

Recommendations from the UN Committee on the Rights of Persons with Disabilities for the EU and for Member States reviewed

UN Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of the **European Union, 2 October 2015**

II. Positive aspects

5. The Committee notes that for the 2014-2020 programming period, the European Structural and Investment Funds Regulations contain provisions that reflect the entry into force of the Convention and enhance the promotion of equality, non-discrimination, inclusion and accessibility for persons with disabilities through actions under the Funds.

III. Principal areas of concern and recommendations

Living independently and being included in the community (art. 19)

50. The Committee is concerned that across the European Union, persons with disabilities, especially persons with intellectual and/or psychosocial disabilities still live in institutions rather than in their local communities. It notes that, despite changes in regulations, the European Structural and Investment Funds continue to be used in different member States for the maintenance of residential institutions rather than for the development of support services for persons with disabilities in local communities.

51. The Committee recommends that the European Union develop an approach to guide and foster deinstitutionalization and to strengthen the monitoring of the use of the European Structural and Investment Funds so as to ensure that they are used strictly for the development of support services for persons with disabilities in local communities and not for the redevelopment or expansion of institutions. The Committee also recommends that the European Union suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Austria, adopted by the Committee at its tenth session (2–13 September 2013)**

Living independently and being included in the community (art. 19)

36. The Committee notes with concern that over the last 20 years the population of Austrians with disabilities living in institutions has increased. The Committee is particularly concerned at this phenomenon because placing in institutions is contrary to article 19 of the Convention, and leaves persons with disabilities vulnerable to violence and abuse.

37. The Committee recommends that the State party ensure that the federal Government and the governments of the Länder step up efforts towards de-institutionalization and allowing persons with disabilities to choose where they live.

38. The Committee commends Austria on its various personal assistance programmes (at the federal and Länder levels) for persons with disabilities. However, it notes with concern that personal assistance programmes are not available to persons with psychosocial disabilities and that not all cover persons with intellectual disabilities.

39. The Committee recommends that the State party ensure that the personal assistance programmes provide sufficient financial assistance to ensure that a person can live independently in the community. The Committee further recommends that the State party harmonize and broaden its personal assistance programmes by making personal assistance available to all persons with intellectual and psychosocial disabilities.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Belgium, 28 October 2014**

Living independently and being included in the community (art. 19)

32. The Committee notes with concern the high rate of referral to institutional care for persons with disabilities in the State party and the lack of deinstitutionalization plans. It also notes that there is insufficient information on opportunities to continue living in society and the community, since institutional care is too often seen as the only lasting solution. Moreover, there are very few opportunities for persons with disabilities to live independently owing to a lack of investment and the inadequacy of personal assistance services. The Committee is concerned about the policy on registration of institutions that care for French persons with disabilities, in particular children with disabilities, in the State party and the lack of monitoring of such institutions.

33. The Committee recommends that the State party work towards deinstitutionalization by reducing investment in collective infrastructure and promoting personal choice. The Committee urges the State party to implement a disability action plan at all levels of the State to guarantee access to services and an independent life for persons with disabilities so that they are able to live in the community. The action plan must eliminate current waiting lists and ensure that persons with disabilities have access to sufficient financial resources and that communities are accessible for persons with disabilities. The Committee recommends that the State party devise international cooperation programmes that respect the right of persons with disabilities to live in the community and involve disabled persons' representatives and their families in their preparation.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of Croatia, 15 May 2015

Living independently and being included in the community (art. 19)

29. The Committee is concerned that not all residential institutions, such as small private institutions, wards for long-term care in psychiatric institutions and foster homes for adults, are covered by the deinstitutionalization plan. It is also concerned that a legal framework providing for personal assistance services allowing for independent living in the community is lacking and that such services are only available to a limited number of persons with disabilities.

30. The Committee recommends that the process of deinstitutionalization include all residential institutions and foster homes for all persons with disabilities. It recommends that a legal framework be adopted to provide for entitlement to personal assistance services in the community and that a process be initiated to make local communities and mainstream services accessible to persons with disabilities.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of Cyprus, 8 May 2017

Living independently and being included in the community (art. 19)

43. The Committee is deeply concerned about the significant number of persons with disabilities who are currently still institutionalized.

