to the person (including habilitation and rehabilitation services). However, the duration of these reserved contracts is limited to three years, which is likely to jeopardise the continuity of service provision²¹¹.

We call for

- The development of compulsory minimum quality standards for rehabilitation and rehabilitation services for persons with disabilities, including children with disabilities;



- The Commission to support the development of rehabilitation services and the restoration of levels in such services where it has been reduced. The Commission should facilitate partnerships between the main actors involved in the development and delivery of the rehabilitation services, giving priority to service users;
- The Commission to collect and disseminate evidence of the effectiveness of rehabilitation services, including social rehabilitation;
- The Commission to raise awareness on the study on supported employment and its findings and to support the implementation of the recommendations included in the report²¹²;
- The Commission to provide guidance (e.g. best practices and benchmarking guides) to contracting authorities to promote the use of open public procurement procedures or alternative forms of selecting the provider, different from procurement, to ensure continuity of service provision.

Article 27: Work and employment

The EU has shared competence in the field of employment of persons with disabilities.

Persons with disabilities are protected against discrimination in employment and occupation by the Employment Equality Directive²¹³. However, the effectiveness of this Directive is limited due to its problematic implementation today in the EU. This is caused by the extremely low level of awareness about disability rights and inadequate understanding of the law, particularly of the concept of reasonable accommodation, by most parties affected by the Directive, including judges, persons with disabilities and employers. Serious financial, procedural and information barriers to seek redress from discrimination and inadequate procedures for victims' support and representation are undermining the impact of the legislation²¹⁴.

The Commission has created an online portal for mobility of workers across the EU, which provides comprehensive information for workers and employers, including information on living conditions in another country. Unfortunately the portal is not fully accessible and provides little specific information for workers with disabilities²¹⁵ and for workers with children with disabilities.

The EU identified reduction of unemployment as a priority at least until 2020²¹⁶. On the basis of European Union Statistics on Income and Living Conditions 2012 (EU-SILC), the employment rate of persons with disabilities is about 24 percentage points lower compared to persons without disabilities (25 pp in 2011 and 26 pp in 2010). About 47.9% of persons with



disabilities are employed compared to 71.5% of persons without disabilities (the Europe 2020 target for EU is 75%). The employment rate of women with disabilities is lower than that of men with disabilities²¹⁷. Also mothers of children with disabilities face discrimination with regard to hiring procedures, salary and social security payments²¹⁸. This has a direct impact in influencing national economic reforms to fight poverty and exclusion and reduce unemployment and schools dropout rates²¹⁹.

An important factor affecting the employment, but also the unemployment and inactivity rate, is the degree of disability. At EU level severely disabled persons are at higher risk of exclusion from the labour market than moderate or non-disabled persons. This means that measures aimed at the general population will not impact on persons with severe disabilities.

The Council of the European Union adopted recommendations for quality of traineeship in the EU²²⁰. Young people with disabilities however are disregarded in particular as accessibility is not included among the criteria to provide a high quality traineeship programme in the EU.

The EU upon ratifying the UN CRPD made a reservation with respect to Article 27, 1 in so far as it allowed Member States to make an exception for the armed forces. The 2010 Employment Equality Directive²²¹ states that “Member States may provide that this Directive, in so far as it relates to discrimination on the grounds of disability and age, shall not apply to the armed forces”.

EU Regulation 651/2014 (general block exemption regulations regarding state aid) allows national governments to give state aid to employers for covering the costs of employing and training persons with disabilities²²². The potential impact of this is very positive if awareness is raised about the disability specific provisions and there is adequate monitoring of its implementation.

The generalised exception of application of the Employment Equality Directive to the armed forces is discriminatory and runs against the object and purpose of the UN CRPD.

The European Court of Human Rights in the case *Glor vs. Switzerland*²²³, ruled that banning persons from service in the army on the basis of disability represents discrimination contrary to Article 14 of the European Convention on Human Rights and Fundamental Freedoms.

We call for



- Awareness raising among private and public employers about employment of persons with disabilities, in particular women with disabilities and mothers of children with disabilities (including on their potential, negative stereotyping, accessibility needs²²⁴ and reasonable accommodation) by means of appropriate state aid and training²²⁵ funded under the European Social Fund, and developing benchmarking tools for the exchange of information and best practices across the EU²²⁶;
- Enhancing civil dialogue with NGOs, trade unions and organisations of employers by involving them in all steps of decision-making and implementation processes with regard to the Employment Equality Directive;
- The Commission to promote collective bargaining among social partners to create an inclusive labour market for persons with disabilities. Special attention should be paid to accessibility, reasonable accommodation and non-discrimination;
- The European job mobility (EURES) portal to be made fully accessible to persons with disabilities, with specific sections dedicated both to persons with disabilities travelling and working abroad as well as to girls and boys with disabilities who travel or move to another EU country with their families;
- Monitoring of the employment rate of persons with disability with a specific indicator, and including information in the Annual Growth Survey when defining the priorities of the National Reform Programmes and Country-specific Recommendations²²⁷;
- The inclusion of accessibility in the Council's recommendations for quality of traineeship in the EU;
- The withdrawal of the general reservation on non-discrimination in employment in the armed forces to the Convention.
- The European Commission to monitor the use of the European Social Fund to promote employment and training of persons with disabilities. Organisations of persons with disabilities should be regularly invited to the meetings of the Social Fund Committee²²⁸ to ensure meaningful participation in the monitoring of the Fund.

Article 28: Adequate standard of living and social protection

The right to an adequate standard of living and social protection is one of the eight areas for action in the European Disability Strategy 2010-2020²²⁹. In order to analyse EU competences on the implementation of Article 28, the area for action of the Strategy on social protection sets the reference framework. Moreover, social protection systems, poverty reduction programmes, disability-related assistance, public housing and other enabling services, as well as retirement and benefit programmes are part of the Social Inclusion and Social Protection



(SPSI) Processes, which fall under the shared competences between the EU and Member States.

Freedom of movement of workers across the EU is secured by the Treaty on the Functioning of the EU and Regulation 492/2011 on the mobility of workers which also gives access to social security benefits, including disability related ones. However, persons employed in sheltered or supported employment, or working for a limited amount of hours, risk being excluded and losing access to the social security schemes of the host country, which results in discrimination in the enjoyment of freedom of movement.

The economic crisis has a greater impact on the standard of living of persons with disabilities compared to the general population²³⁰. The number of persons at risk of poverty has increased across the whole EU. Evidence based on EU Statistics on Income and Living Conditions (EU-SILC) supports the view that persons with disabilities face a higher risk of poverty than persons without disabilities²³¹. In 2011, 31% of persons with disabilities aged 16 and over lived in households at risk of poverty or social exclusion as compared to 21% of persons without disabilities. This is a pattern in all EU Member States²³².

The degree of disability is an important factor to consider, as at EU level the percentage of severely disabled people living in households at risk of poverty or social exclusion is 49% compared to 22% for persons without disabilities. The risk of falling into poverty is increased among families where additional costs due to a disability have to be taken into account. The increase in the personal contribution to be paid by the patient may exclude many families from enjoying appropriate services and medication²³³.

Austerity measures supported by the European Union directly and indirectly²³⁴ have affected the wellbeing of persons with disabilities, having a significant impact on their standard of living. A wide range of mechanisms were used by EU Member States to reduce the real value of cash benefits to persons with disabilities reducing dramatically their possibility to access basic goods and services, as well as the possibility to cover the disability related costs. However, the above mentioned collection of data by EU-SILC does not measure in detail the impact of the austerity measures on the lives of persons with disabilities. There is an absence of proper indicators with no systematic information being gathered by EUROSTAT on the status of persons with disabilities²³⁵.

The EU would appear to be promoting the idea that a priority of EU Member States is to contain public deficits and implicitly accepts thereby that EU Member States defer their efforts



to actively implement policies that reduce poverty and, to a lesser extent, policies that increase employment²³⁶. While the Europe 2020 strategy was recommending lifting people from the risk of poverty, the Troika²³⁷ was prioritising economic objectives that encouraged austerity measures.

We call for

- The European Commission to develop and promote a common broad definition of workers taking into consideration the variety of employment opportunities and the specificities of workers with disabilities. It should revise the Regulation on Mobility of Workers accordingly to avoid any discrimination against workers with disabilities in their access to social protection systems;
- The EU to create a minimum protection scheme for persons with disabilities in order to ensure that austerity policy does not cross that threshold;
- The Commission to promote social security schemes that, together with activation measures, will lift persons with disabilities out of poverty and the risk of it, when pursuing the Europe 2020 poverty target. Moreover, Country-specific Recommendations²³⁸ should include persons with disabilities and intersecting inequalities affecting persons with disabilities as a target group when trying to reduce poverty;
- The European Commission to ensure structured dialogue and consultation with organisations of persons with disabilities in all policy initiatives, including the European Semester process and the impact assessment procedure, to fight against poverty and social exclusion including raising awareness about the highest risk of poverty of persons in need of high level support and their family.

Article 29: Participation in political and public life

The EU Treaty and the EU Charter on Fundamental Rights recognise the right of persons with disabilities to be free from discrimination in exercising their citizenship rights, including the right to vote and stand for elections²³⁹. The European Court of Justice confirmed²⁴⁰ that 'Member States enjoy a wide margin of appreciation in imposing conditions on the right to vote. However those conditions may not curtail the right to vote to such an extent as to impair its very essence'.



However, persons with disabilities face a series of legal and practical barriers that prevent them from exercising their right to participation in political and public life on an equal basis with others.

In the majority of EU Member States, the deprivation of legal capacity of citizens with disabilities results in losing their right to vote²⁴¹. Fifteen Member States automatically deprive persons with disabilities under guardianship from the right to vote and six countries may deprive them after some sort of assessment²⁴². Only a minority of countries allow persons with disabilities to fully participate in political life and elections. Even during the European elections in May 2014, some European citizens with disabilities were denied their basic right to elect their representatives²⁴³.

Barriers to the right to vote also take the form of inaccessible voting procedures, including inaccessible polling stations. Only 12 EU Member States out of 28 have accessibility standards for all polling stations²⁴⁴. Moreover, most of the standards focus only on persons with physical impairments. Reasonable accommodation measures for blind persons, persons in need of high levels of support and persons with intellectual disabilities and their families are missing. In most Member States, the official websites providing instructions for voting and information on candidates do not meet the internationally recognised standards for internet accessibility²⁴⁵.

Institutional campaigns to encourage participation in elections are not accessible²⁴⁶. Political parties' material is very rarely available in alternative formats²⁴⁷. Political rallies and electoral events, as well as broadcast election debates are rarely accessible for persons with disabilities.

The European social partners lack awareness and information on the needs of workers with disabilities and as a result do not sufficiently mainstream the perspective of persons with disabilities in their work and framework agreements.

The EU funding that is granted to support the activities and projects of civil society organisations does not require them to organise their events, meetings, information and communication in accessible ways. As a result, persons with disabilities face difficulties in participating in the work of these organisations.

We call for



- The European Commission to adopt a Recommendation to Member States as regards the right of European citizens to vote and stand for EU and local elections on an equal basis with others, which would prohibit the denial of voting rights on the basis of legal capacity;
- The EU to promote ambitious and accessible awareness-raising campaigns on the right to vote and political and public participation of all people with disabilities as well as promote exchange of good practices concerning accessible elections;
- The EU to promote accessible campaigns of political parties, including voting and materials in all EU Member States at the occasion of the next elections to the European Parliament – for example publishing a manual to support the participation of voters with disabilities and creating videos for polling station staff to support voters with disabilities, including persons with intellectual disabilities;
- The EU to promote European social partners to take the appropriate actions to include persons with disabilities in their internal structures and in the employment market via their work and framework agreements;
- The EU to ensure civil society organisations are inclusive of and accessible for persons with disabilities, where applicable;
- The EU to provide funding to support civil society organisations to become inclusive and accessible.

Article 30: Participation in cultural life, recreation, leisure and sport

The EU has supporting competences in the area of culture, tourism and sport²⁴⁸. The EU can play a significant role via its funding programmes as well as related legislation such as the rules on VAT on certain goods and services for example. The EU can also endorse certain practices by using non-legislative instruments and by respecting the provisions of the UN CRPD in its own initiatives such as the European Capitals of Culture.

The Commission's own funding programmes, i.e. the Culture Programme 2007 - 2013²⁴⁹ and the MEDIA programme²⁵⁰ did not include accessibility as a criterion for the award of grants or support disability specific projects. The EU CRPD Report while noting that some projects have been funded which include persons with disabilities, do not give details about which ones and how many. The EU Report also states that the EU is committed to mainstream accessibility in the European Capitals of Culture²⁵¹ initiative but no concrete actions have been taken to ensure this.



One of the specific objectives of Creative Europe, the new EU funding programme for the cultural and creative sector which follows the Culture Programme and the MEDIA Programme, is to make culture and creative works more accessible to persons with disabilities, amongst others²⁵². This commitment should be taken seriously and its practical implementation monitored.

The EU has signed the Marrakech Treaty²⁵³ to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in order to grant certain copyright exemptions to create accessible versions of print media such as e-books. However, this is not an EU initiative but is an international treaty. The EU Directive on Copyright of 2001²⁵⁴ introduces an exception on reproductions for “uses, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability”. However this exception does not guarantee as such the accessibility of printed and broadcasted material, but allows at cost its reproduction with no additional copyright levy.

Access to sport is included in the European Disability Strategy 2010-2020 and the EU funded Special Olympics & Youth Paralympics; these are positive initiatives but do not allow inclusion of persons with disabilities in mainstream sport activities and events. It is not clear how the EU tries to encourage EU Member States and sports organisations to adapt the sports infrastructure and promote inclusive sporting events in practice.

Currently many heritage sites and museums are not accessible. The European heritage label²⁵⁵ and other EU funded initiatives do not tackle this issue.

We call for

- The swift ratification, by the EU and Member States, of the World Intellectual Property Organisation (WIPO) Marrakesh Treaty;
- The EU to require provision of access to digital media and accessible programme content and films (subtitles, audio descriptions, sign language, etc.) independent of the distribution format in films and programmes funded under “Creative Europe”;
- A non-discriminative and inclusive approach to the accessibility of culture, leisure and sports by making accessibility a condition to the distribution of funding via the relevant programmes (i.e. Creative Europe, ERASMUS+);
- Promotion of the accessibility of museums, libraries and other cultural places by creating a European label for accessibility²⁵⁶ and European standards for easy-to-



read and easy-to-understand information, as well as quality standards for the recognition of the European logo for accessible information²⁵⁷.

E. INFORMATION ON THE SPECIFIC SITUATION OF WOMEN AND CHILDREN WITH DISABILITIES

Article 6: Women with disabilities

The Treaty of Lisbon establishes the principle of equality between women and men as a common value within the European Union²⁵⁸. The Union promotes equality²⁵⁹ and aims to eliminate inequalities in all its activities.²⁶⁰

Women with disabilities constitute 16% of the total population of women in Europe. This figure is based on the current female population of just below 250 million, so in the EU there are approximately 40 million women and girls with disabilities.

Women with disabilities remain in a clearly disadvantageous position within society and face intersectional discrimination in all areas of life, including, socio-economic disadvantages, social isolation, violence against women, forced sterilisation and abortion, lack of access to community services, low-quality housing, institutionalisation, inadequate health care and denial of the opportunity to contribute and engage actively in society. The status of women with disabilities is not only worse than that of women without disabilities, but also worse than that of their male peers. This is especially so in rural areas, where matriarchal and primary economic systems, with fewer services and opportunities for this group than in urban environments, are still predominant²⁶¹.

The principle of gender equality between men and women and the relevant EU gender equality policies, such as the EU 2011-2020 Gender Equality Pact²⁶², the EU Strategy for Equality between women and men (2010-2015)²⁶³ and the EU Plan of Action on Gender Equality and Women's Empowerment (2010-2015)²⁶⁴ do not mainstream the rights of women and girls with disabilities. The separate handling of gender and disability in EU policy has resulted in the invisibility of women with disabilities' needs and women with disabilities continue being the victims of multiple discrimination²⁶⁵.



The European Gender Equality Institute was established in 2010. However, the rights of women and girls with disabilities are not sufficiently mainstreamed in their work on gender equality.

The Beijing Platform for Action is an important tool at international level that aims at promoting the “human rights of women” in 12 critical areas²⁶⁶. The EU has adopted indicators²⁶⁷ for the follow up of the Beijing Platform for Action since 1999 and is currently reviewing its implementation²⁶⁸. Amongst its three strategic objectives, there is “ensure equality and non-discrimination under the law and in practice”. However, the intersectional discrimination has not been taken into account in these objectives and women and girls with disabilities’ concerns have not been included.

