

STUDY

Requested by the PETI committee



The implementation of the 2015 Concluding Observations of the CRPD Committee by the EU



Policy Department for Citizens' Rights and Constitutional Affairs
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Abstract

The 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.

This document was requested by the European Parliament's Committee on Petitions.

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LIST OF ABBREVIATIONS

AGE	Platform of organisation of and for people older than 50+
ANED	Academic Network of European Disability experts
CRPD	Convention on the Rights of People with Disabilities
EC	European Commission
ECOSOC	Economic and Social Committee
EDE	European Disability Experts
EDF	European Disability Forum
EEA	European Economic Area
EEAS	European External Action Service
EEG	European Expert Group on the Transition from Institutional to Community-based Care
EESC	European Economic and Social Committee
EHIS	European Health Interview Survey
EMPL	Committees on Employment and Social Affairs
ENIL	European Network of Independent Living
EP	European Parliament
EPSU	European Public Service Unions
ERDF	European Regional Development Fund
ESF	European Social Fund
ESI	European Structural and Investment funds
ESSPROS	European System of integrated Social PROtection Statistics
EU	European Union
EU LFS	EU Labour Force Survey

EU SILC	European Union Statistics on income and living conditions
FRA	Fundamental Rights Agency
ICT	Information Communication Technology
MEP	Member of the European Parliament
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OP-CRPD	Optional Protocol Convention on the Rights of People with Disabilities
OPDs	organisations of persons with disabilities
PETI	Committee on Petitions
PWD	persons with disabilities
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the EU
UN	United Nations

EXECUTIVE SUMMARY

The **UN Convention on the Rights of Persons with Disabilities (UNCRPD)**¹ 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**. The EU is also the first regional organization to have ratified a human rights treaty. The EU is to act in the implementation of the Convention within the limits of its competences. The Convention 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 2014², on which the UNCRPD Committee issued a **List of Issues**.³ The EU sent **replies** in June 2015,⁴ which were examined by the UN Committee. The Committee concluded its examination expressing concerns and issuing **recommendations** in its **Concluding Observations**.⁵

The **Disability Strategy 2010-2020**⁶ 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, it could be said that the Disability Strategy was **limited** in relation to the actions and concrete proposals made and that the Strategy did not cover all the articles (and rights enshrined) in the Convention.

One of the recommendations by the Committee was to **update** the Disability Strategy 2010-2020 and address the abovementioned gaps. This recommendation was not followed by the EU, as there never was an update of the Strategy. Therefore, **none of the recommendations of the Concluding Observations were incorporated in the Disability Strategy**.

The Evaluation of the European Disability Strategy 2010-2020⁷ 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 education for people with disabilities. Improvements were made in gathering data and commissioning research, thus contributing in awareness raising and monitoring of implementation.

Results on implementing the right to independent living are contested. 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 and reinforce institutions while it became clear that the Commission is not willing or able to revoke misused funding. The disproportionate negative impact of the Covid-19 pandemic on people with disabilities living in institutions raised alarm among a number of EU-level organizations of people with disabilities, notably in relation to higher death rates.

¹ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

² Initial Report European Union:
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/232/64/PDF/G1423264.pdf?OpenElement>

³ List of issues in relation to the initial report of the European Union:
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/098/84/PDF/G1509884.pdf?OpenElement>

⁴ Replies of the European Union to the list of issues:
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/151/57/PDF/G1515157.pdf?OpenElement>

⁵ 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>

⁶ COM(2010) 636 final: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401271644100&uri=CELEX:52010DC0636>

⁷ Evaluation of the European Disability Strategy 2010-2020. Commission Staff working document SWD(2020) 291 final

Recommendations to ratify the **Optional Protocol**, which would 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**. Discrimination in access to health and discrimination in access to European schools for children with disabilities of EU staff members have not effectively been resolved.

The Concluding Observations recommended adjusting the coordination and monitoring system within the EU, by installing **focal points in all EU institutions**. Still, these focal points have **not been set up**.

The recommendations of the Concluding Observations were taken into consideration in recommendations made by the **European Economic and Social Committee** (EESC)⁸ and in various resolutions by the **European Parliament** (EP) drafted by the PETI and EMPL Committees, including with the input of the Disability Intergroup.⁹

The renewed **Disability Strategy of March 2021**, called 'Union of Quality: Strategy for the Rights of Persons with Disabilities 2021-2030'¹⁰ builds upon achievements of the former Disability Strategy and **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', to help implement accessibility requirements across the EU and the introduction of a mutually recognized 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. Instead of installing focal points, disability coordinators shall be appointed.

Several issues raised in the Concluding Observations remain unsolved or unaddressed in the new Disability Strategy. Notably, the contested issue of the use by Member States of EU Funds to renovate institutions is not addressed. Discrimination in accessing health care is not met with concrete actions. Ratifying the Optional Protocol, or adopting a directive to prohibit discrimination on the ground of disability, are not progressing as they are still blocked in the Council.

The Disability Strategy does not refer to the concerns and recommendations of the Concluding Observations, thus making it difficult to assess why some issues are not addressed or solved. In the area of accessibility, improvements were considerable, thanks to the adoption and implementation of binding legislation. Accompanying soft instruments, such as research and funding of projects, also played an important role. Unresolved or unaddressed issues pertain to areas where the **EU has limited competence** and where the **political will to agree on changes is lacking**. 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

⁸ Shaping the EU agenda for disability rights 2020-2030: a contribution from the European Economic and Social Committee (own-initiative opinion). Hereafter called EESC Opinion on Disability Rights Agenda: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-eu-agenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion>

⁹ Among others: Resolution 2016: https://www.europarl.europa.eu/doceo/document/A-8-2016-0203_EN.html?redirect. Resolution 2017: https://www.europarl.europa.eu/doceo/document/A-8-2017-0339_EN.html Resolution 2020: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.html and Report on the implementation of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation in light of the UNCRPD: https://www.europarl.europa.eu/doceo/document/A-9-2021-0014_EN.html

¹⁰ Union of Quality. Strategy for the Rights of Persons with Disabilities 2021-2030: https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_21_810/IP_21_810_EN.pdf

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.

The study is accompanied by a **Table** in Annex 1 that allows to follow the various analytical steps made in this study by examining how the CRPD articles and the related concerns raised in the Concluding Observations and the recommendations made to the EU in 2015 are addressed, followed and solved, or not, by the Disability Strategies 2010-2020 and 2021-2030. The table shows that only 4 Concluding Observations were fully implemented, 16 partially and 22 not implemented.

The following recommendations to EU institutions are consequently proposed:

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.

1. THE EUROPEAN UNION RATIFICATION OF THE UNCRPD IN 2011

1.1. The CRPD, its purpose and its relation to the Charter of Fundamental Rights of the European Union and human rights treaties

The UN Convention on the Rights of Persons with Disabilities (UNCRPD)¹¹ 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**. The EU is also the first regional organization to have ratified a human rights treaty. The Convention entered into force in the EU on 22 January 2011.

The purpose of the Convention, as stated in Article 1, is to “to promote, protect and ensure the **full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities**, and to promote respect for their inherent **dignity**.”

The CRPD is a human rights instrument with a **social development dimension**. It reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. The Convention clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights, and areas where their rights have been violated and where protection of rights must be reinforced.¹²

The European Union signed and ratified the CRPD as it is based on the values of human dignity, freedom, democracy, equality, the rule of law and respect for human rights (**Article 2 Treaty on European Union, TEU**). Furthermore, the **Charter of Fundamental Rights** of the European Union brings together all the personal, civic, political, economic and social rights that people enjoy within the EU. Article 21 of the Charter prohibits discrimination on various grounds, including disability, and Article 26 recognizes the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.¹³ The **Treaty on the Functioning of the EU (TFEU)** requires the Union to combat discrimination based on disability when defining and implementing its policies and activities (Article 10) and gives it the power to adopt legislation to address such discrimination (Article 19). The provisions of the Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity. They also apply to the Member States, but only when they are implementing Union law.

There are also **UN human rights treaties** ratified by EU Member States that protect the rights of women, children, migrant workers and others. These global treaties cover persons with disabilities along with everybody else. At the time of drafting the **CRPD** it has been recognized that a **specific global treaty** addressing the needs of persons with disabilities was necessary because without a legally binding treaty that spelled out their rights, persons with disabilities faced the risk of being **legally ‘invisible’** in their societies and in the international arena. The result of being ‘invisible’ has been that persons with disabilities continue to face major hurdles and discriminatory practices in their

¹¹ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

¹² Statement by the Department of Economic and Social Affairs UN:
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

¹³ Initial report on implementation of the UN CRPD by the European Union. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/232/64/PDF/G1423264.pdf?OpenElement>

daily lives.¹⁴ It is for these reasons that the European Union and all its Member States signed and ratified the UN CRPD.

1.2. Implementation and reporting mechanism

State parties and regional organizations that join in the Convention engage themselves to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination.¹⁵ The Convention calls for the “**progressive realization**” of most of its provisions, in line with the resources of individual countries.¹⁶

The Convention requires¹⁷ to designate one or more focal points within the government and the administration of the state parties and to **establish a framework for promoting and monitoring the implementation** of the Convention. The EU initially designated the Commission as focal point. The Commission proposed that the European Parliament (Petitions Committee (PETI)), the European Ombudsman (EO), the EU Agency for Fundamental Rights (FRA), the European Disability Forum (EDF) would form, together with the Commission, the **EU framework**.

