



## INFORMATION NOTE TO CRPD COMMITTEE EXPERTS

### Disability priorities at the European level

### July 2023

The [European Disability Forum](#) is an umbrella organisation of persons with disabilities that defends the interests of over 100 million Europeans with disabilities. We are a unique platform which brings together representative organisation of persons with disabilities from across Europe. We are run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

This information note aims at informing the independent experts of the CRPD Committee about the main priorities at the European level and regional issues that directly affect persons with disabilities in their countries.

**We highly encourage the experts to consider these issues during the review of European countries.**

In the upcoming session and pre-session, the Committee will review CRPD implementation in **Austria** and **Germany** and adopt its List of issues on **Finland** and **Slovenia**.

Several points of the document have been updated since the information note sent in February 2023, including in relation to the Hague Convention on Protection of Adults, accessibility, use of EU funds and humanitarian actions.

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## Council of Europe

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 [46 Member States](#) which have ratified the European Convention of Human Rights and are therefore overseen by the European Court of Human Rights, an entity distinct from the European Union. 45 Member States of the Council of Europe ratified the CRPD.

**Austria, Germany, Finland and Slovenia are members of the Council of Europe.**

### 1. Ratification of the Istanbul Convention on violence against women

The [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) called “Istanbul Convention” was adopted by the Council of Europe in 2011.

10 countries [have not ratified the Convention](#), namely: Armenia, Azerbaijan, Bulgaria, Czechia, Hungary, Latvia, Liechtenstein, Lithuania, Slovakia and the United Kingdom.

**Austria, Germany, Finland and Slovenia are among the countries that ratified the Convention.**

The European Union acceded to the Convention in May 2023.

**Relevant CRPD article: Article 16 - Freedom from exploitation, violence and abuse**

Suggested question:

- Provide information on the steps and timeframe undertaken to ensure the swift implementation of the Istanbul Convention.

Suggested recommendation:

“Recommends that the State party enact legislation, including monitoring mechanisms, to detect, prevent and combat violence within and outside the home of persons with disabilities, especially for women and children with disabilities, and that it produces an action plan to implement the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which specifically address women and girls with disabilities.” – as in CRPD Concluding Observations to Italy (CRPD/C/ITA/CO/1)

## 2. Withdrawal of the draft additional protocol to the Oviedo Convention – on forced treatment and placement of persons with psychosocial disabilities

Since 2014, under the mandate received from Member States of the Council of Europe, the Committee of Bioethics of the Council of Europe (DH-BIO Committee) has been working on a draft additional protocol to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention) concerning the protection of human rights and dignity of “persons with mental disorders”. This protocol is based on the medical model of disability and violates the CRPD.

The CRPD Committee adopted a [statement against the draft protocol](#) during its 20<sup>th</sup> session. Another [press release](#) was published by OHCHR in May 2021 highlighting concerns and opposition of UN experts, including the Chair of the CRPD Committee and the Special Rapporteur on the Rights of Persons with Disabilities. The draft additional protocol is also criticised by the Commissioner for Human Rights and the Parliamentary Assembly of the Council of Europe. The disability movement strongly opposes to the adoption of the draft protocol.

**In May 2022 the Committee of Ministers of the Council of Europe [took the decision](#) to suspend the adoption of the draft additional protocol to the Oviedo Convention until the end of 2024.**

The Committee of Ministers decided to instruct the [Steering Committee for Human Rights in the fields of Biomedicine and Health](#) (CDBIO, formerly known as DHBIO) to complete by 31 December 2024 a draft recommendation promoting the use of voluntary measures in mental health care services and a report on the case law of the European Court of Human Rights relevant to mental health.

There is still a risk that the draft additional protocol be adopted once those deliverables are completed. Hence the disability movement continues to call European countries to ask for the withdrawal of the draft additional protocol, and instead support recommendations which text should comply with the CRPD and promote free and informed consent, as well as bodily autonomy.

### **Relevant CRPD article: Article 14 - Liberty and security of person**

#### Suggested questions:

Please provide information on plans to oppose to the adoption of the draft additional protocol to the Oviedo Convention of the Council of Europe in the Committee of Ministers, and instead redirect efforts to develop and implement voluntary measures in line with the CRPD.

#### Suggested recommendations:

'Calls upon the State party to oppose to the adoption of the draft Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention) of the Council of Europe, in line with its obligations under article 14 of the Convention', and instead redirect efforts to develop and implement voluntary measures in line with the CRPD.

(See [CRPD Committee statement against the draft additional protocol](#) and Concluding observations to Slovenia ([CRPD/C/SVN/CO/1](#)), paragraph 24).

## **Hague Convention on the International Protection of Adults**

In 2000, the Hague Conference adopted a [Convention on the Protection of Vulnerable Adults](#). It entered into force in 2009.

As of July 2023, it has been **ratified by 15 European countries**: **Austria**, Belgium, Cyprus, Czech Republic, Estonia, **Finland**, France, **Germany**, Greece, Luxembourg, Malta, Monaco, Portugal, Switzerland and the United Kingdom.

**5 countries have signed but not ratified the Convention**: Ireland, Italy, Luxembourg, Netherlands and Poland.

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:

- determines which courts have jurisdiction to take protection measures
- determines which law is to be applied; and who may be a "vulnerable person"
- establishes a system of central authorities which should cooperate, locate "vulnerable adults" and give information on the status of vulnerable persons to other authorities

A risk of the ratification of the 2000 Hague Convention is that its implementation could promote measures of substituted decision making and foster institutionalisation, when Member States do not implement it in compliance with the CRPD.

The [EU Disability Rights Strategy 2021-2030](#) includes a concrete reference to the 2000 Convention. It indicates that the European Commission "will work with Member States to implement the 2000 Hague Convention on the international protection of vulnerable adults in line with the UNCRPD, 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 Council of the EU adopted [Council conclusions on the Protection of Vulnerable Adults across the European Union](#) in June 2021 that recommends that EU Member

States “ensure that the national measures on the protection of vulnerable adults are in line with the CRPD.”