We call for

- The EU to develop effective measures in order to mainstream disability in its gender policies, programmes and measures, as well as to design and develop specific positive action measures to achieve the advancement of women and girls with disabilities in the EU;
- The European Institute for Gender Equality²⁶⁹ to provide guidance at European and Member State level as regards the specific situation of women and girls with disabilities, and play an active role in advocacy work to secure equal rights and combat discrimination²⁷⁰;
- All EU legislation and policies implementing the Beijing Platform for Action to include an intersectional approach and guarantee the human rights of all women and girls with disabilities. An EU mechanism should be established to monitor the commitment made at the Cairo and Beijing conferences, education programmes and actions;
- Support and funding to be given to research at European and national level on intersectional discrimination and social exclusion that women and girls with disabilities face. To this extent, sex and disability indicators should be included in all research and reports on non-discrimination and equal opportunities.

Article 7: Children with disabilities

The promotion of children’s rights is an integral part of EU fundamental rights objectives set out by EU law. Children’ rights are mentioned in Article 3 of the TEU and Article 24 of the EU Fundamental Rights Charter.



Yet, the recognition of the specific situation of children with disabilities has largely been declaratory in relevant EU instruments (European Disability Strategy, EU Agenda for the Rights of the Child²⁷¹) rather than underpinned by targeted measures addressing their specific needs or monitoring Member States' respect of EU policies.

Children with disabilities are disproportionately represented in institutions. Countries which while putting a ban on the institutionalisation of children under a certain age, allow for exceptions for children with disabilities²⁷².

The mainstream education system is far from being fully inclusive. Consequently 22% of children and youth with disabilities leave school early, in contrast with 12% of their non-disabled peers²⁷³.

Integrated child protection systems in the EU do not sufficiently address the needs of children with disabilities. While child protection is central in international legal frameworks on children's rights, concrete action for children with disabilities with measurable impact is yet to follow. As a consequence, children with disabilities face higher risk of violence, abuse, neglect and bullying than other children²⁷⁴.

The need to ensure participation of children, with or without disabilities, in matters which concern them has been recognised²⁷⁵ by the EU, but concrete measures available to the public are largely limited to the Kids' Corner²⁷⁶.

We call for

- The EU Agenda for the Rights of the Child to be followed by a new, forward-looking, strategic instrument that takes into account the rights of all children, including children with disabilities and their families;
- The participation of children and youth with disabilities in the decisions that concern them is imperative, as is a mechanism for monitoring the actual impact of EU guidance, for example the EU Child Rights Forum²⁷⁷. It is important to involve children and youth with disabilities themselves;
- The EU to promote the adoption of initiatives to reduce early school leaving of students with disabilities.



F. INFORMATION RELATING TO SPECIFIC OBLIGATIONS

Article 31: Statistics and data collection

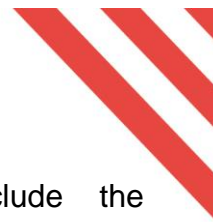
The EU has shared competence with its Member States to produce statistics.

The European Disability Strategy states that the Commission will work to streamline information on disability collected through EU social surveys, develop a specific survey on barriers for social integration of persons with disabilities and present a set of indicators to monitor their situation with reference to key Europe 2020 targets. Little reliable data on overall disability prevalence is available at EU level and even less that is gender disaggregated. This makes having a precise assessment of the situation of persons with disabilities across Europe more difficult. The available data and studies at national level are very difficult to compare because different definitions are adopted across countries and in the same country by different sectors of the public administrations according to their scope.

The Labour Force Survey ad-hoc module (LFS AHM)²⁷⁸ collects data on people aged 15-64 reporting a longstanding health condition or a basic activity difficulty, by sex and age. Other age populations with disabilities, including children and older persons, as well as people living in segregating institutions are therefore excluded. In fact, as the likelihood of disability increases with age given the current EU demographic situation, the occurrence of disability is expected to increase. If disabled persons, including children, living in institutions are taken into account, the overall incidence is likely to be even higher²⁷⁹.

The annual survey on Statistics on Income, Social Inclusion and Living Conditions (EU-SILC)²⁸⁰ data from 2006 to 2008 showed that on average over 30% of respondents aged over 75 say they are restricted to some extent, and over 20% describe themselves as severely restricted. Moreover, including all persons aged 15 and above, on average almost 8% of respondents across Europe stated that they were severely restricted in 'activities people usually do, while 16.5% of respondents stated that they were restricted to some extent, adding up to approximately 24.5% of the population.

The data from SILC for persons of working ages 15-64 who say they are severely restricted or restricted to some extent show a total of 17.6% of the population, which is in line with the percentage found in the LFS AHM (15%). These findings confirm that if all age groups are considered the percentage of persons with disabilities is likely to be higher.



Current available data collections, such as the Labour Force Survey, only include the participation of persons with disabilities in employment; all other areas of daily life are excluded, such as violence, education, social protection; access to sport, leisure and cultural activities; political and public participation; access to general and, specific to disabilities, health care, as well as physical, psychological, social and vocational rehabilitation and habilitation services; and institutionalisation in segregating residential settings.

We call for

- The EU to collect and disseminate disability statistical data, disaggregated by age and gender for monitoring the situation of persons with disabilities across the EU in all areas of daily life, not only in the field of employment;
- The EU to ensure that data is disaggregated by disability when it comes to all data collection efforts, including with regard to violence, support services etc.;
- The EU to collect and disseminate reliable data on barriers hindering the full enjoyment of their rights by persons with disabilities, including on the intersectional discrimination faced by women and girls with disabilities according to the human rights model of disability in the UN CRPD;
- EUROSTAT and the European Agency for Fundamental Rights to engage with persons with disabilities and their representative organisations in all data collection efforts.

Article 32: International cooperation

The EU has shared competence to carry out activities and to conduct a common policy in the area of development cooperation and humanitarian aid²⁸¹. The EU is the largest donor in the world in international cooperation and it has not yet undertaken all appropriate measures to enhance EU disability-inclusive development policies and programmes²⁸². This creates incoherence in policies and programmes established with European funds and decisions that create more barriers for persons with disabilities in the world. Further, the perspective of women and girls with disabilities is not included in EU development policies. In addition, the lack of specific cross-cutting disability markers in all internal templates, procurement and project monitoring mechanisms, means the assessment of the effective implementation of Article 32 remains vague.

Although the EU Development Cooperation Instrument and the EU Instrument for Democracy and Human Rights have included a reference to the UN CRPD, most other instruments such as the Instrument for Pre Accession Assistance and European Neighbourhood programme



have not included provisions on the rights of persons with disabilities. The legislation adopted also lacked monitoring mechanisms.

We call for

- The adoption of an EU Disability and Development Policy and Action Plan, taking into account the perspective of women and girls with disabilities and recognising that international cooperation is a significant tool in the promotion of the UN CRPD²⁸³. This Action Plan should contain time bound measures and allocate responsibility for implementation. The representative organisations of persons with disabilities should be involved in the design, implementation and monitoring of the action plan;
- The adoption of appropriate steps to mobilise resources to identify disability markers and investigate the feasibility of their implementation in all EU funded projects. This should include a systematic assessment of the UN CRPD compliance of projects in the EUs Development Cooperation awarding and evaluating mechanisms;
- Policies and programmes aimed at achieving the post 2015 Millennium Development Goals (MDGs) Framework in the European Union and Member States should be fully accessible to and inclusive of persons with disabilities. Indicators measuring progress towards achievement of the goals must be included and there must be mechanisms to closely monitor outcomes for persons with disabilities.

Article 33: National implementation and monitoring

1. Focal point and coordination mechanism

a) Focal point

The Commission's Unit on the Rights of Persons with Disabilities²⁸⁴ is the established focal point for the CRPD. This Unit was formerly established under Directorate-General for Justice and has with the new Commission of 2014 moved to Directorate-General Employment, Social Affairs, and Inclusion. The Unit is a vertical unit within the Commission and does not have the coordinating role necessary to have a horizontal oversight of CRPD implementation. Moreover, the expansion of the EU's role following the conclusion of the CRPD has not been matched with the expansion of the Unit.

We call for



- The establishment of a Disability Directorate under the Commission's Secretariat-General with a horizontal and coordinating mandate to facilitate action in different sectors and at different levels in order to mainstream the rights of persons with disabilities in the preparation of policies and legislation and promote awareness about the CRPD internally.

b) Coordination mechanism

The EU Disability Strategy 2010-2020 has as one of its key actions the creation of an inter-institutional coordination mechanism to implement the CRPD²⁸⁵. This does not however exist yet.

The Council Working Group on Human Rights (COHOM)²⁸⁶ has been established as the formal coordination mechanism with the Member States. The Group is responsible for human rights issues in the EU's external relations and does not have a mandate to work on EU internal human rights issues, which is the mandate of the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP)²⁸⁷.

The High Level Group of Member States' Representatives on Disability predates the conclusion of the CRPD and has not been adapted to address the implementation of the CRPD. It has been set up to facilitate cooperation between the European Commission and EU Member States and between the EU Member States themselves on the latest policies with regard to persons with disabilities²⁸⁸. However, the meetings are more geared towards providing information on EU policies and legislative initiatives and do not facilitate exchanges on the implementation of the CRPD; nor do they result in any concrete outcomes or recommendations, including on external policies.

The European Commission's Inter-service Group on Disability engages all relevant Directorates-General. The purpose of the group is to raise awareness of disability issues and encourage more inter-sectoral cooperation within the Commission in this field.

We call for

- The establishment of an effective inter-institutional coordination mechanism between the Commission and the Parliament and the Council of the European Union, with the



involvement and systematic consultation of the representative organisations of persons with disabilities;

- The transformation of the High Level Group on Disability into a Disability Rights Committee in order to strengthen the exchange on the implementation of the CRPD that would result in concrete outcomes and recommendations, with the involvement and systematic consultation of the representative organisations of persons with disabilities at both EU and national level²⁸⁹.

2. EU Framework and independent mechanism(s) for promoting, protecting and monitoring the CRPD

On 29 October 2012 the Council set up the EU-level Framework to promote, protect and monitor the implementation of the CRPD. The EU Framework includes:

- the European Ombudsman;
- the European Parliament
- the EU Agency for Fundamental Rights;
- the European Disability Forum, and
- the European Commission.

EDF, as the representative organisation of persons with disabilities in the EU is a full member of the EU Framework, in line with Article 33, 3 CRPD. It has been appointed as Chair of the Framework for two years²⁹⁰.

The involvement of the focal point (article 33.1), the Commission's Unit on the Rights of Persons with Disabilities in the EU Monitoring Framework is incompatible with Article 33, 2 and the Paris Principles, as it is not independent²⁹¹. The very same Unit, and the same individuals, are simultaneously the focal point, and part of the independent mechanism.

In addition, the Framework does not have the capacity to conduct activities and produce documents in itself. The current work programme of the Framework is a compilation of joint activities between the members within their respective mandates and areas of work.

Moreover, there is a gap in the area of protection. The mandate of the European Ombudsman has limitations since it cannot review EU law for compliance with obligations under the CRPD. Access to the European Court of Justice by individuals (except EU staff) and DPOs is in practice also very difficult. As a result, the rights of persons with disabilities as recognised by



the CRPD are not protected and therefore they have limited access to an effective remedy at EU level.

We call for

- The EU to ensure that the Monitoring mechanism is independent and in line with the CRPD and the Paris Principles;
- The allocation of the necessary financial and human resources to the Monitoring Framework so that it has the capacity in itself to fully deliver the tasks of protecting, promoting and monitoring the CRPD in line with the Paris Principles;
- The EU to strengthen the protection mandate of the Monitoring Framework, including by ensuring direct access to the European Court of Justice for EU citizens and trade unions to file complaints on violations of the CRPD and for alleged violations by EU institutions.

3. Civil Society

- On the consultation and involvement of persons with disabilities and their representative organisations in the development and implementation of policies by the European Commission and the communication tools used to this sense, please see the section under Article 4.
- Representative organisations of persons with disabilities are not routinely invited to the meetings of the Council Working Group on Human Rights when items related to the CRPD are covered²⁹².
- The European Commission's Inter-service Group on Disability do not include representative organisations of persons with disabilities.

G. INFORMATION RELATING TO THE EU PUBLIC ADMINISTRATION'S IMPLEMENTATION OF THE CONVENTION

The EU CRPD report's section VI on 'Information relating to the EU public administration's implementation of the Convention' demonstrates progress on several issues, in particular at European Commission level. However, while the report shows progress in regulation with regards to mainly human resources policies, there are no elements for assessing the actual implementation, and a few gaps are evident from the report itself.



It is also worth mentioning that a number of audits have been or will be carried out between 2013 and 2014. However no results have been published yet.

Articles 1 and 2: purpose and definitions

The EU CRPD Report states that the EU institutions and agencies apply the definition of disability as mentioned in the Staff Regulations²⁹³. These Regulations have recently been reviewed to include a UN CRPD compliant definition of disability²⁹⁴ and the concepts of reasonable accommodation²⁹⁵ and positive action. This definition of disability in the Staff Regulations has not been transposed to other EU internal instruments²⁹⁶.

We call for

- All internal instruments, policies and practices of the EU institutions to be revised to include the human rights approach to disability as stated in Article 2 CRPD and as included in the Staff Regulations.

Article 4: General obligations

EU institutions do not have a comprehensive and cross-institutional strategy on how to implement the CRPD internally for their staff and visitors. Disability is not a priority on the internal agenda and has so far been addressed in a patchy way²⁹⁷.

Disability Support Groups in the European Commission²⁹⁸, Council of the European Union and the European Parliament bring together staff concerned with disability, either staff with disabilities or family members of persons with disabilities. These groups are however not consulted and involved in a systematic way in the development of internal instruments and policies to implement the CRPD. Their views are also not systematically taken into account²⁹⁹. Moreover, these support groups lack resources since they are overloaded with requests for advice and support which the responsible EU institutions' services themselves have difficulties responding to³⁰⁰.

The European Personnel Selection Office (EPSO) is responsible for selecting staff for EU institutions and agencies. However, the EU CRPD Report gives no information on the number of people involved in their selection procedures³⁰¹. Despite advances in this area, EDF still



receives complaints on the accessibility of EPSO exams and information from persons that have won a competition with honours yet are never offered a job or even an interview, it would seem, because of their disability³⁰².

Furthermore, we believe that EU institutions should have an inclusive policy and should ensure that they recruit or retain a certain number of officials with disabilities. It should be noted that EU officials are mostly expats and there is apparently no programme to support the integration of officials with disabilities or personal assistants of persons with a disability³⁰³.

We call for

- A broad and comprehensive strategy to realise all relevant CRPD rights within EU institutions and agencies, taking into account the human rights approach to disability. Staff with disabilities and staff who are family members of persons with disabilities should be involved through the established support groups in the planning, implementing, monitoring and evaluating of this strategy. Resources should be made available to build the capacity of these groups;
- Dedicated human resources in the European Parliament, the European Commission and the Council of the European Union to raise awareness on the CRPD internally and to put the above mentioned strategy in place. These staff members should be placed at the highest administrative level and report at regular intervals to the political authorities (for instance the Vice-President in charge) on their progress;
- The development of an EPSO formal policy on reasonable accommodations and accessibility of its selection processes and exams, an accessible information and communication strategy to reach out to candidate staff members with disabilities and a policy to follow up on persons with disabilities who have won the competitions. The EU should publish the results of this policy every two years.

Article 5: Equality and non-discrimination, and Article 27: Work and employment

Although the Staff Regulations include a UN CRPD compliant definition of disability, as mentioned above the system is not aligned with the CRPD. The system relies on medical assessments³⁰⁴, there are no provisions on access to information for employees with disabilities, and competitions do not include positive actions for persons with intellectual or psychosocial disabilities.



The European Parliament Bureau adopted an action plan for the promotion of gender equality and diversity in the Parliament's secretariat for 2009-2013³⁰⁵. Unfortunately the Action Plan did not identify the responsible persons or set deadlines and, as a consequence, it was not implemented.

The Parliament currently provides reasonable accommodations on an ad hoc basis for persons with disabilities but there are difficulties in obtaining such accommodations³⁰⁶. Recently, the Secretary General of the European Parliament drafted internal rules implementing Article 1, d, 4 of the Staff Regulations on how to assess and provide reasonable accommodations to staff members with a disability. However, the criteria for assessing reasonable accommodation are not in line with the CRPD. The Parliament provides traineeship opportunities specifically for young persons with disabilities. This good initiative, however, fails to reach a considerable number of applications of persons with disabilities, as the information is not available in the appropriate accessible formats. Moreover, there is no official budget line for providing personnel and Members of the European Parliament with reasonable accommodation and support³⁰⁷.