Parties to the Convention are required to submit a **report on implementation** of the Convention to the CRPD Committee within two years of the ratification, and every four years thereafter. The initial report by the EU was submitted June **2014**.¹⁸ The CRPD Committee¹⁹ adopted a list of issues in May 2015.²⁰ The EU sent replies to the list of issues in June 2015.²¹ The Committee published its Concluding Observations in October 2015.²² A follow up note to concluding observations was published in 2017.²³

¹⁴ Backgrounder by Department of Economic and Social affairs UN:

<https://www.un.org/development/desa/disabilities/backgrounder-disability-treaty-closes-a-gap-in-protecting-human-rights.html>

¹⁵ Statement by the Department of Economic and Social affairs UN:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

¹⁶ Statement by the Department of Economic and Social affairs UN. <https://www.un.org/development/desa/disabilities/the-convention-is-in-force-what-next.html>

¹⁷ Article 33

¹⁸ Initial Report European Union:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/232/64/PDF/G1423264.pdf?OpenElement>

¹⁹ Hereafter called the Committee

²⁰ List of issues in relation to the initial report of the European Union:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/098/84/PDF/G1509884.pdf?OpenElement>

²¹ Replies of the European Union to the list of issues:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/151/57/PDF/G1515157.pdf?OpenElement>

²² 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>

²³ Follow up note 2017 to concluding observations on state party's reports: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/FollowUp.aspx?Treaty=CRPD&Lang=en

Timeline of the first EU reporting cycle to the CRPD Committee

EU initial report	June 2014 ²⁴
CRPD Committee ²⁵ List of Issues	May 2015 ²⁶
EU replies to the List of Issues	June 2015 ²⁷
CRPD Committee Concluding Observations	October 2015 ²⁸
EU Follow up note to the Concluding Observations	2017 ²⁹

The Committee agreed to a **simplified procedure** for the second cycle of reporting by the European Union. This means that the Committee will prepare and adopt a list of issues. The Committee will make a call for submissions for this list of issues from NGOs and organizations of people with disabilities and this call was expected by the end of 2021. The European Union is expected to reply to the new list of issues within 12 months. These replies will constitute the **second periodic report by the EU**.

1.3. The role of the EU and of the EU Member States

The European Union and all EU Member States ratified the CRPD.³⁰ According to Article 216(2) TFEU, agreements concluded by the Union are binding on its institutions.

The EU is to act within the limits of the **competences** conferred on it by the Member States. In some areas, **the EU shares competence** with Member States, such as transport or the internal market. In other areas, such as health, education and culture, the main competence remains with the Member States and the **EU has a supportive role**.

EU and Member States Competences in policy areas³¹

EU and MS shared competences	Transport, internal market, employment, social affairs, justice and fundamental rights , migration and home affairs , economic, social and territorial cohesion, agriculture and fisheries, environment, consumer protection, trans-European networks,
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²⁴ Initial Report European Union: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/232/64/PDF/G1423264.pdf?OpenElement>

²⁵ Hereafter called the Committee

²⁶ List of issues in relation to the initial report of the European Union: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/098/84/PDF/G1509884.pdf?OpenElement>

²⁷ Replies of the European Union to the list of issues: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/151/57/PDF/G1515157.pdf?OpenElement>

²⁸ 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>

²⁹ Follow up note 2017 to concluding observations on state party's reports: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/FollowUp.aspx?Treaty=CRPD&Lang=en

³⁰ Website UN status of ratifications CRPD: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=en

³¹ https://ec.europa.eu/info/about-european-commission/what-european-commission-does/law/areas-eu-action_en

	energy, area of freedom, security and justice, common safety concerns in public health.
EU supporting role, MS main competence	Health, industry, education, youth, sport, culture, tourism, civil protection, administrative cooperation.

The main responsibility for promoting, protecting and monitoring the CRPD lies with the Member States³² and the Union and its Member States are subject to a duty of sincere cooperation.³³ A Code of Conduct between the Council, the Member States and the Commission sets out arrangements for the EU's implementation of the CRPD. The Council decision concerning the conclusion of the UN CRPD³⁴ lists all Community Acts that refer to matters governed by the Convention.

³² Initial report European Union on implementing the UN CRPD, page 65.

³³ Ibid., page 13.

³⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010D0048>

2. THE DISABILITY STRATEGY 2010– 2020

The European Union adopted a **Disability Strategy 2010-2020** a month before it formally ratified the CRPD.³⁵ The Disability Strategy took the CRPD texts into account and served as **implementation plan** for the Convention.

The aim of the Disability Strategy 2010—2020 was to **empower people with disabilities** so that they can fully enjoy their rights and participate in society and in the economy on an equal basis with others. The Disability Strategy prioritized **eight areas of action**: accessibility, participation, equality, employment, education and training, social protection, health and external action.

Actions from the Disability Strategy 2010-2020

Accessibility:

- use legislative and other instruments, such as standardisation, to optimise the accessibility of the built environment, transport and ICT in line with the Digital Agenda and Innovation Union flagships;
- explore the merits of adopting regulatory measures to ensure accessibility of products and services, including measures to step up the use of public procurement);
- encourage the incorporation of accessibility and 'design for all' in educational curricula and training for relevant professions;
- foster an EU-wide market for assistive technology;
- propose a 'European Accessibility Act' by 2012, including specific standards for particular sectors to improve the proper functioning of the internal market for accessible products and services.

Participation:

- overcome the obstacles to exercising their rights as individuals, consumers, students, economic and political actors; tackle the problems related to intra-EU mobility and facilitate and promote the use of the European model of disability parking card;
- promote the transition from institutional to community-based care by: using Structural Funds and the Rural Development Fund to support the development of community-based services and raising awareness of the situation of people with disabilities living in residential institutions, in particular children and elderly people;
- improve the accessibility of sports, leisure, cultural and recreational organisations, activities, events, venues, goods and services including audiovisual ones; promote participation in sports events and the organisation of disability-specific ones; explore ways of facilitating the use of sign language and Braille in dealing with the EU institutions; address accessibility to voting in order to facilitate the exercise of EU citizens' electoral rights; foster the cross-border transfer of copyright works in accessible format; promote use of the scope for exceptions provided by the Directive on copyright.

³⁵ November 2010 the Disability Strategy was published:
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM%3A2010%3A0636%3AFIN%3Aen%3APDF>

Equality:

- The Commission will promote the equal treatment of people with disabilities, by using existing EU legislation to provide protection from discrimination, and by implementing an active policy to combat discrimination and promote equal opportunities in EU policies.
- The Commission will pay attention to the cumulative impact of discrimination that people with disabilities may experience on other grounds, such as nationality, age, race or ethnicity, sex, religion or belief, or sexual orientation.
- It will ensure that Directive 2000/78/EC¹⁴ banning discrimination in employment is fully implemented;
- It will promote diversity and combat discrimination through awareness-raising campaigns at EU and national level, and support the work of EU-level NGOs active in the area.
- EU action will support and supplement national policies and programmes to promote equality, for instance by promoting the conformity of Member State legislation on legal capacity with the UN Convention.

Employment:

- The Commission will exploit the full potential of the Europe 2020 Strategy by providing Member States with analysis, political guidance, information exchange and other support.
- It will improve knowledge of the employment situation of women and men with disabilities, identify challenges and propose remedies.
- It will pay particular attention to young people with disabilities in their transition from education to employment.
- It will address intra-job mobility on the open labour market and in sheltered workshops, through information exchange and mutual learning.
- It will address the issue of self-employment and quality jobs, including aspects such as working conditions and career advancement, with the involvement of the social partners.
- The Commission will step up its support for voluntary initiatives that promote diversity management at the workplace, such as diversity charters signed by employers and a Social Business Initiative.
- Support and supplement national efforts to: analyse the labour market situation of people with disabilities; fight disability benefit cultures and traps that discourage them from entering the labour market; help their integration in the labour market making use of the European Social Fund (ESF); develop active labour market policies; make workplaces more accessible; develop services for job placement, support structures and on-the-job training; promote use of the General Block Exemption Regulation which allows the granting of state aid without prior notification to the Commission.

Education and training:

- With full respect for the responsibility of the Member States for the content of teaching and the organisation of education systems, the Commission will support the goal of inclusive, quality education and training under the Youth on the Move initiative. It will increase knowledge on levels of education and opportunities for people with disabilities, and increase their mobility by facilitating participation in the Lifelong Learning Programme.
- EU action will support national efforts through EU 2020, the strategic framework for European cooperation in education and training, to remove legal and organisational barriers for people with disabilities to general education and lifelong learning systems; provide timely support for inclusive education and personalised learning, and early identification of special needs;

<p>provide adequate training and support for professionals working at all levels of education and report on participation rates and outcomes.</p>
<p>Social protection:</p> <ul style="list-style-type: none"> • The Commission will pay attention to these issues through the European Platform against Poverty. This includes assessing the adequacy and sustainability of social protection systems and support through the ESF. • In respect of the competence of the Member States, the EU supports national measures to ensure the quality and sustainability of social protection systems for people with disabilities, through policy exchange and mutual learning.
<p>Health:</p> <ul style="list-style-type: none"> • The Commission will support policy developments for equal access to healthcare, including quality health and rehabilitation services designed for people with disabilities. • It will pay specific attention to people with disabilities when implementing policies to tackle health inequalities; promote action in the field of health and safety at work to reduce risks of disabilities developing during working life and to improve the reintegration of workers with disabilities; and work to prevent those risks. • EU action will support national measures to deliver accessible, non-discriminatory health services and facilities; promote awareness of disabilities in medical schools and in curricula for healthcare professionals; provide adequate rehabilitation services; promote mental health services and the development of early intervention and needs assessment services.
<p>External action:</p> <ul style="list-style-type: none"> • The Commission will highlight disability as a human rights issue in the EU's external action; • raise awareness of the UN Convention and the needs of people with disabilities, including accessibility, in the area of emergency and humanitarian aid; • consolidate the network of disability correspondents, increasing awareness of disability issues in EU delegations; • ensure that candidate and potential candidate countries make progress in promoting the rights of people with disabilities and ensure that the financial instruments for pre-accession assistance are used to improve their situation. • EU action will support and complement national initiatives to address disability issues in dialogues with non-member countries, and where appropriate include disability and the implementation of the UN Convention taking into account the Accra commitments on aid-effectiveness. It will foster agreement and commitment on disability issues in international fora (UN, Council of Europe, OECD).