**In May 2023, the European Commission published a [proposal of a law – a regulation – on protection of adults](#), which if adopted will incorporate into EU law the rule of the 2000 Hague Convention, including substituted decision-making regimes and decision on placement. This proposal will be negotiated in the Council of the EU (representing Member States) and in the European Parliament.**

**Relevant CRPD article: Article 12 - Equal recognition before the law**

Suggested questions:

For countries that ratified the 2000 Hague Convention:

- Provide information on measures taken to ensure that the State implement the 2000 Convention in line with the CRPD. Please report on the implementation of the 2000 Convention and cases in which the Convention was used to protect the rights of persons with disabilities and ensure their right to self-determination and free movement.

For countries that **did not** ratify the 2000 Hague Convention:

- Please provide information on steps taken to ensure that national measures on the protection of adults, including in cross border situation, are in line with the CRPD and recommendations of the EU Council conclusions on the Protection of Vulnerable Adults across the European Union adopted in June 2021.

- Please inform whether the State Party is planning to ratify the 2000 Hague Convention, and which safeguards it will adopt to ensure that implementation is done in line with the CRPD Committee.

Suggested recommendations:

For countries that ratified the 2000 Hague Convention:

- Take measures to ensure that the implementation of the 2000 Hague Convention on the International Protection of Adults does not violate the right of equality before the law and legal capacity of persons with disabilities, and to put in place supported decision making mechanisms.

- Assess the impact of the implementation of the 2000 Hague Convention on the International Protection of Adults on persons with disabilities and their right to self-determination, and abolish any measures that go against the CRPD.

For countries that **did not** ratify the 2000 Hague Convention:

- Ensure that national measures on the protection of adults, including in cross border situation, are in line with the CRPD and recommendations in the EU Council conclusions on the Protection of Vulnerable Adults across the European Union adopted in June 2021.

## European Union

The European Union (EU) is a unique economic and political union between 27 European countries. The Member States of the EU are: **Austria**, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, **Finland**, France, **Germany**, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, **Slovenia**, Spain, and Sweden.

The EU has specific competences to adopt legislation in some areas such as common commercial policy, transport, consumer protection, environment and some aspects of social policy, and can support Member States in other areas such as education, culture and tourism. The two main legislative acts that can be adopted by the EU are regulations and directives. While regulations are directly applicable in all Member States, directives need to be transposed by each of them in their national law by introducing new legislation or amending existing laws in line with directives.

### 1. Accessibility

#### Transposition of the European Accessibility Act

The [European Accessibility Act \(EAA\)](#) is horizontal European law (directive) adopted in April 2019 with the aim of making products and services, mainly digital, more accessible for persons with disabilities. The Directive also provides a set of accessibility requirements deemed for public procurement of products and services and the use of EU funds, as well as voluntary requirements concerning the built environment. EU Member States had **until 28 June 2022 to transpose the text into national law.**<sup>1</sup>

In the meantime, the EU has started a parallel standardisation process to develop technical accessibility requirements for all the products and services covered by the Act. These standards will ensure that companies and public authorities know how to fulfil the legal requirements of the Act. The involvement of organisations of persons with disabilities is crucial in the developments of these technical documents, however DPOs experience accessibility, financial, and other barriers for equal participation, as the European and national standardisation procedures are often not inclusive.

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<sup>1</sup> Although the cases have been recently closed, in July 2022, the European Commission [launched an infringement](#) against Slovenia, Finland and Germany for not meeting the deadline to notify the [measures to transpose the directive into national law](#). Once the information is gathered, the European Commission undergoes the so-called 'conformity check', verifying that each provision of the national legislation correctly transposes the European Accessibility Act.

More information:

- [Recording of webinar on the transposition of the EAA](#)
- [EDF toolkit on transposition of EAA](#)
- [EDF statement on European Commission's draft standardisation request for the European Accessibility Act](#)

#### **Relevant CRPD article: 9 (accessibility)**

##### Suggested questions:

- Please provide information on the transposition of the European Accessibility Act and whether the country went beyond the scope of the directive to fully implement article 9 of the CRPD, in particular by including accessibility requirements for the built environment.
- How will the State ensure that national representative organisations of persons with disabilities have access to and are meaningfully involved in the standardisation process for the EAA through national standards bodies?

##### Suggested recommendations:

- Recommends taking immediate measures to swiftly transpose the European Accessibility Act in its national law.
- Recommends going beyond minimum accessibility requirements of the Act (e.g. making Annex III accessibility requirements for the built environment mandatory in national law), expanding scope of services, and shortening application deadlines especially concerning those of under 'transitional measures' (e.g. accessibility of emergency communications by call centres for emergency services (PSAPs)).

#### **Implementation of the Web Accessibility Directive**

In December 2016, the EU [Directive on the accessibility of websites and mobile applications of public sector bodies](#) entered into force. Since September 2020 all websites of public sector bodies need to be accessible and comply with **European Standard EN 301 549**, regardless of when they were created. Since June 2021 all mobile applications also need to be accessible, in line with the same European standard.

EU Member States must also put in place other provisions in the Web Accessibility Directive, such as adding an accessibility statement in all public sector websites and apps with relevant information for users with disabilities, as well as a link to a feedback mechanism and information about how to complain if the website or app is not accessible. Member States also need to monitor the implementation of the Directive and appoint an enforcement body. In addition, the Directive stipulates that



Member States need to raise awareness about web accessibility, including through relevant training courses; they also need to involve persons with disabilities in the implementation of the Directive.