We call for

- The transformation of the invalidity committee into a disability committee;
- A budget to be allocated at the administration's level of each institution to cover expenses for reasonable accommodation, support and assistance;
- In social dialogue, workers with disabilities or their family if relevant to be recognised as equal partners;
- The establishment of positive action to ensure competitive exams for persons with disabilities, with an emphasis on the most discriminated persons such as persons with psychosocial and intellectual disability;
- An audit to be carried out on UN CRPD compliance of the staff policies and practices of EU institutions;
- The European Commission to develop a quality framework for traineeship including accessibility;
- The European Parliament to better promote the traineeship opportunities for persons with disabilities through accessible information and communication.

Article 8: Awareness-raising



The EU CRPD Report lists some initiatives in the field of raising awareness on the UN CRPD inside the institutions, but not all of them are systematically built into the various mandatory training.

There is an overall lack of awareness on disability issues and the UN CRPD and as a consequence an ad hoc approach to handling disability-related issues.

We call for

- Each EU institution and agency to organise a specific training module on the UN CRPD, to include the concepts of reasonable accommodation and accessibility, in the mandatory training for its staff, in cooperation with organisations of persons with disabilities.

Article 9: Accessibility and Article 21: Freedom of expression and opinion, and access to information

The physical environment

The accessibility of EU institutions' buildings is problematic. Despite some efforts having been made, accessibility is often not considered at the design stage of the buildings.

The interservice working group on accessibility responsible for accessibility questions in the European Parliament works on an ad hoc basis and lacks overall strategy and vision. No information has been provided on the outcomes of the three reports on progress towards accessibility. In addition, Parliament's Brussels Chamber and Committee rooms are not accessible for wheelchair users at all. In Strasbourg's Chamber, the wheelchair user can only attend the meetings in the last row of the room and the platforms have steps.

The Parliamentarium, the visitor's centre of the European Parliament, fulfils many of the accessibility requirements and has made an effort to provide access in four national sign languages. However, it is not fully accessible for all persons with disabilities and at all occasions and places³⁰⁸. EU offices in some EU Member States³⁰⁹ are accessible; others are not accessible³¹⁰. In general, EU offices, their activities and events are little known to persons with disabilities. Events and activities organised by EU institutions often are not accessible³¹¹.



Access to information and communication

Even the main EU websites are far from being accessible for persons with disabilities³¹², especially for those with intellectual disabilities³¹³. For instance there is still a lack of accessible formats for documents and communications; the online live broadcasting of meetings and events is not accessible³¹⁴; the Commission's Interactive Policy Making online consultation tool³¹⁵, which is the single access point for European Commission consultations, is inaccessible too; and the same is true for the traveller's applications (apps) launched by the European Commission³¹⁶.

There is a gap as regards easy to read or simplified information and several public consultations are only accessible in English and use complex terminology.

Committee meetings of the European Parliament are inaccessible for Deafblind, Deaf and hard of hearing persons since there is no provision for sign language interpretation and speech-to-text services. The Parliament's live web streaming also has no subtitling or sign language interpretation.

Some smartphones applications (apps) funded by the EU such as the Passengers Rights application³¹⁷ or the more recent Going Abroad application³¹⁸ have being criticised by DPOs due to their inaccessibility³¹⁹. Furthermore, live broadcasting and some dissemination materials such as videos still need to be made more accessible³²⁰. Finally, the European Gender Equality Institute does not provide accessible information on the rights of women and girls with disabilities.

We call for

- The development of an action plan on accessibility in the European Parliament, the European Commission and the Council of the EU and the EU offices in the Member States that includes all aspects covered by Article 9 of the UN CRPD. To this aim, a general 'accessibility' budget should be set up for all institutions to ensure that their events, activities, facilities, procedures and workflow are accessible for persons with disabilities, including members of staff with disabilities;
- Communication and information services of EU institutions, agencies and bodies to have among their priorities the accessibility of printed and digital tools for persons with disabilities and guidelines for portrayal of persons with disabilities. Translation and



media services should use a language consistent with the UN CRPD, and include sign language interpretation;

- An audit of EU institutions' websites to assess their accessibility and provide the appropriate resources for the training of staff on how to maintain their accessibility;
- EU institutions, when procuring external communication services (such as the development of an app or an advertisement), to require them to be accessible;
- The European Commission to issue a mandate for a European Standard providing guidelines on easy-to-read and easy-to-understand information, as well as for the identification and the adoption of a quality and accessibility label.

Article 24: Education

There are currently 14 European Schools in the European Union. These are mainly attended by students whose parents work for a European institution.

The EU CRPD report states that “the integration of pupils with special educational needs (SEN) in the European Schools (ES) is an issue of great importance for the Commission, which sits on the Board of Governors on behalf of all EU institutions.” However, today’s SEN policies, budget and practices in ES do not reflect this concern of the Commission.

The ES do not have an inclusive policy. The ES speak of a case by case admittance and not of an individual assessment of the needs which would comply with an inclusive policy once the child is enrolled in the school. The enrolment of a child with a disability in the ES is at the discretionary power of the school board, since the ES can take into account being unable to respond to the child’s needs. In other words, children with disabilities may be discriminated when enrolling in the ES system.

The EU CRPD report also states that children receive appropriate support according to their needs. However, the availability and quality of support provided differs from school to school and from one language section to another. SEN assistants often do not speak the language of the pupil and this is particularly problematic for children with intellectual disabilities, autism, or multiple disabilities who have to attend a class in another section than that of their mother tongue. This is contrary to the European schools’ main goal to provide education in the native language of the pupils so that they can be integrated in their national systems when returning to their country of origin.



The ES has a European Baccalaureate certification that is awarded to students who pass the final year exam at a European School. However, no reasonable accommodation is foreseen in the curriculum for students with disabilities.

In some cases children with disabilities are re-directed to other schools. In 2012, the reason for re-directing pupils in 32% of 102 terminated contracts was that the pupil moved to a more 'adequate' school³²¹. Contrary to what is stated in the EU CRPD Report, in some cases no follow up or guidance is provided by the ES. Parents are obliged to put their child in a Belgian school (most EU institutions are based in Belgium) but this is problematic if the child does not speak one of the Belgian national languages but also if the parents want to keep their child in a mainstream school, as the Belgian education system favours placing children with disabilities in specialised schools³²². In most cases, the result is that the child is obliged to attend an international school which implies high tuition fees that the social services of the EU institutions cover only partly.

The European ombudsman has expressed its concern about the "significant number of SEN children accepted into the [European] schools [and] subsequently withdrawn for unknown reasons. This may point out the inadequacies in the schools' approach to integration [...] and that they should move towards a new policy based on inclusion" ³²³.

In addition, cuts in the SEN budget were announced by the Secretary General of the European schools³²⁴ in 2011. The Commission argues that the budget needs to be controlled because during the last three years the number of SEN children has increased by 34%³²⁵.

However, the 34% increase does not reflect the reality since SEN pupils are only a very small percentage of total pupils³²⁶. The SEN Policy Group also confirms that "the increase in the number of SEN pupils in the European schools has slowed down compared with the year 2009. In addition, the amount of support and, consequently the cost per pupil decreased during the last year"³²⁷.

Besides the EU institutions, all EU funded agencies are also bound to promote, protect and monitor the rights of persons with disabilities as prescribed in the UN CRPD when carrying out their functions. The EU institutions that are funding the European Schools should take responsibility for ensuring European schools set an example as they strive for excellence. Inclusion improves educational quality of all children.

We call for



- The adoption of a plan and the allocation of the necessary financial and human resources to develop and implement an inclusive quality education system at all levels of the European schools. This plan ensures the provision of reasonable accommodation and support, including the provision of an individualised curriculum for each pupil in his or her mother tongue;
- The adoption of a plan and the allocation of resources for the compulsory training of teachers in inclusive education techniques respecting persons with disabilities, including the use of appropriate and augmentative and alternative modes, means and formats of communication, educational techniques and didactic materials to support persons with disabilities, including sign language.

Article 25 and 26: Health, habilitation and rehabilitation

The EU CRPD report mentions that staff in EU institutions and their families are covered by a joint sickness insurance scheme (JSIS). The JSIS in principle reimburses all staff members and their families' costs of medical fees up to 80-85%. If you are a person with a disability or a parent of a child with a disability, then you can apply to have the disability recognised as a 'serious illness'. This recognition gives the right to 100% reimbursement of the medical fees linked to the disability in question. Therefore, the official must prove that the disability is also a 'serious illness', which is not automatically the case, particularly as regards disabilities that have been present since birth. The criteria used to assess the existence of a serious illness are: (i) shortened life expectancy, (ii) an illness which is likely to be drawn-out, (iii) the need for aggressive diagnostic and/or therapeutic procedures, and (iv) the presence or risk of a serious handicap. These four elements must all be present to varying degrees according to the JSIS rules. As there is no list of disabilities that are regarded as also being a serious illness, the existing system gives rise to uncertainty. Furthermore, the JSIS medical officers interpret the rules very restrictively particularly as regards a shortened life expectancy with the end result that most requests for recognition or the renewal of it are refused to persons with disabilities³²⁸.

However, today recognition for serious illness is applied very strictly to persons with disabilities: only those disabilities that have a 'life shortened expectancy' are recognised as a 'serious illness' and therefore applicable for 100% reimbursement. Also renewals of this recognition are refused.

We call for



- The EU to take measures to reduce the additional health costs faced by persons with disabilities, including by applying the joint sickness insurance scheme without discrimination based on the nature of the disability.

Article 31: Statistics and data collection

The EU CRPD report mentions surveys at the Commission and Parliament's level, but no results are available. Also EPSO appears to have on-going surveys, yet no information is disclosed.

We call for

- The EU to publish and disseminate the results of these surveys at the Commission and Parliament's level and statistics to provide evidence in order to ensure equal opportunities have been provided to persons with disabilities and their families.



H. GLOSSARY

CEN, the [European Committee for Standardization](#), is an association that brings together the National Standardization Bodies of 33 European countries. CEN is one of three European Standardization Organizations (together with CENELEC and ETSI) that have been officially recognised by the European Union and by the European Free Trade Association (EFTA) as being responsible for developing and defining voluntary standards at European level.

CENELEC is the [European Committee for Electrotechnical Standardization](#) and is responsible for standardisation in the electrotechnical engineering field. CENELEC prepares voluntary standards, which help facilitate trade between countries, create new markets, cut compliance costs and support the development of a Single European Market.

Citizenship of the Union: Anyone who is a national of a Member State is automatically considered to be a citizen of the European Union and therefore has certain rights that are enshrined in the EU Treaties.

A **Communication** is not a clearly defined legislative act but can be a document with varying status and content. It is usually used to announce a new policy programme.

The **Council of the European Union**, also informally known as the Council, is where national ministers from each EU Member State meet to adopt laws and coordinate policies. Its roles are: to pass EU laws, coordinate the broad economic policies of EU member countries, sign agreements between the EU and other countries, approve the annual EU budget, develop the EU's foreign and defence policies and coordinate cooperation between courts and police forces of member countries. More information on http://europa.eu/about-eu/institutions-bodies/council-eu/index_en.htm.

The **Council Working Party on Fundamental Rights and Free Movement of Persons (FREMP)** is responsible for discussing human rights challenges inside the European Union and can coordinate an EU action in response to violations by Member States.

Country specific recommendations are economic policy recommendations to individual Member States to strengthen the recovery of the financial and economic crisis. Country-specific recommendations offer tailored advice to Member States on how to boost growth and



jobs, while maintaining sound public finances. They are published every spring, following months of analysis by the Commission. They focus on what can realistically be achieved in the next 12-18 months to make growth stronger, more sustainable and more inclusive, in line with the Europe 2020 Strategy, the EU's long-term growth and jobs plan. The recommendations, however, seem to accept that Member States need to tackle economic stability and limit further deterioration of public finances in the first place and only as a secondary priority to seek the implementation of national targets that incorporate common EU targets on employment, poverty reduction and school drop outs in the National Reform Programmes.

The Court of Justice of the EU (ECJ) interprets EU law to make sure it is applied in the same way in all EU countries. It also settles legal disputes between EU governments and EU institutions. Individuals, companies or organisations can also bring cases before the Court if they feel their rights have been infringed by an EU institution. More information at http://europa.eu/about-eu/institutions-bodies/court-justice/index_en.htm.

The **Digital Agenda for Europe (DAE)** aims to reboot Europe's economy and help Europe's citizens and businesses to get the most out of digital technologies. It is the first of seven flagship initiatives under Europe 2020, the EU's strategy to deliver smart, sustainable and inclusive growth.

A **Directive** is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to decide how exactly this can be done.

The **European Commission** is the EU's executive body. It represents the interests of the European Union as a whole. The Commission's main roles are to: [propose legislation](#) which is then adopted by the co-legislators, the European Parliament and the Council of Ministers; enforce European law (where necessary with the help of the Court of Justice of the EU); [set objectives and priorities for action](#), outlined yearly in the Commission Work Programme and work towards delivering them, manage and implement [EU policies](#) and the [budget](#); and represent the Union outside Europe (negotiating [trade agreements](#) between the EU and other countries, for example.). More information at http://ec.europa.eu/about/index_en.htm.

The **European Commission Disability Support Group** is an association for the staff of the European Commission as well as other European institutions who are in charge of a person with a disability that restricts their daily activities. The group currently has over 170 members including staff not only from the European Commission but also from the Council, the European Parliament, EEAS, agencies as well as various delegations around the world.



European Council meetings are summits where EU heads of state and governments meet to decide on broad political priorities and major initiatives. Typically, there are around four meetings a year, chaired by a permanent president. It is the highest manifestation of the Council of the EU and it sets the EU's general political direction and priorities, and deals with complex or sensitive issues that cannot be resolved at a lower level of intergovernmental cooperation. Though influential in setting the EU political agenda, it has no powers to pass laws. More information at:

http://europa.eu/about-eu/institutions-bodies/european-council/index_en.htm

The Europe 2020 Strategy sets five headline targets for the EU to achieve by the end of 2020. These cover employment; research and development; climate/energy; education; social inclusion and poverty reduction. More information at:

<http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>

European Disability Pact: Disability should be recognised as a cross cutting issue within EU policies, and the ratification of the UN Convention on the Rights of Persons with Disabilities by the European Union, puts disability in a different place within the EU framework. The European Union needs to put in place mechanisms which will fully allow them to implement the Convention through mainstreaming and monitoring, but also to develop European disability policy further. The establishment of a Pact offers the possibility of recognition of the prominence of disability issues at EU level, and the definition of common objectives and disability specific indicators to measure progress. The Pact would also allow disability to be integrated in the reports linked to social protection, jobs and growth, as well as education strategies within the Europe 2020 Strategy, and also in other areas of EU competence, as EU governments would endorse the Pact. The Pact could also be addressed to social partners and industry.

The **European Disability Strategy 2010-2020** is a comprehensive framework committing the Commission to empowerment of persons with disabilities to enjoy their full rights, and to removing everyday barriers in life. Its objectives are pursued by actions in eight priority areas: accessibility, participation, equality, employment, education and training, social protection, health and external action.

European External Action Service (EEAS) is the European Union's diplomatic corps. It supports the EU foreign affairs chief in conducting EU foreign and security policy. More information at: http://europa.eu/about-eu/institutions-bodies/eeas/index_en.htm.



The **European Forum on the Rights of the Child** is a permanent group for the promotion of children's rights in the EU's internal and external action. It is chaired by the Commission and meets annually.

The **European Fundamental Rights Agency's** goal is to provide relevant institutions and authorities of the EU and its Member States with assistance and expertise on fundamental rights when implementing EU law, and to support them in taking measures and formulating appropriate courses of action. More information at: <http://fra.europa.eu/en/about-fra>.

The **European Institute for Gender Equality** is an *EU* agency supporting the *EU* to promote *gender equality*, to fight discrimination based on sex and to raise awareness about *gender equality* issues. For more information, see <http://eige.europa.eu/>

The **European Ombudsman** responds to complaints from EU citizens, businesses and organisations, helping to uncover cases of 'maladministration' – where EU institutions, bodies, offices or agencies have broken the law, failed to respect the principles of sound administration or violated human rights. More information at: http://europa.eu/about-eu/institutions-bodies/ombudsman/index_en.htm.

The **European Parliament** is directly elected by EU voters every five years and consists of members of the European Parliament (MEPs) representing the people. Parliament is one of the EU's main law-making institutions, along with the Council of the European Union ('the Council'). The European Parliament has three main roles: debating and passing European laws, with the Council; scrutinising other EU institutions, particularly the Commission, to make sure they are working democratically; and debating and adopting the EU's budget, with the Council. More information at: http://europa.eu/about-eu/institutions-bodies/european-parliament/index_en.htm.

