

EDF draft alternative report for the second review of the EU by the CRPD Committee (for List of Issues Prior to Reporting)

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European Disability Forum

The European Disability Forum (EDF) is an umbrella organisation of persons with disabilities that defends the interests of over 100 million persons with disabilities in Europe.

We are an independent non-governmental organisation (NGO) that brings together representative organisations of persons with disabilities from across Europe. We currently have 101 members, including European-wide organisations representing various disability groups, and national council of persons with disabilities. Taking in account our members' memberships, we gather over 3000 organisations.

We are run by persons with disabilities and their families. We are a strong united voice of persons with disabilities in Europe.

Executive summary

EDF's alternative report examines the European Union (EU)'s implementation of the Convention on the Rights of Persons with Disabilities (CRPD) since its first review by the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) in 2015. The report is divided into two main 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 suggested questions to be addressed in the List of Questions Prior to Reporting.

As an introductory remark, EDF's report highlights that while progress has been made in the EU, for example with the adoption of the European Accessibility Act and of a new 10-year strategy on disability rights, the overall purpose of the CRPD - to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities - is not yet realised.

EDF's main concerns are as follows:

1. **Legal harmonisation with the CRPD:** The Commission has not taken steps to ensure legal harmonisation with the CRPD. The review of legislation and policy, the update of the declaration of competences and its lists of instruments and the revision of the impact assessment guidelines have not taken place.
2. **Implementation and enforcement of EU legislation:** Existing EU legislation relating to the rights of persons with disabilities, such as the Employment Equality Directive, the EU package of Passenger Rights, Rail Accessibility Regulation, Audiovisual Media Services Directive, and the Directive on Victims' Rights, lack effective implementation and enforcement.
3. **Consultation and involvement of persons with disabilities:** 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. In some institutions and bodies, such as the Council, there is no consultation or minimal involvement. This issue is also a reality in the EU global actions, with little or no consultation with national DPOs in international cooperation and humanitarian action.
4. **Protection against discrimination:** 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. EU laws do not cover multiple and intersectional forms of discrimination and discrimination by association.

5. **Women with disabilities:** EU laws and policies on gender equality and on disability do not fully take into consideration the rights and needs of women and girls with disabilities. They continue to face higher risk to violence than other women, more discrimination than men with disabilities in access to employment, education and health, and they are exposed to human rights abuses such as forced sterilisation.
6. **Awareness of the CRPD:** 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 CRPD.
7. **Accessibility:** Despite recent EU accessibility law¹ persons with disabilities still do not have equal access to the built environment, transport, digital technologies and services. The lack of affordable assistive technologies for many persons with disabilities is also limiting their active and full participation in the internal market of the EU. Moreover, it deprives them of one of the basic freedoms under EU Treaties: the freedom of movement. Due to rapid digitalisation of our societies due to the COVID-19 pandemic and lack of accessibility requirements in EU's new digital policies such as for regulating digital services and platforms and artificial intelligence, persons with disabilities face greater risk of being left behind.
8. **Refugees and disaster risk reduction:** The EU has not mainstreamed disability in its migration and refugee policies and disaster risk reduction action plan. This is very worrying in light of the increasing number of natural disasters and movement of population due to natural, economic and political situation.
9. **Denial of legal capacity:** 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, privacy, or to vote in European and local elections.
10. **Freedom of movement:** Persons with disabilities cannot transfer their social security benefits from their Member State of origin when they move to a different Member State temporarily. In practice, this denies persons with disabilities who hold the citizenship of one of the 27 EU Member States, as well as Norway, Iceland, Lichtenstein and Switzerland, of the right they hold under the EU treaties to live and work freely throughout 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.
11. **Use of EU funds and independent living:** Some Member States have used Structural Funds to maintain and promote institutional care, rather than developing community-based alternatives in line with the CRPD and investing in opportunities for personal assistance. This results in the continuation of human rights violations in institutions within the European Union. The EU also fails to collect data on people living in institutions, since EU-level data collection focuses on people living in "households" which does not include institutional settings. This means that the EU has no clear understanding of how many people live in these kinds of settings, nor a

¹ Web Accessibility Directive, European Electronic Communications Code, Audiovisual Media Services Directive, European Accessibility Act.

means to measure the progress in the transition away from institutionalisation that EU funds are supposed to facilitate.

12. **Health:** the EU fails to consider the rights and needs of persons with disabilities in its health policies, including in actions taken during the COVID-19 pandemic and in its European Beating Cancer Plan.
13. **Climate Action:** The EU's climate goals and policies do not focus sufficiently on the social aspects of sustainability and Disaster Risk Reduction, both within Europe and also in its global work in international cooperation and humanitarian action. Neither mitigation nor adaptation planning take persons with disabilities sufficiently into account.
14. **Data collection:** Very limited reliable data on persons with disabilities is available at EU level. For example, there is almost no information on persons with disabilities in institutions, women and girls with disabilities, LGBTI persons with disabilities, and persons with disabilities from ethnic minorities such as Roma and Travellers with disabilities. Data is also not disaggregated by different types of disability and age. A precise assessment of the situation of persons with disabilities across Europe is therefore not possible.
15. **EU in the World:** 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. For example, there is no Disability Actions Plan planned similarly to Gender or Human Rights in EU global actions. This creates incoherence in policies and programmes established with European funds and more barriers for persons with disabilities in the world to be part of EU policies and programmes. The perspectives and voices of persons with disabilities, in particular of women and girls with disabilities are not included in EU global policies.
16. **CRPD Implementation and monitoring:** The EU has neither nominated focal points in all institutions, agencies and bodies nor established an inter-institutional mechanism for the coordination of the implementation of the Convention between the Commission, the Parliament and the Council.

Context

The European Union (EU) is a unique economic and political union between [27 EU countries](#) that together cover much of the European continent.

The EU was the first regional organisation to ratify the UN Convention on the Rights of Persons with Disabilities in 2010. It was reviewed for the first time by the UN Committee on the Rights of Persons with Disabilities in 2015. Since then, the EU was marked by several events:

- Since March 2018, all the EU member states have ratified the CRPD.
- On 31 January 2020, the United Kingdom left the EU. Prior to that date there were 28 member states.
- Since 2015, two consecutive colleges of Commissioners led the work of the European Commission (the executive body of the EU). The current [college of Commissioners](#) is led by President of the European Commission, Mrs. Ursula von der Leyen, for a 5-years term (2019-2024). It is composed of 27 Commissioners from each EU member states who are assigned responsibility for specific policy areas, for

instance: equality, justice, jobs and social rights, health and food safety, democracy and demography, values and transparency. The implementation of the CRPD is under the mandate of the Commissioner for Equality, Ms. Helena Dalli.

Methodology

This alternative report was prepared by the Secretariat of the European Disability Forum in close cooperation with, and guidance from its Executive Committee, Board and Members. EDF Youth and Women's Committees were also closely involved in the process.

Information was collected through desk work research and consultation with EDF national and European members between September 2021 and January 2022.

Abbreviations and acronyms

CRPD	Convention on the Rights of Persons with Disabilities
DG	Directorate-General (of the European Commission)
EU	European Union
FRA	Fundamental Rights Agency
UN	United Nations

Glossary

Council of the European Union: the institution representing the Member States' governments and where national heads of government or ministers from each EU country meet to adopt laws and coordinate policies.

(EU) Directive: legislative act that sets out goals that all EU countries must achieve. The directive must be transposed at national level. It means that this is up to the individual countries to decide based on their own laws how to reach these goals.

European Commission: the EU's politically independent executive arm. Its core responsibilities include proposing EU laws and policies and monitoring their implementation.

European Parliament: the elected parliamentary institution of the European Union which has the role to adopt EU legislation.

Member State (of the European Union): the EU consists of 27 countries, also called Member States. Each Member State is party to the founding treaties of the Union, and thereby subject to the privileges and obligations of membership. Unlike members of most international organisations, the Member States of the EU are subjected to binding laws.

(EU) Regulation: legislative acts that must be applied in its entirety across all EU countries (binding legislative act). Once adopted, the regulation automatically becomes national law (unlike the EU Directive).

Resolution: text adopted by the European Parliament in its plenary session and through which the Parliament expresses its position on a given area.

Structural and Investments funds: EU funding that aim to support economic, social and territorial cohesion and deliver the overarching policy EU objectives. Three main funds

directly impact the living conditions of persons with disabilities: the European Regional Development Fund (ERDF), the European Social Fund (ESF), and the Cohesion Fund (CF).

Transposition: process by which the EU's Member States give force to a directive by passing appropriate implementation measures. Transposition is done by either primary or secondary legislation.

Part 1: Review of general provisions of the UN Convention on the Rights of Persons with Disabilities

Articles 1 to 4: General principles and obligations

Ratification of the Optional Protocol

The EU has not ratified the Optional Protocol of the CRPD. Within its membership, 21 member states have ratified the protocol.²

Suggested question:

- What are the measures and timeframe of the European Union to conclude the ratification of the Optional Protocol to the Convention?

Legal harmonisation with the CRPD

The review of legislation and policy, and update of the **declaration of competences³ and its list of instruments** as recommended by the CRPD Committee have not been undertaken. The impact assessment guidelines have not been revised. The EU has not yet proposed a plan or strategy on how to ensure this legal harmonisation with the CRPD.

Examples of legislation or policy that should be repealed or revised are:

- [Regulation 1107/2006 on Air Passengers' Rights for Persons with Disabilities](#) still allows airlines to deny persons with disabilities boarding to the plane if they are considered a "safety risk" – which is not defined in the Regulation and often used arbitrarily and at the expense of the passenger.
- [Regulation 1300/2014 on Technical Specifications for the Interoperability of the Union's Rail System for Persons with Disabilities \("TSI-PRM"\)](#) concerns accessibility of rolling stock and stations but it still allows in some cases for inaccessible trains to be manufactured and sold.

In addition to reviewing legislation and policies, it is also important that the EU review the **terminology** it uses in legislation, publications, and on its website. For instance, a summary of legislation on "Judicial co-operation in criminal matters: mutual recognition of final decisions in criminal matters" uses the term "mentally disabled."⁴ The [Statistical](#)

² Bulgaria, Czechia, Ireland, the Netherlands, Poland and Romania have not ratified the Optional Protocol.

³ The EU Strategy for the rights of persons with disabilities 2021-2030 indicates that the "Commission will initiate work with the Council to update the EU declaration concerning the competence of the EU with regards to matters governed by the UNCRPD as recommended by the UNCRPD Committee in 2015." However, not specific timeframe is given to complete this work.

⁴ [Commission communication to the Council and the European Parliament: Mutual recognition of final decisions in criminal matters \[COM\(2000\) 495 final - not published in the Official Journal\]; Summary](#)

[Classification of Economic Activities in the European Community of the Eurostat Reference and Management of Nomenclatures](#) include concepts, such as “the disabled”, and “mental retardation”. In consumer affairs, persons with disabilities are often called “vulnerable groups” while in the context of EU transport policy the term most commonly used is “persons with reduced mobility”. The latter also includes other disabilities in its definition but can be confusing at first sight and is, in fact, much broader.

Finally, the **impact assessment guidelines** of the Commission pre-date the CRPD and do not adequately assess if policies are CRPD compliant. Mainstreaming is not sufficiently ensured by the EU, an example being the EU’s “Green Deal”. All new legislation, initiatives, and programmes that result from the EU’s “Green Deal” shall be in line with the CRPD and fully inclusive of persons with disabilities, including all procedures and platforms used for consultation and decision-making.

Suggested questions:

- What is the intended timescale to conduct a review of EU legislation and policies affecting the lives of persons with disabilities and update the EU declaration of competences and its list of instruments accordingly?
- What practical initiative will the EU take to ensure legal harmonisation with the CRPD of all its existing and new laws, policies and programmes?
- What practical initiative will the EU take to ensure that the impact assessment guidelines include a mandatory tool and adequate methodology to ensure that all EU legislation and initiatives are CRPD compliant?

Strategies for the implementation of the CRPD

The previous 10-years European Disability Strategy ended in 2019. In March 2021, the European Commission adopted a new [Disability Rights Strategy for 2021-2030](#), following consultations with organisations of persons with disabilities.

The Strategy is based on the CRPD and recalls the recommendations received by the EU from the CRPD Committee in 2015. However, while some actions are very concrete, with a clear timeframe; other objectives are more aspirational and must be further elaborated in the form of an action plan, giving dates for all actions in order to implement the Strategy in full. For example, the European Disability Card is promised for 2023 but so far no action has been taken to consult stakeholders or convene Member States and there are no intermediate targets defined in the strategy. Even if a timeframe is given, the means to achieve the objectives have to be clarified and the necessary resources have to be allocated.

In addition, EDF has been calling for the establishment of a CRPD unit to ensure coordination of the CRPD at the EU level; this CRPD unit is still missing from the EU’s approach. While the strategy does pay attention to mainstreaming (such as committing to systematic references to the CRPD in all relevant policy fields or staff training on disability rights), without strengthened human and financial resources within the Commission, or the establishment of a strong and influential CRPD focal point, it is hard to see how this will be achieved.

Suggested questions:

- What are the measures foreseen by the Commission to elaborate a more detailed action plan on the implementation of the European Disability Rights Strategy, in particular including intermediate targets for steps towards adoption of legislation and policies to foster the implementation of the CRPD?
- What are the plans of the Commission to establish an influential CRPD unit and additional CRPD focal points in each EU institution in order to mainstream disability rights and ensure the implementation of the CRPD?

Active involvement and participation of representative organisations of persons with disabilities

There are no legal provisions establishing inclusive and accessible procedures and mechanisms for the involvement of persons with disabilities and their representative organisations, across all disability constituencies, in the development and implementation of EU legislation and policies to implement the Convention. Consultation continues to be ad hoc across all EU institutions.

In particular, organisations of persons with disabilities are not consulted and involved in the work of the Council of the European Union. This creates huge problems in the legislative process: even though Commission and Parliament are often willing to include CRPD-conform changes in legislation, the Council often blocks (for example with the proposed Horizontal Non-Discrimination Directive; or with the revision of the Rail Passengers' Rights Regulation). Since organisations of persons with disabilities do not have sufficient access to information about Council proceedings and decisions, decisions are taken de facto behind closed doors, against the rights of persons with disabilities.