More information:

- [EDF toolkit on transposition of the Directive](#)
- [WAI-CooP project 'Frequently Asked Questions' website on the EU Web Directive](#)

### **Relevant CRPD articles: Article 9 - Accessibility; Article 21 - Freedom of expression and opinion, and access to information**

#### Suggested questions:

- Confirm whether or not all websites of public sector bodies have been made accessible (as required since September 2020), and that all websites include an accessibility statement.
- Confirm whether or not all public sector mobile applications have been made accessible (as required since June 2021), and that all mobile applications include an accessibility statement.
- Explain any delays in implementation of the Directive and what action is being taken to ensure swift and full compliance.

#### Suggested recommendations:

- Take immediate action to swiftly implement the Web Accessibility Directive and ensure that all public sector bodies' websites and mobile applications are accessible, in line with [European Standard EN 301 549](#)
- Ensure the national body tasked with enforcing the Directive is adequately resourced with suitably trained staff to investigate complaints and swiftly take relevant action.

### **Implementation of the Audiovisual Media Services Directive**

The [Audiovisual Media Services Directive \(AVMSD\)](#) (Directive (EU) 2018/1808) was adopted on 14 November 2018. Member States had to transpose it **by 19 September 2020**, [though some Member States did not meet this deadline](#).<sup>2</sup>

The Directive creates an EU-level framework to coordinate national legislation on all audiovisual media, both traditional TV broadcasts and on-demand services (for

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<sup>2</sup> The infringement cases against Germany, Austria, Finland and Slovenia for lack of transposition were closed between 2020 and 2023. As of today, Ireland is the only State that has not transposed the AVMSD yet.

example, Netflix, Amazon Video, Now TV). It sets out requirements concerning aspects such as prohibition of hate speech and discrimination based on disability and other grounds, commercial information on TV programs, protection of minors, independence of the national regulatory bodies that monitor audiovisual services, and the promotion of European audiovisual productions. Article 7 of the Directive specifically obliges Member States to ensure that, without undue delay, services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities.<sup>3</sup> This includes public communications and announcements in natural disaster situations.

The Directive sets regular reporting obligations for media service providers to relevant national authorities. It also requires the 1<sup>st</sup> reporting on implementation of accessibility requirements by Member State to the European Commission by 19 December 2022.<sup>4</sup> On the basis of their input, the European Commission will publish a report, expected for mid-2023. In the meantime, In 2023, the European Parliament adopted an own initiative [Report on the implementation of the Directive](#).

More information:

- [Recording of webinar on the AVMSD \(2020\)](#)
- [Article of the second webinar on the AVMSD \(2023\)](#)

**Relevant CRPD article: Article 21 - Freedom of expression and opinion, and access to information**

Suggested questions:

- Inform how the State ensures that within this Directive persons with disabilities have equal access to audiovisual media content, including to emergency information and announcements in all forms of audiovisual media, including traditional TV broadcasting, and video on-demand services.

- What measures did the State take to ensure that provision of emergency public information through audiovisual media, including live broadcasting, is accessible to persons who are Deaf, blind, deafblind, persons with intellectual and psychosocial disabilities, and other persons with disabilities who rely on access services to receive crucial emergency information?

Suggested recommendation:

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<sup>3</sup> Nevertheless, the Directive is very general about advancing accessibility, so specific qualitative, quantitative and temporal targets have to be decided at national level. It is therefore very important that Member States take ambitious position to advance accessibility of audiovisual media on the basis of the Directive.

<sup>4</sup> The report by Member States has not been made public. In 2021, the European Regulators Group for Audio visual Media (ERGA), which supports the Commission in the implementation of the Directive, published a [report on the transposition of Article 7.1](#) (Accessibility).

- Recommend that the State sets mandatory rules on quantitative and qualitative targets for improving accessibility of audio-visual media content for persons with disabilities.

## Implementation of the European Electronic Communications Code

The [European Electronic Communications Code](#) (Directive (EU) 2018/1972) sets an EU-level legal framework to coordinate national legislation on electronic communications networks and services. It was adopted in December 2018 and entered into force on 21 December 2018. Deadline for transposition by Member States was **21 December 2020**.<sup>5</sup>

Among the aims of the Code are to promote fair and sustainable competition, interoperability of electronic communication services, accessibility and security of networks and services for the benefit of end-users. The Code also aims to ensure the provision of good quality, affordable, publicly available services through healthy competition and choice, to ensure that end-users, including end-users with disabilities, access those services on equal basis with other users (such as businesses). For the latter purpose, the Code lays down the necessary rights for end-users. The Code also obliges Member States to ensure equal access for persons with disabilities to the single European emergency number '112'.

The Code recognises the right of easy and equivalent access by persons with disabilities to affordable high quality electronic communications services regardless of their place of residence within the European Union.

More information:

- [EDF Webinar on the European Electronic Communications Code](#)
- [EDF toolkit on transposition of the Code](#)
- [EDF Recommendations on equal access and choice to electronic communications services](#)
- [Ensuring effective access to emergency services in the EU](#)

**Relevant CRPD articles: Article 9 - Accessibility; Article 11 - Situations of risk and humanitarian emergencies; Article 21 - Freedom of expression and opinion, and access to information**

Suggested question:

- How have you ensured that total conversation<sup>6</sup> and real-time text services are available to all persons with disabilities and fully interoperable with an adequate level

<sup>5</sup> Slovenia was taken to the [European Court of Justice](#) in April 2022 for lack of transposition of the Electronic Communications Code (case ongoing). Infringement procedures against Germany and Austria were closed in 2022 and 2023 respectively.

<sup>6</sup> A Total Conversation service is an audiovisual conversation service providing bidirectional symmetric real-time transfer of motion video, text and voice between users in two or more locations. This real

of quality, including when contacting emergency services, as required by the Electronic Communications Code?