European schools are official educational establishments controlled jointly by the governments of the Member States of the European Union. In all these countries they are legally regarded as public institutions. The Board of Governors is the governing body of the European Schools and is composed of the Ministers of Education of each of the Union countries, together with a representative of the EU Commission and of the European Patent Office. The Board of Governors' mandate covers educational, administrative and financial matters. When it is not in session, its powers are exercised by its officially appointed Secretary-General.



The **European Semester** provides the framework for steering and monitoring EU countries' economic and social reforms to reach the Europe 2020 targets. The challenges and proposed solutions are reflected in the Country-specific Recommendations:

http://ec.europa.eu/europe2020/making-it-happen/index_en.htm

EU-SILC: European Statistics on **income, social inclusion and living conditions** cover objective and subjective aspects of these themes in both monetary and non-monetary terms for both households and individuals. They are used to monitor the [Europe 2020 Strategy](#) in particular through its poverty reduction headline target.

ETSI, the [European Telecommunications Standards Institute](#), produces globally-applicable standards for information and communications technologies (ICT), including fixed, mobile, radio, converged, broadcast and internet technologies.

EUROSTAT is the [statistical office of the European Union](#). Its task is to provide the European Union with statistics at European level that enable comparisons between countries and regions.

European Structural and Investment Funds are financial tools aiming to reduce regional disparities in terms of income, wealth and opportunities. Europe's poorer regions receive most of the support, but all European regions are eligible for funding under the policy's various funds and programmes. They fund inter alia, infrastructure, including accessibility, employment opportunities and lifelong learning activities.

http://ec.europa.eu/regional_policy/thefunds/index_en.cfm

EU Treaties: A treaty is a binding agreement between EU member countries. It sets out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its member countries. Treaties are amended to make the EU more efficient and transparent, to prepare for new member countries and to introduce new areas of cooperation – such as the single currency. The most recent treaty reform came with the Lisbon Treaty in 2009. It comprises the [Treaty on European Union \(TEU\)](#), or Treaty of Maastricht, and the [Treaty on the Functioning of the European Union \(TFEU\)](#). Its provisions are incorporated in the existing treaties.

The **EU Youth Guarantee** is a new approach adopted by the Council in April 2013 to tackling youth unemployment which ensures that all young people under 25 – whether registered with



employment services or not – get a good-quality, firm offer within four months of them leaving formal education or becoming unemployed.

Flagship initiatives: The EU has identified new engines to boost growth and jobs in order to reach the targets set in the Europe 2020 Strategy. These areas are addressed by seven flagship initiatives on employment, education, poverty reduction, youth, ICT, innovation, and environment and industry.

Freedom of movement: Citizens of the EU and their family members have the right to move and reside freely within the territory of the EU, subject to certain conditions (Article 21 of the Treaty on the Functioning of the European Union).

Fundamental Rights Charter: The Charter of Fundamental Rights consolidates in a single document the fundamental rights applicable at European Union (EU) level. It establishes ethical principles and rights for EU citizens and residents that relate to dignity, liberty, equality, solidarity, citizenship and justice. While the European Convention on Human Rights (ECHR) is limited to protecting civil and political rights, the Charter goes further to cover workers' social rights, data protection, bioethics and the right to good administration. More information at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

The High Level Group on disability has been set up to monitor the latest policies and priorities of Governments concerning persons with disabilities, to pool information and experience, and to advise the Commission on methods for reporting in future on the EU-wide situation with regard to disability.

Horizon 2020 (2014-2020) is a multi-annual funding programme covering fields as varied as information and communication technologies, the environment, biotechnology, energy (including nuclear power), transport and mobility of researchers. It was preceded by the Seventh Framework Programme (2007–13). More information at: <http://ec.europa.eu/programmes/horizon2020/>

The **Human Rights Working Group (COHOM)** was created under the Council of the European Union in 1987. It is composed of human rights experts from Member States and the European Commission. Meeting agendas cover the various aspects of the EU's human rights policy such as action in international fora, dialogues with third countries, thematic issues and mainstreaming.



Labour Force Survey ad-hoc module: Ad hoc module on employment of disabled persons, supplementing the EU Labour Force Survey.

Passengers' Rights: A set of EU laws that grant passengers, including passengers with reduced mobility or disabilities, protection when travelling in the EU in all transport modes (air, rail, road and maritime). This includes for example the provision of assistance at airports and train stations or the rights in case of cancellations or delays. More information at: <http://ec.europa.eu/transport/themes/passengers/air/>

Prejudicial question of the Court of Justice: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Public procurement: Public procurement contracts cover supplies, services and works purchased by the public sector. Those over a certain value are subject to Community rules and procedures. Certain contracts remain a matter purely for the Member States, irrespective of their value, when they affect specific state interests.

A **Regulation** is a binding legislative act. It must be applied in its entirety by all Member States across the EU.

Single market: In the EU's single market (sometimes also called the "internal market" or the "common market") people, goods, services and money can move around the EU as freely as they do within a single country – instead of being obstructed by national borders and barriers as they were in the past.

Social Protection Committee (SPC) is as an EU advisory policy committee, established by the Treaty on the Functioning of the EU (article 160). For more information, please visit: <http://ec.europa.eu/social/main.jsp?catId=758>

The **Treaty of Lisbon** amends the two treaties which form the constitutional basis of the European Union. The Treaty of Lisbon was signed by EU Member States on 13 December 2007, and entered into force on 1 December 2009. It amends the Maastricht Treaty (1993),



which also is known as the Treaty on European Union, and the Treaty of Rome (1958), which also is known as the Treaty establishing the European Community (TEEC). At Lisbon, the Treaty of Rome was renamed the Treaty on the Functioning of the European Union (TFEU).

The **Troika Meeting** comprising the International Monetary Fund, European Commission and the European Central Bank is a vehicle for economic and financial evaluation and for negotiation with Member States of the Euro area.

DRAFT



I. END NOTES

¹ The Europe 2020 Strategy sets five headline targets for the EU to achieve by the end of 2020. These cover employment; research and development; climate/energy; education; social inclusion and poverty reduction.

² Staying the Course: the European Disability Strategy 2010-2020, David L. Hosking, European Yearbook of Disability Law (Volume 4), p. 86-87.

³ Freedom of movement: Citizens of the EU and their family members have the right to move and reside freely within the territory of the EU, subject to certain conditions (article 21 of the Treaty on the Functioning of the European Union).

⁴ See for example the fact that the Proposal for a Council Directive of 2 July 2008 on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation has not been adopted yet after 6 years of negotiations. The European Parliament Research Service report on 'Implementing equal treatment between persons, complementary impact assessment of the Proposed horizontal directive on Equal Treatment', 2014 (available at http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/514088/IPOL-JOIN_ET%282014%29514088_EN.pdf) documents this fear for the impact on economies. Also, the European Commission has not yet published the so-called European Accessibility Act, a legislative initiative to improve accessibility of goods and services in the Internal Market.

⁵ See Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee of the Regions, A European Consumer Agenda - Boosting confidence and growth, SWD (2012) 132 final: "The current context may also exacerbate the disadvantaged situation of vulnerable consumers, such as people with disabilities or with reduced mobility, who face difficulties in accessing and understanding information and in finding appropriate products and services on the market" (available at http://ec.europa.eu/consumers/archive/strategy/docs/consumer_agenda_2012_en.pdf).

⁶ The European Council calls upon the EU to set common minimum standards on victim's rights or rights of suspects and accused, as outlined in the Stockholm Programme – an open and secure Europe serving and protecting citizens (2010/C 115/01). In this Programme, reference is made to "vulnerable groups" (available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0171:FIN:en:HTML>)

⁷ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (available at http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#h2020-legal-basis-fp)

⁸ See C. O'Brien, 'Union citizenship and disability: restricted access to equality rights and the attitudinal model of disability', in D. Kochenov (ed.), *Citizenship and Federalism in Europe: The Role of Rights*. For example, Case C-363/12 – Z. v A Government department and The Board of management of a community school, judgment of the Court (Grand Chamber) of 18 March 2014; Case C-356/12 - Wolfgang Glatzel v Freistaat Bayern, Judgment of the Court (Fifth Chamber) of 22 May 2014.

⁹ "Definitions on disability; A comparative analysis", European Commission, Directorate-General for Employment and Social Affairs Unit E. 4, September 2002.

¹⁰ See paragraph 109 of the EU CRPD Report.

¹¹ Disability should be recognised as a cross cutting issue within EU policies, and the ratification of the UN CRPD by the European Union, puts disability in a different place within the EU framework. The European Union needs to put in place mechanisms which will fully allow them to implement the Convention through mainstreaming and monitoring, but also to develop European disability policy further. The establishment of a Pact offers the possibility of recognition of the prominence of disability issues at EU level, and the definition of common objectives and disability specific indicators to measure progress. The Pact would also allow disability to be integrated in the reports linked to social protection, jobs and growth, as well as education strategies within the Europe 2020 Strategy, and in other areas of EU competence, as EU governments would endorse the Pact. The Pact could also be addressed to social partners and industry.

¹² The EU has identified new engines to boost growth and jobs in order to reach the targets set in the Europe 2020 Strategy. These areas are addressed by seven flagship initiatives on employment, education, poverty reduction, youth, ICT, innovation, and environment and industry.



Within each initiative, both the EU and national authorities have to coordinate their efforts so they are mutually reinforcing.

¹³ EU Pact for Equality between Women and Men 2010-2020 aims at closing the gender gaps in employment, education and social protection, promoting better work-life balance for women and men and combatting all forms of violence against women (available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf)

¹⁴ This definition should be applied to the benefit of every person with a disability regardless of having or not the medical administrative certification stating he or she is a person with a certain degree of disability.

¹⁵ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303 , 02/12/2000 P. 0016 – 0022 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078>)

¹⁶ Judgment of the European Court of Justice of 11 April 2013, HK Danmark, acting on behalf of Jette Ring v Dansk almennyttigt Boligselskab (C-335/11) and HK Danmark, acting on behalf of Lone Skouboe Werge v Dansk Arbejds giverforening acting on behalf of Pro Display A/S (C-337/11), references for a preliminary ruling: Søg Handelsretten – Denmark, paragraphs 28 to 32: *‘It follows that Directive 2000/78 must, as far as possible, be interpreted in a manner consistent with that convention.’*

¹⁷ Impact assessment guidelines, European Commission, 15 January 2009 (SEC(2009) 92), p. 39 and Staff working paper on taking account of fundamental rights in Commission’s impact assessments (available at http://ec.europa.eu/smart-regulation/impact/key_docs/key_docs_en.htm)

¹⁸ These guidelines call for compatibility with the EU Charter of Fundamental Rights and the ‘social impact’ of policy options. The annexes to these guidelines refer specifically to ‘the integration of persons with disabilities’ and a staff working document states the conclusion of the Convention by the EU.

¹⁹ European Foundation Centre, Study on challenges and good practices in the implementation of the UN Convention on the Rights of Persons with Disabilities V/2008/1214, Final report, Brussels, October 2010 (available at: http://www.efc.be/programmes_services/resources/Documents/V20081214_FINAL_REPORT_web_010211.pdf)

²⁰ The list of instruments is an appendix to the Council decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (2010/48/EC). This list is now outdated as it was agreed upon at the end of 2009.

²¹ Treaty of Lisbon is an international agreement which amends the two treaties which form the constitutional basis of the European Union. The Treaty of Lisbon was signed by EU Member States on 13 December 2007, and entered into force on 1 December 2009. It amends the Maastricht Treaty (1993), which also is known as the Treaty on European Union, and the Treaty of Rome (1958), which also is known as the Treaty establishing the European Community (TEEC). At Lisbon, the Treaty of Rome was renamed the Treaty on the Functioning of the European Union (TFEU).

²² Articles 10 and 19 of the Treaty on the Functioning of the European Union (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>)

²³ The aim of the screening exercise is to see where the EU has legislated in fields covered by the UN CRPD and, if disability is not mentioned, to consider whether it should (have been) covered in light of the conclusion of the CRPD. Such an exercise should be horizontal in order to ensure that all legislation, policies and programmes are reviewed and evaluated, and should consider the Convention not only article by article, but also holistically, recognising the interdependence and indivisibility of human rights.

²⁴ Regulation (EU) No 1025/2012 of 25 October 2012 on European standardisation (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012R1025>)

²⁵ Before the European Commission issued the Standardisation Mandate 392 (available at http://ec.europa.eu/enterprise/standards_policy/mandates/database/index.cfm?fuseaction=search.detail&id=359#) for the revision of safety standards for electrical household appliances with respect to the safety of children, older people and persons with disabilities, several European standards on household appliances had an “exclusion clause” explaining that the specific needs of persons with disabilities, older people and children had not been taken into account while creating these standards.

²⁶ In the last stage of Mandate 376, some stakeholders were able to reach agreement without taking into consideration the objection of the representatives of persons with disabilities and other societal stakeholders, including the European Commission itself. After this situation of flagrant exclusion, EDF prepared its technical comments on the final draft of the



European Standard on accessibility requirements for ICT products and services (Mandate 376) (available at <http://bit.ly/1e0l15b>)

²⁷ See “New Priorities for Disability Research in Europe”, Report of the European Disability Forum Consultation Survey “European Research Agendas for Disability Equality”, Prepared by Prof. Mark Priestley and Prof. Lisa Waddington for the European Disability Forum, December 2008 (available http://www.eurade.eu/admin/wysiwyg/assets/Consultation%20Survey/EuRADE%20consultation%20report_FINAL.pdf); see also the EU research programmes that are mainly targeted on older persons (AAL Joint Programme and CIP ICT PSP) and which do not sufficiently take into account crosscutting issues that concern older people and persons with disabilities or persons with disabilities in general.

²⁸ Regulation (EU) No 1291/2013 of 11 December 2013 establishing Horizon 2020 (available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2013.347.01.0965.01.ENG)

²⁹ For example High Level Group on Disability or the Structured Dialogue on the European Structural and Investment Funds.

³⁰ EDF was interviewed by the Human European Consultancy that carried out a study tendered by the European Commission on the progress achieved by the EU on the implementation of the UN CRPD and the European Disability Strategy 2010-2020. Afterwards, EDF was not consulted on a draft version of the EU report.

³¹ Disabled People’s Organisations have not been invited to relevant meetings and events of EU offices in for example Italy, Portugal and Hungary. On the contrary, EU offices in Spain, Poland, UK and Sweden have invited persons with disabilities.

³² This was the case in events organised by the Italian representation to the Commission and the Parliament. Also, the EU office in Stockholm for example does not foresee the installation of an assistive hearing loop system or other assistive listening device for a hard of hearing person attending a meeting.

³³ This is a provision of general application for all the competences that are conferred to the EU by the Member States.

³⁴ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303 , 02/12/2000 P. 0016 – 0022 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078>)

³⁵ Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L180/22 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0043>)

³⁶ Directive 2006/54/EC of 2 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, OJ L 204/23 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006L0054>) and Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L373/37 (available at <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32004L0113>)

³⁷ Proposal of 2 July 2008 for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM/2008/0426 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52008PC0426>)

³⁸ Lisa Waddington, Equal to the task? Re-examining EU equality law in light of the UN CRPD, European Yearbook of Disability Law, Volume 4, p.169.

³⁹ For example in Austria and Portugal. More countries are not competent to work on disability discrimination outside employment and vocational training: Denmark, Estonia, Greece and Poland.

⁴⁰ EDF Position Paper on the practical impact of the Employment Equality Directive on persons with disabilities in employment, 2010 (available at <http://www.edf-feph.org/Page.asp?docid=25005&langue=EN>)

⁴¹ Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, COM(2014) 2 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0002>)

⁴² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303 , 02/12/2000 p. 0016 – 0022 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078>)

⁴³ An injunctive relief is a judicial remedy in the form of a [court order](#) that requires a party to do or refrain from doing specific acts. A party that [fails to comply with an injunction](#) can face criminal or [civil penalties](#), including possible monetary sanctions.



National discrimination law, as for example in Austria often foresees only financial compensation although other kinds of sanctions, such as injunctive reliefs in case of inaccessibility for example would be much more sustainable and effective.

⁴⁴ Information about the UN CRPD is available on the website of DG Justice, but it is 'hidden' under several subsections of its menu bar: Tackling discrimination, People with disabilities, United Nations Convention on the Rights of Persons with Disabilities. You can visit the webpage here: http://ec.europa.eu/justice/discrimination/disabilities/convention/index_en.htm

⁴⁵ For example the Academy of European Law is a non-profit public foundation that provides training in European law to legal practitioners and has been funded by the European Commission to provide trainings on the UN CRPD. However, training is also provided on for example EU competition law, criminal law, health law, but mainstream training in these areas does not include training on the CRPD.

