

EASPD's reaction to EU reply on UN CRPD List of Issues of the EU report on the implementation of the UN CRPD

Introduction

EASPD (European Association of Service providers for Persons with Disabilities) is a European NGO network representing over 11,000 social and health support provider organisations across Europe and across disabilities. Its objective is to promote equal opportunities for people with disabilities through effective and high-quality service systems. We work towards ensuring the full implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and we are accredited to the Conference of States Parties to the CRPD.

Service provision in the disability sector has been undergoing substantial changes over the past years, and many services that were set up according to the medical-based approach to disability are currently moving away from this model towards the social rights model introduced by the UN CRPD whereby needs and preferences of the individual are at the core of the attitude towards disability. These fundamental changes in the services' design and delivery are clearly yet to be fully accomplished, in the policy and in the practice, and they represent the challenge for the service provision of tomorrow as well as for policy makers at EU and national level.

This report provides EASPD's reaction to the EU reply to the United Nations List of Issues on the European Union report. Key articles that have an impact on the set-up and delivery of support provision have been assessed against information provided by the European Union in its Reply to the UN Committee (SWD 2015/127).

This report provides also recommendations to the EU on how to improve its positive influence on the development of disability friendly legislation and practices in the European Union in order to further raise awareness, promote models of good practice and ultimately ensure enjoyment of human rights for persons with disabilities.

Further information on EASPD's assessment of the EU report on the implementation of the UN CRPD is available in EASPD's Alternative Report¹.

More information on EASPD is available on www.easpd.eu.

¹ EASPD Alternative Report on the implementation of the UN CRPD by the European Union:
http://www.easpd.eu/sites/default/files/sites/default/files/easpd_alternative_report_en_final_1.pdf



EASPD's recommendations

In the following paragraphs, an assessment of EASPD is provided back to back to the specific requests included in the "List of issues in relation to the initial report of the European Union" of the UN Committee on the Rights of Persons with Disabilities.

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A. Purpose and general obligations (arts. 1–4)

List of issues in relation to the initial report of the European Union:

2. Please indicate what steps the European Union is taking to develop a strategy on the implementation of the Convention within the EU, including all its institutions.

EASPD reaction: the role of the European Disability Strategy

The European Union has issued a European Disability Strategy (EDS). The Strategy covers key areas for the implementation of the UN CRPD at European level; however, the role of individualised support services is not structurally integrated. In the Strategy, social and health support services are hardly mentioned. The main focus of the EDS is to improve the accessibility of mainstream services and products, which is clearly a vitally important objective, but it overlooks the fact that, for many disabled people, individualised forms of support are preconditions for the enjoyment of rights.

The following represent our main concerns on the effective implementation of the European Disability Strategy:

- The EDS is not mainstreamed across EU legislation. This has obviously deleterious effects as it prevents a uniform and consistent approach to disability policies and hinders the promotion of an inclusive society in the EU.
- The role of support service provision is not structurally integrated in the strategy, which is consequently reflected in a lack of support services perspective in EU policies. This not only contributes to a misperception of the needs of people with disabilities but also, by failing to give due prominence to those needs, it undermines the required collaboration between mainstream and disability organisations. As an example of this, there are no specific references to intellectual disabilities, complex and high support needs and mental health in the Strategy. The Strategy appears presently over-focused on the specific situation of persons with physical disabilities, and this oversimplification omits the needs of many persons with disabilities requiring more substantial forms of support.
- Persons with disabilities and their support services should be structurally involved in the development of policy plans about disability.
- The EDS is not structurally integrated into the European Semester, perhaps the most important EU policy affecting national social policies and consequently the well-being of persons with disabilities

Key message

The lack of recognition of the support dimension in the European Disability Strategy puts the viability of services under threat. It should be an EU priority to protect and promote the rights of people with disabilities, and this must also include the provision of quality, adequate, accessible, affordable and individualised support services.



B. Specific rights (arts. 5–30)

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

List of issues in relation to the initial report of the European Union:

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22. Please explain how European funding, especially the European Structural and Investment Fund (ESIF), is used to ensure, protect and promote the inclusion of persons with disabilities in their local communities? How are representative organisations of persons with disabilities involved in the policy-making, implementation, monitoring and evaluation of the use of that funding?

23. In 2012, the European Union Agency for Fundamental Rights (FRA) published a report on the right to independent living. Please indicate what measures were taken to carry out the recommended “efforts on de-institutionalisation accompanied by reforms in the areas of education, healthcare, employment, culture and support services” (paragraph 106).

EASPD reaction: the use of EU Structural and Investment Funds

The European Union has strengthened the legal framework of the Structural and Investment Funds (ESI Funds) for the 2014-2020 period by introducing ex ante conditionalities. Partnership Agreements between the European Union and Member States regulate the use and the implementation of the funds. It is essential for the EU to implement stronger monitoring and evaluation mechanisms to prevent misuse of funds and implement real opportunities for the enjoyment of human rights.