44. The Committee recommends that the State party, in close collaboration with representative organizations of persons with disabilities, and in line with article 4 (3) of the Convention:

- (a) Develop and implement safeguards securing the right to independent living;
- (b) Adopt and immediately implement an adequately funded deinstitutionalization strategy;
- (c) Redirect resources allocated to institutionalization and earmark and allocate them to community-based services and increase the budget enabling persons with disabilities to live independently across the State party with access to individually assessed and adequate services, including personal assistance, within the community.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of the Czech Republic, 15 May 2015

Living independently and being included in the community (art. 19)

38. The Committee notes with concern that the State party continues to invest more resources in institutional settings than in support services that would enable persons with disabilities to live independently in their respective local communities. It also notes with concern the lack of plans to provide support services in local communities for older persons with disabilities.

39. The Committee urges the State party to step up the process of deinstitutionalization and to allocate sufficient resources for the development of support services in local communities that would enable all persons with disabilities, regardless of their impairments, gender or age, to choose freely with whom, where and under which living arrangements they will live, in line with the provisions of article 19 of the Convention.

40. The Committee recommends that the State party take all measures necessary to ensure that policy processes for deinstitutionalization, including the development of the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, have a clear timeline and concrete benchmarks for implementation that are monitored effectively at regular intervals. In particular, the Committee urges the State party to abolish the placement of children under 3 years of age in institutionalized care as soon as possible.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Denmark, 30 October 2014**

Living independently and being included in the community (art. 19)

42. The Committee is concerned about the increased construction, by municipalities, with State-guaranteed loans, of large institution-like residences for persons with disabilities, with thirty to sixty or even more residents, often outside city centres. It is also concerned about the recent surveys indicating the limited possibility for persons with disabilities to freely choose where to live, which has included instances of forced relocation.

43. The Committee recommends that the State party end the use of State-guaranteed loans to build institution-like residences for persons with disabilities; that it amend the legislation on social services so that persons with disabilities may freely choose where and with whom they live, while enjoying the necessary assistance to live independently; and that it take measures to close existing institution-like residences and to prevent the forced relocation of persons with disabilities, in order to avoid isolation from the community.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Germany, 13 May 2015**

Living independently and being included in the community (art. 19)

41. The Committee is concerned about the high levels of institutionalization and the lack of alternative living arrangements or appropriate infrastructure, which present additional financial barriers for persons with disabilities. Furthermore, it is concerned that, currently, access to benefits and support services impedes the right to live in the community with an adequate standard of living, owing to the means-testing of those benefits, which do not cover disability-related expenses.

42. The Committee recommends that the State party:

(a) Take steps towards the legal reform of section 13, paragraph 1 (3), of the Twelfth Book of the Social Code for increased social assistance services to enable inclusion, self-determination and the choice to live in the community;

(b) Allocate sufficient financial resources to facilitate deinstitutionalization and promote independent living, including increased financial resources to provide community-based outpatient services providing the required support to persons with intellectual or psychosocial disabilities based on the free and informed consent of the individual concerned, across the whole country;

(c) Increase access to programmes and benefits to support living in the community and ensure they cover disability-related costs.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial periodic report of Hungary, adopted by the Committee at its eighth session (17-28 September 2012)

Living independently and being included in the community (art. 19)

33. The Committee takes note that the State party has recognized the need for the replacement of large social institutions for persons with disabilities in community-based settings (deinstitutionalization). The Committee, however, notes with concern that the State party has set a 30-year time frame for its plan for deinstitutionalization. It is furthermore concerned that the State party has dedicated disproportionately large resources, including regional European Union funds, to the reconstruction of large institutions, which will lead to continued segregation, in comparison with the resources allocated for setting up community-based support service networks. The Committee is concerned that the State party fails to provide sufficient and adequate support services in local communities to enable persons with disabilities to live independently outside a residential institutional setting.