3. INITIAL REPORT

The **initial report on implementation of the UN CRPD submitted in June 2014 by the European Commission** provided a description of the special position of the European Union as a regional integration organization that concluded the UN CRPD and explained how this conclusion binds the EU institutions and its Member States. The report describes article per article the competence of the EU and which articles of the Charter, the TEU and the TFEU are relevant. The report further describes existing EU legislation, policies, programs, actions, proposals and (EU funded) projects and studies that are considered to be aligned with the CRPD objectives and help implement the Convention. Throughout the report, available statistical data are provided on the disadvantaged position of people with disabilities.³⁶ The Commission also engaged to promote the rights of persons with disabilities in line with the CRPD, in the development and implementation of EU policies and legislation, through various instruments and processes.

The initial report **referred to the European Disability Strategy 2010– 2020**³⁷ and to the actions and initiatives that the European Commission or other bodies were tasked to take to implement the CRPD. In this sense, **the Disability Strategy was used and served as the implementation plan for the CRPD**, notwithstanding the fact that it had been launched beforehand.

³⁶ Such as the employment gap: the employment rate among people with disabilities was in 2011 about 25 percentage points lower than that among people without disabilities.

³⁷ COM(2010) 636 final: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401271644100&uri=CELEX:52010DC0636>

4. LIST OF ISSUES, REPLY TO THE ISSUES AND CONCLUDING OBSERVATIONS

After examining the initial report by the Commission on the implementation of the Convention, the **UN CRPD Committee adopted a List of Issues**, which contains **questions by the Committee to the EU** on the initial report.

In the replies to the list of Issues, the **Commission further clarified** how it seeks to implement the Convention.

Following the examination of these explanations, the **UN Committee adopted Concluding Observations** describing positive aspects it has noted, as well as remaining concerns. The Committee made detailed **recommendations to the EU** calling it to take action to address concerns and solve them.

In the below section, every issue raised by the UN Committee is followed by the replies by the Commission, the conclusions by the Committee and the recommendations issued to the attention of the EU, as formulated in the Concluding Observations.

4.1. Articles 1 - 4: purpose and general obligations

Issue: Provide a timescale for ratification of the OP-CRPD.

The Commission reply explained that the Commission adopted a proposal for the conclusion of the optional protocol and that European Parliament invited the Council twice to approve the conclusion of the optional protocol. Accession to the OP-CRPD requires unanimous agreement in the Council by Member States and that, so far, the Council is undecided on this issue.

The Committee concluded to be concerned that the OP is not ratified and called upon the EU to ratify the Optional Protocol.

Issue: Describe more precisely the steps the EU will take to develop a strategy to implement the CRPD within the European Union and in all its institutions; what practical initiatives the EU is taking to ensure the understanding and use of the Human Rights based approach to disability at all levels of policymaking and implementation within all EU-institutions.

The Commission reply explains that the Commission implements some actions from the Disability Strategy directly, while others require agreement by Parliament and Council. Implementation is regularly discussed within the High Level Group on Disability (with representatives from Member States, the Council of Europe and several EU level NGO's and with the Work Forum which brings together focal points, coordination and monitoring mechanisms and civil society from the EU and Member States. As examples of how European Parliament, the European Ombudsman and other EU bodies contribute to the implementation, it is mentioned that the European Parliament set up an inter-committee coordination working group, that the Ombudsman investigates complaints from citizens and organisations and can initiate inquiries, and that the European Economic and Social Committee (EESC) set up an ad hoc group on disability to gather and assess civil society views on the implementation of the CRPD.

The committee is concerned as this is not regarded as a strategy on the implementation of the Conventions across all its institutions.

Issue: How does the EU systematically harmonize all new and existing legislation, regulations and policies with the Convention and how is impact on rights of persons with disabilities assessed by the Impact Assessment Board?

The Commission reply does not provide an answer on harmonizing existing legislation. The reply describes that new legislation and policies are assessed on impacts by the Commission departments and by the Impact Assessment Board, and that these work according to guidelines which asks them to consider respect for the rights of people with disabilities.

The committee concluded that the EU failed to conduct a cross cutting comprehensive review of its legislation and that impact assessments do not adequately assess compliance with the CRPD.

Issue: How does the EU ensures involvement of representative organisations of persons with disabilities in developing and implementing all European decision making?

The Commission replied to have the ambition to strive for full involvement of stakeholders via public consultations processes. Guidelines on public consultations ask to take accessibility needs of people into account.

The Committee concluded on this issue by stating there is a lack of clear benchmark and guidelines on how to incorporate the concluding observations in the evaluation of the Disability Strategy in close consultation with persons with disabilities and their representative organisations. The Committee further concluded the lack of a crosscutting, overarching framework for consultation among different bodies in the European Union and persons with disabilities, including women and girls, and boys with disabilities through their organisations.

4.2. Articles 5 - 30: specific rights

Art 5: Equality and non-discrimination

Issue: What are the outcomes of infringement procedures for the correct implementation of Council Directive 2000/78/EC on equal treatment in employment and occupation.³⁸

The reply was satisfactory and no concern was formulated.

Issue: What is the timescale for the adoption by the Council of the additional equal treatment directive to extend the antidiscrimination legal framework to areas outside the field of employment.

The Commission reply stated that the Commission and the Parliament support the additional Equal Treatment Directive but that the Council is far from the required unanimous agreement.

Art 6: Women with disabilities

Issue: What measures are taken to tackle intersectional discrimination on the grounds of gender and disability?

³⁸ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, *OJ L 303*, 2.12.2000, p. 16–22, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

The Commission reply referred to the work of European Institute for Gender Equality (EIGE), the Progress programme 2007-2013, co-financing of awareness raising campaigns on violence against women, financing grassroots projects by civil society organisations under the Daphne program and exchanges of best practices among Member States.

The Committee concluded that the EU neither mainstreamed a disability perspective in its gender policies nor adopted a gender perspective in its disability strategies.

Art 7: Children with disabilities

Issue: What measures have been taken on implementing the rights of children with disabilities?

The Commission reply stated that studies were commissioned on children's involvement in criminal, civil and administrative judicial proceedings in the Member States; that a directive was proposed on procedural safeguards for children suspected or accused in criminal proceedings and that the Daphne programme³⁹, the Research Executive Agency (REA) and the Fundamental Rights Agency have prioritized projects that focus on children with disabilities.

The Committee in reaction stated that it is concerned about the number of boys and girls with disabilities living in institutions across the European Union who have no access to mainstream, inclusive, quality education.

The Committee also expressed concerns about the adverse effect of austerity measures on the availability of support services for families with children with disabilities in local communities, that disability strategies do not include children and that the European Union Agenda for the rights of the Child had expired.

The Committee was further concerned at the lack of awareness regarding the rights of boys and girls with disabilities and that they are not systematically involved in decisions that affect their lives nor have the opportunity to express their opinions on matters that affect them directly.

Art 8: Awareness raising

Issue: Provide an overview of practical and systemic awareness raising and training initiatives at all EU levels and within all institutions and agencies.

The reply provided an overview of awareness raising initiatives by the Commission: the organisation of a yearly conference, the establishment of the Access City Award, the organisation of training and seminars, examples of initiatives by the European Parliament and the Fundamental Rights Agency.

The Committee concluded that the initiatives are not continuous and do not include all institutions and all staff. It expressed concern at the fact that materials, campaigns, statements and documents published by the EU are not available in accessible formats.

Art 9: Accessibility

Issue: Indicate what monitoring mechanisms are in place to ensure implementation of accessibility requirements for goods and services, public procurement procedures, public

³⁹ Funding programme to support victims of violence

transport and information and communication; what is the timescale for adoption of the proposed European Accessibility Act?

The Commission reply gives an overview of directives and regulations on rail transport, waterborne transport and road transport, on information and communication; the proposed directive on accessibility of public sector websites, the transposition of public procurement procedures into national law and how sanctions play out under the 2014 Public Procurement Directives. The reply also describes how committed the Commission is to promote a barrier free Europe and how it sought the view and support of many stakeholders in a campaign for the proposal for a European Accessibility Act.

The Committee concluded with concern that the European Accessibility Act was not - at that time - yet adopted and that existing European policies, legislation, regulations and programmes had not yet been sufficiently assessed on accessibility.

Art 11: situation of risk and humanitarian emergencies

Issue: How is humanitarian aid made inclusive and accessible; what measures are being taken to make the emergency number 112 accessible to all; which protocols are in place for the protection of all persons with disabilities in the event of natural disaster or humanitarian emergencies?

The Commission replied that the needs of persons with disabilities are expected to be mainstreamed in operations within all sectors of humanitarian aid and that the needs of persons with disabilities will be considered in newly to develop guidelines on shelter and settlements. EU legislation obliges Member States to ensure equal access to the emergency number 112 to be fully accessible. The Commission supports projects to enable e-inclusion in the area of emergency and Council and Commission adopted conclusions on disability inclusive disaster management.