Suggested recommendation:

- Recommends taking measures to ensure the full implementation of the European Electronic Communications Code in national law, in line with article 9 of the CRPD, including by ensuring that specific terminal equipment or other assistive technologies are made available and affordable to persons with disabilities and that emergency communication are accessible by means of total conversation and real time text.

### **Ongoing evaluation of regulations linked to transport accessibility**

In 2021, EU has revised its [Regulation on Rail Passengers' Rights \(Regulation 2021/782\)](#) which contains amongst others the provision to provide assistance to persons with disabilities at railway stations and on board of trains. Some improvements have been achieved (lowering of pre-notification time to book assistance lowered to 24 h instead of 48 h) but it did not go far enough.<sup>7</sup>

In 2023, the European Commission will present a proposal to revise [Passenger Rights Regulations](#) for air, waterborne transport, bus and coach. Unfortunately, there is a high chance that the revision will not include Regulation [1107/2006](#) on the rights of passengers with disabilities when traveling by air. Such revision would have allowed to address existing gaps such as denied boarding because of ones' disability, mandatory accompanying person and lack of full compensation for damaged or lost mobility equipment or assistance animal, among other issues<sup>8</sup>.

The EU is about to complete the revision of [Regulation 1300/2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility \(TSI PRM\)](#), with the adoption of relevant texts expected after the summer. The Specifications ensure that all new trains and certain stations will have to be accessible to persons with disabilities. However, there are important shortcomings such as independent boarding and accessible circulation inside the trains which are not addressed yet under this revision. Another, more ambitious revision is therefore necessary as well as the implementation of the current Regulation.

In 2021, the EU has launched the [revision of Regulation 1315/2013 on Union Guidelines for the development of the trans-European transport network \(TEN-T\)](#).

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time text differs from instant messaging systems because it is the transmission bi-directionally of one character at a time. More information: <https://www.itu.int/en/ITU-T/studygroups/com16/accessibility/Pages/conversation.aspx>

<sup>7</sup> A general "turn-up-and-go" principle would have been more in line with the CRPD but this opportunity was missed.

<sup>8</sup> The issue of full liability for broken or damaged mobility was going to be addressed in the proposal to revise [Regulation 261/2004](#), which has been stuck in the council since 2013.

The Regulation governs the EU policy on transport infrastructure, which notably aims at facilitating transport flows across Member States and supporting territorial, economic and social cohesion. Article 49 (previously article 37) on “Accessibility for all users” has particular importance for persons with disabilities as it requires transport infrastructure to “allow seamless mobility and accessibility for all users, in particular elderly people, persons of reduced mobility and passengers with a disability”. Nevertheless, the practical impact of TEN-T is limited due to lack of concrete indicators, targets and monitoring mechanism for the Regulation. This revision is therefore a chance to improve on those aspects. Negotiations of the text are still ongoing.

More information:

- [EDF analysis of the adopted recast Rail Passengers' Rights Regulation \(1371/2007\)](#)
- [EDF Position on Air Passengers' Rights Regulation \(1107/2006\)](#)
- [EDF Feedback to Call for Evidence for an Impact Assessment of EU Passenger Rights Regulations](#)
- [EDF contribution to the Public Consultation on the Revision of Passenger Rights](#)
- [EDF Analysis of the European Commission Proposal for revising the TEN-T Regulation](#)

**Relevant CRPD articles: Article 9 - Accessibility; Article 20 - Personal mobility**

Suggested questions:

- How is the State implementing the [Regulation 1300/2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility \(TSI PRM\)](#)? Does it have a National Action Plan to improve Rail Accessibility? Can persons with disabilities independently access stations and rail services operating in the State?

- How is the State planning to improve access to intermodal transport for persons with disabilities during the revision of the TEN-T Regulation? Does the State plan to develop a national action plan with targets and timelines for improving accessibility of the network? Does the State have a monitoring mechanism to ensure that new TEN-T infrastructure doesn't create barriers for persons with disabilities?

- To implement the passenger rights' legislative framework in the different transport modes, how does your country ensure the effective work of its National Enforcement Bodies (NEBs) in terms of powers and human / financial resources?

## 2. Freedom of movement and the European Disability Card

Freedom of movement is one of the four basic freedoms under the EU Treaties but for persons with disabilities, there are still many obstacles. Portability of disability and other social security related benefits, as well as recognition of ones' disability status are far from being harmonized. Moving to another EU Member State, temporarily or permanently, is still a challenge for many persons with disabilities. The Commission has announced the publication of a new legislative proposal on a European Mobility Card to tackle at least the issue of temporary stays in other Member State and the mutual recognition of disability status. This does not solve all the problems, but it will be a starting point. It has to be seen how far the proposal of the Commission will go.

### Relevant CRPD article: Article 20 - Personal mobility

#### Suggested question:

How can the portability of social security related benefits including disability benefits be improved in the EU beyond the Disability Card?

## 3. Artificial Intelligence: proposal for regulating artificial intelligence

In 2021, the European Commission released a proposal for new legislation establishing a [legal framework on Artificial Intelligence](#) (AI) in the EU. This proposal is a step in the right direction. However, much work still needs to be done to improve the existing regulation and establish trustworthiness of AI for persons with disabilities.

Notably, the Commission proposal lacks mandatory accessibility requirements for AI systems and practices. The text falls short of the commitments under the CRPD and lacks consistency with EU accessibility legislation such as the European Accessibility Act.

Besides lack of accessibility requirements, the proposal fails to address potential risks of AI use that would infringe upon fundamental rights of persons with disabilities to privacy and non-discrimination, such as use of AI for the purpose of remote biometric identification, biometric categorisation, emotion recognition by private and public entities, predictive policing, and for determining individuals' access to employment, education, essential private and public services, justice, and asylum. The proposal is now in discussion at the European Parliament, and Member States are developing their positions. To fix many of the loopholes and gaps in the Commission proposal, [civil society organisations, including EDF have called on the EU to put fundamental rights first in the Artificial Intelligence Act](#).