34. The Committee calls upon the State party to ensure that an adequate level of funding is made available to effectively enable persons with disabilities to: enjoy the freedom to choose their residence on an equal basis with others; access a full range of in-home, residential and other community services for daily life, including personal

assistance; and enjoy reasonable accommodation with a view to supporting their inclusion in their local communities.

35. The Committee further calls upon the State party to re-examine the allocation of funds, including the regional funds obtained from the European Union, dedicated to the provision of support services for persons with disabilities and the structure and functioning of small community living centres, and to ensure full compliance with the provisions of article 19 of the Convention.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Italy, 6 October 2016**

Living independently and being included in the community (art. 19)

47. The Committee is deeply concerned about the trend to re-institutionalize persons with disabilities and that funds are not being reallocated from institutions to promoting and ensuring independent living for all persons with disabilities within their community. Furthermore, it notes with concern the gendered consequences of the current policies where women are “forced” to remain within the family as caregivers of their peers with disabilities instead of being employed in the labour market.

48. The Committee recommends that the State party implement safeguards to retain the right to autonomous independent living across all regions, and redirect resources from institutionalization to community-based services and increase budget support to enable persons with disabilities to live independently across the country and have equal access to services, including personal assistance.

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Committee on the Rights of Persons with Disabilities - Concluding Observations in relation to the initial report of **Latvia, 29 August 2017**

Living independently and being included in the community (art. 19)

30. The Committee is concerned about the:

(a) Slow process of deinstitutionalization of persons with disabilities and allegations that residents are being transferred between institutions under the guise of deinstitutionalization;

(b) Absence of a strategy to ensure the continuity of deinstitutionalization after termination of the support by the European Structural Funds;

(c) Lack of municipalities’ commitment to the deinstitutionalization process including as a result of the low level of knowledge about independent living;

(d) Excessive administration and limited provision of personal assistance for persons with disabilities.

31. The Committee urges the State party to:

(a) Expedite the complete deinstitutionalisation of all persons with disabilities within a set timeframe for closing all remaining institutions, both state and municipal-run, ensuring that residents are not subject to trans-institutionalization;

(b) Reinforce engagement of municipalities in implementing the deinstitutionalization strategy including through raising awareness about independent community-based living for persons with disabilities and ensuring the sustainable provision of services to promote independent living following termination of the European Structural Funds;

(c) Ensure the provision of quality personal assistance that takes into account the individual needs of persons with disabilities and ensures their social inclusion and participation.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of Lithuania, 11 May 2016

Living independently and being included in the community (art. 19)

39. The Committee is deeply concerned at the lack of sufficient choice and range of adequate support mechanisms, including independent living schemes, to ensure that persons with disabilities can access accommodation within their local community, regardless of their sex, age or impairment. In particular:

(a) Many children under 3 years of age with disabilities are still placed in residential institutions;

(b) There are no guarantees that all younger persons with disabilities have realistic options of choosing not to live in residential facilities for the elderly;

(c) There is no programme for individualized personal and financial assistance allowing persons with disabilities to live independently in the community, and a lack of range of community-based services.

40. The Committee recommends that the State party, in close collaboration with organizations of persons with disabilities:

(a) Adopt an adequately funded strategy for deinstitutionalization ensuring a range of community-based services for the social inclusion of persons with disabilities, including for children with intellectual and/or psychosocial impairments, including their right to live independently in the community, with the possibility of individualized personal assistance support services in their home;

(b) Effectively implement the action plan for the implementation of the national programme for the social integration of persons with disabilities for the period 2013-2019 at all levels of the State;

(c) Adopt a moratorium on new admissions of children into institutionalized care;

(d) Eliminate excessive waiting time for receiving support services by investing in developing new services and rendering existing services accessible and inclusive and ensure that persons with disabilities have access to sufficient financial resources for independent living and improved access to accessible services in the community.

41. The Committee is concerned that the national budget and European Union structural funds have been used in renovating existing institutional facilities and in constructing new ones.