The Committee showed concern that emergency number 112 is not fully accessible across the European Union to all persons with all types of disabilities; that persons with disabilities are not fully included in EU policies and guidelines on humanitarian aid and that knowledge and good practices are not fully shared among the different EU institutions and Member States.

The Committee expressed deep concern about the precarious situation of persons with disabilities in the migrant crisis and that refugees, migrants and asylum seekers with disabilities are detained in conditions which do not provide appropriate support, that migration decision making procedures and information and communication are not accessible for all persons with disabilities.

Art 12: Equal recognition before the law

Issue: No question was asked.

In the Concluding observations the Committee notes with deep concern that across the EU the full legal capacity of a large number of persons with disabilities is restricted.

Art 13: Access to justice

Issue: How does the EU ensure implementation of EU legislation on access to justice in compliance with the CRPD?

The Commission reply stated that the Victims Rights Directive requires Member States to ensure that persons with disabilities are able to benefit fully from the rights set out in the directive; that directive 2011/99 on the European protection order and Regulation 606/2013 on mutual recognition of

protection measures in civil matters call on authorities to give consideration to the needs of victims, including people with disabilities and that directive 2010/64/EU addresses the right to interpretation and translation (including sign language) in criminal proceedings for suspected or accused persons. The reply also mentioned that the Ombudsman published decisions in large print and audio versions.

The Committee concluded with concern that persons with disabilities faced discrimination owing to the lack of procedural accommodation in EU Member States.

Art 14: Liberty and security of the person

Issue: No question on this article.

The Committee is concerned about the involuntary detention of persons with disabilities in psychiatric hospitals or other institutions based on actual or perceived impairment.

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

Issue: No mention of this article in the List of Issues.

The Committee is concerned that research funded by the European Union is not accompanied by ethics guidelines to ensure that all persons with disabilities involved in such research are enabled to give their informed consent.

Art 16: Freedom from exploitation, violence and abuse

Issue: The list of issues asked about the monitoring mechanism in directive 2011/92/EU on combatting sexual abuse and sexual exploitation of children and child pornography, and asked to provide information on how women and girls with disabilities are included in EU programmes and legislation in violence against women.

The Commission reply stated that funding was provided for awareness raising activities in Member States to counter violence against women; for projects and a campaign against violence and bullying of women and young people with a learning disability. The Commission stated that it organized exchanges of good practices on violence against women.

The Committee concluded with concern that persons with disabilities, especially women, girls and boys, and older persons, are subjected to violence, abuse and exploitation, especially in institutional settings.

Art 17: Protecting the integrity of the person

Issue: Has the recommendation for a legislative proposal to ban forced sterilization seen a follow-up?

The Commission replied that it has not considered such a proposal.

The Committee is concerned that persons with disabilities are exposed to involuntary treatment, including forced sterilization and abortion, in EU Member States.

Art 18: Freedom of movement

Issue: What measures is the EU taking to ensure that persons with disabilities can transfer their social protection, disability and personal assistance benefits to another Member State in order to exercise their freedom of movement.

The Commission explained in its reply that social security protection is assured by Member States under national law and that EU law does not harmonise national security systems. Social assistance benefits cannot be transferred to another Member State if the beneficiary changes residence. EU citizens residing in another Member State do enjoy equal treatment with nationals and can thus be entitled to social benefits in the country of residence.

The Commission also underlined that it aims to facilitate cross border travelling of persons with disabilities by introducing a voluntary EU Disability Card. The card implied mutual recognition of the disability status and would give card holders from other EU countries the same benefits (for instance free entry in museums) as national card holders in the areas of culture, leisure, sport, tourism etcetera.

The Committee expressed concern at the barriers faced by persons with disabilities and persons with family members who have disabilities when moving to live or work in another European Union Member State.

Art 19: Living independently and being included in the community

Issue: How is European funding, especially the European Structural and Investment Funds, used to ensure, protect and promote the inclusion of persons with disabilities in their local communities; how are representative organizations of persons with disabilities involved in the policymaking for, and the implementation, monitoring and evaluation of, that funding; and what measures were taken to carry out deinstitutionalization efforts and reforms in the areas of education, health care, employment, culture and support services?

In its reply, the Commission stated that the legal framework for the ESI funds was strengthened by introducing an ex-ante conditionality clause which requires that national strategies for reducing poverty aiming at active inclusion, include measures to support the shift to community-based services. The legal framework contains obligations for Member States to report on how non-discrimination and accessibility for people with disabilities are implemented through the funds. The transition from institutional to community-based services is one of the aims of investments in health and social infrastructure under the European Regional Development Fund (ERDF). Any measure contributing to further institutionalisation of disabled people or the elderly should not be supported by ESI Funds. The European Social Fund (ESF) should support the fulfilment of the Union's obligation under the Convention with regard to education, work, employment and accessibility. It should not support any action that contributes to segregation or social exclusion. Under Article 8 of the ESF Regulation, actions must aim at combatting all forms of discrimination and to improve accessibility, with a view to improving integration into employment, education and training, thereby enhancing social inclusion, reducing inequalities, and facilitating the transition from institutional to community-based care.

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

Art 20: Personal mobility

Issue: Indicate what practical initiatives the EU is taking to secure spontaneous and independent travel for persons with disabilities, as well as assistance and accompanying persons free of charge, at the local, regional, national and international levels; and explain how the EU is monitoring and following up on the implementation of all directives and regulations on air, rail, bus and coach passengers, and on sea and inland waterways, by Member States and operators.

The reply summed up the Regulations on different kind of transports. According to these regulations Member States must designate national authorities in charge of ensuring the application and enforcement. The Commission stated it monitors the work of these national enforcement bodies. Passengers who believe that their rights are not respected can complain to the transport company or to the national authorities.

The Committee expressed concern about the varied practices of different national enforcement bodies in charge of implementing the rights of passengers with disabilities in different European Union Member States, which may lead to unequal treatment and restrictions to the enjoyment of rights by passengers with disabilities.

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

Issue: What is the legal status of Braille and sign language in the EU and its Member States?

The legal status of Braille and sign language in the EU Member States is a matter of national competence and the situation is very diverse, states the Commission reply. Sign languages are not official languages of the EU institutions. The use of Braille has been regulated at EU level only for the packaging of medicines. Other pieces of legislation require that information is available in accessible format. This can include Braille, depending on individual needs. The EU public administration provides information in accessible formats, upon request of the citizens. This has happened for the Work Forum and the European Day of Persons with Disabilities where documents were provided in Braille upon request. Commission guidelines for stakeholder consultation suggests that the choice of consultation methods and tools should take account of accessibility.

The conclusion by the Committee is that it was concerned that across the European Union, persons with disabilities do not always have access to information and communication in accessible formats and technologies appropriate to different kinds of disabilities, including sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication of their choice, including easy-to-read formats.

Art 23: Respect for home and the family

Issue: No question on this article in the list of issues but a concern.

The Committee expressed concern on the fact that austerity measures have resulted in cuts in social services and support to families and community-based services, among others, which restrict the right of persons with disabilities to family life, and the right of children with disabilities to live in family settings.

The Committee was also concerned that the maternity leave directive had been withdrawn and that equal rights for women, mothers and fathers, children and adults with disabilities were not adequately addressed in the European Union work-life balance policy.

Art 24: Education

Issue: Indicate what practical initiatives the EU has taken to ensure that the funding instruments and actions of member States aimed at fulfilling the education targets within the Europe 2020 strategy promote inclusive quality education; in what way are representative organizations of persons with disabilities involved in the monitoring; clarify whether there are disability-specific indicators in the Europe 2020 strategy for the target on education.

The reply stated that Member States are responsible for the organisation of their education systems and that the EU cannot enact legislation on inclusive education. The EU supports and supplements the efforts of Member States to develop inclusive education systems. The Commission cooperates with and funds the European Agency for Special Needs and Inclusive Education, which works closely with national education ministries. It provides analysis and information about inclusive education across Europe, gives recommendations for policy and practice, and tools to monitor progress. Under the annual European Semester, the Commission monitors every year the inclusiveness of education in Member States, and may issue country-specific recommendations on increasing participation of disadvantaged groups in inclusive mainstream education. In 2014-2020, Member States could access resources from the ESI Funds to improve inclusive education, while the Erasmus+ programme provided opportunities for individual learning mobility, with specific provisions for the participation of disabled people. The Europe 2020 strategy had no specific education target or indicator related to disabled persons. Eurostat nevertheless disseminated data on persons with disabilities (on early leavers from education and training and tertiary educational attainment).

The Committee is concerned that in different Member States, many boys and girls, and adults with disabilities cannot access inclusive, quality education in line with the Convention.

Art 25: Health

Issue: How can the European Union prevent disability-based discrimination in health-care service provision and ensure the training of health-care professionals on the human rights of persons with disabilities, in the light of its shared competences with the Member States in the field of health care?

The reply explained that EU law prohibits discrimination in the provision of health care services if based on racial or ethnic origin, or on gender. The Commission proposed a Directive to extend protection from discrimination in the provision of health care services on more grounds, including disability, but the Council did not agree on this proposal yet. Directive 2011/24, on the application of patients' rights in cross-border healthcare, requires Member States to provide information on patient rights, the quality and safety standards in place, and the accessibility of hospitals for persons with disabilities. The EU Health programme supports Member States in exchanging information and goods. Under the Joint Action Mental Health and Well-being (2013-2016) Member States cooperated to agree policy recommendations to provide community-based inclusive mental health care. The aim was to support Member States in implementing the right of people with severe mental disorders to live independently and be included in the community.