⁴⁶ Examples such as the European Institute on Gender Equality 2006 awareness campaign 'Stop domestic violence against women'; the European Agency for Safety and Health at Work has run a campaign on healthy work places since 2010; the European Commission's Sustainable Urban Mobility campaign, launched in July 2012, is a three-year initiative aiming to support sustainable urban mobility campaigners.

⁴⁷ Article 53(1), Article 62 and Article 114 TFEU.

⁴⁸ Articles 26 and 114 TFEU on the internal market. See also Regulation 1025/2012 on European Standardisation, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012R1025> and its recital 5: "European standards play a very important role within the internal market, for instance through the use of harmonised standards in the presumption of conformity of products to be made available on the market with the essential requirements relating to those products laid down in the relevant Union harmonisation legislation. Those requirements should be precisely defined in order to avoid misinterpretation on the part of the European standardisation organisations."

⁴⁹ Article 4, 2 (g) TFEU.

⁵⁰ The EU shares its competences with Member States on the area of the internal market (article 4, 2 (a) TFEU). The cornerstones of the EU internal market are often said to be the "four freedoms" – the free movement of people, goods, services and capital. These freedoms are enshrined in the EU Treaties and form the basis of the single market framework. But what do they mean in practice for everyone in the EU? For individuals: the right to live, work, study or retire in another EU country, consumers: increased competition leading to lower prices, a wider choice of things to buy and higher levels of protection and businesses: much easier and cheaper to do business across borders.

⁵¹ The Commission has repeatedly pledged to publish a proposal for such a law and has already completed the preparatory phase including the impact assessment, the inter-service consultation and a stakeholder consultation. The Accessibility Act would be the first piece of European legislation to tackle accessibility of the built environment and accessibility as a transversal issue in itself. This has also been consistently supported by the European Parliament for example through Parliamentary Questions such as E-007487/2012, E-011247-12, E-001562-13, E-002284-13, E-010967-13, E-011351-13 or E-002057-14 (available at <http://www.europarl.europa.eu/plenary/en/parliamentary-questions.html#sidesForm>) as well as a Written Declaration (available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0263+0+DOC+XML+V0//EN>)

⁵² European Structural and Investment Funds are financial tools aiming to reduce regional disparities in terms of income, wealth and opportunities. Europe's poorer regions receive most of the support, but all European regions are eligible for funding under the policy's various funds and programmes. They fund inter alia, infrastructure, including accessibility, employment opportunities and lifelong learning activities.

⁵³ Proposal for a Directive of the European Parliament and of the Council on the Accessibility of Public Sector Bodies' Websites, 2012/0340 (COD) (available at <http://ec.europa.eu/digital-agenda/en/news/proposal-directive-european-parliament-and-council-accessibility-public-sector-bodies-websites>)

⁵⁴ See page 5, "2.1.1 Accessibility", European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM (2010) 636 final (available at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52010DC0636>).

⁵⁵ Action 64 of the 'Digital Agenda for Europe' (available at <http://ec.europa.eu/digital-agenda/en/pillar-vi-enhancing-digital-literacy-skills-and-inclusion/action-64-ensure-accessibility-public>). The Digital Agenda for Europe aims to reboot Europe's economy and help Europe's citizens and businesses to get the most out of digital technologies. It is the first of seven flagships initiatives under Europe 2020, the EU's strategy to deliver smart, sustainable and inclusive growth.



⁵⁶ The twelve types of websites such as “Car registration”, “Application for building construction”, “Notification of change of residence” specified in the Annex of the Proposed Directive were taken from the 2001 E-government benchmarking exercise (available at <http://ec.europa.eu/digital-agenda/en/news/egovernment-indicators-benchmarking-eeurope>). This list is obviously out of date and very restrictive.

⁵⁷ See also EDF position paper on the Proposal for a Directive on the Accessibility of Public Sector Bodies’ Websites (available at <http://www.edf-feph.org/Page.asp?docid=31816&langue=EN>)

⁵⁸ See article 15bis of the E-Privacy Directive amended by Directive 2009/136/EC (available at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32009L0136>)

⁵⁹ Directive 2014/24/EU of 26 February 2014 on Public Procurement (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0024>)

⁶⁰ Regulation 910/2014 of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market, OJ L 257, 28.8.2014, p. 73–114 (available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.257.01.0073.01.ENG)

⁶¹ Article 15 of Regulation 910/2014 states “where feasible, trust services provided and end-user products used in the provision of those services shall be made accessible for persons with disabilities.” In other words, manufacturers and the services providers are not obliged to ensure accessibility for persons with disabilities in these products.

⁶² Standardisation mandate to the European Standardisation Organisations CEN, CENELEC and ETSI in the field of Information and communication technologies applied to Electronic Signatures (available at <http://www.e-signatures-standards.eu/reference-documentation/standardisation-mandate-and-framework/ec-standardisation-mandate-m-460>). It does not include any mention to the special needs of persons with disabilities.

⁶³ A Directive is the most effective way to ensure accessibility of goods and services since it is a type of EU instrument that binds the Member States in the sense that certain end results must be achieved, but leaves national authorities free to decide how to do so.

⁶⁴ Regulation (EU) No 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1303>)

⁶⁵ A specific section should be added on the EU webportal on public procurement looking at both accessibility of tenders (publications, procedures, etc) and accessibility of the subject matter of the contract (with a specific section on the business sector for example).

⁶⁶ This initiative has already been implemented by the European Commission for the Green Public Procurement. The web portal is available at http://ec.europa.eu/environment/gpp/index_en.htm

⁶⁷ Article 6 (a) Treaty on the Functioning of the European Union (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>)

⁶⁸ Article 2 of the Treaty of the European Union (available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12012M/TXT>) and Article 2 Charter of Fundamental Rights of the European Union (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>)

⁶⁹ Human rights. Yes! Action and Advocacy on the Rights of Persons with Disabilities, 2nd Ed., Human Rights Education Series: Topic Book 6, University of Minnesota, 2012.

⁷⁰ For more information, please see the sections of this report under Articles 14, 15 and 16 CRPD.

⁷¹ European Court of Human Rights, case of center for legal resources on behalf of Valentin Campeanu v Romania, Application no. [47848/08](http://hudoc.echr.coe.int/sites/tra/pages/search.aspx?i=001-113736), 17 July 2014 (available at <http://hudoc.echr.coe.int/sites/tra/pages/search.aspx?i=001-113736>)

⁷² For example this means text messages or speech to text services for hard of hearing people.

⁷³ Article 4,3 and 214 Treaty on the Functioning of the European Union (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>)

⁷⁴ Article 6 (f) TFEU.

⁷⁵ On 21 November 2014, EDF and the European Commission organised successful training on the human rights and social inclusion of persons with disabilities for EU Humanitarian Aid and Civil Protection desk officers.



⁷⁶ Through the adoption of Decision No 1313/2013/EU of 17 December 2013 on a Union Civil Protection Mechanism, OJ L 347, 20.12.2013, p. 924–947 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013D1313>). In October 2014, some implementing rules were adopted based on the 2013 decision.

⁷⁷ However, the Latvian presidency of the Council of the European Union has at the beginning of their mandate in January 2015 shown strong commitment to include persons with disabilities in the field of civil protection.

⁷⁸ Including people who cannot be alerted by any kind of communication by sound, radio broadcasts, etc.

⁷⁹ This is a provision of general application for all the competences that are conferred to the EU by the Member States.

⁸⁰ Article 9 of the proposed General Data Protection Regulation sets out a general prohibition for processing special categories of personal data, such as data on health. However, this prohibition does not apply 'where the data subject is physically or legally incapable of giving consent' (available at <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52012PC0011>)

⁸¹ The Commission and Member States are under an obligation to ensure that the Structural Funds are invested in programmes that safeguard the right of all persons with disabilities to live in the community. One of the objectives of the Disability Strategy 2010-2020 is for the EU to ensure that persons with disabilities have equal opportunities to be able to choose where and with whom to live. The actions under this objective are 'enhancing Member States' efforts towards the transition from institutional to community based care' and 'optimising the use of the Structural Funds and the Rural Development Fund to support the development of community based services'. The EU also supports initiatives on independent living such as the 'Active and healthy ageing' of the Innovation Union Flagship initiative.

⁸² The EU has competence with regard to the right of all EU citizens to vote and to stand as a candidate at elections to the European Parliament, and the right to vote and to stand as a candidate at municipal elections (Articles 20, 2 (b) and 22 TFEU and Article 39 and 40 EU Charter of Fundamental Rights of the European Union). The EU has adopted Directive 2013/1/EU which set out detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament and municipal elections (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417683461052&uri=CELEX:32013L0001>)

⁸³ According to a 2013 Mental Disability Advocacy Center report on 11 EU Member States, the number of people under guardianship varies drastically from country to country: Ireland has 48 people under the ward of court system per 100,000 of the population. Bulgaria has 100 per 100,000 population under guardianship, Latvia 106, Poland 158, and Lithuania 167. The figure jumps in the Czech Republic to 317, in Croatia to 410 and, finally, at 596 per 100,000 population in Hungary. Three quarters of people with restrictions on legal capacity are under plenary guardianship (available at <http://www.mdac.info/en/resources/legal-capacity-europe-call-action-governments-and-eu>). A 2012 Mental Health Europe report shows that 25 out of 32 European countries have plenary guardianship and most countries both have plenary and partial guardianship regimes. Legal reforms are on their way in different European countries thanks to the ratification of the UN CRPD, introducing supported decision making regimes. However, some of the legal reforms still foresee the possibility of partially depriving a person of his or her legal capacity (available at http://www.mhe-sme.org/fileadmin/Position_papers/Mapping_Exclusion_-_ind.pdf)

⁸⁴ Article 4, 2 (j) TFEU.

⁸⁵ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57–73 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029>)

⁸⁶ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, OJ L 142, 1.6.2012, p. 1–10 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0013>); Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, OJ L 280, 26.10.2010, p. 1–7 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010L0064>).

⁸⁷ For example, the right to understand and be understood (Article 3 Victims' Rights Directive) and the right to receive information (Article 4 Victims' Rights Directive) refer to communication in simple and accessible language, orally or in writing.

⁸⁸ Including sign language interpretation, assistive listening devices, speech-to-text services, easy to read and understand information.

⁸⁹ EDF amendments to the draft report of the Committee on Civil Liberties, Justice and Home Affairs jointly and the



Committee on Women's Rights and Gender Equality on the proposal for a directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (COM(2011)0275 – C7-0127/2011 – 2011/0129(COD)), 14 February 2012 (available at

<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2012-0244&language=EN>)

⁹⁰ Children with disabilities who are institutionalised for lengthy periods of time are frequently effectively abandoned by their relatives or even lack any known next of kin. Guardianship systems deprive these children of the adequate support and reasonable accommodations which means they literally have no voice and no access to any form of justice. See European Court of Human Rights, case of Center for legal resources on behalf of Valentin Campeanu v Romania, Application no. [47848/08](#), 17 July 2014. In this case, the Court found a violation of Article 13 European Convention on Human Rights on the right to have an effective remedy. It noted that the state failed to secure and implement an appropriate legal framework that would have enabled complaints concerning Mr Câmpăneanu's allegations to have been examined by an independent authority (available at <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-113736>)

⁹¹ Including for example with respect to access to legal aid and the reparative justice system (Article 12 Victims' Rights Directive).

⁹² EDF Manifesto on the rights of women and girls with disabilities in the EU, 2011 (available at <http://www.edf-feph.org/Page.asp?docid=26614&langue=EN>). While there is a general lack of shelter places and support services in Europe for women victims of male violence, accessible services are also practically non-existent. The Danish shelter movement stresses that "they are not wheelchair accessible or the personnel do not have knowledge on how to welcome a woman with disabilities. In addition, many women with disabilities depend on their perpetrator to carry out their daily tasks and alternative services are not in place, which prevents these women from reporting that they are experiencing violence. Another problem is the lack of access to communication facilities, both with the crisis centres and with the telephone-based advisory services, as well as within society in general. The various types of telephone-based advice offered to women who are abused are not accessible to women who are deaf, hard of hearing or deafblind. See for more information: Women Danish Council, Information for the UN Special Rapporteur on VAW, 2012.

⁹³ Latimier C. and Šiška J. (2011), Children's rights for all! Implementation of the UN Convention on the Rights of the Child for children with intellectual disabilities, Brussels, Inclusion Europe, p.10; Full accessibility of victim support services must be included in for example Article 8 of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. The EU has published a proposal for a Directive on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings. This proposal could be extended to provide support to victims with disabilities.

⁹⁴ "Hate Crimes in the Organization for Security and Co-operation in Europe (OSCE) Region – Incidents and Responses", Annual Report for 2010, Warsaw, November 2011, p 85; "Hidden in sight, inquiry into disability-related harassment, Equality and human rights commission, August 2011, p. 5-8.

⁹⁵ Regulation No 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020, OJ L 354, 28.12.2013, p. 62 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417685024987&uri=CELEX:32013R1381>)

⁹⁶ Judgment of the European Court of Justice of 11 April 2013, HK Danmark, acting on behalf of Jette Ring v Dansk almennyttigt Boligselskab ([C-335/11](#)) and HK Danmark, acting on behalf of Lone Skouboe Werge v Dansk Arbejdsgiverforening acting on behalf of Pro Display A/S ([C-337/11](#)), references for a preliminary ruling: Søog Handelsretten – Denmark, paragraphs 28 to 32: *'It follows that Directive 2000/78 must, as far as possible, be interpreted in a manner consistent with that convention.'*

⁹⁷ Judgment of the European Court of Justice of 18 November 2008, Jacqueline Forster v Hoofddirectie van de Informatie Beheer Groep ([C-158/07](#)), available at <http://curia.europa.eu/juris/liste.jsf?num=C-158/07>; Judgment of the European Court of Justice of 22 May 2014, Wolfgang Glatzel v Freistaat Bayern (case [C-356/12](#)), available at <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-356/12>

⁹⁸ This support includes assistance provided by specialised personnel in order to confront the worries and fears related to the proceedings and a support person to provide emotional support for the person, especially with psychosocial and intellectual disabilities, who is taking part in a judicial proceeding, be it as the party taking action or the party defending their right before an action, be it as a witness, a victim or in any other condition.



⁹⁹ Article 67, 1 and 2 TFEU.

¹⁰⁰ Comparative legal analysis of the European Agency for Fundamental Rights shows that despite these existing differences in legislation across the European Union, the trauma and fear people associate with compulsory measures is a recurring theme. The largely negative personal experiences described in the FRA report underscore the importance of developing legal frameworks which can minimise such outcomes. See European Union Agency for Fundamental Rights, Report on involuntary placement and treatment of people with mental health problems, 2012, p. 29-31.

¹⁰¹ Green Paper - Improving the mental health of the population - Towards a strategy on mental health for the European Union, COM/2005/0484 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52005DC0484>)

¹⁰² The UN Special Rapporteur on Torture specified that the UN CRPD invalidates earlier norms, which allow for involuntary placement and treatment. See para. 55 of Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, United Nations General Assembly, Sixty third session, doc. A/63/175 of 28 July 2008.

¹⁰³ Indeed whereas some people with dementia may be forced to go into mental health facilities, others may be directed against their will to specialised elder care facilities.

¹⁰⁴ For example: the general lack of accessible facilities in cells and common areas, bathrooms and showers which is linked to increased risk of injury in prison for disabled prisoners; the lack of provision of assistive devices due to security risks or on account of lack of resources; the lack of provision of specialised equipment and disposable supplies such as catheters; and the lack of available assistance from qualified personnel and the lack of training in general for all prison staff.

¹⁰⁵ It has been documented that prisoners with disabilities report feeling less safe than their inmates without disabilities. See Samantha Booth, "The care and support of prisoners with a disability: An Inspectorate review", Prison Service Journal, May 2011.

¹⁰⁶ European Court of Human Rights, case of D.G. v Poland (Application no. 45705/07), 12 February 2013 (available at [http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-116410#{%22itemid%22:\[%22001-116410%22\]}](http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-116410#{%22itemid%22:[%22001-116410%22]})). In its judgment, the Court found a violation of Article 3 of the European Convention on Human Rights in that keeping the applicant detained in conditions which were not suitable for persons with physical disabilities and "not making sufficient efforts to reasonably accommodate his special needs raises a serious issue under the Convention", and in these particular circumstances reaches the threshold of severity required under Article 3 and constitutes degrading and inhuman treatment contrary to that provision.