42. The Committee recommends that the State party further prioritize investing in a social service system for independent living in the community, and immediately refrain from using national and structural funds of the European Union to renovate, maintain or construct residential institutions for persons with disabilities.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of Luxembourg, 29 August 2017

Living independently and being included in the community (art. 19)

36. The Committee is concerned about:

(a) Laws in place, including the reform to Act 7014 of 8 July 2016, which continue to curtail the right to independent living by setting limits and controls on persons with disabilities;

(b) The lack of an action plan for the deinstitutionalization of persons with disabilities with a specific timeline and appropriate funding;

(c) The absence of a clear strategy to promote and ensure the transition to full independent living for all persons with disabilities within the community, including with support of a personal assistant, and that future plans and construction projects still contain elements that limit the rights of persons with disabilities under article 19.

37. The Committee recommends that the State party take into account the General Comment No. 5 on article 19 of the Committee (2017) and:

(a) Adopt the necessary legal and other measures, including repealing Reform Act 7014 and relevant disability insurance systems, replacing them by legislation promoting the right to independent living and being included in the community and providing for, among others, personal assistance, and clarifying the responsibilities and resource allocations of central and local authorities;

(b) Develop and implement an effective deinstitutionalisation plan, with a clear timeframe and benchmarks, involving persons with disabilities through their representative organizations in all stages;

(c) Adopt the necessary measures to ensure that persons with disabilities have a legal entitlement to a sufficient personal budget for independent living, which takes into account the additional costs related to disability, and at the same time, redirect resources from institutionalization to community-based services increasing the availability of personal assistance.

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Committee on the Rights of Persons with Disabilities - Concluding Observations on the initial report of **Portugal, 18 April 2016**

Living independently and being included in the community (art. 19)

38. The Committee is concerned about the lack of a national policy for independent living in the State party, the lack of regulations governing personal assistance, and the fact that the amount currently paid for 'Third person assistance allowance' is very low, resulting in some persons in the State party being forced to live in institutions for persons with disabilities or in homes for older people, in which the State Party invest more than in support for living independently. It is also concerned that the National Mental Health Plan 2007-2016, which aims to extend the National Network for Integrated Continuous Care, has yet to put in place community-based services.

39. The Committee recommends that the State party, in close consultation with representative organisations of persons with disabilities, adopt a national strategy for independent living, including increased investment in living independently in the community rather than in institutions, regulate in the field of personal assistance, and offer wider access to sign language interpreters and deafblind sign language interpretation in its public services. Furthermore, the Committee urges the State party to establish community-based support services for persons with intellectual and psychosocial disabilities.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of **Slovakia, 17 May 2016**

Living independently and being included in the community (art. 19)

55. The Committee is deeply concerned by the high number of institutionalized persons with disabilities, in particular women with disabilities; that progress on the deinstitutionalization process is too slow and partial; about the ongoing investments from government budgets in institutions; and the lack of provision of full support for persons with disabilities to live independently in their communities.

56. The Committee recommends that the State party provide and implement a timetable to ensure that the implementation of the deinstitutionalization process is expedited, including by putting in place specific additional measures to ensure that community-based services are strengthened for all persons with disabilities, in particular women with disabilities and older persons with disabilities. Furthermore, the State party should ensure that the use of European structural and investment funds complies with article 19 and that new follow-up national action plans on the transition from institutional settings to community-based support are initiated with the comprehensive involvement of organizations of persons with disabilities and civil society organizations, including in the area of monitoring. The Committee also recommends that the State party no longer allocate resources from the national budget to institutions and that it reallocate resources into community-based services in accordance with the investment priorities of the European Regional Development Fund (art. 5.9 (a) of European Union regulation No. 1303/2013).

57. The Committee is concerned at the geographic variation and unequal financial support of community-based social services and home-care services for persons with disabilities, including older persons, and at the slow rate of the remuneration process on behalf of the State party.

58. The Committee recommends that the State party ensure the equal distribution of resources for social care, with an emphasis on community-based services. The Committee also recommends that the State party ensure that community-based social services and home-care services are available in all geographic regions and rural areas, and that funds are allocated to persons with disabilities who require them, especially those who are unemployed or in low-wage employment.