In particular, the disability movement advocate for:

- Involvement in the **European Commission's Inter-Service Group on Disability** and the **Council of the European Union's [Working Groups](#)**' meetings on any file that directly concerns persons with disabilities such as transport, ICT, social policy, human rights, etc.
- Access to timely information on the work of the Council of the European Union, such as Council Working Groups' meetings and COREPER meetings, including agendas, preparatory documents, minutes, and recording of meetings in accessible formats

Suggested question:

- What steps will the EU take to set up a structured dialogue with an independent budget line and sufficient funding for coordination among EU institutions, agencies and bodies and for meaningful consultation with and participation of persons with disabilities in all their diversity and their representative organisations?

Implementation of EU legislation

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

For example:

- The Passengers' Rights Regulations are a very useful tool but knowledge among persons with disabilities about their rights are limited and transport providers often ignore the provisions. National Enforcement Bodies are not equipped with the necessary resources to follow up on complaints. There is also an element of inequality: while passengers can claim financial compensation for a flight that was cancelled, persons with disabilities cannot claim compensation if they have been denied boarding because of their disability. Furthermore, the complaints process is not always clear and often not accessible, which deters passengers from lodging complaints and claiming their rights.
- Article 5 of the Employment Equality Directive for example on 'reasonable accommodation for disabled persons' has an inconsistent and insufficient implementation across the EU. Many EU member states⁵ lack a definition of "reasonable accommodation" in its legislation in line with the Directive and the CRPD. There is a poor understanding of what reasonable accommodation in the workplace means, and it is rarely applied.
- The Victims' Rights Directive contains provisions on interpretation and accessibility (for example accessibility of shelters) but there is very limited adequate transposition and implementation in EU Member States.⁶

It is also not clear which measures the European Commission takes to ensure the adequate transposition and implementation of the EU legislation in its member states, including from a disability perspective.

Suggested question:

- What steps will the EU take to ensure effective implementation and enforcement of current and upcoming EU legislations relevant to persons with disabilities and their compliance with the CRPD?
- How will the EU make better use of enforcement tools such as [infringement procedures](#)?

Article 5: Equality and non-discrimination

Persons with disabilities living in the European Union continue to face discrimination, including denial of reasonable accommodation, harassment⁷ and multiple and intersectional forms of discrimination in all areas of their lives.

Under EU law, persons with disabilities are **only protected against discrimination in the field of employment and vocational training**.⁸ Existing legislation includes an obligation to provide reasonable accommodation for employers but does not explicitly recognise the

⁵ For example in Austria, Bulgaria, Denmark, Estonia, Germany, Italy, Latvia, Luxembourg, Portugal, Sweden. These are findings from EDF's [2019 European Human Rights report on equality](#).

⁶ See for instance the findings of the [ARVID project on Advancing Access to Rights under Victims' Directive for Persons with Disabilities](#).

⁷ According to data published by the Fundamental Rights Agency of the European Union (FRA), 50% of persons with disabilities have reported being harassed over a 5-year period, comparing to 37% of persons without disabilities. See FRA, [Fundamental Rights Survey: CRIME, SAFETY AND VICTIMS' RIGHTS](#) (2021), page 22.

⁸ [Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation](#)

denial of reasonable accommodation as a form of discrimination.⁹ In addition it does not explicitly recognise discrimination by association¹⁰ and does not recognise and addresses multiple and intersectional forms of discrimination. Consequently, some groups of persons with disabilities are facing higher degree of discrimination with no or limited access to legal remedy. This affects for instance, women with disabilities, young and older persons with disabilities, migrants and refugees with disabilities, persons with disabilities from ethnic minorities, including Roma with disabilities, and LGBTI persons with disabilities.

Contrary to disability-based discrimination, discrimination on the grounds of sex and race, is prohibited in employment and in other areas of life, such as social protection including social security and healthcare, social advantage, education and access to and supply of good and services. Therefore, **EU anti-discrimination legislation remains inconsistent in its scope and creates a hierarchy between the different grounds for discrimination.** For more than 10 years, the EU has been discussing a proposed horizontal equal treatment directive covering discrimination on the grounds of disability, age, religion or belief, and sexual orientation in the areas of social protection, health care, (re)habilitation, education and the provision of goods and service.¹¹ Resistance still remains from the member states in the Council of the EU to adopt this piece of legislation. The EU has not taken alternative measures to protect persons with disabilities from discrimination in all areas of life.

In 2020 and 2021, the European Commission adopted a series of policy initiatives and strategies that could contribute to a better inclusion of disadvantaged groups, namely the [Gender Equality Strategy 2020-2025](#), the [LGBTIQ Equality Strategy 2020-2025](#), the [EU anti-racism action plan 2020-2025](#), the [Roma strategic framework for equality, inclusion and participation 2020-2030](#), the [Action plan on the integration and inclusion 2021-2027](#), and the [Green paper on Ageing](#). A [EU Youth Strategy for 2019-2027](#) with 11 European Youth Goals was adopted in 2018. Disability-based discrimination and persons with disabilities are mentioned in most of these initiatives.¹² However, without concrete actions and a disability focal point in charge of monitoring and contributing to the implementation of these initiatives, it is not certain to which extent persons with disabilities facing multiple and intersectional forms of discrimination will benefit from them.

Another important concern relates to the increasing use and impact of **artificial intelligence** (AI) on disadvantaged groups in the European Union. In Spring 2021, the [European Commission published a legislative proposal to regulate artificial intelligence in the EU](#). Civil society actors, including EDF, have raised numerous concerns about risks of AI on fundamental rights and widening inequalities, and the huge shortcomings of the proposal to address harmful impact of AI, including ensuring effective prohibition against biometric mass surveillance by law enforcement and private actors, predictive policing, emotion recognition,

⁹ See article 2 “Concept of discrimination” of the directive.

¹⁰ However, the European Court of Justice hold in Case-303/06 Coleman v. Attridge Law that the directive applies to direct discrimination or harassment by association. The jurisprudence did not explicitly recognise indirect discrimination by association. In addition, the judgment in Coleman v. Attridge did not recognise a right to reasonable accommodation because of an association with a person with disabilities.

¹¹ Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation; see [Interinstitutional File: 2008/0140\(COD\)](#).

¹² The EU Youth Strategy failed to include young persons with disabilities.

use of AI for determining access to education and employment, enjoyment of public and private essential services and benefits, migration, asylum and border control.¹³

Suggested questions:

- Which measures will the EU take to ensure persons with disabilities are protected against discrimination in all areas of life, including areas of social protection, health care, (re)habilitation, education and the provision of goods and services, such as housing, transport and insurance?
- Which additional steps will the EU take to recognise and condemn the denial of reasonable accommodation as a form of discrimination, and combat and condemn multiple and intersectional forms of discrimination and discrimination by association?
- How is the EU planning to address the potential discriminatory impact of artificial intelligence on persons with disabilities?

Article 6: Women with disabilities

Women with disabilities constitute 16% of the total population of women in the EU and 60% of the overall population of 100 million persons with disabilities.

In the last decade women with disabilities were invisible in EU's policies on gender equality and women's rights. The Gender Equality Strategy 2010-2015 and strategic engagement for gender equality 2016-2019 did not include the perspective of women with disabilities.

In March 2020, the new European Commission adopted a [Gender Equality Strategy for 2020-2025](#) which encompasses some of the concerns of women with disabilities such as violence and harmful practices (e.g. forced sterilisation). However, women with disabilities are still invisible in the parts of the strategy on **work and employment, political participation** and **leadership**. While there is more than 60 million of women with disabilities in Europe, they are still mostly considered as object of care or as victims and continue to face multiple and intersectional forms of discrimination in the areas of education, employment, health and access to justice.

The 2021-2030 European Disability Rights Strategy mainstreams the gender perspective of in its different sections but lacks specific actions and measures on their issues such as regarding employment and political participation.

The EU has promised to ratify **Council of Europe's Convention on preventing and combatting violence against women and domestic violence** ([Istanbul Convention](#)). However, several member states have not ratified yet at national level (namely: Bulgaria, Czech Republic, Hungary, Latvia, Lithuania and Slovakia) and are also unwilling to agree to the EU's ratification. As the EU's accession to the Istanbul Convention remain blocked, in line with its new Gender Equality Strategy, the Commission organised consultations on gender based and domestic violence, and announced that it will publish a proposal of a Directive on combatting violence in February 2022. EDF and other organisations of persons

¹³ See [EDF position paper on the AI Regulation proposal](#); [EDRi response to public consultation on AI Regulation proposal](#)

with disabilities were contacted to participate in public and targeted consultations. **See articles 16-17.**

Women and girls with disabilities are not systematically reached in international cooperation. At the international level, the EU and the UN embarked on a global, multi-year initiative focused on eliminating all forms of violence against women and girls - the [Spotlight Initiative](#). The EU invested initially 500 million of Euros, but women and girls with disabilities are not specifically included.

The new [Gender Equality Action Plan](#) promotes gender equality and women's empowerment through all EUs external action from 2021-2025 (GAP III). It includes the perspectives of women and girls with disabilities and intersectionality as a core principle. GAP III country level implementation plans however do not systematically include an intersectional approach. Country level consultations with civil society on the GAP III implementation often do not include the voices of women and girls with disabilities, including through providing accessibility and reasonable accommodation.

Suggested questions:

- How will the EU ensure that the perspective of women and girls with disabilities are included in the implementation and evaluation of its Disability Rights Strategy 2021-2030 and Gender Equality Strategy 2020-2025, including in actions targeting access to work and employment, political participation and leadership and in the work of the European Institute on Gender Equality (EIGE)?
- What actions is the EU taking to accede to the Council of Europe's Convention on preventing and combatting violence against women and domestic violence?
- What steps will the EU and the EU delegations take to ensure that women and girls with disabilities are systematically included and counted in all EU's work, including its global work and in partner countries?

Article 7: Children with disabilities

There are around 68 million children below the age of 15 in the EU¹⁴ but there is very limited data on children with disabilities. According to Eurostat, about 5% of EU families with children had a child or children with disabilities¹⁵ and 9.4% of girls and young women and 7.5% of boys and young men (ages 16-24) had a disability.¹⁶

Despite the disproportionate risk they face, children with disabilities are given little to no consideration in national or European child rights legislation. In many EU countries, children with disabilities are institutionalised, segregated in special schools and are victims of violence and abuse, in and outside their family setting.

¹⁴ Eurostat, 2020

¹⁵ ilc_hch13, 2017

¹⁶ EU-SILC, 2017

In 2021, the EU adopted its new [Strategy on the Rights of the Child](#). It better acknowledges the rights of children with disabilities than the 2011-14 Agenda.¹⁷ It is explicitly mentioned that the Strategy is anchored to the CRPD. In particular, it mentions the right of children with disabilities to live with their families and in a community, the need for specific responses to their mental and physical health, inclusive education and support for completing education, as well as the importance of accessible ICT and assistive technology.

In June 2021, as part of this overall Strategy, the EU also adopted its [Renewed Child Guarantee for Vulnerable Children \(or Child Guarantee\)](#), which aims to prevent and combat social exclusion by guaranteeing the access of children in need to a set of key services including early childhood education and care, education (including school-based activities), healthcare, nutrition and housing. The Child Guarantee lacks a strong commitment to end the institutionalisation of children across the EU. It is a missed opportunity and a particularly pressing issue for children with disabilities who are more likely to be institutionalised, and to

Participation and inclusion of the perspectives of children in EU policies is at its very early stages and is not systematic. “Children in vulnerable situations have fewer opportunities to contribute to decision making and the most marginalised and excluded children [such as children with disabilities] have even fewer opportunities to participate in decision making processes.”¹⁸

In addition, children with disabilities are often excluded from events organised by the European Commission. The annual European Forum on the rights of the child is not accessible and rarely include children with disabilities as speakers.

Suggested questions:

- How will the EU ensure that the perspective of girls and boys with disabilities are included in the design, implementation and review/evaluation of its Child Rights Strategy and Child Guarantee for Vulnerable Children, in particular in regards to a health care and (re)habilitation, mainstream education, technical and vocation education and training, preparation for the world of work, recreational opportunities and protection from violence, as well as in the work of the EU Agency for Fundamental Rights?
- How will the EU ensure meaningful consultations of children with disabilities and of their representative organisations in regard to decisions affecting their lives, including in the annual European Forum on the rights of the child?

Article 8: Awareness raising

The EU has undertaken limited awareness raising on the CRPD and the human rights-based approach to persons with disabilities. While some annual events such as the European Day

¹⁷ The 2011-2014 EU Agenda for the Rights of the Child failed to acknowledge the rights of children with disabilities. Except for a reference acknowledging that they are more exposed to violence and more at risk of seeing their rights violated, no actions directly concerning them were included in this now outdated Agenda.

¹⁸ Joint position paper on a Comprehensive Child Rights Strategy co-signed by 40 international and European co-signatories, July 2020.

of Persons with Disabilities conference, the Access City Award (rewarding accessible cities), and Work Forum on implementation of the CRPD, are welcomed, they only reach out to a limited number of participants (1 to 2 people per representative organisation of persons with disabilities per member state can attend each event). Knowledge on the CRPD and EU's obligations to implement it, are very limited on the ground.

In general, the EU fails to include persons with disabilities in most campaigns that concern them. Specific groups of persons with disabilities, including women and girls with disabilities, older persons with disabilities, young persons with disabilities and people with intellectual and psychosocial disabilities are often excluded or not represented in awareness-raising campaigns and initiatives. Campaigns that are not specifically about persons with disabilities, but on issues that disproportionately impact persons with disabilities, do not involve their specific issues. An example was the crisis communication around COVID-19 response.

Each year, in a process known as the "[European Semester](#)", the European Commission delivers an analysis of socio-economic issues that need to be addressed in each EU member state (known as the Country Reports) and then subsequently delivers another document giving direct recommendations for how each Member State should act to improve this (called the Country-Specific Recommendations). While the Country Reports, which are much broader in scope, often mention the issues faced by persons with disabilities, the Country-Specific Recommendations very rarely ever ask the Member States to take specific action to rectify the situation persons with disabilities face. One of the exceptions in recent years has been regarding the [Country Specific Recommendations to Latvia](#), where recommendations were given to improve social protection for persons with disabilities in the country, but similar recommendations should arguably have been delivered to other Member States. The European Semester Process has therefore shown itself to be under-ambitious in calling for an improvement to the realities of persons with disabilities in the EU.

Suggested questions:

- How will the EU develop comprehensive and accessible campaigns to raise awareness about the CRPD? What other measures will it take to combat prejudice against persons with disabilities, including the most marginalised groups?
- How will the EU ensure the close involvement of representative organisations of persons with disabilities in the development of mainstream training organised or funded by the EU for its staff, relevant professionals at the EU and Member State level and relevant for persons with disabilities?