More information:

- [EU law must ensure trustworthy and accessible Artificial Intelligence \(AI\) for persons with disabilities!](#)
- [EDF Position Paper on the EU AI Act \(PDF and Word\)](#)

- [Civil society and EDF call on the EU to put fundamental rights first in the Artificial Intelligence Act](#)
- [EDF “Plug and Pray?” Report: A disability perspective on artificial intelligence, automated decision-making and emerging technologies](#)
- [EDF input to UN Special Rapporteur’s thematic report on Artificial Intelligence and the rights of persons with disabilities](#)

**Relevant CRPD articles: Article 5 - Equality and non-discrimination; Article 9 – Accessibility; Article 22 - Respect for privacy**

Suggested question:

- Provide information on how the State ensures or plans to ensure mandatory accessibility requirements for all AI providers and users, as well as that AI providers and users fully respect rights of persons with disabilities to non-discrimination and privacy.

Suggested recommendation:

- Recommends the State to call for mandatory accessibility requirements for AI systems and use, and strong safeguards against risk of infringement of privacy and discrimination of persons with disabilities by AI systems, including in the negotiations about the Artificial Intelligence Act at the European level.

#### **4. Young persons and youth programmes**

The EU adopted a [Youth Strategy for the period of 2019-2027](#). The strategy has concrete actions and objectives to better include young people in the decision-making process. The Strategy has inclusion as one its core elements but mentions persons with disabilities only once in the preamble. It does not mention the CRPD nor how persons with disabilities should be included.

However, we do see that inclusion was tackled in some of the Youth Programmes driven by this strategy such as the [European Solidarity Corps](#) on volunteering and [Erasmus + Programmes](#) on work and education abroad. For example, [Guidelines on Inclusion and Diversity](#) were issued for both programmes. The Erasmus+ Programme also foresee prefinancing for disability related costs. However, many young people with disabilities still cannot benefit of these programmes. It is essential that that host countries give the same disability services and support to students coming through student mobility programmes than their own students with disabilities.

In addition, the [EU Youth Guarantee](#) provides funding to young people to study and work. We see that in some countries, young people with disabilities cannot benefit from the funding because they have to choose between the youth guarantee scheme and their disability allowance.

**Relevant CRPD article: Article 24 - Education**

Suggested questions:

- Provide information on how the State ensure that young persons with disabilities equally benefit from the EU Youth and mobility programmes.
- How does the State ensure that students with disabilities coming through the Erasmus+ programme receive adequate support, on an equal basis with students with disabilities from the host country?

Suggested recommendation:

Ensure that the State provide adequate support to students with disabilities coming through the Erasmus+ Programme, on an equal basis to its own students with disabilities.

## 5. Women with disabilities

In March 2020, the EU adopted a [Strategy on Gender Equality \(2020-2025\)](#) with policy objectives and actions to make significant progress by 2025 towards a gender-equal Europe. For the first time, this Strategy makes specific references to the CRPD and women and girl, in particular in relation to combatting gender-based violence, including forced abortion and sterilisation, and gender-stereotypes.

While the Strategy mostly focuses on EU policies, it also requires Member States to take specific actions (such as to ratify and implement the Istanbul Convention or to target actions that support the specific needs of women in the asylum procedure).

In March 2022, the European Commission made a [proposal for a Directive on combating violence against women](#). It makes reference to women with disabilities, including by recognising disability as an aggravating circumstance, and to accessibility. However, the text does not criminalise forced sterilisation. The proposal is now being [negotiated](#) in the European Parliament and the Council of the European Union (composed of representatives of the Member States). There are discussions in the European Parliament to [add the criminalisation of forced sterilisation](#), which is something EDF is calling for.

**Relevant CRPD articles: Article 6 - Women with disabilities; Article 15 - Freedom from exploitation, violence and abuse**

Suggested questions:

- How does the State's national gender equality strategy include women and girls with disabilities?
- Which measures will the State take to implement the recommendations directed at EU Member States in the EU Gender Equality Strategy in a way that is inclusive to women and girls with disabilities?



- What measures is the State taking to combat violence against women with disabilities, including forced sterilisation as a form of violence against women with disabilities?

Suggested recommendation:

- Ensure that the rights of women and girls with disabilities are included under the national strategy on gender equality, in relation to all area of life and adopt targeted measures to implement the recommendations directed at EU Member States in the EU Gender Equality Strategy.

## 6. Victims and offenders' rights

In 2012, the European Union adopted a [Directive on the rights, support and protection of victims of crime](#). EU countries had to implement the provisions of the Directive into their national laws by 16 November 2015. The European Commission has issued a [guidance document](#) to assist EU countries in this process.

The directive establishes minimum standards on the rights, support and protection of victims and ensures that persons who have fallen victim of crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. It specifically requires States to ensure the needs of victims with disabilities are met when ensuring their rights to:

- understand and be understood
- information
- support
- participate in criminal proceedings
- protection and individual assessment

For certain groups of victims, the EU adopted specific rules.<sup>9</sup>

In a similar way, the EU adopted several directives to protect the rights of suspect and accused, that should be implemented by States without discrimination on the grounds of disability. More specifically, the EU established rules on:

- the [right to information](#) which applies across the EU since 2 June 2014,
- the [right to interpretation and translation](#) which applies across the EU since 27 October 2015,
- [Right to have a lawyer](#), which applies across the EU since 27 November 2016,
- the right to be [presumed innocent and to be present at trial](#)
- special [safeguards for children suspected and accused in criminal proceedings](#)

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<sup>9</sup> These rules build on the victims' rights directive but respond more directly to the specific needs of some victims. The EU legislation exists to provide protection and support for [victims of human trafficking](#), [child victims of sexual exploitation and child pornography](#) and victims of terrorism.