The Committee was concerned that discrimination on the grounds of disability is not explicitly prohibited in the field of health care. It notes the barriers faced by persons with disabilities in accessing health care in different Member States.

Art 26: Habilitation and rehabilitation

Issue. What measures can the EU take to ensure equal access to habilitation and rehabilitation services for nationals of a European Union Member State who are persons with disabilities, after they have moved to another Member State.

The reply stated that EU law prohibits discrimination in the provision of health care services if based on racial or ethnic origin, or on gender but not on disability. The reply referred to specific regulations and Article 45 of the TFEU to state that Member States are required to give equal treatment in habilitation and rehabilitation to EU nationals who are habitually resident on their territory and to equal treatment regarding habilitation services that are linked to access to employment in the host state and to equal treatment in assistance afforded by employment offices to find employment. No concern was formulated.

Art 27: Work and employment

Issue: Provide data on the amount of money invested in wage subsidies for workers with disabilities employed in the open labour market; in workplace adaptations in the open labour market; and in the hiring of workplace assistants for workers with disabilities employed in the open labour market; indicate what steps the European Union has taken to ensure that persons with disabilities are prioritized in all European Union policymaking and policy implementation in respect of employment, such as the Europe 2020 strategy and the European Union funding instruments, and that the effect is measured in a comparative way across the European Union member States.

In the reply the Commission provided precise data in state aid granted under the General Block Exemption Regulation. The Europe 2020 strategy set targets for the EU to achieve by 2020 in five areas: employment, research and development, climate change and energy, education, and the fight against poverty and social exclusion. There were no disability-specific indicators in the Europe 2020 strategy. However, the Commission used LFS ad hoc module 2011 and EU-SILC surveys to monitor the situation of persons with disabilities and supported the Academic Network of European Disability experts to develop relevant indicators. As part of the European Semester, the Commission raised concerns about the situation of people with disabilities in education, employment and social inclusion. The Commission issues country-specific recommendations to Member States on enhancing employment and reducing poverty for people with disabilities.

The Committee raised concerns about the high unemployment rates for persons with disabilities, especially women with disabilities and persons with intellectual and/or psychosocial disabilities, in comparison with other population groups in the European Union.

Art 28: Adequate standard of living and social protection

Issue: The List of Issues refers to the international financial crisis and the effect that austerity measures have had on the daily life of persons with disabilities. It asks for information on programmes aimed at reducing poverty among persons with disabilities, especially women, girls and boys with disabilities.

The reply provided data from European Union Statistics on Income and Living Conditions (EU Silc) on poverty and social exclusion for people with disabilities. The Commission stated that it was attentive to the social impact of budgetary consolidation measures in Member States and encouraged them to undertake adequate reforms to promote equal opportunities, employability, education and

accessibility for people with disabilities through the Disability Strategy, the Europe 2020 strategy, the Social Investment Package and the ESI Funds. In the European Semester, the Commission emphasised the inclusion of those furthest from the labour market and proposed country-specific recommendations whenever necessary. The ESI Funds provided the opportunity to support measures to improve the living conditions of persons with disabilities. The wide range of activities to be supported by ESI Funds could cover almost all aspects of employment, social inclusion and education, thus contributing to reduce poverty. At least 20 % of the ESF for 2014-2020 was intended to target social inclusion. The ESF budget for projects in which people with disabilities participated amounted to 49.53 billion EUR. Close to 20 billion EUR of ERDF has been allocated by Member States to social inclusion and education objectives in the 2014-2020 programming period for investments in social, health, education, childcare, and housing infrastructure, which may have strong links to the shift to community-based services.

The Committee noted with deep concern the disproportionately adverse and retrogressive effect that the austerity measures in the European Union have had on the adequate standard of living of persons with disabilities.

Art 29: Participation in political and public life

Issue: What measures does the EU take to ensure that all European Union citizens with disabilities enjoy the equal right to vote in and stand for elections at the European parliamentary level?

The Commission replied that competence with respect to ensuring the right of persons with disabilities to participate in political and public life rests mostly with the Member States. The Commission had been raising awareness on these issues with Member States through the High-level Group on Disability. In 2014, FRA, together with ANED and in close cooperation with the Commission, developed indicators on the right of persons with disabilities to political participation. The collected data showed that, when given the opportunity, people with disabilities actively participate in politics but that significant challenges to participation remain, including: legal obstacles; inaccessible environments; processes and information; a lack of awareness about the right to political participation; and the lack of reliable and comparable data. These findings were presented in the European Parliament ahead of the European elections.

The Committee noted with deep concern that across the European Union, persons with disabilities, especially those deprived of their legal capacity or residing in institutions, cannot exercise their right to vote in elections and that participation in elections is not fully accessible.

Art 30: Participation in cultural life, recreation, leisure and sport

Issue: provide the timescale for accession by the EU to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and on measures to implement the Treaty.

The Commission reply highlighted that ratification of the treaty was a priority for the EU. The Commission put forward a proposal for a Council Decision on the conclusion. The proposal was at that time under discussion in Council and required Parliament's consent.

The Committee was concerned that the European Union had not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print

Disabled, which provides for access to published material by blind persons and persons with visual impairments or print disabilities.

4.3. Specific obligations

Art 31: Statistics and data collection

Issue: what steps does the EU and its competent institutions, including Eurostat, take to implement the Convention and its human rights-based approach to disability in the collection of data in all areas of life?

The reply explained that data collection is not done by Eurostat directly, but by statistical authorities in the Member States. Eurostat's role is to consolidate the data and ensure they are comparable, using harmonised methodologies. The content of any European survey is discussed with national statistical authorities, including the possibility of adding further indicators. Four EU-wide surveys provide disability-related statistics. Data available at EU level do not yet enable a regular monitoring of the situation of disabled people in Europe.

The Committee was concerned at the lack of consistent and comparable data on persons with disabilities in the European Union, and the lack of human rights indicators.

Art 32: International cooperation:

Issue: Explain how the EU ensures that all international cooperation policies and programmes, including in the areas of development, humanitarian assistance and disaster risk reduction, are inclusive of, and accessible to, all persons with disabilities.

The reply mentioned three separate regulations that include provisions for promoting the social inclusion and the rights of persons with disabilities. The 2014-2020 Regulation on common rules and procedures in financing the EU external action introduced accessibility requirements in the design and implementation of all programmes and projects. The EU is one of the world's largest donors supporting the inclusion and human rights of persons with disabilities. In parallel, the EU sought to improve mainstreaming of the concerns and needs of persons with disabilities in all its development programmes. The EU advocated for a post-2015 development framework that fights inequalities and social exclusion and that addresses without any discrimination the needs of the most disadvantaged and vulnerable, including persons with disabilities. The June 2014 Communication 'A decent life for all: from vision to collective action' specified the EU's approach to the post-2015 negotiations; disability was included in several priority areas, such as health, education, employment and accessible cities. To monitor progress in the sustainable development goals, the EU advocated the inclusion of data disaggregated by disability.

The Committee noted with concern the lack of a systematic and institutionalized approach to mainstream the rights of persons with disabilities across all European Union international cooperation policies and programmes. The Committee noted the lack of coordination and coherence among European Union institutions and the lack of disability focal points. It was also concerned that European Union international development funding was used to create or renovate institutional settings for the placement of persons with disabilities, segregated special education schools and sheltered workshops, contrary to the principles and provisions of the Convention.

Art 33: Implementation and monitoring

Issue: Explain how the current EU monitoring framework is considered an independent monitoring mechanism in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular in terms of its criteria for independence and allocation of sufficient financial and human resources: and provide information how 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.

The reply described how European Parliament (Petitions Committee (PETI)), the European Ombudsman (EO), the EU Agency for Fundamental Rights (FRA), the European Disability Forum (EDF) and the Commission (members of the European Framework) are guaranteed to work independently and transparently on their individual task. Active involvement of persons with disabilities and their representative organisations in the implementation, monitoring and evaluation of the Convention in the EU is ensured through EDF in the EU Framework. NGOs and representative organisations of people with disabilities participate in the Disability High-level Group and the Work Forum where the Convention's implementation and monitoring are discussed.

The Committee noted with concern that the European Union framework for implementation and monitoring of the Convention is not fully in line with the Paris Principles nor adequately resourced. Moreover, the European Commission is designated as both a focal point (art. 33.1) for implementation and a mechanism for monitoring the implementation (art. 33.2) of the Convention.

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

Art 4: General obligations

Issue: Comment on the results of the planned equality and diversity audit of selection processes. Has a formal reasonable accommodation policy for persons with disabilities been adopted?

The reply described how Staff Regulations on recruitment and employment conditions of staff working for the EU institutions stipulate a duty to provide reasonable accommodation.

No concern is formulated by the Committee on this point.

Art 5: Equality and non-discrimination

Issue: What are the European Parliament criteria for assessing the reasonableness and proportionality of accommodation measures, which are included in its draft internal rules? Inform the Committee about how employees of European Union institutions who are parents of children with disabilities are protected against discrimination in all its forms.

The reply by the Commission described the internal rules on proportionality of accommodation measures. Employees who are parents of children with disabilities are protected from direct and indirect discrimination under Article 1(d) of the Staff Regulations. It further described specific provisions such as co-financing of school costs for private schools for those children with learning difficulties who cannot be accommodated in the European School system, as well as for children with serious physical disabilities. The Commission co-finances living arrangements for recognised adult disabled children of Commission staff and pensioners.