Article 9: Accessibility

The [European Accessibility Act](#)¹⁹ was adopted on 17 April 2019. It must be transposed by Member States by 28 June 2022 and applied from 28 June 2025 in most part. The Act sets new EU-wide minimum accessibility requirements for a limited range of products and services. It covers specific products and services mainly in the digital domain such as: computer and operating systems, ATMs, ticketing and check-in machines, smartphones, TV

¹⁹ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (Text with EEA relevance)

equipment related to digital television services, telephony services and related equipment, access to audio-visual media services such as television broadcast and related consumer equipment, services related to air, bus, rail and waterborne passenger transport, banking services, e-books, e-commerce.

The Act is a significant step in the journey of making the EU fully accessible for persons with disabilities, however, **it fails to address accessibility of transport vehicles and infrastructure especially in urban transport**. The built environment was included only as a voluntary clause for Member States, and other essential products and services such as household appliances were not covered at all.²⁰ This means persons with disabilities still face significant barriers to accessing the built environment, products and services on daily basis.

The Act allows derogations in terms of application deadlines for a number of provisions, allowing the single European number '112' to remain inaccessible until 2027 and in certain cases self-service terminals until 2045.

The Act also foresees revision and development of harmonised **European standards** which will help providers and procurers of services and products to meet the legal requirements of the Act. Harmonised standards therefore will be essential to ensure that persons with disabilities benefit from accessible services and products and they should be fully involved in their development. However, DPOs and other consumer organisations²¹ have raised concerns about the inclusiveness, accessibility and transparency of the European Standardisation system.²² This hinders equal participation of organisations of persons with disabilities in the development of standards that will affect their daily access to essential services and products. To address this, the EU would need to revise [Regulation \(EU\) No 1025/2012 on standardisation](#) which at the moment is not on the EU agenda.

The [Public Procurement Directive](#) does include provisions requiring accessibility to be taken into consideration in drafting technical specification, as well as to be considered as an award and selection criteria. However, these provisions are not systematically used by public procurers and citizens do not have any remedial mechanism to challenge the purchasing decisions of public authorities when these are not accessible to them.

At the time of drafting of this report, the EU is also developing important legislation to regulate digital platforms and services such as internet access providers, cloud services, online marketplaces, app stores, and social media ([Digital Services Act](#) and [Digital Markets Act](#)), and Artificial Intelligence ([AI Regulation](#)). Despite active involvement in the public consultation process by the EDF network, the proposals of the European Commission for the mentioned Regulations **fail to ensure accessibility of digital technologies (including AI) for persons with disabilities**. They also make no reference to the CRPD.²³ In the

²⁰ In certain cases, such as in relation to the built environment the EU undertakes soft measures, such as promotion of the development and application of a European standard on accessibility and usability of the built environment. Due to their voluntary nature and lack binding obligations in the Accessibility Act, such initiatives are however not sufficient to ensure a harmonised approach to accessibility for persons with disabilities to the built environment throughout the EU.

²¹ Such as [ANEC](#)

²² See [EDF Position on draft standardisation request of the European Commission](#).

²³ See EDF Position Papers on EC proposals for the [Digital Services Act \(DSA\)](#) and [Digital Markets Act \(DMA\)](#), as well as [Artificial Intelligence](#).

meantime, the EU is setting general objectives for digitalisation for this decade ([Digital Decade – targets for 2030](#)) which do not sufficiently address accessibility for persons with disabilities, for example only accessibility of public online services are mentioned, leaving out private services. Accessibility is also not mentioned in relation to digital skill-building and development of ICT expertise in the EU.

Suggested questions:

- Given that the European Accessibility Act does not sufficiently address accessibility of the built environment, transport infrastructure, vehicles, vessels, aircrafts, including urban transport, and household appliances, what legal measures does the EU foresee to ensure right of persons with disabilities to access these in the European Union?
- When is the EU planning to revise Regulation (EU) No 1025/2012 on standardisation to ensure that organisations of persons with disabilities can participate in European Standardisation on equal footing with other (namely industry) actors, particularly ensuring balance of civil society and industry representation, equal voting rights, financial and accessibility measures to ensure this participation?
- How is the EU going to ensure that persons with disabilities enjoy the same benefits from digitalisation and legal protection of their right of equal access to digital technologies, including digital platforms and services, AI and other emerging technologies, as well as digital skillbuilding, and other EU digitalisation objectives for the coming decade?
- How will the EU ensure that public procurers take into account accessibility for persons with disabilities when drafting the technical specifications of the tenders? Does the Commission consider introducing measures to ensure a remedial mechanism for users to challenge inaccessible products, services and infrastructure procured by the public sector?

Article 10: Right to life

Persons with disabilities, in particular women, and persons with intellectual and psychosocial disabilities are at high risk of human rights abuse, including violations of the right to life. 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 danger. For example, in January 2020, [8 persons with disabilities died during a fire in a residential institution in Czechia](#). Segregating persons with disabilities in residential institutions leaves them isolated and exposed to all kinds of risks, including death.

Such segregation and isolation, in combination with ineffective disaster risk reduction and emergency preparedness plans, also expose persons with disabilities to increased risk of death during natural disasters. In July 2021, [12 persons with disabilities living in an institution in Germany lost their lives because they were not evacuated on time during flooding after heavy rainfall](#).

In times of humanitarian emergencies, such as the pandemic of COVID-19, in some countries healthcare professionals were not able to provide the same level of care to

everyone due to lack of equipment and underfunding of the healthcare sector. Persons with disabilities were discriminated against in some instances and not given the same health care due to their so-called 'shorter life expectancy'. This resulted in people in institutional settings facing the highest rates of infection and mortality from COVID-19. In Slovenia, for instance, 81% of the COVID-19 deaths were among care home residents.²⁴

Suggested questions:

- What steps will the EU take to research and collect information into deaths in institutions, in particular EU-funded 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?
- What initiatives will the EU take to ensure that during times of humanitarian emergencies and natural disasters disability inclusive responses are taken and ethical medical guidelines for health care professionals adopted that do not discriminate against persons with disabilities and ensure their right to life on an equal basis with others?

Article 11: Situations of risk and humanitarian emergencies

Work of DG ECHO

The EU and 14 of its Member States have endorsed the 2016 [Charter on Inclusion of Persons with Disabilities in Humanitarian Action](#). In December 2017, Commissioner Stylianides announced that the Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) will develop standards for addressing the needs of persons with disabilities in all EU-funded projects. DG ECHO published a [Guidance Note on the Inclusion of Persons with Disabilities in EU-funded Humanitarian Aid Operations](#) (June 2019). This could be regarded as a response to the recommendations made by the CRPD Committee in 2015. However, it is unclear how this has been achieved. For example, the new EU Disability Rights Strategy has no mention of how this Guidance Note will be implemented, and has no mention at all of how the EU plans to align its practical humanitarian guidance to the [IASC Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action](#) (2019).

In December 2017 Commissioner Stylianides also promised to consult persons with disabilities and their representative organisations in designing and carrying out these initiatives, in line with the principle of "Nothing about us without us". The latest version of [DG ECHO partners' reporting guidelines](#) (the 'Single Form', updated in May 2021) advises prioritising involvement of persons with disabilities (among other 'diverse groups') in project implementation. It also 'encourages' the use of the Washington Group Short Set of questions in data disaggregation and mentions mainstreaming of disability at various steps of the programme cycle. However, there is no reporting indicator that would measure degree of success of any of these initiatives, and although there is a Gender-Age Marker (to track gender and age sensitive actions and allow DG ECHO to monitor its own performance on integrating gender and age), there is no such marker for disability. There is also no routine

²⁴ A. Comas-Herrera, [Mortality associated with COVID-19 outbreaks in care homes: early international evidence](#) (May 2020)

training of partners on disability inclusion, either as disability-specific modules or with the topic integrated in ongoing mainstream training.

Disaster Risk Reduction (DRR)

The EU developed an [action plan on Sendai implementation](#) in 2016. This action plan does include persons with disabilities among 'stakeholders to work with', but there is no further adherence to the disability-inclusive aspects of the Sendai framework. Specifically, there is no mention of accessibility of early warning systems and risk information, empowerment and leadership of persons with disabilities (especially of women with disabilities), universal design in critical infrastructure, and the disaggregation of data by disability. Since 2016, EDF has been unable to obtain any news of improvements to this action plan in the field of disability inclusion or implementation that is inclusive of persons with disabilities, either as end users or with the participation of their representative organisations.

Climate action

Although the EU Disability Rights Strategy (section 5.6) recognises the impact of climate change on persons with disabilities and the need to ensure that the green transition is fully inclusive, there is no explicit mention of this as part of EU external action in the European Disability Strategy Section 6. Similarly, the new [EU Strategy on Adapting to Climate Change](#) (2021) makes no reference to participation of persons with disabilities, through their representative organisations, in its implementation.

Migration

The EU has not mainstreamed disability in its migration and refugee policies, the [Common European Asylum System](#). In September 2020, it adopted a New Pact on Migration and Asylum which does not adequately include migrants, refugees and asylum seekers with disabilities. The EU did also not issue guidelines to its agencies and member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the CRPD, as recommended by the CRPD Committee.

Crisis communication

The emergency number 112 is still not fully accessible across the EU. [Recent cases](#) have for example been launched against Bulgaria, Germany, and Ireland for failing to correctly follow the EU's Directive on Accessibility of Public Sector Bodies' Websites and Mobile Applications related to the single European emergency number '112'.²⁵

Further in relation to ensuring access for persons with disabilities to the single European emergency number '112', the EU has adopted the revised [European Electronic Communications Code](#). However, the Code only sets general obligation for ensuring accessibility of emergency communications to EU governments and refers to the European Accessibility Act to achieve this in practice. Designated call centres for handling and answering emergency communications will only be able to ensure accessible

²⁵ Infringement procedures can be launched in any policy area where the EU has competences to legislate. It can be started by the EU's own investigation or by a complaint from the public. So anyone, including EDF members or individual citizens, can report a breach of EU law to the Secretariat-General and they will have to investigate whether an infringement procedure needs to be opened.

communications for persons with disabilities, including Deaf, hard of hearing, deafblind persons and persons with speech disabilities, once they comply with the accessibility requirements set in the European Accessibility Act. Given that the Act allows EU governments to delay the application of provisions related to 112 until 2027, EU will largely fail to meet its obligation to ensure protection of persons with disabilities in emergency situations until then.

The [European Audiovisual Media Services Directive](#)²⁶ also sets obligations to ensure accessible emergency information, including public communications and announcements in natural disaster situations, which is made available to the public through audiovisual media services. It does not specify however how this should be ensured, what should be minimum accessibility requirements be, nor foresees timelines to put measures in place.

Suggested questions:

- What measures is the EU taking to ensure that all aspects of humanitarian action, disaster risk-reduction, climate action and migration policies and programmes are inclusive of and accessible to all persons with disabilities?
- What procedures are in place to ensure that all EU-funded projects under DG ECHO meaningfully involve and reach persons with disabilities, train staff and partners and report on inclusive implementation?
- How will the EU ensure that persons with disabilities have full access to emergency communications in the EU urgently, given that public centres handling emergency calls do not have to comply with Union-wide accessibility requirements until the year 2027?

Article 12: Equal recognition before the law

Full legal capacity is still restricted across the European Union. 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 decide where to live, to get married, to sign employment or commercial contracts, to make financial transactions, to get a fair trial or to vote and stand as candidates in European and national elections.²⁷

Since 2010, FRA has conducted several research on legal capacity and its impact on the right to decide of Europeans with disabilities, focusing specifically on citizens with intellectual and/or psychosocial disabilities, and on the right to vote in EU elections. “There is no reliable and comparable data on the number of persons with disabilities deprived of legal capacity in the EU.”²⁸ In its [2017 Mapping and Understanding Exclusion Report](#), Mental Health Europe (MHE) found out that “the majority of EU majority of countries still practiced full deprivation of legal capacity and had plenary guardianship regimes, although a number of states were introducing more progressive legal capacity legislation.” More worrying, MHE compared progress made between 2012 and 2017: “in the previous Mapping Exclusion report in 2012, several countries were planning or implementing progressive – and promising – legal

²⁶ See more information about the Directive under article 21.

²⁷ More information on the restriction linked to legal capacity to the right to vote and to stand for elections is available under article 29.

²⁸ EU Fundamental Rights Agency, [Who will \(not\) get to vote in the 2019 European Parliament elections? Developments in the right to vote of people deprived of legal capacity in EU Member States](#), 2019.

capacity reforms. However, by 2017 our report found that only some countries have actually changed their relevant laws and practical implementation of supported decision-making remains wanting almost everywhere.”²⁹ Also highlighted by FRA in its overview of legal reforms in EU Member States, Article 12 is “one of the largest number of reforms at the national level linked to CRPD ratification.”³⁰

Despite the now well evidenced breaches of the right to make decision of persons with disabilities, the EU has not taken measures to foster research, data collection and exchange of good practices on supported decision-making, in consultation with representative organisations of persons with disabilities, as requested by the CRPD Committee in its 2015 Concluding observations to the EU.

In addition, the European Commission indicated in its Disability Rights Strategy that it “will work with Member States to implement the **2000 Hague Convention on the international protection of vulnerable adults**³¹ in line with the CRPD, including by way of a study on the protection of vulnerable adults in cross-border situations, notably those with intellectual disabilities, to pave the way for its ratification by all Member States.” The [disability movement](#) is concerned that the implementation of this Convention could promote measures of substituted decision making if it is not adequately implemented in line with the CRPD.

Suggested questions:

- What steps will the EU take to provide robust data and comprehensive research about the impact of restrictions of legal capacity on the lives of persons with disabilities, especially for persons with intellectual and psychosocial disabilities?
- Which urgent actions will the EU take to eliminate restriction of legal capacity that hinder the rights of EU citizens with disabilities granted by the EU treaties, and ensure that the ratification and implementation of the 2000 Hague Convention on international protection of vulnerable adults promoted by the European Commission is done in compliance with the CRPD?
- What initiatives will the EU take to support the abolishment of substituted decision-making and replacement with supported decision-making across the EU, including through the promotion of data collection, research and exchange of good practices?

²⁹ Mental Health Europe (MHE), [Mapping and Understanding Exclusion Report: Institutional, Coercive and Community-Based Services and Practices Across Europe](#), 2017

³⁰ EU Fundamental Rights Agency, [Implementing the United Nations Convention on the Rights of Persons with Disabilities \(CRPD\) - An overview of legal reforms in EU Member States](#), 2015.