- the [right to legal aid](#)

To support the implementation of EU laws on Victims' Rights, the European Commission has adopted a [Victims' Rights Strategy \(2020-2025\)](#) in 2020. The Strategy requires States to ensure that support services for victims are accessible to victims with disabilities.

A revision of the Victims' Rights Strategy will be presented by the European Commission on the 11<sup>th</sup> of July 2023.

**Relevant CRPD articles: Article 13 - Access to justice; Articles 15-16 - Violence, torture and ill treatment**

Suggested questions:

- Provide information on measures taken to ensure that the rights of victims with disabilities and people with disabilities suspected or accused of an offence is fully fulfilled in line with relevant EU directives and the EU Victims' Rights Strategy (2020-2025).

- Inform on measures taken to ensure that women and girls with disabilities victims of domestic and gender-based violence can access shelters and other services available to victims.

Suggested recommendation:

- Take measures to ensure that the right to access to justice of victims with disabilities and people with disabilities suspected or accused of an offence is fully fulfilled, in accordance with the CRPD and obligations of the State under EU law, including the EU Victims' Rights Strategy (2020-2025). Support to victims must include - the provision of accessible shelters and services for women and girls with disabilities victims of domestic and gender-based violence.

## 7. Non-discrimination in employment

New legislation on [minimum wages](#), [pay transparency](#) and [reporting requirements for employers](#) have recently been worked on by the EU co-legislators, and will soon begin being transposed. The process of transposition at the national level will have to begin imminently.

In addition to these recent additions to the EU's legislative framework, the EU already has long-standing Directive on non-discrimination in employment. However, it remains insufficiently implemented by the EU member States. The Employment Equality Directive ([Council Directive 2000/78/EC](#)) establishes a general framework for equal treatment in employment, vocational guidance and training. It underlines that there shall be no direct or indirect discrimination whatsoever on the grounds of disability. It also further clarifies that "indirect discrimination shall be taken to occur

where an apparently neutral provision, criterion or practice would put persons having [...] a particular disability [...] at a particular disadvantage compared with other persons [...]”. Article 5 of the Directive states that reasonable accommodation shall be provided in order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities. However, this article in particular is poorly implemented across the EU, with too many persons with disabilities not being provided with adjustments and flexibility at work that would allow them to do their job. The European Commission is attempting to clarify how Article 5 of the Directive should be implemented well through the creation of new guidelines on reasonable accommodation as part of the [EU Disability Employment Package](#). However no binding measures for the respect of article 5 have been proposed.

More information: [EDF Human Rights Report 2023 on the Right to Work](#)

### **Relevant CRPD article: Article 27 – Work and Employment**

#### Suggested questions:

- How are employees with disabilities being protected from discrimination in recruitment and employment? What measures are being taken to ensure that reasonable accommodation is provided to workers with disabilities on the basis of their requirements?
- What measures are being taken to ensure transition to the open labour market?

#### Suggested recommendations:

- Be strict on how the Minimum Wage Directive is applied to sheltered employment settings for persons with disabilities in the Member States. Ensure that these settings do not escape their obligations to provide fair wages, even in cases where workers are not provided with a work contract or the legal status of “employee”.
- Promote the compatibility of disability allowance with income from paid work, meaning that people do not risk losing some or all of their financial support when they begin working.

## **8. Health: Implementation of the Patient Mobility Directive**

In 2021, the EU adopted [Directive 2011/24/EU on patients' rights in cross-border health care](#) (Patient Mobility Directive) that gives the right to EU citizens to seek healthcare in another EU Member State.

According to research conducted by EDF, patients with disabilities continue to face barriers in accessing cross-border healthcare. 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 nor reproductive healthcare services. Few websites provide information on physical accessibility of healthcare facilities.<sup>10</sup>

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 cross-border healthcare. A previous report showed that no additional costs were reimbursed in 76% of a small sample.<sup>11</sup>

More information:

- [EDF Report on Access to cross border healthcare by patients with disabilities in the European Union](#)

#### **Relevant CRPD article: Article 25 – Health**

##### Suggested question:

- Provide information on the implementation of the Directive 2011/24/EU on patients' rights in cross-border health care, and whether National Contact Point provide information on the rights of patients with disabilities and whether all information is available in accessible formats. Also inform on whether the State reimburse additional disability-related costs.

##### Suggested recommendation:

- Recommends taking measures to adequately ensure access to cross-border healthcare across the EU in line with Directive 2011/24/EU, ensuring that the National Contact Point is disability-inclusive and that reimbursement of additional disability-related costs are covered.

### **9. Political participation: Right to vote and stand for election in the European Parliament**

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 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.

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<sup>10</sup> More detailed information on the Directive is available in [EDF report on access to cross-border healthcare by patients with disabilities in the EU](#).

<sup>11</sup> IF, [Impact of cross-border healthcare on persons with disabilities and chronic conditions](#) (2016), 3, 15.

Additionally, the EU Treaties guarantee that mobile EU citizens living in another EU Member State enjoy the same political rights under the same conditions as nationals regarding the European and municipal elections. Currently, the EU countries are discussing a revision of the Mobile EU citizens Directives which include provisions of accessibility for non-national EU citizens with disabilities, although they do not guarantee the right to vote and stand for office for persons under total or partial legal guardianship in [municipal elections](#) and [European Parliament elections](#).

The elections in the European Parliament will take place between the 6 and the 9 of June 2024.

Resources:

- [EDF 6<sup>th</sup> Human Rights Report on political participation](#)
- [EDF Position paper on Mobile EU citizens Directives](#)

#### **Relevant CRPD article: Article 29 – Political participation**

##### Suggested questions:

- How does the State Party ensure the right to vote and stand for elections of persons with disabilities, including those under substituted decision-making mechanisms, in national and European elections?
- What measures have been put in place to maximise the accessibility of European elections to guarantee that all persons with disabilities can vote independently and in secret, and can freely chose assistance to vote? Does the country guarantee the same rights for non-national EU citizens in municipal and European elections?