¹⁰⁷ Article 4, 2 and 3 TFEU.

¹⁰⁸ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, A/HRC/22/53 (available at: <http://unispal.un.org/UNISPAL.NSF/0/D16F0D0004E40FD985257B33005CD747>)

¹⁰⁹ This has been thoroughly documented. See for example: Common European Guidelines on the Transition from Institutional to Community based care, European Expert Group on the Transition from Institutional to Community based care, November 2012, p. 43 (available at <http://deinstitutionalisationguide.eu/>); Office of the High Commissioner for Human Rights (Europe Regional Office), Getting a Life – Living Independently and Being Included in the Community: Legal Analysis of the Current Use and Future Potential of the EU Structural Funds to Contribute to the Achievement of Article 19 of the UN Convention on the Rights of Persons with Disabilities, April 2012 (available at: http://www.europe.ohchr.org/documents/Publications/getting_a_life.pdf), Council of Europe Commissioner for Human Rights, The right of people with disabilities to live independently and be included in the community, CommDH/IssuePaper (2012) 3, 12 March 2012 (available at: <https://wcd.coe.int/ViewDoc.jsp?id=1917847>), p. 37.

¹¹⁰ European Structural and Investment Funds are financial tools aiming to reduce regional disparities in terms of income, wealth and opportunities. Europe's poorer regions receive most of the support, but all European regions are eligible for funding under the policy's various funds and programmes. They fund inter alia, infrastructure, including accessibility, employment opportunities and lifelong learning activities. See for more information, the section of this report under Article 19 CRPD.

¹¹¹ Numerous incidences of abuse, violence and exploitation have been uncovered in Romanian institutions funded by EU Structural Funding. See for example, allegations of sexual violence, threats and forced labour at Tantava Institution for Integration through Occupational Therapy in Giurgiu, Romania, which received €500,000 in structural funding: Centrul de



Resurse Juridice, Raport de Monitorizare: Centrul de Integrare Prin Terapie Ocupationala Tantava, Giurgiu, Romania, 2014, (available at

[http://www.crj.ro/userfiles/editor/files/Tantava%20CENTRUL%20DE%20INTEGRARE%20PRIN%20TERAPIE%20OCUPA%C5%A2IONAL%C4%82%20\(1\).pdf](http://www.crj.ro/userfiles/editor/files/Tantava%20CENTRUL%20DE%20INTEGRARE%20PRIN%20TERAPIE%20OCUPA%C5%A2IONAL%C4%82%20(1).pdf)).

¹¹² Guidelines to EU Policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, Council of European Union, COHOM Working group, 6129/12, 13 March 2012 (available at http://eeas.europa.eu/human_rights/guidelines/torture/docs/20120626_guidelines_en.pdf)

¹¹³ Guidance note of Directorate-General for Research and Innovation, Science in society /Capacities, FP7, 2013, p.18 (available at http://ec.europa.eu/research/participants/data/ref/fp7/89888/ethics-for-researchers_en.pdf)

¹¹⁴ See for example the 2014 factsheet of European Commission on actions on violence against women (http://ec.europa.eu/justice/gender-equality/files/documents/140303_factsheet_vaw_en.pdf) and the 2011 EU Agenda for the rights of the child, COM/2011/0060 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417687091656&uri=CELEX:52011DC0060>)

¹¹⁵ See for example Directive 2012/29/EU on common minimum standards on the rights, support and protection of victims of crime; Directive 2011/99 on the European protection order and Regulation 606/2013 on mutual recognition of protection measures in civil matters; Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting and the recasts directions in the field of asylum and migration.

¹¹⁶ 34% of women with disabilities face physical and sexual partner violence, compared to 19% of women without disabilities. Also psychological violence and threats of violence by a partner, violence in childhood and non-partner violence are more common among women with disabilities. See Fundamental Rights Agency, an EU-wide survey: violence against women, 2014, p. 186-187 (available at <http://fra.europa.eu/en/publication/2014/vaw-survey-main-results>)

¹¹⁷ 2011 EU Agenda for the rights of the child, COM/2011/0060 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417687091656&uri=CELEX:52011DC0060>)

¹¹⁸ See background document of the 8th European Work Forum on Rights of the Child, 2013 (available at http://ec.europa.eu/justice/events/child-forum-2013/index_en.htm)

¹¹⁹ As an action foreseen in the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016. See European Commission Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings, SWD/2014/0318 final (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2014:318:FIN>)

¹²⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011 (available at <http://www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?CL=ENG&NT=210>).

¹²¹ Article 4, 2 (k) TFEU.

¹²² Article 6 (a) TFEU.

¹²³ Some institutions still use physical and/or pharmacological restraints (including cage beds <http://www.mdac.info/en/cage-beds>) on people with disabilities, including children.

¹²⁴ Despite these emerging testimonies and fieldwork, most EU Member States have laws that allow for involuntary placement and involuntary treatment. See Fundamental Rights Agency, Involuntary placement and involuntary treatment of persons with mental health problems, June 2012, p. 5 (available at <http://fra.europa.eu/en/publication/2012/involuntary-placement-and-involuntary-treatment-persons-mental-health-problems>)

¹²⁵ EDF Manifesto on the rights of women and girls with disabilities in the EU, 2011, p. 30 (available at <http://www.edf-feph.org/Page.asp?docid=26614&langue=EN>)

¹²⁶ Article 20 TFEU.

¹²⁷ The European Court of Justice specified in different cases that the situation of an individual applying for or losing the nationality of an EU Member State comes within the ambit of European Union law since it places the citizen in a position of obtaining or losing EU citizenship. See European Court of Justice, case C-145/04 Kingdom of Spain v United Kingdom of Great Britain and Northern Ireland, judgment of the Court (Grand Chamber) of 12 September 2006 (available at <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-145/04>).

¹²⁸ The right to freedom of movement is however not an unlimited right. It is subject to a number of conditions and exceptions. For more information, see Article 7 of DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004



¹²⁹ such as for example, presenting a medical certificate or being medically assessed can be discriminatory for people with disabilities. Also the obligation to pass certain language or integration tests might be a barrier for people with disabilities

¹³⁰ Such as language and integration tests. See Access to and Accessibility of Citizenship and Political Participation of People with Disabilities in Europe: Introduction to Two Related 2013 ANED Reports, Synthesis Report for the Academic Network of European Disability Experts, prepared by Lisa Waddington on the basis of country reports provided by ANED experts, December 2013, p. 17 (available at <http://www.disability-europe.net/theme/political-participation>)

¹³¹ The income requirement counts for minor children and might also count for adult persons with disabilities “who are unable to provide for their own needs on account of their state of health”. However, as stated before, 24, 4% of people with disabilities live in the European Union are at risk of or live in poverty and their family members will therefore find themselves excluded from family reunification.

¹³² Article 79, 2 (a) TFEU.

¹³³ Article 78, 1 TFEU.

¹³⁴ Article 78, 1 (d) and (f) TFEU.

¹³⁵ Women’s Commission for Refugee Women and Children, Disabilities among refugees and conflict-affected populations, June 2008, available at http://www.miusa.org/sites/default/files/documents/resource/WRC-%202008-%20Resource%20Kit%20for%20RwD_fieldworkers%20kit.pdf

¹³⁶ Article 18 (3) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, p. 96–116, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0033>

¹³⁷ Article 8 of the recast Reception conditions Directive set down the reasons as to when someone can be detained – it is an exhaustive list. However, it can be interpreted in a broad manner and persons can only be detained on the basis of an individual assessment.

¹³⁸ European Structural and Investment Funds are financial tools aiming to reduce regional disparities in terms of income, wealth and opportunities. Europe’s poorer regions receive most of the support, but all European regions are eligible for funding under the policy’s various funds and programmes. They fund inter alia, infrastructure, including accessibility, employment opportunities and lifelong learning activities.

¹³⁹ An institution has been defined by the Ad Hoc European Expert Group on de-institutionalisation as any residential care where residents are isolated from the broader community and/or compelled to live together; residents do not have sufficient control over their lives and over decisions which affect them; and the requirements of the organisation itself tend to take precedence over the residents’ individual needs. See report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care (2009) Brussels: European Commission, available at <file:///E:/Users/ansofie/Downloads/2009-12-08%20Expert%20Group%20Report%20Final%20EN.pdf>

¹⁴⁰ The EU Regulation on Structural Funds that was into force in the period 2007-2013, Council Regulation (EC) No 1083/2006 of 11 July 2006 and repealing Regulation (EC) No 1260/1999 included Article 16 on equality between men and women and non-discrimination, explicitly mentioning accessibility for persons with disabilities. The new regulations on structural funds covering the period 2014-2020 include several positive provisions, see EU CRPD report, para. 94-99.

¹⁴¹ European Network of Independent Living (ENIL) – European Coalition for Community Living (ECCL) Shadow report on the implementation of Article 19 of the UN Convention on the Rights of Persons with Disabilities in the European, Realising the Right to Independent Living: Is the European Union Competent to Meet the Challenges? October 2014 (available at <http://www.enil.eu/wp-content/uploads/2012/06/Shadow-Report-11-04-2014-final-WEB-1-1.pdf>). For example, public tenders to the value of approximately €24million were issued in Hungary for the purported aim of furthering the deinstitutionalisation of persons with disabilities in January 2012. Almost €19million was spent funding six new social care institutions in the country, resulting in the trans-institutionalisation of over 700 persons with disabilities. Half of this funding came from European structural funding. See also Mental Disability Advocacy Center, The European Commission Must Stop Funding Hungarian Segregation and Abuse, December 2014 (available at <http://www.mdac.org/en/news/european-commission-must-stop-funding-hungarian-segregation-and-abused>). Moreover, ENIL-ECCL have collected evidence about the investment of EU Structural Funds into institutions for people with disabilities in the period 2007 – 2013 in six EU Member States – Hungary, Latvia, Lithuania, Slovakia, Bulgaria and Romania.



¹⁴² European Network of Independent Living (ENIL) – European Coalition for Community Living (ECCL), Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living, December 2013, pages 11-12 (available at <http://www.enil.eu/wp-content/uploads/2013/11/Structural-Fund-Briefing-final-WEB.pdf>)

¹⁴³ For example, the new Romanian law that bans institutionalisation for children under the age of three, but which allows exceptions for children with “severe special needs”. See for more information, Eurochild, the Opening Doors for Europe’s children campaign (available at <http://www.openingdoors.eu/romania-commits-to-ending-institutional-care-for-children-under-three/>)

¹⁴⁴ For example in Bulgaria, Hungary, Latvia, Lithuania, Romania and the Slovak Republic. See European Coalition for Community Living, Wasted Time, Wasted Money, Wasted Lives ... A Wasted Opportunity? - A Focus Report on how the current use of Structural Funds perpetuates the social exclusion of disabled people in Central and Eastern Europe by failing to support the transition from institutional care to community-based services, 2010 (available at <http://community-living.info/publications-2/>); ENIL-ECCL, Briefing on Structural Funds Investments for People with Disabilities: Achieving the Transition from Institutional Care to Community Living, December 2013, pages 15-16 (available at <http://www.enil.eu/wp-content/uploads/2013/11/Structural-Fund-Briefing-final-WEB.pdf>)

¹⁴⁵ Regulation (EU) No 1303/2013 Annex XI Part I thematic ex-ante conditionality 9, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013R1303>

¹⁴⁶ Mental Health Europe, Mapping Exclusion. Institutional and community-based services in the mental health field in Europe, 2012 (available at http://www.mhe-sme.org/fileadmin/Position_papers/Mapping_Exclusion_-_ind.pdf)

¹⁴⁷ such as ‘Community Treatment Orders’ in England.

¹⁴⁸ EDF Report on the impact of the crisis on the rights of persons with disabilities.

¹⁴⁹ The Social Protection Committee (SPC) is as an EU advisory policy committee, established by the Treaty on the Functioning of the EU (Article 160). For more information, please visit <http://ec.europa.eu/social/main.jsp?catId=758>

¹⁵⁰ The Social Protection Committee, A voluntary European Quality Framework for Social Services, SPC/2010/10/8 final (available at <http://ec.europa.eu/social/BlobServlet?docId=6140&langId=en>)

¹⁵¹ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, Initial plan to implement the European Disability Strategy 2010-2020 List of Actions 2010-2015 {COM(2010) 636 final} {SEC(2010) 1323 final} SEC/2010/1324 final (available at http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=KN0bTtrVDh4MpmJRnCK6p5Zn3ZpcnpS9RKKmsJYBVJwL7YX2QGm1!1169027494?uri=CELEX:52010SC1324)

¹⁵² As of December 2014.

¹⁵³ UN Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Belgium, CRPD/C/BEL/CO/, para. 32.

¹⁵⁴ Mental Health Europe’s report ‘Mapping Exclusion: institutional and community based services in the mental health field in Europe’ found that in many Member States deinstitutionalisation strategies exclude psychiatric institutions and are therefore not in line with the UN Convention (available at http://www.mhe-sme.org/fileadmin/Position_papers/Mapping_Exclusion_-_ind.pdf)

¹⁵⁵ EDF Freedom Guide, December 2011, pages 48 – 50 (available at http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=27027), Disability Benefits and Entitlements in European Countries: Mutual Recognition and Exportability of Benefits, A synthesis of evidence provided by ANED country reports and additional sources, Lisa Waddington, December 2010, p. 135, available at [file:///E:/Users/ansofie/Downloads/ANED%202010%20Task%207%20-%20Disability%20Benefits%20and%20Entitlements%20-%20Report%20-%20FINAL%20\(2\)%20\(1\)%20\(1\).pdf](file:///E:/Users/ansofie/Downloads/ANED%202010%20Task%207%20-%20Disability%20Benefits%20and%20Entitlements%20-%20Report%20-%20FINAL%20(2)%20(1)%20(1).pdf)

¹⁵⁶ For more information on the European Health Insurance card, please visit European Commission website, DG Employment: <http://ec.europa.eu/social/main.jsp?catId=559>

¹⁵⁷ Regulation (EC) No 261/2004 of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ L 46, 17/02/2004, p. 1–8 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32004R0261>)



¹⁵⁸ Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations OJ L 315, 03/12/2007, p. 14–41 (available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32007R1371>)

¹⁵⁹ See for example Art. 24 of Regulation No 1371/2007 on rail passengers' rights.

¹⁶⁰ EDF Freedom Guide, December 2011, p. 43 (available at http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=27027)

¹⁶¹ This proposal was made by the European Air Safety Agency in January 2014 to clarify this aspect of the Regulation 1107/2006. However, it has to make sure that the new rules do not negatively affect persons with disabilities. See Notice of Proposed Amendment 2014.01 of the European Aviation Safety Agency on Special categories of Passengers (available at <http://easa.europa.eu/system/files/dfu/rulemaking-docs-npa-2014-NPA-2014-01.pdf>)

¹⁶² EDF Freedom Guide, December 2011, p. 27-29.

¹⁶³ Article 48 TFEU: 'The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers'

¹⁶⁴ Directive 2010/13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, p. 1–2 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417703989186&uri=CELEX:32010L0013>)

¹⁶⁵ Working Group 3, Round Table on Access to Audiovisual Media Services for persons with disabilities, Comparative background document, Emmanuelle Machet, EPRA Secretariat, revised public version – 8 July 2013 (available at http://epra3-production.s3.amazonaws.com/attachments/files/2202/original/accessibility_WG3_final_revised.pdf?1373379195)

¹⁶⁶ This Telecoms Package is formed by three pieces of legislation: Directive 2009/140/EC of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (available at <http://eur-lex.europa.eu/search.html?qid=1417704439395&text=Directive%202009/140/EC&scope=EURLEX&type=quick&lang=en>), Directive 2009/136/EC of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (available at <http://eur-lex.europa.eu/search.html?qid=1417704527513&text=Directive%202009/136/EC&scope=EURLEX&type=quick&lang=en>), and Regulation (EC) No 1211/2009 of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (available at <http://eur-lex.europa.eu/search.html?qid=1417704651492&text=Regulation%20%28EC%29%20No%201211/2009&scope=EURLEX&type=quick&lang=en>).