³¹ The Convention aims to facilitate decisions in cross-border situations in relation to persons who "by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their interests". In particular, the convention: (1) determines which courts have jurisdiction to take protection measures, (2) determines which law is to be applied and who may be a "vulnerable person" and (3) establishes a system of central authorities which should cooperate, locate "vulnerable adults" and give information on the status of vulnerable persons to other authorities.

Article 13: Access to justice

Criminal matters

The EU guarantees the rights of victims of crimes and people suspected or accused under several directives.³² This framework specifically considers the rights of victims with disabilities in access to justice, and more in particular accessibility of premises, communication and information. For instance, the **Victims' Rights Directive** specifies that "Member States should ensure that victims with disabilities are able to benefit fully from the rights set out in th[e] Directive, on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information."

However, these directives are often not fully transposed and implemented by member states. Despite these measures, many victims with disabilities and people with disabilities suspected or accused of crimes in the European Union, are not granted their rights. Even when measures are available, they are often not accessible to victims, suspects and accused with disabilities due to inaccessibility or the lack of provision of accommodation. Persons with autism, intellectual and psychosocial disabilities, and more particularly, victims who have had their legal capacity removed, are often denied participation in criminal proceedings.

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 services. 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 them.³³

In 2020, the European Commission adopted a [Strategy on victims' rights 2020-2025](#). The Strategy includes victims with disabilities and refers to the CRPD. A key action is to promote integrated and targeted support to victims with special needs, including victims with disabilities, through EU funding possibilities and the EU awareness campaign on victims' rights. EDF is also a member of the Victims' Rights Platform. However, further actions to monitor the transposition and implementation of the framework by EU Member States and better inform organisations of persons with disabilities and victims support organisations of the rights and needs of victims with disabilities, including women and girls, are urgently needed.

Civil and commercial matters

In 2003, the EU adopted a directive to establish common rules on **legal aid available in cross-border disputes**³⁴ applicable to civil and commercial proceedings. While the costs

³² Of particular relevant for persons with disabilities are: 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 (Victims' Rights Directive); Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings; 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.

³³ EDF [Manifesto on the rights of women and girls with disabilities](#) (2011)

³⁴ [Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes](#)

covered by the legal aid include interpretation, translation of documents and travel costs, it is not clear whether it also covers the specific needs of persons with disabilities facing cross-border disputes, including sign language interpretation, translation of documents in easy-to-read or braille, and travel costs of a personal assistant.

Digitalisation of justice

In 2020, the European Commission launched a package on digitalisation of justice in the EU, including regarding to cross-border judicial cooperation. The [Communication on Digitalisation of justice in the EU](#) announced that further proposal could “ensure that any electronic access points established for use by the general public cater for persons with disabilities” and that IT tools should be accessible to users with disabilities. It is not clear how the European Commission plans to address other barriers faced by persons with disabilities such as lower access to the internet and digital tools, affordability of relevant digital services and products, and lower digital skills.³⁵

EU Justice Scoreboard

Launched in 2013, the [EU Justice Scoreboard](#) is a tool used by the European Commission to monitor justice reforms in Member States. Unfortunately, in its current form it provided very limited to **no information** on effective access by persons with disabilities.³⁶ Such information is necessary to support reforms in national justice systems required to make justice systems more effective. EDF recommended that the European Commission to establish a “CRPD compliant-justice” indicator similar to the “child-friendly justice” indicator.³⁷

Suggested questions:

- How will the EU monitor the adequate implementation of its directives on access to justice and sanction member states that do not ensure the rights of person with disabilities? How will it ensure that it contributes to full access for all persons with disabilities to the justice system, including victim’s support services in light of the Victims’ Rights Strategy? How will the initiatives on digitalisation of justice advance the rights of persons with disabilities?
- How does the EU ensure that its 2003 directive establishing common rule on legal aids in cross-border disputes is implemented in a way to cover the rights and specific needs of persons with disabilities facing cross-border disputes?

³⁵ The [Europe’s Digital Decade: digital targets for 2030](#) for example aims to support digital skill-building of EU citizens, but does not foresee ensuring this is accessible for persons with disabilities. A study indicates that in 2012, on average 7 out of 10 European citizens had Internet access at home but only 5 out of 10 among those who declared an activity limitation connected to impairment or disability. See Scholz, Yalcin and Priestley, [Internet access for disabled people: Understanding socio-relational factors in Europe](#) (2017). According to the [EU Strategy for the Rights of Persons with Disabilities only 64,3% of persons with disabilities aged 16+ have an internet connection at home compared to 87.9% of persons without disabilities](#) (p.6).

³⁶ The information available on persons with disabilities in the 2020 Justice Scoreboard only focused on Deaf, hard of hearing, partly sighted and blind people. It included “online information for visually or hearing impaired,” training in communication for judges on “communication with visually/hearing impaired,” and survey conducted among court users or legal professional on “needs and satisfaction of visually/hearing impaired.” The [2021 Justice Scoreboard](#) had no information relevant to access of persons with disabilities.

³⁷ [EDF recommendations on the 2021 EU Justice Scoreboard](#)

- What are the plans of the EU to collect data on access to justice by persons with disabilities, including using the EU Justice Scoreboard? How will the EU use this tool to collect information about CRPD compliant justice systems?

Article 14: Liberty and security of the person

Involuntary treatment and placement

Many persons with disabilities living in the EU continue to be involuntarily detained and treated in psychiatric hospitals, and other institutions, on the basis of actual or perceived disability.

The EU is considered as “the [Council of Europe](#)³⁸’s most important institutional partner at both political and technical levels” and the relationship between the two organisations are based under a [Memorandum of Understanding](#). All EU Member States are members of the Council of Europe. However, the EU [fails to take position against a Council of Europe’s draft additional protocol concerning the “protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment”](#).³⁹

Pretrial detention and convicted persons

Detainees with disabilities continue to face many violations of their rights in EU Member States. Such violations are described in a report of the Council of Europe on [Detainees with disabilities in Europe](#) published in 2018. They range from the non-recognition of their disability, to lack of access to treatment, failure to provide assistance and support and even ill-treatment and torture. There is also a disproportionate number of persons with intellectual and psychosocial disabilities in prison.⁴⁰

So far, there is no EU rules on detention. The European Commission is in the process to develop [recommendation on detention](#) but it is not certain to which extend it will pay attention to the rights of detainees with disabilities.

In 2017, the European Parliament adopted a [resolution on prison systems and conditions](#). The resolution recognised the failure of EU Member States to protect the rights of prisoners with disabilities. It called on the Commission to carry out a comparative study to analyse Member States’ alternative measures and to launch a European Forum on prison conditions to support the dissemination of national best practices, as well as to monitor and collect information and statistics on detention conditions in all Member States and to publish

³⁸ The Council of Europe is an international organisation founded in 1949 with the aim to uphold human rights, democracy and the rule of law in Europe. It has [47 member states](#) which have ratified the European Convention of Human Rights and are therefore overseen by the European Court of Human Rights, an entity separate from the European Union. 46 member states have ratified the CRPD.

³⁹ EDF raised several times the issue of the draft additional protocol to the Oviedo Convention in letters sent to the EU Commissioner on Equality and the Commission for Health, as well as the Council of the EU’s Working Party on Human Rights (COHOM) and [Working Party on the OSCE and Council of Europe](#). EDF also met with the Delegation of the EU to the Council of Europe. On 25th of October 2021, 10 [members of the European Parliament sent a letter](#) to the Committee of Bioethics of the Council of Europe on the topic.

⁴⁰ For example, in France, “nearly a quarter of detainees are said to have psychotic disorders”. See Parliamentary Assembly of the Council of Europe, [Detainees with disabilities in Europe](#) (2018), 3.3.

detailed reports on the situation of prisons in Europe at five-year intervals, following on from the adoption of the resolution.

Detention based on migratory status

Migrants and asylum-seekers, including those with disabilities continue to be detained throughout Europe. They are detained often in conditions which do not take into account the necessary support and reasonable accommodations that they need, as they are not identified as persons with disabilities upon their arrival to Europe. They face inaccessible services (including assistance programmes) and facilities, lack of access to medical care, assistive technologies and other disability related services (such as sign language interpretation and mechanisms of supported decision making, etc.).⁴¹ The migration decision-making procedure is not accessible for all persons with disabilities and information and communication is not provided in accessible formats.

Suggested questions:

- What steps is the EU taking to oppose to the draft additional protocol to the Oviedo Convention and promote voluntary measures in EU Member States?
- What steps will the EU take to ensure that all funding and measures on prisons and detention centres, including its upcoming Recommendation on detention, are disability inclusive and aimed at providing support and reasonable accommodation to persons with disabilities?
- What initiatives will the EU take to ensure that all funding and measures regarding migration are disability inclusive and that persons with disabilities are not arbitrarily detained?

Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment

The EU prohibits trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.⁴² In 2019, [guidelines](#) were adopted by the Council of the EU to provide more details on EU's actions with third countries on torture and other cruel, inhuman or degrading treatment and punishment. The guidelines call for special protection and attention to the vulnerable situation of persons with disabilities, amongst other groups in all EU's actions towards third countries in prevention torture and other ill-treatment. No details are given however about what the specific needs and rights are of persons with disabilities, especially those living in closed settings. Similar guidelines to prevent torture and ill-treatment inside the EU does not exist.

Suggested question:

⁴¹ EDF took part in October 2016 in a [mission of the European Economic and Social Committee \(EESC\) to Greece to investigate the situation of refugees and asylum seekers with disabilities](#); Human Rights Watch [Report 'Greece: Refugees with Disabilities Overlooked, Underserved - Identify People with Disabilities; Ensure Access to Services'](#)

⁴² [Regulation \(EU\) 2019/125 of 16 January 2019](#) concerning trade in certain goods, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. It is legally binding and directly applicable in all EU Member States.

- What steps will the EU take to ensure that the rights and needs of all persons with disabilities are included in EU's actions to prevent torture and other forms of ill-treatment inside and outside the EU?

Articles 16: Freedom from violence

Persons with disabilities living in the EU continue to be victims of violence and abuses, especially children and women with disabilities,⁴³ persons with intellectual disabilities, older persons with disabilities and persons with disabilities living in closed settings, such as institutions and psychiatric facilities.

For example:

- 50% of persons with disabilities reported having experience of harassment, comparing to 37% of persons without disabilities (over a 5 year period)⁴⁴
- 17% of persons with disabilities have experienced physical violence, comparing to 8% of persons without disabilities⁴⁵
- Women with disabilities are two to five times more likely to face violence than other women, and 34 % of women with a health problem or a disability have experienced physical or sexual violence by a partner in their lifetime⁴⁶

The European Commission adopted a series of policies to combat violence, trafficking, harmful practices and protect the integrity of the persons and the rights of victims (namely the [Strategy on Victims' Rights](#),⁴⁷ the [Strategy toward the eradication of trafficking in human beings 2021-2025](#), the [Strategy on a more effective fight against child sexual abuse](#)). While the Strategy on Victims' Rights covers the rights of persons with disabilities, adults and children with disabilities remain mostly invisible in the two other strategies.

In relation to women and girls with disabilities, the [Gender Equality Strategy](#) declared that the EU will take action to combat forced sterilisation and abortion, but so far, it has not taken measures in this regard. In addition, the [European Institute for Gender Equality](#) does not collect [statistics on violence against women](#) disaggregated by disability and does not adequately include the disability perspective [in its work and studies on gender based violence](#).

The European Commission announced that it will make a **proposal for a Directive on combating violence against women** and a **Recommendation on the prevention of harmful practices**; but it is not certain to which extend they will be disability inclusive.⁴⁸

Suggested questions:

⁴³ See [EDF Position paper on violence against women and girls with disabilities in the EU](#) (2021).

⁴⁴ FRA, [Fundamental Rights Survey: CRIME, SAFETY AND VICTIMS' RIGHTS](#) (2021), page 22.

⁴⁵ Ibid, page 18.

⁴⁶ [European Parliament resolution on the situation of women with disabilities](#) (2018/2685(RSP)).

⁴⁷ More information under Article 13 on access to justice.

⁴⁸ As mentioned under Article 6, the EU and 6 of its member states have still not ratified the Council of Europe's Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention). Ratification of the Convention would require member states to criminalise forced abortion and sterilisation. Currently, not all members of the EU criminalise those abuses.

- What measures will the European Commission to ensure it includes persons with disabilities, in particular women and children with disabilities, in the implementation of its strategies on victims' rights, eradicating trafficking and fighting child sexual abuses, and in the design of the Directive on combating violence against women and Recommendation on the prevention of harmful practices?
- What steps will the EU take to research and collect information on violence against persons with disabilities, including against women and girls with disabilities through the European Institute for Gender Equality, and those living in closed settings such as institutions, psychiatric hospitals and detention centres?

Article 17: Integrity of the person

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

Research

The ethics self-assessment and ethics review for research funded by the EU under the [Horizon 2020](#) research and innovation programme do not ensure that persons with disabilities involved are enabled to give their informed consent and does not provide consent forms in accessible and Easy to Read formats. The [Guidance on how to complete the ethics self-assessment](#) directly refers to “persons unable to give informed consent.” While it requires candidates to indicate “informed consent procedures,” it also makes exceptions for informed consent if national laws provide for an exception, for instance for public interest. It also explicitly allows for substituted decision-making procedures.⁴⁹

Involuntary treatment and placement

As explained under **article 14**, persons with intellectual and psychosocial disabilities living in the EU continue to experience involuntary treatment and placement. Research has shown that these experiences are ‘overwhelmingly negative’ and cause trauma and fear. The European Commission has not engaged with organisations of persons with disabilities and did not take any actions to decrease the use of coercive practices in psychiatry in the EU.

Forced sterilisation, abortion and genital mutilation

In addition, as referred under **article 16**, many women with disabilities are still denied the right to reproductive freedom under the pretext of their wellbeing. Forced sterilisation, genital mutilation and coerced abortion are just some clear examples of denial of rights that many women, adolescents and children with disabilities suffer (including intersex children and adolescents), without giving their consent or fully understanding the intentions. Those abuses

⁴⁹ Specific cases - research involving children (or other persons unable to give consent, e.g. certain elderly populations, persons judged as lacking mental capacity): “You must obtain informed consent from the legally authorised representative and ensure that they have sufficient information to enable them to provide this on behalf and in the best interests of the participants.”

particularly affect members of ethnic minorities such as Roma women⁵⁰ and women under guardianships and/or living in institutions.⁵¹

- What steps will the European Commission take to ensure that research funded by the EU does not allow substituted decision making and to explicitly prohibit this practice in its ethics guidelines?
- What measures has the EU taken 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?
- What measures has 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 sterilisation?