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Committee on the Rights of Persons with Disabilities - Concluding observations of the Committee on the Rights of Persons with Disabilities - Spain, 19 October 2011

Living independently and being included in the community (art. 19)

39. The Committee is concerned at the lack of resources and services to guarantee the right to live independently and to be included in the community, in particular in rural areas. It is further concerned that the choice of residence of persons with disabilities is limited by the availability of the necessary services, and that those living in residential institutions are reported to have no alternative to institutionalization. Finally, the Committee is concerned about linking eligibility of social services to a specific grade of disability.

40. The Committee encourages the State party to ensure that an adequate level of funding is made available to effectively enable persons with disabilities: to enjoy the freedom to choose their residence on an equal basis with others; to access a full range of in-home, residential and other community services for daily life, including personal assistance; and to so enjoy reasonable accommodation so as to better integrate into their communities.

41. The Committee is concerned that the law for the promotion of autonomy limits the resources to hire personal assistants only to those persons who have level 3 disabilities and only for education and work.

42. The Committee encourages the State party to expand resources for personal assistants to all persons with disabilities in accordance with their requirements.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of Sweden, 12 May 2014

Living independently and being included in the community (art. 19)

43. The Committee is concerned that State-funded personal assistance has been withdrawn for a number of people since 2010 due to a revised interpretation of “basic needs” and “other personal needs”, and that persons who still receive assistance have experienced sharp cutbacks, the reasons for which are unknown or only seemingly justified. It is further concerned at the reported number of positive decisions under the Swedish Act concerning Support and Service for Persons with Certain Functional Impairments that are not executed.

44. The Committee recommends that the State party ensure that personal assistance programmes provide sufficient and fair financial assistance to ensure that a person can live independently in the community.

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Committee on the Rights of Persons with Disabilities - Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland, 29 August 2017

Living independently and being included in the community (art. 19)

44. The Committee is concerned about:

(a) That legislation fails to recognise living independently and being included in the community as a human right which enshrines individual autonomy, control and choice, as intrinsic aspects of the right to independent living;

(b) Policies and measures that affect the ability to live independently in the community, such as the lowering of social protection schemes related to housing, household income and budgets for independent living, as well as the closure of the Independent Living Fund.

(c) The transferred responsibility to the devolved administrations and local authorities for supporting independent living without providing appropriate and earmarked budget allocation;

(d) The fact that many persons with disabilities are still institutionalised and deprived of the right to live independently and being included within the community, when: i) persons with disabilities lack financial resources to afford personal assistance ii) local authorities are of the opinion that they can provide assistance within care homes, and iii) cost rationale constitutes the main parameter of an assessment; and

(e) The lack of support services and accessible public facilities, including personal assistance, for persons with disabilities, regardless of sex, gender, age and other status, to live independently and be included in the community.

45. The Committee recommends that the State party, in line with the Committee's General Comment no. 5 (2017) Living independently and being included in the community and the Committee's Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention (CRPD/C/15/R.2/Rev.1):

(a) Recognise the right to living independently and being included in the community as a subjective right and the enforceability of all its elements and adopt rights-based policies, regulations and guidelines for ensuring implementation;

(b) Conduct periodic assessments in close consultation with organisations of persons with disabilities to address and prevent the negative effects of the policy reforms through sufficiently funded and appropriate strategies in the area of social support and living independently;

(c) Provide adequate and sufficient and earmarked funding to local authorities and administrations, the devolved governments to be able to continuously allocate adequate resources allowing persons with disabilities to live independently and be included in the community and to exercise their right to choose their place of residence and where, and with whom to live;

(d) Set up a comprehensive plan, developed in close collaboration with organisations of persons with disabilities, aimed at deinstitutionalisation of persons with disabilities, and develop community-based independent living schemes through a holistic and crosscutting approach, including education, childcare, transport, housing, employment and social security; and

(e) Allocate sufficient resources to ensure that support services are available, accessible, affordable, acceptable and adaptable sensitive to different living conditions for all persons with disabilities in urban and rural areas.

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