##### Suggested recommendation:

- Recommend that the State liaise with organisations of persons with disabilities to adopt accessibility requirement of the proceeding of the national and European elections as well as reasonable accommodation, and no restriction in form of assistance.

### **10. Independent living: Use of European funds to promote community living and community-based services**

The EU developed various funds called “European structural and investment funds” (European Regional Development Fund, European Social Fund Plus, Cohesion Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund, Just Transition Fund). They can be used by Member States for a wide range of measures. Although the EU monitors their use, there may be a risk that some countries [use them in a way that may not comply with the CRPD](#).

Following the COVID-19 pandemic new funding has been made available to help EU Member States recover economically and socially. The rules governing the use of this new funding, known as the [Recovery and Resilience Facility](#), are more flexible

and increases risk of investments that are not compliant with the CRPD, as has [already been witnessed by disability organisations](#).

As part of the European Strategy on the Rights of Persons with Disabilities the European Commission is producing Guidance on Independent Living and Inclusion in the Community. This will be released at the end of 2023 with the aim of clarifying which type of investments promote independent living and inclusion and avoid institutionalisation. It is still unclear whether this guidance will be linked to or referenced in the funding regulations for the EU's next Multiannual Financial Framework.

**Relevant CRPD article: Article 19 - Living independently and being included in the community**

Suggested questions:

- Provide information on the use of EU funds, and measures taken to ensure that the funds are invested in line with the CRPD, and in particular, with the aim to promote community living and community-based support services, achieving deinstitutionalisation and independent living of persons with disabilities.
- Clarify how complaints raised on the misuse of EU funds and the RRF are addressed and resolved and what mechanisms are in place to allow you to react quickly and strongly when alerted to these issues.
- How are stakeholders selected by National Managing Authorities to be part of the partnership agreement and monitoring committee for the use of EU funds such as Cohesion, Regional Development and Social funds? Are Organisations of Persons with Disabilities involved and, if so, how is the call for involvement publicised and what criteria is used to decide on whether or not to admit them to the process?

Suggested recommendations:

- “Calls upon the State party to re-examine the allocation of funds, including the regional funds obtained from the EU, dedicated to the provision of support services for persons with disabilities, and the structure and functioning of the small community living centres, and ensure the full compliance with the provisions of article 19 of the Convention.” - as in CRPD Concluding Observations to Hungary ([CRPD/C/HUN/CO/1](#)), paragraph 35.
- Ensure that National Managing authorities for the use of EU funds fully include National Disability Councils in the partnership agreement and monitoring committees, to ensure that EU money is spent in line with the needs of persons with disabilities and does not perpetuate segregation.

## 11. International cooperation

### European consensus on development

On 19 May 2017, the Council adopted a new [European Consensus on Development](#). This joint statement by the three European institutions (European Parliament, the European Commission and the Council) sets out a framework for development cooperation for the EU and its Member States. The document is a direct response by the EU to the 2030 Agenda and the Sustainable Development Goals, when it comes to international cooperation.

The explicit reference to the rights of persons with disabilities within the EU Consensus on Development symbolises an outstanding improvement for accelerating the implementation of a rights-based approach to development cooperation. The EU Consensus embraces a rights-based approach that strengthens links between SDGs and the rights of persons with disabilities. This framework shows that a disability inclusive EU external action plan is crucial to strengthen the rights of persons with disabilities worldwide. It mentions that persons with disabilities will not be left behind and multiple discrimination towards vulnerable individuals will be specifically addressed.

### Union of Equality: EU Strategy for the rights of persons with disabilities 2021-2030

The European Union (EU)'s 10-year Strategy for the Rights of Persons with Disabilities, [Union of Equality: Strategy for the rights of persons with disabilities 2021-2030](#), is a fundamental policy forming the vision and guiding the action of the EU, to ensure the rights of persons with disabilities, here in Europe and outside are respected, protected and fulfilled. Section six of the strategy focuses on EU's external action.

### Gender equality

Gender equality is placed at the heart of the EU agenda for achieving the SDGs in order to promote women's rights, gender equality and empowerment of women. However, women and girls with disabilities are also not systematically reached in international cooperation. The [EU Gender Action Plan III](#) (GAPIII), though paying attention to multiple discrimination, intersectional barriers and the rights of women and girls with disabilities, is unclear how they are included in the implementation of the action plan.

### Global health

The EU published its new "[EU Global Health Strategy: Better Health for All in a Changing World](#)" in November 2022. The strategy runs up to 2030. For the first time, the Strategy includes the rights of persons with disabilities in access to health care in

the world and refers to the UN Convention on the Rights of Persons with disabilities. It is unclear how persons with disabilities will be included in the implementation of the Strategy, and in the development of the national health strategies.

**Relevant CRPD article: Article 32 - International cooperation**

Suggested questions:

- Provide information on the steps and timeframe to ensure the implementation of the European Consensus on Development and the EU Strategy for the rights of persons with disabilities 2021-2030 and further advance the rights of persons with disabilities, including women and girl with disabilities, in international cooperation.
- Which measures will the State take to actively reach women and girls with disabilities in international cooperation by using the EU Gender Action Plan III?
- Which measures will the State take to actively involve persons with disabilities and their representative organisations in the implementation of the EU Global Health Strategy, and the promotion of developing national health strategies?