Article 18: Freedom of movement

The EU provides citizens with freedom to move in countries other than their own to work and study (Article 3(2) of the [Treaty on European Union](#) (TEU) and Articles 4(2)(a), 20, 26 and 45-48 of the [Treaty on the Functioning of the European Union](#) (TFEU)).

Today, 17 million EU citizens live and work abroad in another EU country.⁵² This mobility, however, is extremely limited for persons with disabilities. Fragmentation of disability assessment systems has led to a fractured understanding of what disability is, how different “levels” of disability are measured, and who qualifies for social protection and social assistance benefits. The inconsistent types of assessment, qualifications for benefits and administrative processes inherently deprive persons with disabilities of their rights enshrined in the EU treaties to freedom of movement. It makes getting support in another EU Member State extremely difficult, if not impossible, and at the very least will require the person to undergo a lengthy and strenuous process in order to get the support they require. This has not only impact for example a student who wants to study abroad with the ERASMUS+ programme and cannot take his personal assistance with him, but also on the eligibility and recognition of the European Parking Card or “Blue Badge”. Mutual recognition of the disability status would be a step forward, facilitated by a “European Disability Card”, as foreseen in the European Disability Rights Strategy 2021-2030 (flagship initiative, mentioned on page 9).

Persons with disabilities cannot transfer their social security benefits from their Member State of origin when they move to a different Member State temporarily. In practice, this denies persons with disabilities who hold the citizenship of one of the 27 EU Member States, as well as Norway, Iceland, Lichtenstein and Switzerland, of the right they hold under the EU treaties to live and work freely throughout 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.

⁵⁰ [European Parliament resolution 2018/2685\(RSP\)](#)

⁵¹ The CRPD Committee raised concerns over the fact that several EU Member States still authorise forced sterilisation and abortion in their legislation, including in Croatia, Czechia, Germany, Lithuania, Slovakia and Spain.

⁵² Available at: https://europa.eu/euandme/passion/work-and-live-abroad_en

Suggested questions:

- What other measures, besides the Disability Card, will the EU put in place to improve freedom of movement and recognition of their disability status across the EU?
- How will the EU address the difficulties faced by persons with disabilities concerning the “portability” of their (disability) benefits when moving abroad?

Article 19: Living independently and being included in the community

Over 1 million persons with disabilities in the EU still live in institutional settings.⁵³ While it is theoretically forbidden for EU funds to be invested in institutional care settings, there have been numerous complaints of EU money being used to refurbish existing institutions or to replace them with other alternatives that reproduce institutional settings. A complaint about alleged human rights abuses in a social care institution for persons with disabilities, which had received funding from the European Structural and Investment Funds, was the basis of a complaint to, and eventual [decision by the European Ombudsman in 2019](#).

To guide Member states' efforts of deinstitutionalisation and to strengthen the monitoring of the use of the European Structural & Investment Funds with the meaningful engagement of representative organisations of persons with disabilities, the EU developed a guide for Member States, as part of the last Multiannual Financial Framework, on involvement of partners such as NGOs in the governance process for the use of funds. This is known as the [European Code of Conduct on Partnership](#) is legally binding and requires member states to be transparent in the selection of partners, provide sufficient information to partners and give them sufficient time to make their voice heard in the consultation process, ensure that partners are involved in all stages of the process, from planning to evaluation, support capacity building of partners and create platforms for mutual learning and exchange of good practice. The Commission has been given permission to rework the Code of Conduct for the new funding period starting in 2021.

As of 2021 the EU has new Regulations to guide the use of EU funds that benefit persons with disabilities, such as the [European Social Fund Plus](#) (which invests in social inclusion of marginalised groups) and the [Regional Development Funds](#) (which helps develop infrastructure and services) and the [Common Provisions Regulation](#) (which outlines rules for the use of the two funds mentioned above and a number of others). The guiding Regulations refer to the need for Member States to have a strategy for the implementation of the CRPD to make use of these funds, and to prioritise investment in the transition from institutional to community-based care and services. However, the implementation of the Regulation is still not a given, and we risk seeing continued misuse of funds, particularly when it comes to investment in institutions. Most commonly we see funds being used to refurbish existing institutions under the guise of investments for improving energy efficiency. In other cases we see entirely new institutions being built using EU funds because of lack of understanding by National Managing Authorities of what institutions are, and what types of community-based services they should be investing in.

⁵³ <https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/guidelines-final-english.pdf>

More worrying still is that the EU has created another funding mechanism in the wake of the COVID-19 crisis called the "[Recovery and Resilience Facility](#)". It is a €723.8 billion fund to boost recovery from the pandemic. The speed at which the Recovery and Resilience Facility was adopted and the Member States' plans for spending it were developed resulted in insufficient or non-existent consultation of disability organisations. Furthermore, this money does not need to adhere to the same strict rules as other EU funding, making the risk that it could be invested in institutional care for persons with disabilities even greater.

The European Commission has financially supported the activity of the [European Expert Group on the Transition from Institutional to Community-Based Care](#) which, as part of its operations, has created a [checklist](#) for the national authorities in each Member State on how to ensure EU funds do not go towards financing or maintaining institutional care. This is however not an official EU document and carries no legal obligation.

Suggested questions:

- How will the European Code of Conduct on Partnership be improved in the coming funding period to ensure better involvement of persons with disabilities and their representative organisations?
- What is the EU planning to have guidance on the use of EU funds for persons with disabilities, in the form of an official EU guidance document?
- How does the EU plan to improve its monitoring on the use of EU funds, particularly the Recovery and Resilience Facility, and how will you make it easier for citizens and NGOs to scrutinise and raise the alarm for EU-funded actions that are not CRPD compliant before they go into development?

Article 20: Personal mobility

Persons with disabilities still cannot travel freely in the EU, despite this being one of the four fundamental freedoms of the EU.

The rights of passengers with disabilities are still not fully protected and the provision in [Regulation 1177/2010](#) to allow travelling with an assistant for free has not been systematically included in the other Regulations on passengers' rights. It may be due to the fact that the EU did not fully understand the CRPD Committee's recommendation on this. But the question is also whether travelling with an assistant for free will really allow for more freedom of movement or if more structural changes in terms of accessibility and coordination of the social security systems will be more effective.

There is still a fundamental lack of accessibility of all modes of transport, in spite of EU Regulation being in place in some areas. But there are also gaps in EU legislation, for example in urban transport. No EU-level legislation exists for the accessibility of metros, trams, buses, or trolley buses. Lack of standardisation and harmonisation of accessibility standards leads to repeating the same mistakes over and over again, as each city or municipality starts more or less from scratch.

In the existing legislation on Passengers' Rights, the right to receive assistance at stations, airports, or bus terminals is still subject to a lot of conditions which do not allow persons with disabilities to exercise their right to mobility. For example, receiving assistance for rail travel is subject to 24-hour notification period which does not allow for spontaneous travel, in spite

of a recent revision of [Regulation 782/2021 on Rail Passengers' Rights](#). Bus and coach passengers with disabilities must give 36 hours pre-notification and are able to get assistance only at designated stations of pre-determined long-distance routes.

Travelling with personal mobility equipment on public transport has not improved either. Frequently damaged, lost, or destroyed mobility equipment, such as wheelchairs, are still not being fully compensated for when travelling by air, even though [Regulation 261/2004](#) regulates the airlines' liability for lost luggage. And many transport providers do not allow for mobility equipment such as e-scooters or even larger electric wheelchairs on buses or trains. This remains an obstacle to personal mobility of many persons with disabilities.

Even though [Regulation 1107/2006](#) guarantees passengers with disabilities' right to transport, they also still allow denial of reservation and boarding due to 'safety considerations' and inaccessible carrier/vehicle and station/port design. Furthermore, while Regulation 261/2004 grants financial compensation for a delayed or cancelled flight or if passengers have been denied boarding against their will, Regulation 1107/2006 does not oblige airlines to financially compensate passengers that have been denied boarding because of their disability.

There are also remaining issues with the Rail Accessibility Regulation ([Regulation 1300/2014 on Technical Specifications for the Interoperability of the Union's Rail System for Persons with Disabilities \("TSI-PRM"\)](#)). It concerns accessibility of rolling stock and stations but it still allows in some cases for inaccessible trains to be manufactured and sold, not allowing for independent and spontaneous access. There are for example exemptions for double-deck trains and for restaurant cars, and the platform-train interface which causes many of the problems for independent boarding is not addressed in the Regulation.

[Regulation 1315/2013 on the Trans-European Networks](#) should take accessibility into account so that no new or renovated infrastructure that is paid for by EU money can remain inaccessible. The Regulation should also include provisions for consistent monitoring of this requirement.

Suggested questions:

- How will the EU ensure that passengers with disabilities enjoy same level of rights to access rail, waterborne, air and bus and coach transport, as other citizens by relevant EU Regulations, for example addressing issues in relation to denied boarding, compensation of lost or damaged mobility equipment, possibility to travel with the same level of spontaneity and independence as passengers without disabilities?
- Personal mobility is often a question of accessibility as well – how is the accessibility addressed in EU legislation to allow fully independent and spontaneous travel? How is the EU going to ensure that EU funding is not used to build inaccessible transport infrastructure and how does it plan to monitor that this is effectively enforced?
- How is the EU planning to harmonise requirements of level access to rail from station platforms across the EU as well as legislative gaps which allow procurement of inaccessible trains?

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

Despite some legislative progress in the past years,⁵⁴ in most of EU countries equal access to information constitutes a barrier to the full participation of persons with disabilities in all aspects of life in the so-called information societies. Lack of accessibility adapted formats and means of communication, and suitable assistive and accessible technologies still hinders the freedom of expression and access to information of persons with disabilities.

The EU has made a step forward toward strengthening legal obligation of States to ensure accessibility of televised broadcasts and on-demand services through the [revised Audiovisual Media Services Directive](#), which was adopted in November 2018. Nevertheless, the Directive is quite vague and does not prescribe any timelines, or qualitative and quantitative targets to reach this goal. The ambiguity of the EU legal text will mean that persons with disabilities have different level of access to information provided to the general public by TV broadcasters (e.g., news or emergency warnings⁵⁵). The Directive also does not ensure accessibility of video-sharing (e.g., YouTube, Dailymotion) and social media (e.g. Facebook, Twitter) platforms, even though it recognises the increasing public importance of these platforms as channels to share information, entertain, educate, and shape and influence public opinion. It also does not ensure that audiovisual sections of news websites are accessible for persons with disabilities. These creates barriers both to right of information and freedom of expression.

Access to information and freedom of expression is further hindered also by the lack of uniform approach to availability, quality and affordability of assistive technologies across the EU. In the absence of an EU legal framework, provision of assistive technologies to persons with disabilities remains under Member State regulations, which creates fragmentation in the Union market and fails to ensure equal level of access and choice to these technologies vital for many persons with disabilities.

Suggested questions:

- How is the EU ensuring promoting of alternative formats for persons with disabilities, especially use of Sign language interpretation, Braille and easy-to-read?
- How will the EU ensure that persons with disabilities enjoy equal access to video-sharing and social media platforms which play increasing role in receiving and sharing information? How will the EU ensure that persons with disabilities have equal access to news websites, including to their audiovisual content?
- How does the EU plan to ensure that assistive technologies are made available to persons with disabilities in a uniform and equal manner across the Union?

Article 22: Respect for privacy

In a world where the use of emerging technologies is drastically increasing, there are concerns that unregulated use of artificial intelligence and automated decision-making creates new risks of discrimination for persons with disabilities, but also a significant risk to

⁵⁴ Such the transposition and implementation of the Web Directive, the Accessibility Act, Marrakesh Treaty, and the Audiovisual Media Services Directive and the Electronic Communications Code.

⁵⁵ See under article 11.

their right to privacy.⁵⁶ Many people are not well-informed about how using online services or connected devices is affecting their privacy. In the EU, citizens have greater rights in relation to the protection of their personal data, thanks to the implementation of the General Data Protection Regulation (GDPR) but few people have practical knowledge of these rights and how to exercise them.

Questions have been raised about **detection of assistive technologies**. For example, some accessibility experts raised concerns about screen reader or browser detection.⁵⁷ Use of assistive technology or digital footprint can reveal disability status by proxy, and information about one's disability is sensitive personal data. Lack of understanding about the implications of processing and sharing data, including highly sensitive personal data (e.g., health, disability, biometrics) is common. Informed consent to collect data on user behaviour is required but in practice consent is not always sought.⁵⁸ There is another worrying trend, where **service providers restrict the use of assistive technology features if full access to data is not granted**. For example, hearing aids or cochlear implants apps features may be limited if a user hasn't granted permission for data collection.

In relation to EU, e-health policy and connected EU initiatives, such as the EU e-health data space, it is very important to ensure that the views of persons with disabilities are taken into account. Persons with disabilities must have the right to access and control what happens to their health data; this implies the development of accessible interfaces and software that complies with existing digital accessibility standards.⁵⁹

The [EU Data Protection Regulation](#) (GDPR) does not sufficiently protect all persons with disabilities, in that not all persons with disabilities will be able to refuse consent for processing their data. This is the case for many persons with intellectual and psychosocial disabilities because of substituted decision-making. The proposed EU regulation on Artificial Intelligence (AI) does not address this gap in the GDPR, which means that data processed by AI-systems can be done without the explicit consent who's right to object has been taken away due to guardianship.⁶⁰

Even if the legal right to object to data processing by AI-systems is guaranteed, there are practical difficulties for individuals to exercise this right. It will be more difficult to know how to object to data collection or who to contact in case of a data breach by a machine. Additionally, many online services are made available to consumers only when they agree to the terms and conditions of the service, including related to data gathering. This is not a meaningful way of allowing persons to exercise control of their data. The EU AI Regulation

⁵⁶ [European Disability Forum 'Plug And Pray' report on emerging technology](#) highlighted some of the concerns raised by persons with disabilities.

⁵⁷ See <https://www.joedolson.com/2014/03/detecting-assistive-technology/>

⁵⁸ The European Federation of Hard of Hearing People told EDF that hearing care professionals often activate data login in hearing aids and cochlear implants without specific consent from their patients.

⁵⁹ Privacy and data protection related to health status and disability are especially sensitive for persons with disabilities. A person's disability can be detected by their use of assistive technology (e.g. screen-reader) when accessing a website. Revelation of one's disability or health status against their will is not only violation of the right to privacy of the person but can also lead to discrimination, for example from potential employers or service providers. It can also lead to 'algorithmic discrimination' when Artificial Intelligence-based advertisement systems for example could avoid or target persons with disabilities.