¹⁶⁷ European Commission, Directorate-General of Communications Networks, Content & Technology, Study on Assessing and Promoting E-Accessibility (available at <http://ec.europa.eu/digital-agenda/en/news/study-assessing-and-promoting-e-accessibility>)

¹⁶⁸ Art. 26,4 Universal Service Directive 2009/136/EC: "Member states shall ensure that access for disabled end-users to emergency services is equivalent to that enjoyed by other end-users" (available at <http://eur-lex.europa.eu/search.html?qid=1417704527513&text=Directive%202009/136/EC&scope=EURLEX&type=quick&lang=en>)

¹⁶⁹ See presentation on Emergency services accessibility in Europe and Reach 112, Gary Machado, EENA (available at <http://www.reach112.eu/ressource/static/files/reach112accessibilityfina.pdf>). European Union of the Deaf, UNCRPD Survey Report 2013, p.10: "Accessibility of 112 – 0% of EU countries fully accessible, 31.3% no accessibility at all" (available at http://www.eud.eu/uploads/EUDUNCRPDWWW_1.pdf)

¹⁷⁰ European Parliament, Written Declaration on the need for accessible 112 emergency services, 12 September 2011, 0035/2011 (available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+WDECL+P7-DCL-2011-0035+0+DOC+PDF+V0/EN&language=EN>).



¹⁷¹ Directive 2011/83/EU of 25 October 2011 on consumer rights, OJ L 304, 22.11.2011, p. 64–88 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1417707230220&uri=CELEX:32011L0083>)

¹⁷² Subtitling of audiovisual media content should be monitored at the level of the Member States.

¹⁷³ Article 4, 2 (a) and (f) TFEU.

¹⁷⁴ Proposal for a Directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM(2012) 10 final (available at: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52012PC0010>)

¹⁷⁵ European Union Agency for Fundamental Rights, Opinion on the proposed data protection reform package, October 2012, p.6 (available at <http://fra.europa.eu/en/opinion/2012/fra-opinion-proposed-eu-data-protection-reform-package>)

¹⁷⁶ Anonymisation means removing information from electronic traces that would allow direct or indirect identification of a person, and “pseudonymisation” replaces the name and other direct identifiers with a new identifier such as numbers or codes.

¹⁷⁷ An Introduction to Data Protection, European Digital Rights (EDRi) (available at http://www.edri.org/files/paper06_datap.pdf)

¹⁷⁸ EDRi's proposed amendment for article 20 of the proposed Regulation on Data Protection (available at <http://protectmydata.eu/articles/articles-11-20/article-20/>)

¹⁷⁹ Council Regulation No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation, OJ L 343, 29.12.2010, p. 10–16 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R1259>)

¹⁸⁰ Article 1, 2 (f) of Regulation No 1259/2010 excludes the issue of parental responsibility from the scope of the Regulation. On the other hand, the Regulation calls in its preamble for the respect of non-discrimination of persons with disabilities by the courts of the Member States.

¹⁸¹ European Parliament legislative resolution of 20 October 2010 on the proposal for a directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, COM(2008)0637 – C6-0340/2008 – 2008/0193(COD) (available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0373&language=EN>)

¹⁸² See press release European Women's Lobby, July 2014 (available at <http://www.womenlobby.org/news/ewl-news/article/threats-to-withdraw-the-maternity?lang=en>)

¹⁸³ COFACE, the Family dimension of the UN Convention on the Rights of Persons with Disabilities, March 2012, p. 13 (available at http://coface-eu.org/en/upload/07_Publications/CofaceDisability%20CRPD%20book%20en.pdf)

¹⁸⁴ Commission Recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage, OJ L 59, 2.3.2013, p. 5–16 (available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013H0112>)

¹⁸⁵ European Foundation Centre, ‘Assessing the impact of European Governments austerity plans on the rights of persons with disabilities’, 2011 (available at http://www.efc.be/programmes_services/resources/Documents/Austerity2012.PDF)

¹⁸⁶ See comments and recommendations on Article 5 CRPD of this report.

¹⁸⁷ See European Commission website on Erasmus+ (available at http://ec.europa.eu/programmes/erasmus-plus/index_en.htm)

¹⁸⁸ For example, deaf and hard of hearing people are excluded from the Erasmus+ programme due to the lack of financing for the use of captioning or speech-to-text technology in the classroom. For more information, please see the position paper on Education of the International Federation of Hard of Hearing people, April 2014 (available at http://www.ifhoh.org/pdf/ifhoh_draft-educ-paper.pdf).

¹⁸⁹ Life-long learning programmes are a key element to ensure matching of skills and jobs and are strictly linked to the right to employment, including finding a job, job retention and career development opportunities for persons with disabilities on an equal basis with others.

¹⁹⁰ EU-SILC 2011. These are European Statistics on income, social inclusion and living conditions and cover objective and subjective aspects of these themes in both monetary and non-monetary terms for both households and individuals. They are



used to monitor the Europe 2020 Strategy in particular through its poverty reduction headline target (available at http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu_silc)

¹⁹¹ Europe 2020 Strategy for smart, inclusive and sustainable growth : A Renewed Commitment to a Barrier-Free Europe Initial plan to implement the European Disability Strategy 2010-2020 List of Actions 2010-2015 {COM(2010) 636 final} SEC/2010/1324 final (available at http://eur-lex.europa.eu/legal-content/EN/ALL;ELX_SESSIONID=KN0bTtrVDh4MpmJRnCK6p5Zn3ZpcnpS9RKKmsJYBVJwL7YX2QGm1!1169027494?uri=CELEX:52010SC1324)

¹⁹² EU - SILC 2011. These are European Statistics on income, social inclusion and living conditions cover objective and subjective aspects of these themes in both monetary and non-monetary terms for both households and individuals. They are used to monitor the Europe 2020 strategy in particular through its poverty reduction headline target (available at http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu_silc)

¹⁹³ You can find the Europe 2020 strategy headline indicators here: http://epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

¹⁹⁴ For example the European Structural and Investment Funds. These funds are financial tools aiming to reduce regional disparities in terms of income, wealth and opportunities. Europe's poorer regions receive most of the support, but all European regions are eligible for funding under the policy's various funds and programmes. They fund inter alia, infrastructure, including accessibility, employment opportunities and lifelong learning activities.

¹⁹⁵ European Union Agency for Fundamental Rights, Inequalities and multiple discrimination in access to and quality of healthcare, 2013, p. 51 (available at <http://fra.europa.eu/en/publication/2013/inequalities-discrimination-healthcare>)

¹⁹⁶ This is crucial for ensuring that disabled persons, their carers and staff are all able to operate these devices and access these services safely. It is imperative to ensure that technology is safe and secure for use by all. EDF is concerned that the unregulated development of inaccessible m-health products and services could render them useless or even harmful to disabled persons.

¹⁹⁷ European Union Agency for Fundamental Rights, Inequalities and multiple discrimination in access to and quality of healthcare, 2013, p. 55.

¹⁹⁸ Dental care or mental health care for persons with intellectual disabilities is a recurrent problem in many European countries, which may result in no treatment at all. Persons with disabilities enjoy a lower life expectancy than other persons. For example, people with intellectual disabilities are living on average 15-20 years less than the rest of the population.

¹⁹⁹ European Union Agency for Fundamental Rights, Inequalities and multiple discrimination in access to and quality of healthcare, 2013, p. 25, 27-39.

²⁰⁰ None of the four thematic priorities of the new EU Health Programme 2014 – 2020, although directly relevant, mention health of persons with disabilities or removing health inequalities. See Regulation (EU) No 282/2014 of the European Parliament and of the Council of 11 March 2014 on the establishment of a third Programme for the Union's action in the field of health (2014-2020) and repealing Decision No 1350/2007/EC Text with EEA relevance, OJ L 86, 21.3.2014, p. 1–13 (available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.086.01.0001.01.ENG). The Programme has the budget of 449.4 million euros to support health-related actions at the EU level and in the Member States.

²⁰¹ Women with disabilities face significant barriers to gynaecology services and there is a need to ensure that protocols incorporate the disability perspective and that staff receive the specialised training needed. Furthermore, gynaecology services must have accessible mammography devices for women with reduced mobility, health supplies must be made accessible and prosthetic devices must be made more widely available to women with disabilities; women with disabilities must also be guaranteed equal access to rehabilitation services.

²⁰² See for example the Ashley treatment: this severe violation of human rights and controversial medical procedure limits the growth of children with severe disabilities. It is estimated that there are 200 such cases in Europe. Through a set of medical procedures on 12-year old girls with severe forms of disabilities, their body is maintained at a child's development stage (growth attenuation through bilateral breast bud removal, hysterectomy sterilisation, hormonal treatments, operations on bones), whereas the principle purpose of the treatment is intended to improve the person's quality of life.

²⁰³ Trans people who have psychosocial disabilities totally unrelated to their gender identity, may face barriers when trying to access support from mental health providers. Some requirements for legal gender recognition, and in particular, for access to



gender reassignment treatment, may create new barriers for trans people with disabilities: i.e. condition of employment or use of hormones.

²⁰⁴ Legal entitlements to access health services are often dependent on residence status, with undocumented migrants only entitled to access emergency health care in many EU Member States. For more information, see Fundamental Rights Agency, Fundamental rights of migrants in an irregular situation in the European Union, 2011 (available at <http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>)

²⁰⁵ Directive 2011/24/EU of 9 March 2011 on the application of patients' rights in cross-border healthcare, OJ L 88, 4.4.2011, p. 45–65 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0024>)

²⁰⁶ Member States are not obliged to reimburse the extra costs related to the treatment, such as accommodation and travel costs, or extra costs which persons with disabilities might incur while receiving cross-border healthcare. This is likely to have a disproportionately high deterrent effect on those patients with disabilities who use personal assistance or children with disabilities who must travel with their parents, as well as persons who must pay extra for accessible transport or accommodation; Member States are free to refuse the reimbursement of treatment that is not included in the “health benefits package” in the Member State of affiliation. This nullifies the usefulness of the Directive for patients who need treatments related to their disabilities (such as the insertion of a shunt to relieve the pressure from the brain in persons with hydrocephalus) that, while lifesaving, are not reimbursed by their national health insurance, as is the case in some EU Member States; Member States are free to refuse the reimbursement of the full cost of the medical intervention if it exceeds its national ceiling for the same procedure. This leaves at a significant disadvantage both persons who run higher risk of unexpected complications due to the nature of their disability and people with low incomes. They are forced to pay extra costs that may not have been agreed with the authorities in their Member State of affiliation when travelling outside their Member State of residence; Chronic care related to disability is not included in the treatments and list of benefits package.

²⁰⁷ Communication from the Commission, Implementing the Community Lisbon Programme: Social Services of General Interest in the European Union, COM(2006) 177 final, 26 April 2006, p. 4 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006DC0177>)

²⁰⁸ European Commission, Public Employment Services approaches for sustainable activation of people with disabilities, Analytical paper, August 2003 (available at <http://ec.europa.eu/social/BlobServlet?docId=10932&langId=en>)

²⁰⁹ European Commission, Supported Employment for people with disabilities in the EU and EFTA-EEA, May 2011 (available at http://ec.europa.eu/justice/discrimination/files/cowi.final_study_report_may_2011_final_en.pdf)

²¹⁰ Directive 2014/24/EU of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0024&from=EN>)

²¹¹ Article 77 of Directive 2014/24/EU of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

²¹² Recommendations relevant for the EU, p. 12 of the Supported Employment for people with disabilities in the EU and EFTA-EEA report (available at http://ec.europa.eu/justice/discrimination/files/cowi.final_study_report_may_2011_final_en.pdf)

²¹³ The Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000 P. 0016–0022 (available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>)

²¹⁴ EDF Analysis of the practical impact of the Employment Equality Directive on persons with disabilities in employment, November 2010 (available at http://cms.horus.be/files/99909/MediaArchive/Employment%20Directive%20report_November%202010_final.doc)

²¹⁵ The European job mobility portal (available at <https://ec.europa.eu/eures/page/homepage?lang=en>)

²¹⁶ Communication from the Commission, Europe 2020 A strategy for smart, sustainable and inclusive growth, Brussels, 3.3.2010, COM(2010) 2020 (available at <http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>)

²¹⁷ In the majority of EU Member States the employment rate is higher than 70%. For more information, please see European comparative data on Europe 2020 & People with disabilities, final report prepared by Stefanos Grammenos from Centre for European Social and Economic Policy (CESEP ASBL) on behalf of the Academic Network of European Disability Experts (ANED), December 2013 (available at [Word version 6.997 kB](#))



²¹⁸ European Commission, Study on the situation of women with disabilities in light of the UN Convention for the Rights of Persons with Disabilities, (VC/2007/317), 2009.

²¹⁹ In the Annual Growth Survey 2012, the European Commission did not consider the disability dimension and the EU countries did not include, in their National Reform Programmes, positive reforms to tackle employment of persons with disabilities.

²²⁰ Council recommendation on a Quality Framework for Traineeships, Employment, Social policy, health and consumer affairs, Council meeting, Brussels, 10 March 2014 (available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/141424.pdf)

²²¹ Article 3 (4) of the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Official Journal L 303, 02/12/2000 P. 0016 – 0022 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0078>)

²²² Commission Regulation (EU) N°651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

²²³ European Court of Human Rights, case of Glor v Switzerland, Judgment of 30 April 2009, Application no 13444/04 (available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92525#\(itemid%22:\[%22001-92525%22\]\)](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92525#(itemid%22:[%22001-92525%22])))

²²⁴ Physical barriers should not only be removed but also barriers to communication and information accessibility, as for example for hard of hearing persons availability of listening equipment and speech to text services in offices and meeting rooms.

²²⁵ European Social Fund for instance. The training can be organised with regard to diversity management programmes. Also through the EU Youth Guarantee, which is a new approach adopted by the Council in April 2013 to tackling youth unemployment which ensures that all young people under 25 – whether registered with employment services or not – get a good-quality, firm offer within four months of them leaving formal education or becoming unemployed.

²²⁶ The High Level Group on Disability where representatives of national authorities meet, could be used as a good platform to exchange information and promote events at national level.

²²⁷ Country-specific recommendations are economic policy recommendations to individual Member States to strengthen the recovery of the financial and economic crisis.

²²⁸ A Committee (the "ESF Committee") set up under Article 163 TFEU to assist the European Commission monitoring the implementation of the ESF.

²²⁹ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe Initial plan to implement the European Disability Strategy 2010-2020 List of Actions 2010-2015 {COM(2010) 636 final} {SEC(2010) 1323 final}

²³⁰ European Foundation Centre, Assessing the impact of European governments' austerity plans on the rights of people with disabilities – European report, Hauben, H. et al. (2012) (available at http://www.efc.be/programmes_services/resources/Documents/Austerity2012.PDF)

²³¹ EU-SILC 2011. These are European Statistics on income, social inclusion and living conditions and cover objective and subjective aspects of these themes in both monetary and non-monetary terms for both households and individuals. They are used to monitor the Europe 2020 Strategy in particular through its poverty reduction headline target (available at http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu_silc)

²³² European comparative data on Europe 2020 & People with disabilities, final report prepared by Stefanos Grammenos from Centre for European Social and Economic Policy (CESEP ASBL) on behalf of the Academic Network of European Disability Experts (ANED), December 2013 (available at [Word version 6.997 kB](#))

²³³ European comparative data on Europe 2020 & People with disabilities, final report prepared by Stefanos Grammenos from Centre for European Social and Economic Policy (CESEP ASBL) on behalf of the Academic Network of European Disability Experts (ANED), December 2013, available at [Word version 6.997 kB](#)

²³⁴ In particular, in the field of health and education services no new financial resources were allocated by the Member States. This caused an increase in the price of medications and services, with a direct negative impact on high quality services which are not affordable anymore. Apart from direct cuts to disability benefits, a number of other approaches to reducing the real value of payments were evident in many countries. In some Member States delayed payments are a significant factor in putting persons with disabilities and their families under financial pressure. For more information: EDF Report on the impact of the crisis on the rights of persons with disabilities.



²³⁵ European comparative data on Europe 2020 & People with disabilities, final report prepared by Stefanos Grammenos from Centre for European Social and Economic Policy (CESEP ASBL) on behalf of the Academic Network of European Disability Experts (ANED), December 2013 (available at [Word version 6.997 kB](#))

²³⁶ The main policy framework in the field of EU Social Protection and Social Inclusion is the Europe 2020 Strategy, which sets targets to lift at least 20 million people out of poverty and social exclusion and to increase employment of the population aged 20-64 to 75%. The European Semester provides the framework for steering and monitoring EU countries' economic and social reforms to reach the Europe 2020 targets. The challenges and proposed solutions are reflected in the Country-specific Recommendations. The recommendations, however, appear to accept that Member States need to tackle economic stability and limit further deterioration of public finances in the first place and only as a secondary priority to seek the implementation of the national targets that incorporate the common EU targets on employment, poverty reduction and school drop outs in the National Reform Programmes.

²³⁷ Meeting of International Monetary Fund, European Commission and the European Central Bank. It is a vehicle for economic and financial evaluation and for negotiation with Member States of the Euro area.