The Committee reacted by expressing concern that not all employees the European Union who are persons with disabilities, or have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships equally.

Art 9 and 21: Accessibility, freedom of expression and opinion; access to information

Issue: What is the timetable for ensuring the full accessibility of all official European Union websites and other communication channels.

The reply provided a timetable for accessibility.

The Committee was concerned that not all the websites of the various European Union institutions are fully implementing accessibility standards. It is concerned about the lack of information in sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication for persons with disabilities, including easy-to-read format.

Art 13: Access to justice

No question was included on this matter in the list of issues.

The Committee expressed concern about the lack of access to justice for persons with disabilities in European courts.

Art 24: Education

Issue: Provide information on quality inclusive education programmes available for children with disabilities who are members of families of European Union civil servants and who attend European schools.

The reply stated that different forms and levels of support are provided to ensure appropriate help for pupils experiencing difficulties and special educational needs, to allow them to develop and to be successfully included.

The Committee was concerned that not all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools in line with the Convention, and that the schools do not comply with the non-rejection clause. It also raised concerns that European schools are not fully accessible to children with disabilities, nor do they provide for inclusive, quality education.

Art 25: Health

No question is raised in the list of issues.

The Committee was concerned that EU staff members with disabilities or who have family members with disabilities are discriminated against by European Union health insurance schemes.

Art 27: Work and employment

Issue: what is the percentage of persons with disabilities employed within European Union institutions, and is there any specific policy concerning their employment?

The reply by the Commission stated that no EU institution collects statistical data on employment of persons with disabilities within European Institutions and that there is no policy on employing persons with disabilities other than the policy to provide reasonable accommodation.

The Committee expressed concern on the fact that European Union institutions are not role models with regard to employment of persons with disabilities.

5. EVALUATION OF THE DISABILITY STRATEGY 2010-2020 IN RELATION TO THE CONCLUDING OBSERVATIONS

5.1. Refusal to update the Strategy 2010-2020 to incorporate the Concluding Observations.

The Disability Strategy 2010-2020 was used and served as an implementation plan for the CRPD.

The reporting cycle that started in 2014 - 2015 of the List of Issues, replies and recommendations in the Concluding Observations made clear that there were **considerable gaps in implementing the CRPD by the EU**. Especially in areas where the EU has **limited competence** and only a role in supporting Member States (health, industry, education, youth, sports, culture, tourism, civil protection, administrative cooperation), it could be said that the Disability Strategy was limited in actions and concrete proposals.

Moreover, **the Strategy did not cover all the articles in the Convention**. Topics such as **right to life, freedom from exploitation, violence and abuse, respect for privacy, respect for home and the family** are not covered in the Strategy. Neither did the Strategy specifically address **women and children with disabilities**, as well as people with disabilities from a **minority or with a migrant/refugee status**. The eight priority areas in the Disability Strategy covered basically: Article 5, equality and non-discrimination; Article 8, awareness raising; Article 9, accessibility; Article 19, living independently and being included in the community; Article 20, personal mobility; Article 24, education; Article 25, health; Article 27, work and employment; Article 28, adequate standard of living and social protection and Article 32, international cooperation.

One of the recommendations by the Committee was to **update the Disability Strategy 2010-2020** and to establish guidelines with clear benchmarks and indicators for including the recommendations of the Concluding Observations into the Disability Strategy. This recommendation **was not followed**. The midterm evaluation in 2016 did not lead to an update of the Strategy. Therefore, **none of the recommendations were, in substance, incorporated**.

This did not mean however that the recommendations went unnoticed in the actual implementation actions and proposals after 2016. **The Commission** and the EU institutions working together within the EU Monitoring Framework on CRPD, the **European Parliament, the Fundamental Rights Agency (FRA), the Ombudsman and the European Disability Forum** did **address concerns and recommendations from the Concluding Observations**, even if the Disability Strategy did not explicitly mention them.

The report on the '**Evaluation of the European Disability Strategy 2010-2020**'⁴⁰ (hereafter called 'Evaluation Report') performed a broad evaluation of the Strategy of the eight priority areas and several issues that were raised by the Committee in the Concluding Observations. It assessed the level of implementation of the Strategy based on desk research and on a wide consultations of directorates of the Commission; stakeholders on EU- and Member State level; consultation of the general public, and NGOs on EU and Member State level. The findings of this study are presented in this chapter, alongside other relevant studies and opinions on the implementation of the Disability Strategy. One such opinion came from the **European Economic and Social Committee**, an EU advisory body comprising employers, trade unions and social, occupational, economic and cultural organisations among which

⁴⁰ Evaluation of the European Disability Strategy 2010-2020. Commission Staff working document SWD(2020) 291 final

fundamental rights advocacy organisations. They evaluated the Disability Strategy 2010-2020 and published recommendations for a new disability rights agenda for the period 2020-2030.⁴¹ The **European Parliament adopted on 30 November 2017 a resolution on implementation of the European Disability Strategy**.⁴² The resolution states that not enough progress has been made on implementing the Convention and that many persons with disabilities are still not fully participating in society and enjoying their rights, in spite of the numerous international conventions, EU and national legislation and strategies. The resolution criticizes the fact that there “continues to be new and revised legislation without any reference to the CRPD and accessibility and that there is a delay in the implementation of obligations deriving from the CRPD at both EU and Member States level.”

5.2. Evaluation of the eight priority areas of the Disability Strategy 2010-2020

The Evaluation Report sees **accessibility** as the policy area where most actions from the Disability Strategy were **successfully implemented**, with the European Accessibility Act considered as a major legislative achievement by the EU. **All other areas give a mixed result**: the actions foreseen by the Disability Strategy have all been partially or fully **implemented**, but **there is no obvious improvement in outcome results** for people with disabilities in terms of higher employment, better social protection or increased participation.

5.2.1. Accessibility: the European Accessibility Act as a major achievement

According to the Evaluation Report, accessibility is the policy area where most actions from the strategy were implemented. The main objective was to ensure the accessibility of goods and services, including public services and assistive devices for persons with disabilities. The most visible legislative outputs were the **European Accessibility Act** and the **Web Accessibility Directive**, as well as the adoption of the waterborne and bus and coach **passengers' rights Regulations**, the provisional agreement of the Council and the Transport and Tourism Committee of the European Parliament on the proposal of re-cast of the rail passengers' rights Regulation, the revision of the Commission Regulation on the technical specifications for interoperability relating to accessibility of the Union's rail system, the inclusion of accessibility provisions in the **Audiovisual Media Services Directive**, the new European **Electronic Communications Code** (the “Marrakesh” Directive), and the inclusion of mandatory **accessibility requirements** for projects financed through EU funds. Especially the European Accessibility Act was a much-anticipated legislative action of the EU to ensure that goods and services including public services and assistive devices for people with disabilities are accessible. All stakeholders consulted for the Evaluation study considered its adoption as an important achievement of the Strategy and a positive step for improving the level of accessibility throughout the Union.

Some stakeholders were critical about the voluntary approach to the application of the accessibility requirements for the **built environment**. They noted that the standardisation mandate on accessibility of the built environment; the inclusion of accessibility in curricula of architect and engineers; the inclusion of accessibility in the Lead Market Initiative for sustainable buildings were not implemented.

⁴¹ Shaping the EU agenda for disability rights 2020-2030: a contribution from the European Economic and Social Committee (own-initiative opinion). <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-eu-agenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion>

⁴² see European Parliament resolution of 30 November 2017 on implementation of the European Disability Strategy, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html

In the field of copyright, the “Marrakesh Directive” provided for a mandatory exception to copyright as regards printed works in formats accessible to persons with disabilities.

The evaluation report noted that actions in the area of accessibility tend to **focus on visible disabilities**. For **non-visible disabilities**, such as intellectual disabilities and psychosocial disabilities in general, many of the accessibility needs (for simplified environments, pace and complexity of information provided to the public, mental health literacy of public officials, specific awareness raising initiatives dedicated to invisible disabilities) **have not been addressed** by the Strategy.

In the 2017 resolution on the implementation of the CRPD⁴³ the **European Parliament** expressed concerns that the monitoring of some pieces of legislation, such as the Web Accessibility Directive, is carried out through self-assessment by industry and the Member States, and is not conducted by an independent entity. The resolution called on the Commission to set mandatory requirements on the accessibility of public spaces and the built environment, as a consistent number of petitions lodged by European citizens with the PETI Committee complained about the lack of accessibility or the presence of architectural barriers. The resolution recommended the Commission to develop a system for the monitoring of legislation in order to ensure that the rights of persons with disabilities are respected. Further recommendations by Parliament on accessibility were: to increase accessibility through supporting the development of ICT; to set up a portal containing all the accessibility guidelines to better facilitate implementation of the public procurement ex-ante conditionality of buying accessibly before signing a public contract; to make the passenger rights complaints procedures accessible and disability-friendly and to assign a greater number of, and equally strong enforcement responsibilities, to the National Enforcement Bodies (NEBs).