⁶⁰ See [EDF Position on Regulating Artificial Intelligence \(AI\) in the EU](#).

should ensure that when interacting with AI-based services and applications, individuals are not forced to give up their privacy in order to benefit from a service.

The Regulation also allows certain uses of AI, which are particularly intrusive against privacy and risk potential harm to persons with disabilities. These are remote biometric identification, biometric categorisation, and emotion recognition by AI systems by public authorities (e.g. law enforcement) and private entities (e.g. private companies).

Suggested questions:

- What will the EU do to ensure users with disabilities are adequately informed about how to protect their privacy and how to mitigate any risks associated with use of emerging technologies?
- How does the EU plan to ensure that privacy and data protection of all persons with disabilities, including all persons with intellectual and psychosocial disabilities, including those under substituted decision-making regimes such as guardianship, are protected when their data is processed by AI systems?
- What is the EU doing to prevent potentially harmful data collection by emerging technologies providers? How is the EU going to ensure that persons with disabilities are not subject to biometric categorisation and identification, as well as AI-systems?

Article 23: Respect for home and the family

Persons with disabilities and families of persons with disabilities were not explicitly mentioned in the [2015 roadmap "New start to address the challenges of work-life balance faced by working families"](#). After years of negotiation, the [Work-Life Balance Directive](#) was passed by the European Parliament in April 2019 and entered into force on 1 August 2019. The result was mixed for persons with disabilities: progress was made in several areas, such as paternity leave and recognition of family diversity. Informal carers will have a minimum of 5 days leave per year but the level of remuneration for this paid leave will be at the discretion of national governments. The concern remains that national governments set very low remuneration levels, resulting in carers' leave becoming unaffordable. This is a missed opportunity to harmonise levels of welfare across the EU and could leave many families with members who have a disability, under-protected.

The European Semester process in recent years has made reference to the issue of respect for home and the family. In 2020, which was the last year to see the European Semester cycle completed (since it was suspended in 2021 because of the pandemic) the recommendations for strengthening support going to families were only present for two Member States. This was the case for [Spain](#) where the Commission recommended improving the adequacy of income support for families, and [Portugal](#) where no actual recommendation was given regarding families, but where the introductory text acknowledged the importance of income support for families. All in all, support for families, and particularly the families of persons with disabilities, were not a priority for the European Commission during the Semester process.

Support to families is however foreseen as part of the EU's Child Guarantee for Vulnerable Children. Here, the EU and the Member States commit to financial support to families and towards investing in the services they use, in order to bring the most vulnerable children in the EU out of poverty. See under **article 6**.

As part of the [EU's Action Plan on the Pillar of Social Rights](#), which is a commitment by the EU and all its Member States to focus more on social issues, the EU has announced its intention to create a new [European Care Strategy](#). This will focus on care for older people, and will hopefully also cover the long-term care needs of persons with disabilities and support for families. This strategy is still in the early stages, so we will be awaiting confirmation of precisely what is foreseen for persons with disabilities and their families.

Suggested questions:

- How does the EU plan to address the long-term care needs of persons with disabilities, and particularly support for families of persons with disabilities, through its new European Care Strategy?
- In what way will the Child Guarantee for Vulnerable Children support families of persons with disabilities and reduce their risk of poverty and social exclusion?

Article 24: Inclusive education

Segregated education of children with disabilities remains quite widespread in many EU Member States. In the EU, an average of 1.34% of pupils with special educational needs were enrolled in “special schools”.⁶¹ However, for several countries the rate is much higher. Belgium, Germany, Slovakia, the Netherlands and Latvia all have rates of enrolment in segregated schools far above the EU average.⁶²

Within its limited area of competence in this field, the EU uses the strategic investment of EU funds as its means for influence. Funds from the EU Social Fund allocated for social inclusion, are frequently invested in the accessibility of education settings and training of teachers and classroom assistants. Pressure is also exerted in the form of recommendations emerging from the European Semester process. However, these focus primarily on the link between education and employment, and very rarely specifically to increasing the accessibility of educational structures for learners with disabilities.

The EU also recently adopted the [Digital Education Action Plan \(2021-2027\)](#). This is a renewed EU policy initiative to support the sustainable and effective adaptation of the education and training systems of EU Member States to the digital age. The [European Commission's communication on the Action Plan](#) stresses the importance of making sure that digital education is made accessible to all learners with disabilities, but exactly how this will be achieved remains unclear.

The EU Artificial Intelligence (AI) regulation proposes to allow use of AI for determining access or assigning people to educational and vocational training institutions and assessing students in educational and vocational training institutions, and for assessing participants in tests commonly required for admission to educational institutions.⁶³ This risks creating further barriers for persons with disabilities to access education, as it will be practically impossible for persons with disabilities to know that they were subject to AI-based discrimination and contest algorithmic decisions. Increasing use of such technologies for decision-making can amplify discrimination to mass scale and have not only personal and but societal negative

⁶¹ <https://www.european-agency.org/data/cross-country-reports>

⁶² European Agency for Special Needs and Inclusive Education, 2018. European Agency Statistics on Inclusive Education: 2016 Dataset Cross-Country Report

⁶³ See [Annex III 3 of EC proposal for Regulating AI](#).

implications for persons with disabilities as a 'group' (i.e. less persons with disabilities in education). Allowing use of AI for this purpose also creating tension with [Council Directive 2000/78/EC on equal treatment in employment and occupation](#) which aims to protect persons with disabilities, among others, from discrimination in vocational training.

The [Erasmus+ Programme](#) is the EU programme for Education, culture, youth and sport. It is the most successful exchange activity for students and learners in the EU. Despite its high success in the period 2014-2017 only 0,17% in the higher education strand were students with disabilities and 2,5% in the youth field. The programme provides grants dedicated to persons with disabilities. Unfortunately, in many cases students and learners with disabilities do a shorter exchange or have to go to another place than they wished for because the funding provided is not sufficient to cover disability related costs (such as sign language, personal assistant, etc.) or the university selected is not accessible. While there has been some progress with the new Erasmus+ programme,⁶⁴ information about the programme is not available in accessible formats and the websites and platform used are not compliant with accessibility standards. Another major barrier for students with disabilities is the impossibility to transfer the services they received in their home university to the host country. The introduction of virtual mobility component in the programme can have positive effects, however it also slows down the actions taken by national agencies to solve issues of costs and accessibility.

Suggested questions:

- How is the EU planning to ensure that a significant amount of funding from the EU funds will still go towards the inclusion of learners with disabilities in mainstream education settings, including digital education, particularly in light of the fact more and more EU funds will now be focused towards funding the economic recovery from the COVID-19 pandemic?
- How is the EU going to ensure that AI-systems are not used to determine persons with disabilities' access to education and vocational training?
- How is the EU planning to ensure students with disabilities can equality benefit from and participate in Erasmus+ programmes?

Articles 25-26: Access to health, habilitation and rehabilitation

It remains extremely problematic for persons with disabilities to gain access to sufficient, adapted healthcare when moving to another Member State, or even in their own country. This prevents many people from being able to enjoy freedom of movement and seek work or living opportunities in another EU Member State. Disability based discrimination in access to healthcare is not prohibited under EU law (see **article 5**).⁶⁵

⁶⁴ For example possibility to request grants for prefinancing and the obligation to all member states to develop their own Inclusion and Diversity strategies.

⁶⁵ Just over half of the Member States prohibit disability discrimination and require providing reasonable accommodation in the field of healthcare. A quarter of Member States only prohibit disability discrimination, but do not provide reasonable accommodation obligation, in the field of healthcare, while nearly a quarter do not have any requirement in this respect. One Member State does not prohibit disability discrimination in the field of healthcare but requires the provision of reasonable accommodation.

According to the [Gender Equality Index 2021](#), on average in the EU, only 19% of women with disabilities and 21% of men with disabilities perceived themselves as in good or very good health, comparing to 83% of women without disabilities and 85% of men without disabilities.⁶⁶ At least 7% of women with disabilities and 6% of men with disabilities reported unmet needs for medical examination, comparing to 2% of women without disabilities and 2% of men without disabilities.

European Health Union

In reaction to the COVID-19 pandemic, the European Commission took the initiative to build a [European Health Union](#), in which all EU countries prepare and respond together to health crises, medical supplies are available, affordable and innovative, and countries work together to improve prevention, treatment and aftercare for diseases such as cancer.⁶⁷

For example, the Commission launched a [Beating Cancer Plan](#) to prevent cancer and ensure that cancer patients, survivors, their families and carers can enjoy a high quality of life. The plan includes actions and flagship initiatives covering the entire disease pathway. However, the Plan does not foresee targeted measures for persons with disabilities. If accessibility of prevention, detection, diagnosis and treatment is not ensured, persons with disabilities will be excluded from this initiative.

Cross-border healthcare

The [Directive 2011/24/EU on patients' rights in cross-border health care](#) gives the right to all patients to seek healthcare in another EU Member States. In 2021, the European Commission launched an evaluation of the Directive.

Patients with disabilities continue to face barriers in accessing cross-border healthcare. In particular, the National Contact Points in charge of providing information on access to cross-border healthcare do not systematically provide accessible and targeted information to patients with disabilities. For example, on the National Contact Points' websites, no information is provided on reasonable adjustments of healthcare facilities and services, neither on sexual and reproductive healthcare services. Few websites provide information on physical accessibility of healthcare facilities.⁶⁸

In addition, EU law on cross-border healthcare include an optional provision on reimbursement of additional disability-related costs. Whether disability-related costs (e.g. increased transport costs and costs incurred by personal assistants) are reimbursed has an obvious impact on the capacity of patients with disabilities to exercise their right to planned

⁶⁶ We note a decrease comparing to the [Gender Equality Index 2020](#) where 20.2% of women with disabilities and 22.8% of men with disabilities perceived themselves as in good or very good health, comparing to 83.8% of women without disabilities and 85.5% of men without disabilities.

⁶⁷ EDF sent [recommendations on the European Health Union Package](#) presented in 2021, focusing on: involvement of representative organisations of persons with disabilities, right to life, equality and non-discrimination, preparedness and response, accessibility, data collection and EU's external actions.

⁶⁸ More detailed information on the Directive is available in [EDF report on access to cross-border healthcare by patients with disabilities in the EU](#).

cross-border healthcare. A previous report showed that no additional costs were reimbursed in 76% of a small sample.⁶⁹

Suggested questions:

- How will the EU ensure that persons with disabilities benefit from the European Health Union, including Europe's Beating Cancer Plan? For example, how will it work with Member States and global partner countries to ensure that screening and treatments are accessible to persons with disabilities?
- What actions is the EU planning to foster the transposition and implementation of EU law on patients' rights in cross border healthcare, including to improve the quality of information provided to patients with disabilities on the National Contact Points' websites?
- What measures will the EU take to ensure that patients with disabilities are not discriminated against, whether directly or indirectly, including through denial of reasonable accommodation and non-reimbursement of additional disability-related costs?

Article 27: Employment

Across the EU, persons with disabilities are far less likely to be employed than persons without disabilities. The latest EU-level data is from 2019 and shows that persons with disabilities in the EU are 24.4 percentage points less likely to be employed than persons without disabilities. Only 50.8 percent of persons with disabilities are employed, compared to 75 percent of persons without disabilities.⁷⁰ The situation is even worse for women with disabilities. On average only 48.3% of women with disabilities are in employment.⁷¹ The figures are even lower when looking at full-time employment with solely 20.6% of women with disabilities and 28.5% of men with disabilities working full-time.⁷² Among the most affected are persons with psychosocial disabilities and persons with intellectual disabilities.

Among the major barriers faced by persons with disabilities regarding the labour market are the incompatibility of disability allocations when working (irreversible loss of benefits and being worse off in work due to the extra living costs incurred for persons with disabilities), lack of personal assistance/sign language interpretation, and absence of reasonable accommodation in the workplace.

The EU has taken a number of measures to support the employment of persons with disabilities.⁷³ However, insufficient guidance and regulation exists on what is expected of

⁶⁹ IF, [Impact of cross-border healthcare on persons with disabilities and chronic conditions](#) (2016), 3, 15.

⁷⁰ [European Commission Joint Employment Report 2021](#).

⁷¹ EU SILC 2017

⁷² [Gender Equality Index 2020](#), Work

⁷³ For example, the EU has invested directly in projects to assist in the integration of persons with disabilities into the labour market, notably through the use of the EU Social Fund. The EU also facilitates, by means of an EU Regulation, the use of State Aid in the Member States to support inclusive employment, subsidise wages and provide reasonable accommodation. The General Block Exemption Regulation (EU) No 651/2014 declares certain this category of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the EU. Finally, the EU Directive (Council Directive 2000/78/EC) establishes a general framework for equal treatment in employment, vocational guidance and training.

employers when offering reasonable accommodation to workers with disabilities, as well as what support governments should give to employers. This leaves a provision of reasonable accommodation unevenly put into practice across the Member States, and means that it is easy for people in some Member States to find themselves provided with little or no adjustment in line with their needs.

Pay transparency

Salary disparities remain and persons with disabilities stay unemployed or face work poverty. Women with disabilities are even more at risk as they face both a gender and disability pay gap. According to the [Gender Equality Index 2021](#), the average of the mean monthly earning in purchasing power standard⁷⁴ of women with disabilities is 1.859 comparing to 2.436 for men with disabilities, 1.981 for women without disabilities and 2.652 for men without disabilities.

In 2021, the European Commission made a proposal for a [Directive on pay transparency](#) to combat the gender pay gap. The proposal did not foresee the collection of data and statistics disaggregated by disability and lacks an intersectional approach and does not require that information on pay transparency is made available to all persons with disabilities in a variety of accessible communication and formats, including easy to read and accessible digital documents.⁷⁵

Adequate Minimum Wage

The EU is in the process of adopting a [Directive on adequate minimum wage](#). Persons with disabilities are all too often paid below national or sectoral minimum wage thresholds. This is particularly problematic in certain sheltered workshop settings where workers are not given the legal status of employees and therefore do not have the same rights regarding wages, social protection, paid sick leave etc. The disability movement hope that the negotiations around the Directive will result in better protection for workers with disabilities in the EU and will improve their ability to avoid in-work poverty.

Risk of algorithmic discrimination in employment

The EU Artificial Intelligence (AI) regulation proposes to allow use of AI for recruitment, selection, promotion, and termination decisions in employment.⁷⁶ Use of AI-based recruitment tools have already proved to be discriminatory towards persons with disabilities, and members of other marginalised groups.⁷⁷ In this sense, persons with disabilities can be

⁷⁴ The mean monthly earning, besides earnings from paid work, includes pensions, investments, benefits and any other source of income. It is expressed in the purchasing power standard (PPS), which is an artificial currency that accounts for differences in price levels between Member States.