The EU could strengthen its commitment on this issue by delivering a specific Communication on the transition from segregating-institutional settings to community-based ones to mark the change required in the design and delivery of service provision and the engagement needed at all levels across sectors.

The European Expert Group on transition from institutional to community-based care² provides a unique platform, gathering expertise from stakeholders at all levels, committed to the promotion and development of community-based services and, although its cooperation with the EU is well established, there is insufficient financial support to further its impact and maximise cooperation between the EU and grassroots organisations represented in the Group through their member organisations.

Key message

The lack of individualised support for persons with disabilities is not only detrimental for the individual's life and personal development, but also a clear violation of rights under the UN CRPD. The European Union must put an end to the misuse of the Structural and Investment Funds by strengthening its monitoring and evaluation mechanisms. Moreover, the EU could strengthen its commitment on this issue by:

- Delivering a specific Communication on the transition from segregating-institutional settings to community-based ones to mark the change required in the design and delivery of service provision and the engagement needed at all levels across sectors.
- Providing structural support to EU level coalitions such as the *European Expert Group on transition from institutional to community-based care*.

² <http://deinstitutionalisationguide.eu/>



Education (art. 24)

List of issues in relation to the initial report of the European Union:

27. Please indicate what concrete initiatives the European Union has taken to ensure that the funding instruments and the actions of Member states towards fulfilment of the education targets within the Europe 2020 Strategy promote inclusive quality education. In what way are representative organisations of persons with disabilities involved in the monitoring at EU and Member State level?

28. Please clarify whether there are disability specific indicators in the Europe 2020 strategy when pursuing the target on education.

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EASPD reaction: the role of the EU Agency for Special Needs and Inclusive Education

The economic crisis has negatively affected general education, and the impact has been all the greater on already vulnerable groups such as students with disabilities. Resources available for early detection, personalised student support and adequate teacher training have been limited, resulting in higher school dropout rates from pupils with disabilities and diminishing the proportion of these students going on to third level education. Moreover, budget cuts due to austerity measures have put on hold positive developments in the transition process from “special schools” to inclusive education settings.

Key message

The EU should strengthen the mandate of the European Agency for Special Needs and Inclusive Education and align it to the principles enshrined in the UN CRPD as currently this Agency provides policy recommendations without giving clear inputs and commitments on how to implement them.

Work and employment (art. 27)

List of issues in relation to the initial report of the European Union:

31. Please provide precise data on amount of money invested in wage subsidies for workers with disabilities employed at the open labour market, in work place adaptations at the open labour market and in the hiring of work place assistants for workers with disabilities employed at the open labour market.

32. Please indicate what concrete steps the European Union has taken to ensure that persons with disabilities are prioritised in all EU policy-making and implementation on employment, such as the Europe 2020 strategy and the EU funding instruments, and that the effect is measured in a comparative way across the EU Member States?

The European Semester³ gives civil society the opportunity to bring issues to the attention of policy makers at both national and EU level. As a tool aiming to support the achievement of the Europe 2020 targets, the European Semester offers an important opportunity to increase the participation of civil society organisations and social partners into both European and national policymaking procedures. However, there is a lack of meaningful consultation of actors at national level, as well as little transparency in the decision-making of the European Semester process⁴.

³ http://ec.europa.eu/economy_finance/economic_governance/the_european_semester/index_en.htm

⁴ 2015, EASPD, Europe 2020 and the European Semester Bringing Wellbeing to All?

http://easpd.eu/sites/default/files/sites/default/files/final_easpd_report_on_es_2014.pdf



The European Semester also plays a significant role pushing for reform of several Member States' education systems, social protection systems and actions promoting employability; all having a major impact on the participation of persons with disabilities in society. However, it is sometimes difficult to understand why reforms are recommended in these areas in some countries but not in others where the issue is just as important. In addition, some recommendations are not done in a holistic approach aiming to create more inclusive settings as a whole. For instance, several country-specific recommendations have pushed for actions related to employability, whilst they should also call for actions to be taken regarding creating a more inclusive labour market.

Key Message

The European Semester and the Country Specific Recommendations should be used to implement the UN CRPD and to promote positive changes in service provision.

The European Commission should promote and streamline a holistic approach to its policies related to social inclusion; be it in tackling poverty, promoting the employment of persons with disabilities or inclusive education settings.

Adequate standard of living and social protection (art. 28)

List of issues in relation to the initial report of the European Union:

33. Please provide data on the effects of the international financial crisis and the austerity measures taken on the daily life of persons with disabilities in EU Member States.
34. Please provide information on programmes targeted at the reduction of poverty of persons with disabilities, especially women, girls and boys with disabilities.

EASPD reaction: adequate standard of living & austerity measures promoted by the EU

Support services for persons with disabilities are increasingly struggling to survive, instead of focusing on offering the best possible services to their users. Innovative services are often the first ones to be cut, creating a serious danger of regression towards institutionalised settings. Yet, the number of persons with disabilities, especially persons with high support needs, is rising and their living conditions are getting worse. As a consequence, the need for a strong support infrastructure has never been as high as it is today.

