

## The implementation of the 2015 Concluding Observations of the CRPD Committee by the EU <sup>1</sup>

### ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Committee on Petitions, examines the level of implementation of the 2015 Concluding Observations of the CRPD Committee by the EU, in the view of the next monitoring and reporting cycle. It reveals that while some recommendations have been followed up by the EU through its Disability strategies and legislative and policy action, important gaps remain, notably in those areas where the EU has limited competences, or political support is lacking.

### The UN Convention on the Rights of Persons with Disabilities

The [UN Convention on the Rights of Persons with Disabilities](#) (UNCRPD) is the first international, legally binding instrument setting minimum standards for rights of people with disabilities and the first human rights convention to which the EU has become a party. It entered into force in the EU on 22 January 2011.

As required by the **reporting mechanism** embedded in the Convention, the EU submitted an initial [report](#) on the implementation of the CRPD in 2014, upon which the UNCRPD Committee issued a [List of Issues](#). The EU [replied](#) in June 2015 and the UN Committee concluded its examination expressing concerns and issuing **recommendations** in its [Concluding Observations](#).<sup>2</sup>

### The Disability Strategy 2010-2020

The [Disability Strategy 2010-2020](#) was intended by the EU to serve as an implementation plan for the CRPD. Still, the Concluding Observations made clear that there were **considerable gaps** in implementing the CRPD by the EU. In areas where the EU has limited competence, or where there was no political consensus, the Disability Strategy contained **limited** actions and proposals. Furthermore, the Strategy did not cover all the articles and rights enshrined in the Convention. One of the recommendations by the UN Committee was to **update** the Disability Strategy 2010-2020 and address the abovementioned gaps, but the EU did not follow it

<sup>1</sup> Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/700321/IPOL\\_STU\(2021\)700321\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/700321/IPOL_STU(2021)700321_EN.pdf)

<sup>2</sup> Concluding observations on the initial report of the European Union: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/226/55/PDF/G1522655.pdf?OpenElement>



up. Consequently, none of the recommendations of the Concluding Observations were incorporated in the Disability Strategy.

## The Evaluation of the Disability Strategy

The 2020 **Evaluation** of the European Disability Strategy 2010-2020<sup>3</sup> shows that much **progress** was made in the area of accessibility and that the EU effectively engaged with Member States on improving policies for employment, social protection and vocational training for people with disabilities. Improvements were made in gathering data and commissioning research, thus contributing to awareness raising and monitoring of implementation.

While the evaluation study states that the use of EU funds contributed to the process of **deinstitutionalization**, there is evidence that EU funding has been used to renovate institutions, while the Commission seems not willing or able to revoke misused funding. Furthermore, the disproportionate negative impact of **the Covid-19** pandemic on people with disabilities living in institutions raised alarm, notably in relation to higher death rates.

Recommendations to ratify the **Optional Protocol** to the CRPD to allow for individual complaints against violations of the Convention to be examined by the UNCRPD Committee, and to adopt a **horizontal equal treatment directive** prohibiting discrimination on the ground of disability, both supported by Commission and Parliament, were **blocked in the Council, leaving a gap in the legal protection of people with disabilities**. Furthermore, **focal points in all EU institutions were not set up**.

## The Disability Strategy 2021-2030

The renewed **Strategy for the Rights of Persons with Disabilities 2021-2030** of March 2021 **addresses more issues** from the Concluding Observations. New initiatives were announced in the area of accessibility and mobility, such as the introduction of a European resource centre 'AccessibleEU' and a European Disability Card. In the area of employment, targets will be set for Member States for improving labour participation. New studies are announced on ways to tackle gaps in, among other areas, social protection, access to health and access to justice. Furthermore, disability coordinators shall be appointed in all EU institutions.

**Still, several issues raised in the Concluding Observations remain unsolved or unaddressed** in the new Disability Strategy. Among these, the contested issue of the use by Member States of EU Funds to renovate institutions. Discrimination in accessing health care is not met with concrete actions, while the Optional Protocol and the equality directive remain blocked in the Council.

The decision in the Disability Strategy 2021-2030 to **mainstream disability rights** throughout all policy areas could lead to a masking of the limited scope of some actions. Formulating a general objective for all policies such as 'ensuring equal access to health', without specifying how, who, where and by what means the action is to be implemented, risks of being ineffective in ensuring concrete results.

## Conclusion

The adoption and implementation of **binding legislation** and accompanying soft instruments like **research and funding**, have brought noticeable improvements, while unresolved or unaddressed issues relate to areas where the **EU has limited competence** and where **political will to advance is lacking**. This emerges also from the study's evaluation of the EU implementation of the Concluding Observations, which shows that **only 4 Concluding Observations were fully implemented, while 16 were implemented partially and 22 not implemented** (see the Table in Annex 1 of the study summing up the contents of the study).

<sup>3</sup> Evaluation of the European Disability Strategy 2010-2020. Commission Staff working document SWD(2020) 291 final

## Recommendations

In order to address this situation, improve the implementation of the CRPD and ensure the realization of the rights of persons with disabilities in the EU, the following recommendations to EU institutions are proposed by the study:

**1. Prioritize issues based on urgency of concerns:** EU institutions should set clear priorities and timelines based on the concerns expressed in the Concluding Observations, taking into consideration the urgency of such concerns, as well as EU competences.

**2. Review existing legislation:** the EU could review existing legislation not only with the aim of harmonizing it with the provisions of the Convention, but notably of analysing outcome results: do existing legislative rules and soft law instruments actually help in realizing the fundamental rights of people with disabilities in specific areas?

**3. Promote new legislation and ensure proper implementation by Member States:** where the EU has a possibility to promote new legislation, it should do so, and it should also ensure proper implementation by the Member States. EU institutions shall use all the instruments at their disposal to ensure compliance (such as infringement proceedings).

**4. Analyse in order to build political support:** it is important to analyse which are the precise reasons behind a lack of action or lack of results and examine how it could be overcome, through legal reform, political pressure and campaigns, legal actions, etc. This knowledge is useful to build more political support and strategies for effective change.

**5. Beware of cosmetic mainstreaming of disability:** mainstreaming disability in all policy areas is extremely important, but runs the risk of being 'cosmetic'. Problems should be properly analysed and policy-instruments devised and detailed, to make sure that disability issues are properly addressed within a general policy.

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