⁷⁵ See [EDF proposals for amendments to the Pay Transparency Directive](#)

⁷⁶ See [Annex III 4 of EC proposal for Regulating AI](#).

⁷⁷ [HireVue](#), an AI-powered video-interviewing system used by large firms such as Goldman Sachs and Unilever, was found to massively discriminate against many persons with disabilities who have out of the 'norm' facial expressions and voice. Among others, this affected deaf, blind and deafblind persons, as well as those with speech impairments and people who survived a stroke. [AI systems are widely deployed in the US to use personality characteristics](#) as a signal of job success for specific kinds of roles, even though studies have shown they have no correlation with job performance. These tests tend to disproportionately screen out people with disabilities, specifically persons with psychosocial disabilities. [AI-based application screening tools often negatively score gaps in candidates'](#)

subject to intersectional discrimination even if it is not based on their disability.⁷⁸ Allowing use of AI for job recruitment purposes, risks amplifying already disproportionately high unemployment (and poverty) rates for persons with disabilities in the EU and jeopardising the aim of Directive 2000/78/EC protecting persons with disabilities, among others, from discrimination in employment. Given that job candidates often will not even be aware that they were subject to discriminatory algorithmic assessment, enforcing the Directive will become extremely difficult.

European Solidarity Corps

The [European Solidarity Corps programme](#) give the opportunity to young people between 18 and 30 to take part in projects that benefit communities, either abroad or in their own country. These projects offer an inspiring and empowering experience, as well as the chance to bring change while developing skills and competences. Unfortunately, young people with disabilities who wish to take part in the programme continue to face barriers. For example, volunteers with disabilities who leave their country for a longer period than 1 year may be obliged to give up their disability allowances (e.g. in France).

Suggested questions:

- What measures will the EU take to promote the employment of all persons with disabilities, including of women with disabilities and combat the gender and equality pay gap they face, including through the proposed Directive on Pay Transparency?
- How will the proposed EU Directive on Minimum Wage help reduce pay disparities between persons with and without disabilities in the EU, and how will it foster better quality of life for workers with disabilities?
- How is the EU going to ensure that AI systems are not used for determining persons with disabilities' access to employment?

Article 28: Adequate standard of living and social protection

EU data reveals that being a person with disabilities in the EU significantly increases the risk of experiencing poverty and social exclusion. EU figures suggest that 28.4% of all persons with disabilities currently live in poverty and experience social exclusion.⁷⁹ Persons with disabilities are shown to face a higher risk of poverty and social exclusion than the general population in all 28 Member States⁸⁰ and even more so for women with disabilities.

[employment](#). This can result in a lower score for a candidate with disability who might have taken a break from work due to health reasons. Gaps in employment is a proxy that also tends to discriminate against women (connected to having children), which means women with disabilities are even at greater risk of being discriminated as women and as persons with disabilities. Persons with disabilities who have intersecting identities, for example trans* persons with disabilities, are also subject to discrimination risk even if not on the ground of disability, as in [the case of Uber suspending trans* drivers' accounts](#). The Uber security feature that required drivers to take a selfie to verify their identity. If the photo did not match to other photos on file, it was flagged, and driver's account was suspended. This type of security software can also discriminate against a person who acquired a scar due to a burn for example, or has undergone a facial reconstruction surgery.

⁷⁸ See [EDF position paper on Regulating Artificial Intelligence \(AI\) in the EU](#).

⁷⁹ [EU SILC 2019](#)

⁸⁰ Including the United Kingdom at the time of creating this report.

Furthermore, austerity following the financial crisis has been shown to have an effect on poverty rates of persons with disabilities in a number of Member States. Eleven countries showed an increase in poverty rates since 2010, including countries that generally performed quite well during the crisis, such as Luxembourg, Germany and Sweden. Not only are persons with disabilities poorer, but they also face extra costs from living in a society that is not adapted to them: disability-related costs estimated at 23,012 euros/year in Sweden or 14,550 euros/year in Belgium, for example.⁸¹

Suggested question:

- What does the EU see as the best mechanisms to bring people out of poverty, and how has it ensured that particular focus is given to supporting persons with disabilities in escaping poverty?
- How does the EU plan to ensure that EU funding will help bring persons with disabilities out of poverty, particularly through the Recovery and Resilience Facility, and how will it monitor the effectiveness of how the funds are used?

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 elections. The European Court of Justice confirmed 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.⁸² Still, 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.

According to the most recent data by the [European Economic and Social Committee](#), approximately 400,000 persons with disabilities are deprived from their right to vote in 14 Member States,⁸³ and in each of the 27 EU countries, there are rules or organisational arrangements that deprive some voters with disabilities of the possibility of participating in European Parliament elections on an equal basis with others.

In 2020, the European Parliament launched a resolution [proposing a reform of the European Union \(EU\) electoral law of 1976](#). It is an important opportunity to make the EU Parliament elections more accessible and inclusive of EU citizens with disabilities. However, it is not yet certain whether the Member States in the Council will agree with such proposal and how the

⁸¹ Antón, J.I., Braña, F.J. and Muñoz de Bustillo, R. (2014). [An analysis of the cost of disability across Europe using the standard of living approach](#).

⁸² See for example: [Sitaropoulos and Giakoumopoulos v. Greece](#) [GC], 2012.

⁸³ In 8 Member States certain persons with disabilities are automatically excluded from political participation and thus denied the right to vote. This is the case in Bulgaria, Cyprus, Estonia, Greece, Lithuania, Luxembourg, Poland and Romania. In 6 countries, placing a person under guardianship does not automatically mean the loss of voting rights, but the court or authority taking the decision to place somebody under guardianship may also decide to restrict the voting rights. This may happen in Belgium, the Czech Republic, Hungary, Malta, Portugal, and Slovenia. Positively, recent progress in implementing the CRPD increased the number of countries in which under no circumstances may an individual be deprived of the right to vote. These 13 Member States are Austria, Croatia, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, the Netherlands, Slovakia, Spain, and Sweden.

new regulation will ensure that all EU citizens with disabilities can vote, including by increasing the accessibility of the EU elections which are arranged at national level.

Persons with disabilities are not sufficiently represented among policy makers. Among the 705 Members of the European Parliament, there are only four members with a visible disability.

Suggested questions:

- How does the Commission plan to support the right to vote and stand as a candidate to persons with disabilities in European elections?
- How will the Commission ensure the accessibility of European elections for all persons with disabilities?

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

On 1 October 2018, the EU ratified the Marrakesh Treaty 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.

The EU has made a step forward toward strengthening legal obligation of States to ensure accessibility of televised broadcasts and on-demand services through the [revised Audiovisual Media Services Directive](#) adopted in November 2018. Countries must ensure that media service providers under their jurisdictions make their audiovisual content continuously and progressively more accessible to persons with disabilities through proportionate measures. However, it does not prescribe any timelines, or qualitative and quantitative targets to reach this goal, nor does it require Member States to do this.⁸⁴ Ambiguity of the EU legal text risks to lead to different levels of accessibility among Member States. This is especially unfortunate, as state of the art international standards for ensuring accessibility of audiovisual content exist.⁸⁵

In the absence of EU legislation on accessibility of the built environment,⁸⁶ persons with disabilities continue to face barriers to accessing places of cultural performance and services, sites of cultural importance, as well as recreational, leisure and sports facilities. This access barrier also means that persons with disabilities are hindered from developing and utilising their creative, artistic and intellectual potential for the benefit of the whole society, and participating in sports activities not only as spectators but also as players. While the planned European Disability Card⁸⁷ will most likely include reduced entry price or other

⁸⁴ The Directive only requires Member States to encourage action plans developed by service providers to achieve accessibility and leaves the concrete steps and timelines to achieve this to the will of the service providers.

⁸⁵ During the transposition EDF has tried to advocate for obligatory quotas and quality standards for audiovisual content prescribed by national law. See [EDF toolkit on transposition of the AVMSD](#).

⁸⁶ As noted under Article 9, the European Accessibility Act does not ensure accessibility of the built environment, because transposing the relevant built environment requirements (Annex III) are voluntary for Member States. Only if those are transposed in national legislation they will need to be complied with. However, there is little motivation from most Member States to go beyond what the Act requires them, and even if some Member States do it (and others do not) this will create a fragmented picture for accessibility of the built environment for persons with disabilities.

⁸⁷ See under article 18 in the report.

reductions for persons with disabilities, it will not directly address the issue of lacking accessibility.

The EU also has several initiatives related to culture, such as the European Capital of Culture or the EU Prize for Contemporary Architecture (Mies van der Rohe Awards). Those initiatives currently do not mainstream the inclusion of persons with disabilities.

Suggested questions:

- Noting that the EU Audiovisual Media Services Directive (AVMSD) does not prescribe minimum quotas and quality standards for the provision of access services by television broadcasters and on-demand services in the EU, how is the EU planning to ensure persons with disabilities access to audiovisual content? Will the EU revise this legislation to ensure that current legal gaps are fixed?
- How will the EU ensure the accessible and safe participation of persons with disabilities in cultural life across its Member States, including access to cultural performances and services, sites of cultural significance, as well as other recreational, sports, and leisure facilities?
- How will the EU ensure that its initiatives, prizes, and programmes concerning culture and sport are fully aligned with the CRPD?

Article 31: Statistics and data collection

[Eurostat](#) is the statistical office of the EU. Among its key objectives we see that of “providing statistics on key areas of social policy where the citizens is the centre of the interest” (Objective 3.2.1).⁸⁸ Disability is identified as an area within this objective. All data must be disaggregated by gender. The [EU Statistics on income and living conditions](#) (EU-SILC) allow us to see how affected persons with disabilities are by the issue of poverty and social exclusion, and educational attainment. It is disaggregated according to persons with “some” or “severe” limitations, all of whom are classed as having a disability. The data falls short of disaggregating by type of disability, something that would be afforded by data collection techniques such as the [Washington Group Short Set of Questions](#). It also misses from its scope persons with disabilities living in institutions, as it only reaches people living in households, which does not include residential and institutional care. Therefore we almost entirely lack adequate data on persons with disabilities living in institutions.

Date on employment

The [European Union Labour Force Survey](#) shows employment figures for people living in the EU. Data on workers with disabilities is occasionally collected as part of this process. Recently the EU stepped up its commitment to monitoring the employment of persons with disabilities by making the “Disability Employment Gap” a new indicator in its [EU Social Scoreboard](#), a tool to monitor social progress across the EU and have up-to-date data on a list of social issues. This should allow to better monitor barriers to the labour market for persons with disabilities compared to persons without disabilities. However, we still lack more

⁸⁸ The programme is governed by Regulation No. 99/2013 of the Parliament and the Council of 15 January 2013 on the European statistical programme. It has been extended to 2020 by [Regulation \(EU\) 1951/2017 2017/1951 of the European Parliament and of the Council of 25 October 2017](#).

detailed disaggregated data that would allow us to distinguish the impact of type of disability on employment rates. It also rules out the possibility of understanding the barriers attached to persons with multiple disabilities.

Date on women and girls with disabilities

Data and statistics about women and girls with disabilities is also missing. The [European Institute for Gender Equality](#) (EIGE) started to disaggregate some of the data of its Gender Equality Index by disability. Unfortunately some important areas are not covered, notably in relation to [power](#) (decision-making positions across the political, economic and social spheres) and [violence](#) against women. In addition, there is very limited analysis of the situation of women and girls with disabilities in EU partner countries. Inclusive and intersectional data are not being collected by EU's external action services and the EU delegations.

Date in international relations and disaster risk reduction

The latest version of DG ECHO partners' reporting guidelines encourages the use of the Washington Group Short Set of questions in data disaggregation. However, this is not obligatory and there is no reporting indicator that would measure its degree of implementation. Similarly, risk assessment or disaster loss data gathered within the EU by the EU [Disaster Risk Management Knowledge Centre](#) (DRMKC) or the EU [Joint Research Centre](#) (JRC) is not routinely disaggregated by disability. In 2016, during development of the Sendai framework Indicators, the EU Joint Research Centre position was that this was not a reasonable aim to have, with the resources available.

Other EU bodies also fail to disaggregate data by disability. For example, the **European Centre for Disease Prevention and Control** (ECDC),⁸⁹ in charge of the regular monitoring of the COVID-19 pandemic in the EU, failed to provide statistics on persons with disabilities (while data was disaggregated by age and gender).

Besides, the European Union has not developed any human-rights based indicators system to report on its CRPD obligations. Only the **Fundamental Rights Agency** has issued indicators to assess political participation of persons with disabilities as a one-off exercise in 2014.⁹⁰ Also, the European Sustainable Development Goals (SDGs) sets of indicators are not aligned with the internationally agreed ones, implying that comparison is tricky.

Finally, there has been no major event or campaign aiming to disseminate the available data and understanding of the living situation of persons with disabilities, except for the publication of the reports on the [website of the Academic Network of European Disability Experts](#). The Commission is continuing to invest in research through the European Disability Expertise project, which will see new research published in a designated webpage. The first areas of research will be the impact of COVID-19 on persons with disabilities and accessible technology.

⁸⁹ Agency of the European Union aimed at strengthening Europe's defences against infectious diseases

⁹⁰ EU Fundamental Rights Agency, The right to political participation for persons with disabilities: human rights indicators, 2014

Suggested questions:

- What steps is the EU going to take to align its data collection to the Sustainable Development Goals and disaggregate data also by disability, using the Washington Group Set of Questions and to put in place a comprehensive human rights-based indicators system to track progress of the EU against the implementation of its CRPD obligations?
- What data collection efforts will the EU undertake to address the major gaps in availability, reliability and comparability of data relating to the living conditions of persons with disabilities in Europe, including on women and girls with disabilities and people living in institutions?

Article 32: International cooperation

Regarding its global work in the world, the EU has not adopted a harmonised policy related to its global work on promoting and respecting the rights of persons with disabilities. It is unclear how Section six of the EU Disability Rights Strategy will be implemented, with no resources allocated, no timeframe, no detail how it will support partner countries and monitor its progress.

Regarding its global work and the Sustainable Development Goals (SDGs), the EU has adopted a [new European Consensus on Development](#) in June 2017. The Consensus set out a new framework for development cooperation for the EU and its Member States. The document was considered a direct response by the EU to the SDGs. Since its publication, the EU has not followed-up or adopted any policy on how to implement the SDGs to leave no one behind both in the EU Member States and in its global work.