The support services sector is also suffering from human resources shortages and from a lack of qualified professionals. Indeed, care and support professionals are leaving the sector, because it offers poor working conditions and very few attractive career opportunities⁵. Professionals now have to work under deteriorating working conditions that put them at a higher risk of burnout or of changing professions. In a time where the demand for support and care services is increasing, it is essential that policy-makers take proactive steps to ensure that the sector receives sustainable and adequate funding, which support the recruitment of skilled staff. Yet, it is also important for policy makers to take pro-active steps to improve the attractiveness of the sector in order to be able to recruit skilled staff. This can be done supporting the development of social dialogue structures in the sector, where social partners will be able to discuss and negotiate on how to improve the sector's attractiveness and working conditions. This would result in helping to unlock the important job creation potential in the sector due to rising demand. The current situation is not favourable to end-users who should unconditionally receive the support they require.

⁵ 2013, Vlerick Business School, HR Strategies and recommendations for improving the attractiveness of the social services sector in Europe.
http://www.easpd.eu/sites/default/files/sites/default/files/Policy/Vlerick/gsb_report_easpd.pdf



Key message

The European Commission encourages cuts to public expenditure, which frequently result in cuts to expenditure on social and health services and social protection measures; at the same time it also wishes the European Union to be a model of inclusiveness. This contradictory approach cannot lead to success. Often the most innovative, person-centred individualised support services suffer the most from austerity policies promoted by the EU. One of the effects of this situation is a tendency towards re-institutionalisation, lack of access to the labour market and to mainstream education.

C. Specific obligations

Implementation and monitoring (art. 33)

List of issues in relation to the initial report of the European Union:

39. Please explain how the currently existing EU Monitoring Framework is considered an independent monitoring mechanism in accordance with the Paris Principles, in particular its criteria of independence and allocation of sufficient financial and human resources.

40. Please provide information as to what extent persons with disabilities and their representative organizations have been actively involved in all processes of implementation, monitoring and evaluation of the Convention in the European Union.

Key message

The composition of the EU level framework set up under Article 33 of the UN CRPD does not currently represent a pluralistic participation of different civil society organisations as according to the Paris Principles. If inclusion of persons with disabilities in society is to be reached, it is essential to lead by example and set up inclusive approaches also in frameworks overlooking the implementation of the CRPD in order to promote dialogue and cooperation with mainstream actors.

D. EU Institutions Compliance with the Convention (as public administrations)

Education (art. 24)

List of issues in relation to the initial report of the European Union:

44. Please provide information on available quality inclusive education programmes for children with disabilities, members of families of EU civil servants, attending European schools.

EASPD reaction

The new *Policy on the Provision of Educational Support in the European Schools* adopted by the Board of Governors of the European Schools in 2012 does not foresee inclusive education systems for all pupils regardless of their disability. Indeed, the Policy clearly recognises in a specific "Caveat" that "*European Schools do not offer a fully inclusive education system. This means that there may be occasions where despite the school's best efforts, continuing education in the European School is not in the best interest of the child. This may become apparent either before admission or during the*



child's school career." Moreover, it provides European schools with a specific entitlement to "declare itself not to be able to meet the needs of the pupil and to recommend that the parents seek an alternative solution for their child's education".

Key message

The EU should work towards ensuring fully inclusive education systems for family members of EU civil servants attending European schools within its services, regardless of the type of disability and support needed.

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Work and employment (art. 27)

List of issues in relation to the initial report of the European Union:

45. Please indicate the percentage of persons with disabilities employed within EU institutions, and if there is any specific policy concerning their employment.

Key message

The EU institutions lack sufficient support structures for staff members who have a disability and for their family members. Only a very small percentage of persons with disabilities are employed within the EU institutions, with an over representation within that group of persons with physical disabilities. The European Union currently does not have a specialised service for the employment of persons with disabilities, nor any specific policy addressing this issue within its bodies.

Stronger leadership should be taken by European institutions to trigger positive developments across the Member States and the set-up of a supported employment agency could help to lead by example, providing guidance to all Member States.

Contacts

Luk Zelderloo

Secretary General

T. +32 2 282 46 10

luk.zelderloo@easpd.eu

www.easpd.eu



Sabrina Ferraina

Senior Policy Officer

T. +32 2 282 46 15

sabrina.ferraina@easpd.eu

www.easpd.eu



EASPD (European Association of Service providers for Persons with Disabilities) promotes equal opportunities for people with disabilities through effective and high quality service systems in Europe, representing over 11,000 social and health service provider organisations across Europe and across disabilities. EASPD believes in quality affordable, accessible and adaptable services that improve the quality of life. EASPD works towards ensuring the full implementation of the UNCRPD and is accredited to the Conference of States Parties to the CRPD.



This publication has been produced with the financial support of the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020). The information contained in this publication does not necessarily reflect the official position of the European Commission.