Suggested recommendations:

- 12. - Recommends the creation of a ‘structured dialogue’, to ensure participation of representative DPOs/OPDs in the implementation and monitoring of the Strategy in European countries. This dialogue should take place in all relevant processes at EU, partner countries and global level, including in all EU overseas delegations, with an independent budget line and sufficient funding. Humanitarian action**

**Civil protection and humanitarian action<sup>12</sup>**

The EU committed to 'strong progress' on each of the five core responsibility areas of the 2017 [World Humanitarian Summit](#) in Istanbul. The [Charter on Inclusion of Persons with Disabilities in Humanitarian Action](#) (which can be seen as a ‘tool’ to implement the CRPD in situations of risk and humanitarian emergency) was launched at the summit, and has since been endorsed by the EU and (currently) 14 of its Member States.<sup>13</sup>

In June 2019, the EU Directorate-General for European Civil Protection and Humanitarian Aid Operation (ECHO published a [Guidance Note on the Inclusion of Persons with Disabilities in EU-funded Humanitarian Aid Operations \(that will apply to](#)

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<sup>12</sup> [More information on the EU and humanitarian aid.](#)

<sup>13</sup> Belgium, Bulgaria, Republic of Cyprus, Czechia, Denmark, Finland, France, Germany, Italy, Luxembourg, Netherlands, Poland, Spain and Sweden



[the Member States of the EU where they are involved in humanitarian projects funded by the EU](#)). This guidance note is related in purpose to the UN [IASC Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action](#) which were launched at the end of 2019.

In 2020 EDF provided comprehensive input into the review of the [ECHO 'Single Form' Guidelines](#) and to the ECHO '[EC Communication on EU humanitarian aid](#)'. The Guidelines now contain some mention of disability inclusion, including reference to the Washington Group short set of questions for data disaggregation and the need for DPO participation, and they apply to Member States where they are involved in projects funded by the EU.<sup>14</sup> The Communication also makes explicit reference to persons with disabilities, but these are very light, following far short of the EDF recommendations.

## **War in Ukraine**

Regarding the escalation of the war in Ukraine, the EU has mobilised resources to enable emergency assistance into the country, by coordinating the [largest operation ever of the EU Civil Protection Mechanism](#). Since February 2022, the European Commission has allocated €733 million for humanitarian aid programmes to help civilians affected by the war in Ukraine. However, there is no data showing the number of persons with disabilities targeted or reached with this aid, or if there are any mechanisms to monitor disability inclusion.

The EU [Temporary Protection Directive](#) was triggered in March 2022, to allow EU countries to offer quick and effective assistance to people fleeing the war. However, [initial operational guidelines](#) make no reference to disability (referring only to the general term 'vulnerable persons') and it is unclear in how far persons with disabilities are explicitly referenced in country level policy.

On the 17th of June 2022 the EU published its [Opinion on Ukraine's application for membership of the European Union](#). The opinion states that a de-institutionalisation process needs to be implemented to transition towards community-based care of persons with disabilities.

## **European Emergency number**

The European single emergency number 112 is still not fully accessible across the EU. In 2019, infringement procedures have been launched against Croatia, Czechia, Germany, Greece, and Spain [for failing to ensure equivalent access to the 112 emergency number to persons with disabilities](#). At the moment there are great differences on how persons with disabilities can call the emergency number across EU countries, even in some cases requiring pre-registration. This situation hinders the safety and free movement of persons with disabilities when traveling across the

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<sup>14</sup> But major gaps still remain, including specific and effective indicators on disability inclusion, reference to the OECD disability DAC marker and regular disability inclusion training of all ECHO and partners' staff.

Union. In many cases, these solutions only cater specific disability groups. The European Accessibility Act aims at solving this situation by adopting a harmonised approach to the accessibility of this emergency number through common technical standards (**see section on Accessibility above**).

### **Disaster Risk Reduction (DRR)**

In 2015, the EU and its Member States participated in development of the [Sendai Framework](#), which is relatively inclusive of persons with disabilities and was the first of the 2030 Global Agenda initiatives. Throughout 2016 EU also participated in development of terminology and indicators for Sendai implementation, although its interventions supported weakening/removal of the Sendai framework requirement to disaggregate data by disability. Also in 2016, the EU developed an [Action Plan on Sendai implementation](#), which helps the EU to support Member States in implementation of Sendai. However, EDF is unaware of any significant progress, either within Europe or in external action, regarding disability inclusive DRR measures that are the result of this Sendai action plan.

The [European Forum for Disaster Risk Reduction \(EFDRR\) Roadmap 2021-2030](#) was adopted in November 2021 and is very inclusive of persons with disabilities. This document, and the ongoing mid-term review of the Sendai framework, are ideal opportunities for the EU and its Member States to strategise and measure much-needed improvements in disability-inclusive resilience building.

In February 2023 the European Commission published its [recommendation on disaster resilience goals](#) (DRGs) to strengthening disaster resilience and improve the capacity of the EU and its Member States to withstand the effects of current and future natural and man-made disasters, most of them exacerbated by climate change and environmental degradation. The recommendation represents a positive step regarding resilience building and pays particular attention to synergies and complementarity with relevant international resilience frameworks, such as the [Sendai Framework for Disaster Risk Reduction](#) and the [European DRR roadmap 2030](#). The recommendation contains strong references to disability inclusion and calls on the EU and its Member States to strengthen disaster resilience by taking into consideration the requirements of persons with disabilities, such as accessibility to disaster risk information, awareness raising and adoption of risk prevention and preparedness measures for persons with disabilities.

#### **Relevant CRPD Article: Article 11 - Situations of risk and humanitarian emergencies**

##### Suggested questions:

- Provide information on the steps and timeframe that are planned to ensure the development and implementation of a regional humanitarian action plan that is inclusive of Persons with Disabilities by adhering to obligations under UN CRPD

Article 11 and applying the IASC Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action.

- Provide information on measures in place to support asylum seekers with disabilities, as well as Ukrainians with disabilities under the Temporary Protection Directive.

- Provide information on the steps and timeframe that are planned to ensure the development and implementation of a regional Action Plan on the Sendai Framework, in line with global [monitoring of the Sendai framework](#) and the [European DRR roadmap \(2021-2030\)](#).

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