Regarding the EU diplomatic missions, information, training and guidance should be given to all relevant staff located within the 140 delegations of the EU in the world. Partners must also become familiar with the CRPD while a real dialogue and consultation should start with national representative organisations of persons with disabilities. So far, we don't have any clear activities and timeframe on how the EU is practically promoting the inclusion of persons with disabilities and support the implementation of the CRPD in the world.

Suggested questions:

- What steps will the EU take to adopt an EU Disability Action Plan on its global work to promote the rights of persons with disabilities and to ensure that all its development and humanitarian aid programming is CRPD compliant (Such Action Plans by EU have already been created for gender and human rights and democracy⁹¹)?
- What plans does the EU have to properly assign a disability focal point focusing on disability-inclusive international cooperation in Brussels that would provide for guidance and training on CRPD implementation to the 140 delegations of the EU in the world, and have sufficient human and financial resources to do so?
- What plans does the EU have to train and build the capacity of EU staff (including the Brussels based EU focal point, EU delegations, DG European Civil Protection and

⁹¹ The [EU Gender Action Plan III 2021-2025](#) and the [EU Action Plan on Human Rights and Democracy 2020-2024](#)

Humanitarian Aid Operations field staff), and for EU Member State agencies in partner countries, on the CRPD implementation, also by involving representative organisations of persons with disabilities?

Article 33: Implementation and monitoring

The EU did not designate focal points in all institutions, bodies and agencies. The implementation of the CRPD falls under the mandate of the EU Commissioner for Equality who is part of the Directorate-General on Justice. However, the daily implementation of the Convention is still being led by the Unit on Disability and Inclusion in the Directorate-General on Employment. EDF had been calling for the creation of a CRPD unit under the mandate of DG Justice which also work on other areas of equality and disadvantaged groups.

The EU has not yet established an inter-institutional mechanism for the coordination of the implementation of the Convention between the Commission, the Parliament and the Council, and all relevant EU agencies and bodies. The Council is totally lacking any kind of internal coordination mechanism for the implementation of the CRPD. Organisations of persons with disabilities are completely excluded from the decision-making procedure at the level of the Council which means monitoring is very difficult.

The High-Level Group on Disability of the European Commission is being transformed into a Disability Rights Platform. This Platform should already be established in 2021, according to the Disability Strategy. The call for expressions of interest to be part of the Platform was released in November 2021. In order to use its full potential, the new Platform should have an annual Action Plan/Work Programme to implement the Disability Rights Strategy and representative organisations of persons with disabilities should also be actively involved as permanent members. All documents and proceedings as well as membership should be publicly available on a dedicated website or portal. The Disability Platform should also monitor the global work the EU is conducting in humanitarian action and international cooperation.

Since 2016, the CRPD Independent Monitoring Framework is composed of the European Parliament, the Fundamental Rights Agency of the European Union (FRA), the European Ombudsman and EDF. The functioning of the Framework will be evaluated by the European Commission in 2022.

Suggested questions:

- Under which timeframe will the EU designate focal points in all institutions, bodies and agencies?
- What inter-institutional mechanism will the EU put in place for the coordination of the implementation of the Convention between the Commission, the Parliament and the Council? And what action will the Council take to become more transparent to allow for better scrutiny from organisations representing persons with disabilities?

Part 2: European Union institutions' compliance with the Convention (as public administrations)

Articles 1 and 2: purpose and definitions

The [EU Staff Regulations](#)⁹² include a CRPD compliant definition of disability and the concepts of reasonable accommodation and positive action.⁹³ This definition of disability in the Staff Regulations has not been transposed to other EU internal instruments, such as the the Joint Sickness Insurance Scheme (JSIS) (see **article 25**).

Although the definition of a person with disability complies with the CRPD, the system continues to rely 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.⁹⁴

Suggested question:

- What steps will the EU take to ensure that 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.

The 2021-2030 EU Disability Strategy includes some actions to “lead by example” inside the EU institutions. Proposed actions concern:

- the adoption of a renewed human resources strategy that will include actions to promote diversity and inclusion of persons with disabilities in the European Commission⁹⁵
- actions to improve accessibility of communication and building (a caveat being the “urban planning requirements of the host countries”)⁹⁶
- support to the implementation the Action Plan Educational Support and Inclusive Education of the European schools⁹⁷

Disability Support Groups in the European Commission, 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 account. Moreover, these support groups lack resources since they are overloaded with requests for

⁹² [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](#)

⁹³ See article 1d of the regulation

⁹⁴ See article 33

⁹⁵ Section 8.1 of the strategy

⁹⁶ Section 8.2 of the strategy

⁹⁷ Section 5.3 of the strategy

advice and support which the responsible EU institutions' services themselves have difficulties responding to.

Suggested question:

- What steps will the EU take to adopt a strategy to realise the CRPD within **all** EU institutions, bodies and agencies, and how will it ensure the close involvement and consultation of the staff with disabilities and staff who are family members of persons with disabilities in the design, implementation and evaluation of the strategy? What budget and timeline will the strategy take?

Article 5: Equality and non-discrimination

The provision of reasonable accommodation to employees with disabilities and employees who are family members of persons with disabilities remains an issue. During the COVID-19 pandemic, there has been limited coordination of the necessary reasonable accommodation measures.

In the European Parliament, there were cases of staff with long-term health conditions, or those with family members at higher risk to COVID-19, not being granted any accommodation to decrease their risk of exposure.⁹⁸ Some of these gaps are related to pre-crisis requirements for permission to telework in the Parliament staff regulations. For instance, before teleworking became mandatory for all staff, request for teleworking would not necessarily be possible for parents whose child is in palliative care outside the home, hospitalised, or institutionalised, or for a staff member living with a person who is recognised as vulnerable but is not a direct relative. Further concerns on reasonable accommodation were raised in terms of teleworking and return-to-work.

Suggested question:

- What steps has the EU taken to adopt a policy on reasonable accommodation for all EU employees with disabilities and employees with family members with disabilities?

Article 9: Accessibility

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.

EU offices in some EU Member States are accessible; others are not accessible. In general, EU offices, their activities and events are little known to persons with disabilities.

Consultations, events and activities organised by EU institutions often are not accessible. The Commission's online public consultation platform "[Have your Say](#)" is not accessible. This

⁹⁸ European Parliament Disability Support Group (EP DSG), Submission to the CRPD Framework on the European Parliament's actions and omissions during the COVID-19 pandemic.

creates barriers for participation in EU policy-making both for persons with disabilities as individuals, as well as for organisations of persons with disabilities. Same is true for workshops and meetings organised by different services of the European Commission and structures related to the Commission^{99, 100} Questions asking participants' requirement for access services such as live captioning or sign interpretation are not asked in event registration forms as default. Often platforms that are not the most accessible for persons with disabilities (e.g. "WebEx") and interactive tools (e.g. mural) are used which are not accessible for all persons with disabilities.

The European Commission's decision to add an authentication process using 'EUlogin' for citizens to respond to online public consultation is an accessibility barrier that is preventing people with disabilities from responding. The process requires setting up of an account, which involves solving a CAPTCHA. This is a well-known accessibility barrier for many. Security features should not compromise the accessibility of online processes.

Suggested questions:

- What initiative will the EU take to ensure that its buildings, information, communication, events, activities, procedures are accessible to all persons with disabilities? What plan of action will it draft, and budget will it allocate to this goal?
- While the EU amend its online consultation tool and processes to ensure these are fully accessible to citizens with disabilities? Will this include provision of Easy-To-Read formats for online consultations?

Article 13: Access to justice

Contrary to the recommendation from the CRPD Committee in 2015, the European courts do not guarantee full access to justice to persons with disabilities, including those deprived of their legal capacity. Physical and procedural barriers still exist for persons with disabilities, including to work in the courts as lawyers, clerks, etc. Persons with disabilities cannot take active part of the EU justice system.

The [Commission on Petitions](#) of the European Parliament allows citizens and people residing in the EU to submit petition on matters which come within the EU's field of activity and directly affects them. However, the [portal to submit petitions](#) is not accessible to persons with disabilities using screen-readers.

Suggested question:

- What steps will the EU take to ensure that its justice system, including the online system to submit petitions to the Commission on Petitions of the European Parliament, is fully accessible to all persons with disabilities?

⁹⁹ This also included the 'AGM' platform used by the European Commission for expert meetings, which is inaccessible.

¹⁰⁰ For example, the regular meetings of the [Multi-Stakeholder Platform on ICT standardisation, which was set up by a Commission decision to advise on matters related to the implementation of ICT standardisation policies](#), do not provide access services such as captioning or sign language interpretation.

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

The [EU Web Accessibility Directive](#) sets out rules to ensure the websites and mobile applications of public bodies in the EU Member States are better accessible to persons with disabilities. Although this directive applies only to Member States, the EU institutions are encouraged to comply with its requirements.

The European Ombudsman opened an [own-initiative inquiry regarding the inaccessibility of the European Commission's public websites](#), including online tool for registering to participate in expert meetings and online platforms hosted by the Commission to facilitate policy debates. A decision was taken in 2018 with six recommendations for the European Commission to implement, such as the adoption of an action plan on web accessibility, comply with the latest international web accessibility standards, mandatory training for its staff, put 'accessibility statements' on its website, improve the accessibility of the JSIS online internal web tool. Such action plan was never presented, but was included in the European Disability Rights Strategy 2021-2030.

In 2019, Siteimprove released the report "[Democracy, Digital Accessibility and the European Union](#)" with foreword of the European Disability Forum. The report identified the European Parliament's website as the website with worst accessibility among all websites of national parliaments.

Capacity-building and training materials, public campaigns, statements and other documents published by the European Union institutions are often not available in accessible formats. For example, at the beginning of the COVID-19 pandemic the EU leaders made a series of public and high-level statements to Europeans about the pandemic and failed to ensure these statements were accessible to persons with disabilities. President von der Leyen addressed the EU without interpretation in International Sign or captioning, and without Easy-to-Read information supplied. This has been rectified after advocacy from the disability community. However, in general statements by EU Commissioners are seldom accessible to Deaf and hard of hearing people and little information is available in Easy-to-Read format.

Suggested questions:

- What steps has the EU taken to implement the recommendations from the European Ombudsman, and to ensure that all EU institutions, bodies and agencies follow the obligations of the Web Accessibility Directive?
- What measures will the EU take to ensure that its communication with EU citizens is accessible to those with disabilities, including through the provision of sign language interpretation, captioning and Easy-to-Read information?

Article 24: Inclusive education

Children with disabilities still face difficulties to access European schools of the EU institutions¹⁰¹ because of discrimination, inaccessibility and failure to provide reasonable accommodation. Exclusion of children with disabilities was highlighted in an EDF's joint

¹⁰¹ European Schools are intergovernmental schools principally designed for children of employees of EU institutions. The European Schools Board is made up of representatives of the EU Member States and the European Commission.

report with Human Rights Watch [“Sink or Swim”: Barriers for Children with Disabilities in the European School System](#) published in 2018.

Since the 2015 Concluding recommendations and the publication of the joint report, the European Schools failed to review their rejection policy of children with disabilities. According to a report published in May 2020, during the 2018-2019 school year, out of a total of 27,176 students¹⁰² 1,993 were receiving intensive support and 2 children with special educational needs were refused admission.¹⁰³

The [Annual plan 2021 of the Office of the Secretary-General of the European Schools](#) foresaw an analysis of the concrete barriers to the curriculum for children with disabilities. It is not clear to which extent this has been conducted.

Suggested questions:

- What initiative will the EU take to ensure that all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools?
- As recommended by the CRPD Committee in 2015, what steps has the EU taken to implement a non-rejection policy on the grounds of disability and ensure inclusive, quality education for all students with disabilities?

Article 25: Health

The CRPD Committee recommended the EU to revise its health insurance scheme for EU staff members and their relatives, the Joint Sickness Insurance Scheme (JSIS), to offer comprehensive coverage for disability-related health needs. The European Ombudsman, conducted a [strategic inquiry](#) on the issue and concluded that the failure of the European Commission to take any effective action in response to the Committee’s recommendation amounted to maladministration. She recommended that the Commission revise the rules governing the JSIS and made a number of suggestions to the Commission relating to how the needs of persons with disabilities are covered under the JSIS, as well as on the need to train staff and properly consult stakeholders to ensure the JSIS reflects the needs of persons with disabilities. We do not know to which extent these recommendations were taken forward by the EU institutions.

In relation to the COVID-19 pandemic, there have been gaps in coverage for COVID-19 and its consequences.¹⁰⁴ Despite calls since March 2020, the JSIS did not recognise COVID-19 as a serious illness. Only some health consequences of the virus could be considered serious, on a case-by-case basis. This means that not all costs related to the virus, such as testing and first-line medical care, benefited from full reimbursement. In May, the Office for the Administration and Payment of Individual Entitlements of the European Commission decided that hospitalisation linked to the virus would be reimbursed from the first night on.

¹⁰² Schola Europaea, [Facts and figures on the beginning of the 2018-2019 school year in the European Schools](#) (December 2018)

¹⁰³ Schola Europea, [Statistic Report on the Educational Support and on the Integration of Pupils with Special Educational Needs into the European Schools in the Year 2018-2019](#) (May 2020)

¹⁰⁴ Raised in March 2020 by Union Syndicale Fédérale in [The Joint Sickness Insurance Scheme and COVID-19 – time to act](#)

Suggested questions:

- What steps has the European Commission taken to apply the recommendations of the European Ombudsman?
- How is the JSIS covering the COVID-19 as serious illness and its potential long-term impact on persons with disabilities?

Article 27: Work and employment

Although the Staff Regulations include a CRPD compliant definition of disability the system is not aligned with the CRPD. The system relies on medical assessments, 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.

Some issues related to reasonable accommodations of employees, in particular in the context of the COVID-19 pandemic, is highlighted under **article 5** above.

It is still unclear precisely how many people working in the EU institutions identify as having a disability, which makes it difficult to monitor their success in achieving an adequate representation of staff with disabilities. The new EU Disability Rights Strategy commits to improving this, and having better outreach and recruitment schemes for persons with disabilities, but at this stage we have little in the way of information of how this will be done and whether it seems likely to create any significant change within the EU institutions.

Suggested questions:

- What initiatives has the EU taken to follow up on the CRPD Committee's recommendation to increase the number of employees with disabilities amongst its staff?
- What initiative will the EU take to adopt a formal policy on reasonable accommodation and accessibility, both for the recruitment procedure and the support the performance of job functions when the person has won the competition?
- How will the commitment to facilitate the recruitment of staff with disabilities, as mentioned in the new Disability Rights Strategy, take shape in practice and what will be the indicators used to show if these measures have been successful or not?