²³⁸ Country-specific Recommendations offer tailored advice to Member States on how to boost growth and jobs, while maintaining sound public finances. They are published every spring, following months of analysis by the Commission. They focus on what can realistically be achieved in the next 12-18 months to make growth stronger, more sustainable and more inclusive, in line with the Europe 2020 strategy, the EU's long-term growth and jobs plan.

²³⁹ Article 9 TFEU and Article 21 of the Charter recognise the right to be free from discrimination, including on the grounds of disability, and Article 26 recognises and respects the right of persons with disabilities to benefit from measures to ensure their independence, social and occupational integration and participation in the life of the community.

²⁴⁰ European Court of Justice, case C-145/04 Kingdom of Spain v United Kingdom of Great Britain and Northern Ireland, judgment of the Court (Grand Chamber) of 12 September 2006 (available at <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-145/04>)

²⁴¹ Fundamental Rights Agency, The right to political participation for persons with disabilities: human rights indicators, Luxembourg, 2014, p. 8 (available at <http://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>)

²⁴² Fundamental Rights Agency, The right to political participation for persons with disabilities: human rights indicators, Luxembourg, 2014, p.40 (available at <http://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>)

²⁴³ See Inclusion Europe's campaign for the European Elections: <http://www.e-include.info/votingforall/en/>

²⁴⁴ Fundamental Rights Agency, The right to political participation for persons with disabilities: human rights indicators, Luxembourg, 2014, p.49 (available at <http://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>)

²⁴⁵ Ibid., p. 46.

²⁴⁶ For example, the audio-visual material recorded by European Parliament, Act, React, Impact to encourage participation in 2014 EU elections was not subtitled. See the video on <http://www.europarl.europa.eu/news/en/news-room/content/20130905STO18724/html/Act-React-Impact>. In some countries, as in Spain, it was subtitled afterwards by the Spanish Confederation of Families with Deaf People.

²⁴⁷ Fundamental Rights Agency, The right to political participation for persons with disabilities: human rights indicators, Luxembourg, 2014, p.80 (available at <http://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>)

²⁴⁸ Article 6, (c), (d) and (e) TFEU.

²⁴⁹ European Education, Audiovisual and Culture Executive Agency, Culture Programme 2007 – 2013 (available at http://eacea.ec.europa.eu/culture/programme/about_culture_en.php)

²⁵⁰ European Commission and European Education, Audiovisual and Culture Executive Agency, MEDIA Programme (available at http://eacea.ec.europa.eu/media/index_en.php)

²⁵¹ See for more information http://ec.europa.eu/culture/tools/actions/capitals-culture_en.htm

²⁵² Article 4 (b) of Regulation (EU) No 1295/2013 establishing the Creative Europe Programme (2014 to 2020), OJ L 347, 20.12.2013, p. 221–237(available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1295>)



²⁵³ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled of 27 June 2013, World Intellectual Property Organization (available at http://www.wipo.int/treaties/en/text.jsp?file_id=301016)

²⁵⁴ Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, L167, 2001-06-22, p. 10-19 (available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32001L0029>)

²⁵⁵ For more information on the European heritage label, see http://ec.europa.eu/culture/heritage-label/index_en.htm

²⁵⁶ for both the building as the access to the exhibitions (for example for hard of hearing persons, accessibility should include audio guides with loops, subtitled films)

²⁵⁷ Please find the easy-to-read logo on the website www.easy-to-read.eu

²⁵⁸ Article 2, Treaty on European Union.

²⁵⁹ Article 3 TEU.

²⁶⁰ Article 8 TFEU.

²⁶¹ EDF 2nd Manifesto on the rights of women and girls with disabilities in the EU, 2011, p.6 (available at <http://www.edf-feph.org/Page.asp?docid=26614&langue=EN>)

²⁶² As an annex to the Council conclusions on the European Pact for gender equality for the period 2011 – 2020 (available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf)

²⁶³ EU Strategy for equality between women and men, European Commission, September 2010, available at http://ec.europa.eu/justice/gender-equality/index_en.htm

²⁶⁴ European Commission, EU Plan of Action on Gender Equality and Women's Empowerment in Development 2010-2015, Brussels, 8.3.2010, SEC(2010) 265 final, 2010 (available at http://ec.europa.eu/development/icenter/repository/SEC_2010_265_gender_action_plan_EN.pdf)

²⁶⁵ EDF Manifesto on the Rights of Women and Girls with Disabilities in the European Union (2011), p. 17 (available at <http://www.edf-feph.org/Page.asp?docid=26614&langue=EN>)

²⁶⁶ The Platform for Action is an agenda for women's empowerment. It aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and at removing all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making. For more information, please see <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm#statement>

²⁶⁷ See conclusions of the Council of the European Union at http://ec.europa.eu/justice/gender-equality/tools/statistics-indicators/platform-action/index_en.htm

²⁶⁸ The European Institute for Gender Equality is currently carrying out a study to review the implementation of the Beijing Platform for Action in the EU. For more details, please see <http://eige.europa.eu/content/study-to-review-the-implementation-of-the-beijing-platform-for-action-in-the-eu-%E2%80%93-beijing-20>

²⁶⁹ The European Institute for Gender Equality is an EU agency supporting the EU to promote gender equality, to fight discrimination based on sex and to raise awareness about gender equality issues. For more information, see <http://eige.europa.eu/>

²⁷⁰ EDF Manifesto on the Rights of Women and Girls with Disabilities in the European Union, 2011, p. 27 (available at <http://www.edf-feph.org/Page.asp?docid=26614&langue=EN>)

²⁷¹ An EU Agenda for the Rights of the Child, COM/2011/0060 final (available at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52011DC0060>)

²⁷² For example, the new Romanian law that bans institutionalisation for children under the age of three, but which allows exceptions for children with “severe special needs”. For more information, see Eurochild campaign on Opening Doors (available at <http://www.openingdoors.eu/romania-commits-to-ending-institutional-care-for-children-under-three/>) [Draft alternative report/](http://www.openingdoors.eu/romania-commits-to-ending-institutional-care-for-children-under-three/) (<http://www.openingdoors.eu/romania-commits-to-ending-institutional-care-for-children-under-three/>)



²⁷³ European comparative data on Europe 2020 & Housing conditions report published http://www.disability-europe.net/content/aned/media/ANED%202012%20-%20Task%206%20-%20comparative%20data%20report-final_16102013.pdf

²⁷⁴ Jones, L et al. Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies, 2012 (available at <http://press.thelancet.com/childrendisabilities.pdf>)

²⁷⁵ Article 24(1) of EU Charter of Fundamental Rights.

²⁷⁶ The Kid's Corner is an EU website on children's rights. Children and teenagers can play games, watch cartoons and videos and learn about their rights. They can also find out who to contact in their country if they feel being treated unfairly (available at http://europa.eu/kids-corner/index_en.htm)

²⁷⁷ The European Forum on the Rights of the Child is a permanent group for the promotion of children's rights in the EU's internal and external action. It is chaired by the Commission and meets annually.

²⁷⁸ Ad hoc module on employment of disabled people, supplementing the EU Labour Force Survey (LFS), 2007 (available at http://epp.eurostat.ec.europa.eu/cache/ITY_SDDS/en/hlth_empdis_esms.htm)

²⁷⁹ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM (2010) 636 final (available at <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52010DC0636>).

²⁸⁰ The European Union Statistics on Income and Living Conditions (EU-SILC) (available at http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/eu_silc)

²⁸¹ Article 4, 4 TFEU

²⁸² As a good practice example, in Finland, the representative organisations of persons with disabilities have pooled their expertise in disability related development cooperation and have been accepted as partners by the Finnish Ministry of Foreign Affairs. For more information, see <http://www.vammaiskumppanuus.fi/fidida/>.

²⁸³ UN CRPD Committee, General Comment no. 2 on Article 9 'Accessibility', 2014 (available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en)

²⁸⁴ Formerly, the Unit was under DG Justice.

²⁸⁵ European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final, "Mechanisms required by the UN Convention", p. 10 (available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF>)

²⁸⁶ The Human Rights Working Group (COHOM) was created under the Council of the European Union in 1987. It is composed of human rights experts from Member States and the European Commission. The agendas of meetings cover the various aspects of the EU's human rights policy such as action in international fora, dialogues with third countries, thematic issues and mainstreaming.

²⁸⁷ The FREMP is responsible for discussing human rights challenges inside the European Union and can coordinate an EU action in response to violations by Member States.

²⁸⁸ For further information on the High Level group on Disability, see http://ec.europa.eu/employment_social/soc-prot/disable/hlg_en.htm

²⁸⁹ For example, preparatory meetings at the national level between the high level group representatives and the national DPOs should take place to prepare the meeting in Brussels.

²⁹⁰ For more information, please find the papers adopted by the EU Monitoring Framework on the Chair, Secretariat and Working methods of the Framework at http://www.edf-feph.org/Page_Generale.asp?DocID=22112&thebloc=33400

²⁹¹ The Principles relating to the status of national institutions (the Paris Principles), adopted by UN General Assembly resolution 48/134 of 20 December 1993, A/RES/48/134 (available at <http://www.un.org/documents/ga/res/48/a48r134.htm>)

²⁹² EDF has been invited in the past to address its views on the establishment of the EU independent monitoring framework.

²⁹³ Regulation No 1023/2013 amending the Staff Regulations of Officials of the EU and the conditions of Employment of Other Servants of the EU, OJ L 287, 29.10.2013, p. 15–62, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1023>. The Staff Regulations entered into force on 1 January 2014 and apply to officials of the EU, meaning any person who has been appointed to an established post on the staff of one of the institutions of the EU and its agencies.



²⁹⁴ Article 1 (d) (4) Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, OJ L 287, 29.10.2013, p. 15–62 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1023>)

²⁹⁵ This definition of reasonable accommodation may be considered in compliance with the UN CRPD, although it leaves some grey areas such as how it is applied to the “essential functions” which may block reasonable adjustments in other areas of the working life.

²⁹⁶ As explained more in detail under Article 26 CRPD below, the rules of the joint sickness insurance scheme (JSIS) of the EU institutions have not been amended to take account the UN CRPD and there continues to be no definition of disability in the rules. As a consequence, the reimbursement of medical expenses related to disability are very problematic and disregard the human rights model of disability as stated in the UN CRPD.

²⁹⁷ For example, the Equal Opportunities Committee in the European Commission is responsible for establishing an action plan and studying how to improve equality of opportunities especially as regards gender equality issues. Disability issues are however not a priority on the Committee’s agenda and very little work has so far been undertaken to implement the CRPD at the Commission level.

²⁹⁸ The European Commission Disability Support Group is an association for the staff of the European Commission as well as other European institutions who are in charge of a person with a disability which restricts their daily activities. The group currently has over 170 members including staff not only from the European Commission but also from the Council, the European Parliament, EEAS, agencies as well as various delegations around the world.

²⁹⁹ For example, in the preparation of the EU CRPD report, these Disability Support Groups were not consulted and the comments which they provided on their own initiative were not taken into account.

³⁰⁰ For example, human resources departments often rely on the Groups to find solutions when hiring new personnel with a disability.

³⁰¹ For example, how many requests for accommodations do they receive in competitions? How many persons with disabilities pass and how many fail in competitions? What is the assessment of reasonable accommodation schemes? What is the assessment of positive measures? Is there a way to support winners of competitions for their job interviews?

³⁰² See EDF complaint email correspondence.

³⁰³ They very often have difficulties accessing local disability associations due to language barriers. They also have no family members to help them and the new 40 hour working week will impact officials looking after dependent children with disabilities.

³⁰⁴ Articles 28e and 33 Staff Regulations. Although the definition of a person with disability is in compliance with the UN CRPD, the system relies on medical evaluations. There is a medical examination and an evaluation to assess if the person is physically fit to perform the duties. There is also an invalidity committee formed exclusively of doctors which evaluates professional invalidity. Job retention strategy is quite deficient. See Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, OJ L 287, 29.10.2013, p. 15–62 (available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1023>)

³⁰⁵ The Action Plan included a lot of excellent actions, such as reflection with EPSO on employment, possible recruitment quotas, adoption of internal rules on reasonable accommodation and European Parliament website compliance with WCAG guidelines.

³⁰⁶ The Parliament has for example rejected trainee candidates’ applications on grounds of administrative and organisational difficulties and not on the ground of the quality of the applications, which were considered admissible.

³⁰⁷ Today, reasonable accommodations are covered through the general expenditure allowance, which every Member of the European Parliament receives from the Parliament. However, no additional budget is foreseen for Members of the European Parliament with disabilities.

³⁰⁸ The interservice group on accessibility visited the building in 2012 and encountered several obstacles such as inaccessible main entrance door, no provision of brochures in Braille, easy to read, etc., incorrect placement of podotactile signs in the elevators, etc. Also the public gallery in the Parliament is not accessible.

³⁰⁹ such as Spain, Hungary and Poland.



³¹⁰ For example Italy, based on responses collected from EDF membership through a questionnaire sent out in June 2014.

³¹¹ For example, no loops system and speech to text support for the EU Commission tour event in Amsterdam during spring 2014 was organised for hard of hearing people.

³¹² See European Blind Union “Access Denied” campaign available at: <http://www.euroblind.org/news/nr/2397>. It includes three annexes assessing the web accessibility compliance of the three main EU websites: Parliament, Commission and Council, the latter one described as “extremely inaccessible”. Also these websites are not accessible for hard of hearing people. Any film clip or content with spoken message has to be presented with a visual complement and subtitles in the spoken language.

³¹³ Easy-to-read and easy-to-understand information for persons with intellectual disabilities are not sufficiently used and promoted by the European Union in its communication channels, such as documents or websites.

³¹⁴ Online meetings that are being broadcast at the same time as they are taking place are not subtitled. Meetings that are shown at a later stage are subtitled.

³¹⁵ For example ‘Your voice’ is the European Commission’s “single access point” to a wide variety of consultations, discussions and other tools which enable you to play an active role in the European policy-making process (available at http://ec.europa.eu/yourvoice/index_en.htm)

³¹⁶ “Going abroad” app available at: http://ec.europa.eu/transport/road_safety/going_abroad/index_en.htm and “Passengers rights” app available at: <http://ec.europa.eu/transport/passenger-rights/en/mobile.html>

³¹⁷ Passengers rights app available at: <http://ec.europa.eu/transport/passenger-rights/en/mobile.html>

³¹⁸ “Going Abroad” app (available at: http://ec.europa.eu/transport/road_safety/going_abroad/index_en.htm)

³¹⁹ See the test conducted by the European Blind Union on 30 June 2014, available at <https://twitter.com/euroblind/status/483641445510021120>

³²⁰ The Digital Agenda for Europe included some actions concerning accessibility for persons with disabilities. However the European Commission still disseminates inaccessible content such as the video to promote their results. See for example <https://www.youtube.com/watch?v=fyjEtzW5VZs>

³²¹ Statistics on the integration of SEN pupils into the European Schools in the year 2012, presented at meeting in April 2013 of Board of Governors, based on findings and recommendations of Special Education Needs Policy Group, 2013-01-D-28-en-3 (available at http://www.eursc.eu/fichiers/contenu_fichiers2/1888/2013-01-D-28-en-3.pdf)

³²² See concluding observations on Belgium, CRPD/C/BEL/CO/1, UN Committee on the rights of persons with disabilities, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=935&Lang=en

³²³ The European Ombudsman’s follow-up inquiry to the European Ombudsman’s decision on his own-initiative inquiry OI/3/2003/JMA concerning the integration of persons with disabilities by the European Commission (available at <http://www.ombudsman.europa.eu/cases/correspondence.faces/en/4162/html.bookmark>)

³²⁴ 2011 Annual report of the Secretary General to the Board of Governors of the European Schools, 2011-02-D-39-en-2 (available at http://www.eursc.eu/fichiers/contenu_fichiers2/1666/2011-02-D-39-en-2.pdf)

³²⁵ Answer by European Commission Vice-President to letters from Commission’s and Parliament’s Disability Support Group. The answer states that the number of SEN pupils has increased from 411 pupils in 2008, 619 in 2010 and 640 in 2011.

³²⁶ More precisely: 2008=1, 96% SEN children of total school population; 2010= 2,72%, 2012=2,94%

³²⁷ Statistics on the integration of SEN pupils into the European Schools in the year 2012, presented at meeting in April 2013 of Board of Governors, based on findings and recommendations of Special Education Needs Policy Group, 2013-01-D-28-en-3 (available at http://www.eursc.eu/fichiers/contenu_fichiers2/1888/2013-01-D-28-en-3.pdf)

³²⁸ Letter of European Commission and European Parliament Disability Support Group to Secretary General, Ms Day of the European Commission, 10 July 2014 on recent institutional practices impacting EU officials caring for a dependant with a disability.



DRAFT