In its opinion on the Disability Strategy, the **European Economic and Social Committee** addressed several gaps they see in accessibility legislation and recommended the following initiatives in relation to accessibility: establish a European Access Board, similar to the US Access Board, to monitor the implementation of EU accessibility legislation; facilitate the development of accessibility standards and guidelines, exchange of best practices and meaningful participation of representative organisations of persons with disabilities (OPDs) in the field of accessibility; EU institutions should use legislative and other instruments, such as standardisation, to fill the gaps left by the European Accessibility Act for harmonising minimum accessibility standards for all aspects of the built environment. The EESC further recommended the extending and strengthening of passenger rights of people with disabilities, by publishing a new legislative proposal on multimodal transport, revising the existing regulation on air passenger rights for persons with disabilities (PWD), eliminating the cases of "denied boarding" EU institutions were invited to strive to eliminate the required pre-notification periods for railway assistance in the new EU Rail Passengers' Rights Regulation; rail accessibility should also be further improve by making sure that Member States ensure the accessibility of all rail platforms and train carriages, in both new and existing infrastructure. The EESC called for the EU to invest in research for the development of new assistive technology and to see accessibility as going hand-in-hand with sustainability in construction and transport, and as a prerequisite to achieve a greener Europe for everyone. It called the Commission to support Member States in guaranteeing that public procurement ensures access for people with disabilities as citizens, beneficiaries and as public servants.

⁴³ Resolution of 30 November 2017 on implementation of the European Disability Strategy: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html

5.2.2. Participation: de-institutionalization and mobility not sufficiently supported

The Strategy's actions to foster **participation** were directed at enabling persons with disabilities to enjoy the benefits of citizenship, removing administrative and attitudinal barriers to full and equal participation and providing quality community-based services, including access to personal assistance.

The Commission set out several policies to follow the recommendations of the Committee regarding the right to independent living enshrined in Article 19 of the Convention. The toolkit on deinstitutionalization and the EU checklist on deinstitutionalization serve as recommended guide to foster deinstitutionalization.⁴⁴

An important action by the Commission was to promote the **transition from institutional to community based care by using Structural Funds and the Rural development Fund** to support the development of community-based services and raising awareness on the situation of people with disabilities living in residential institutions. The main instrument was an **ex-ante conditionality clause**, which requires Member States to include **measures** to support the shift to community-based services and to oblige Member States to **report** on how non-discrimination and accessibility for people with disabilities are being implemented. Moreover, the regulations and guidance from the European Commission made it clear that **ESI Funds must not be invested in institutional care**.⁴⁵

The Evaluation Report on the Disability Strategy noted that the majority of stakeholders consulted in the evaluation process found that the Disability Strategy made a contribution in supporting the process of de-institutionalisation via the EU funds. However, other stakeholders - mainly organisations representing persons with intellectual disabilities and charities - expressed concerns about the limited strategic vision by Member States in carrying out the transition from institutional to community living and specifically the lack of assessment of the needs of persons with disabilities and of the measures needed to ensure their social inclusion. These concerns highlighted that the inclusion of the ex-ante conditionalities in the context of ESI Funds has **not been sufficient to guarantee the transition from institutional to community-based services**.

The Evaluation Report admitted there is limited data collection on life conditions in residential institutions, and limited promotion of best practices on independent living.

Parliament's 2017 resolution on implementation of the CRPD stated that the European Structural and Investment Funds must adhere to the CRPD and should continue to foster deinstitutionalisation as a matter of priority and that they should, finance support services to enable persons with disabilities to realise the right to live independently in the community. It called on the Commission to closely monitor the implementation by Member States of the ex ante conditionalities on the transition from institutional to community-based services. The resolution further calls on Member States to foster participation by accelerating the deinstitutionalisation process and the replacement of substitute decision-making by supported decision-making.

A sharp critique on the implementation of the actions in relation to participation contained in the Disability Strategy was published by the **European Network of Independent Living (ENIL)**.⁴⁶ In a

⁴⁴ The European Expert Group on the Transition from Institutional to Community-based Care: <https://deinstitutionalisation.com/eeg-publications/>

⁴⁵ Quote from the Replies to the List of Issues by the Commission: "Any measure contributing to further institutionalization of disabled people or the elderly should not be supported by ESI funds".

⁴⁶ I. Bulić Cojocariu and N. Kokić. Lost in Interpretation: The use of ESI Funds during 2014 – 2020 and the impact on the right of persons with disabilities to independent. Enil October 2020. The report was commissioned by the European United Left/Nordic Green Left (GUE/NGL) group in the European Parliament;

2020 report ENIL gives evidence that despite the Commission regulations and guidance and notwithstanding the work of the European Parliament, many Member States continued investing ESI Funds into institutions. The ENIL report states that **the Commission reviewed in 2018 its earlier guidance that ESI funds are not to be used for institutional care following an internal Legal Service opinion** ⁴⁷ stating that investments into long-stay institutions are permitted, as long as the Member State in question made “progress in general on ensuring independent living and deinstitutionalisation”, that such support is embedded in the “transition process from institutional to community-based care” and in cases of residential institutions “for persons requiring constant care and medical supervision.”

Studies by the European Expert Group on the Transition from Institutional to Community-based Care and by the Academic Network of European Disability Experts (ANED) show that **the number of adults and children living in institutions have not significantly decreased over the past 10 years** ⁴⁸. The total number of children and adults living in institutions in Europe is **nearly 1.5 million**.⁴⁹ Children and adults with intellectual disabilities, autism, people with psychosocial disabilities and those who require high levels of support are particularly affected by institutionalisation.

Both the ENIL report and the ANED study find **some progress** towards a gradual shift from institutions, but note that progress has **slowed down since 2013** and that alternative support systems, such as personal assistance, remain minoritarian. They conclude that Member States’ use of the European Structural and Investment Funds aiming at facilitating the transition from institutional care to community-based services has **failed** to substantially achieve a decrease in the number of people in institutions and to significantly improve opportunities for children and adults with disabilities to grow up in families and to live independently in the community.

The **Covid-19** pandemic raised alarm among a number of EU-level organizations of people with disabilities about the disproportionately negative impact, including high death rates, of the pandemic on people with disabilities living in institutions. This issue is examined in the section ‘Covid-19: Situations of risk and humanitarian emergencies’ in this study.

In 2020, the **European Expert Group on the Transition from Institutional to Community-based Care (EEG)** contacted the **Commission** to inform it about the fact that EU funds were being invested in a large-scale institution for 100 residents with mental health issues in the city of Łódź in Poland. In August 2020, EEG Member ENIL, together with the Validity Foundation, filed a formal complaint to the Commission on the matter. Nearly a year after the initial report to the Commission, the planned investment was going ahead, without any substantive response being given.⁵⁰

MEPs have urged the Commission on several occasions to **actively ensure that no funds are invested in the expansion of segregated settings**. For instance, MEP Langensiepen, together with 14 other MEPs, did so in 2020 through a parliamentary question.⁵¹ MEP Conte, together with 17 other MEPs,

https://enil.eu/wp-content/uploads/2020/12/Study_EP_EN_09122020.pdf

⁴⁷ European Commission Legal service, Ref. Ares(2018)3471732-29/06/2018

⁴⁸ Šiška, Jan and Beadle-Brown, Julie, 2020. Report on the transition from institutional care to community-based services in 27 EU Member States, European Expert Group on the Transition from Institutional to Community-based Care. <https://deinstitutionalisationdotcom.files.wordpress.com/2020/05/eeg-di-report-2020-1.pdf>

⁴⁹ Šiška, Jan and Beadle-Brown, Julie, 2020. Report on the transition from institutional care to community-based services in 27 EU Member States, European Expert Group on the Transition from Institutional to Community-based Care.

⁵⁰ EDF web article Stop EU funding of new institutions for people with disabilities in Poland, EEG says: <https://www.edf-feph.org/stop-eu-funding-of-new-institutions-for-people-with-disabilities-in-poland-eeg-says/>

⁵¹ Question for written answer E-003780/2020:

submitted written questions asking which concrete steps the Commission took to suspend, withdraw or recover payments used for the expansion or redevelopment of institutional care and what it is doing to ensure that EU funds are strictly used for the deinstitutionalisation process.⁵² The Commission evaded the question on its duties by remarking in its answer that projects are selected by Member States and not by the Commission, which only provides technical advice for the appropriate use of EU funds. A breach of the CRPD could, according to the Commission, lead to an interruption or suspension of payments, but the Commission so far never had to revert to such measures. The Commission acknowledged in its answer that disability organisations indicate that many people with disabilities are still deprived of their right to independent living. The Commission also announced that, **by 2023, it intends to issue guidance** recommending to Member States improvements on independent living and inclusion in the community of persons with disabilities.⁵³

Looking at the wider issue of participation, the Evaluation Study of the Disability Strategy points out that the Strategy has **limited focus on autonomy** of persons with disabilities. The respect of individual autonomy is one of the general principles of the CRPD and it refers to the right of persons with disabilities to have reasonable life choices, to be subject to minimum interference in private life and to be legally entitled to make own decisions (including political participation), with adequate support if required. The Study points out that autonomy was not part of the Strategy's implementation efforts, despite its importance for the overall participation objective. Although legislation on **legal capacity** is a national competence, **the EU could have done more** to promote the understanding of autonomy issues by public officers, especially among the judiciary and medical professionals.

The Evaluation Study mentions as a positive result of the Disability Strategy the launch of the **European Disability Card pilot project** in 2016, leading to a mutual recognition in disability status among participating Member States, to ensure equal access to benefits in the area of culture, leisure, sport and transport across borders; and the Inclusion and Diversity Strategy, which promotes participation of young people with disabilities into Erasmus+ youth mobility projects.

The recommendation contained in the Concluding Observations calling on the EU to ensure that all persons with disabilities and their families enjoy their right to freedom of movement on an equal basis with others, including with regard to the portability of social security benefits, is followed up by the Commission through its proposal for a voluntary EU Disability Card. Such a card could grant benefits to the card holder in leisure, culture and sport, but **does not guarantee to people with a disability to keep their right to social security benefits when moving to another EU country**.

The **European Economic Social Committee** showed concern that people with disabilities are prevented from exercising the right to free movement in the EU because of the lack of harmonized recognition of disability assessment and the inability to transfer entitlement to support services and allocations when moving to another Member State. The EESC criticized continued institutionalisation, a lack of investment in community-based services and the general inaccessibility of mainstream services, which hinder the participation in society. The EESC states that EU institutions should ensure that EU funds are **never used to further the institutionalisation** of people with disabilities and are actively invested in community- and family-based services. The Commission should spread awareness of the harm done to people with disabilities. There is also a clear warning not to place young people

https://www.europarl.europa.eu/doceo/document/E-9-2020-003780_EN.html

⁵² Question for written answer E-001744/202:

https://www.europarl.europa.eu/doceo/document/E-9-2021-001744_EN.html

⁵³ Answer given by Ms Helena Dalli on behalf of the European Commission. E-001744/202: https://www.europarl.europa.eu/doceo/document/E-9-2021-001744-ASW_EN.html

participating in the EU Solidarity Corps in institutional care settings that perpetuate segregation.⁵⁴ The EESC suggests to support the use of the **EU Disability Card** by all Member States by using EU funding.⁵⁵ The EESC asks the Commission to propose a **directive harmonizing the recognition of disability assessment** for persons moving between Member States. With this directive, the EU institutions must uphold the right of people with disabilities to freedom of movement by ensuring the portability of social security benefits, including personal assistance, either through their continued provision by the Member States of origin, provision by the new Member State of residence, or with a gradual transition between the two.⁵⁶

The **European Parliament Disability Intergroup** announced in its work programme 2020-2022 that it will do everything in its power to ensure that the main Regulations concerning **cohesion policy** (Common Provisions Regulation, Social Fund + and Regional Development Fund) **abide by the CRPD**, particularly with regards to non-discrimination, accessibility, forbidding investment in institutional care settings and ensuring the involvement of persons with disabilities and their representative organisations in the governance and monitoring processes (2020-2021).⁵⁷

5.2.3. Equality: persistence of dangerous legal gaps in terms of protection from disability-based discrimination

The Strategy's objective in the area of equality was to promote equal treatment of people with disabilities by using existing EU legislation to provide protection from discrimination and by implementing an active policy to combat discrimination and promote equal opportunities. A key action was the 2008 Commission **proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation** (Equal Treatment Directive).⁵⁸ The Commission's proposal, which extended the protection against discrimination beyond employment, and was supported by the European Parliament, remained blocked in the Council throughout the entire period of application of the Disability Strategy, and still is, due to the fact that it requires unanimous approval and some Member States have raised objections to it. The Evaluation Study notes that the non-adoption of the Equal Treatment Directive has left a legal gap in terms of protection from disability-based discrimination.

The legal gap means that many cases of discrimination and abuse cannot easily be addressed. According to the **European Parliament** existing data on discrimination and abuse of persons with disabilities are alarming and there are concerns about cases of under-reporting due to the inaccessibility of complaint and reporting mechanisms and a lack of trust and of awareness of rights.⁵⁹

The **ratification of the Optional Protocol** to the UNCPRD is also supported by both Commission and Parliament.⁶⁰ Just as with the Directive on Equal Treatment, the unanimous agreement of all Member States in the Council is needed to ratify it, and this consensus has not been realized so far.

⁵⁴ EESC Opinion on Disability Rights Agenda.

⁵⁵ EESC Opinion on Disability Rights Agenda.

⁵⁶ EESC Opinion on Disability Rights Agenda.

⁵⁷ Reporting on the Disability Intergroup Work programme 2020-2022: <https://www.edf-feph.org/disability-intergroup-workplan/>

⁵⁸ see <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52008PC0426>

⁵⁹ Par 32. resolution of 30 November 2017 on implementation of the European Disability Strategy, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html

⁶⁰ European Parliament resolution of 18 June 2020 on the European Disability Strategy post-2020 (2019/2975(RSP)). https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.html

Notwithstanding the Commission efforts to re-launch discussions on the proposal for a directive under the Finnish Presidency, there are no known initiatives by the Commission to overcome the stalemate in the Council or to seek for other ways to strengthen the legal protection against discrimination for persons with a disability.

The **European Parliament** has adopted uncountable resolutions calling the Council to agree on the Equal Treatment Directive. In its 2017 resolution on implementing the CRPD Parliament called on Member States come up with “a pragmatic solution, which should extend to the protection against discrimination in all areas of life of persons with disabilities, including the recognition of the denial of reasonable accommodation as a form of discrimination, and of multiple and intersectional discrimination”.⁶¹ The **Disability Intergroup** of the European Parliament keeps urging the adoption of the proposal for a directive.⁶²

The **EESC** in its opinion on the Disability Strategy supported ratifying the Optional protocol. It urged the EU to adopt the horizontal Directive on equal treatment and to recognise the denial of reasonable accommodation in any area of life as a form of disability-based discrimination. The EESC also urged the Commission to ensure full implementation of Directive 2000/78/EC banning discrimination in employment.⁶³

5.2.4. Employment: more awareness through data gathering, no improvement on employment gap

The recommendation on Article 27 on the right to employment contained in the Concluding Observations called on the EU to take action to measure the employment of persons with disabilities and to increase their employment in the open labour market.

The establishment and funding of the **Academic Network of European Disability Experts** (ANED) by the Commission contributed to **monitoring and data gathering**. ANED and Eurostat delivered extensive data and analysis on employment,⁶⁴ which provided input for the European Semester through which the Commission evaluates Member States' employment policies and offers recommendations aimed at improving the employment of people with disabilities.

By doing so, the Commission, created stronger coordination between EU and Member States on disability policy.⁶⁵ Institutional stakeholders at EU and Member State level concluded, according to the Evaluation Study, that the Strategy has brought positive effects in the field of employment thanks to the improvements in statistical data and awareness raising.

Successfully implemented actions were, according to the Evaluation Study, the use of EU funds for supporting employment of persons with disabilities, the introduction in the European Pillar of Social Rights of the right to services that enable persons with disabilities to participate in the labour market and in society and to a work environment adapted to their needs (principle 17 of the Social Pillar); the creation of the 2011 Labour Force Survey ad hoc module focusing on employment of disabled people and the imminent inclusion of a proxy variable on disability every two years in all population surveys coordinated by Eurostat. The inclusion of disability in the European **Pillar of Social Rights and**

⁶¹ Par 31 : https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html

⁶² Reporting on the Disability Intergroup work programme 2020-2022: <http://www.edf-feph.org/content/uploads/2021/02/Disability-Intergroup-Workplan-2020-2022.odt>

⁶³ EESC Opinion on Disability Rights Agenda.

⁶⁴ ANED website on EU 2020 semester: <https://www.disability-europe.net/theme/eu2020>

⁶⁵ <https://www.disability-europe.net/theme/eu2020>

European Semester increased the visibility of disability policy at EU level for the areas of employment, social protection and education.

The Evaluation Study notes **positive outcome results**, for instance in relation to the increase in economic activity rates and employment rates for persons with disabilities since the adoption of the Strategy in 2010. The activity rate (age group 20-64) in the EU-28 increased from 56.1% (2010) to 62.4% (2018) and the employment rate for the same age group increased from 46% (2010) to 52% (2018). Employment rates also increased for persons without disabilities. The employment gap between people with and without disabilities has decreased only slightly over the years, from 26 percentage points in 2010 to 24.2 percentage points in 2018 in the EU 28. The Evaluation Study suggests that the actions of the Strategy have **not been decisive** for significantly reducing the labour market participation gap.

The European Parliament regretted in its 2017 resolution on implementing the CRPD that the denial of reasonable accommodation does not constitute discrimination within the framework of the Employment Equality Directive, which has been criticised by the UN Committee on the Rights of Persons with Disabilities. The Parliamentary resolution encouraged the adoption of positive discrimination measures, including the adoption of minimum percentages for the employment of persons with disabilities in the public and private sectors; called on the Member States to ensure that benefit traps do not constitute a barrier to participation in the labour market, and asks for the separation of disability-related benefits from income support taking into account additional care and other needs that persons with disabilities may have; recalled that burdening persons with disability and their partners with the cost of their assistance reduces not only their present income, but also their employment prospects and future income in old age; calls on the Member States, in line with the UNCRPD, to consider removing all legal barriers to employability, including, for example, measures that run contrary to Article 12 of the UNCRPD.

In its evaluation of the Disability Strategy, the **European Economic Social Committee** remarked in relation to the persistent employability gap that the employment rate of people with disabilities remains disproportionately low compared to that of persons without disabilities, standing at 48.1% compared to 73.9%. Employment of women with disabilities is considerably lower.⁶⁶ The EESC suggested the Commission to propose measures harmonising requirements across the EU on employers and governments supporting relation to the provision of reasonable accommodations for workers with disabilities. Other suggestions by the EESC were: that the EU institutions become role models when it comes to employing staff with disabilities; to study the effectiveness of the quota systems that Member States use to promote the employment of people with disabilities; that the EU institutions undertake action to invest EU funds in initiatives for the training, employment and job mobility of people with disabilities with a particular focus on young people, women, migrants and refugees and older workers with disabilities. The EESC further recommended the EU and Member States to agree on a Disability Rights Guarantee, similar to the Youth Guarantee. The EESC urged to ensure that workers with disabilities are paid an appropriate/agreed wage and never below minimum wages. The Commission was called on to use EU funds to review good practices and employment legislation, notably in relation to the reintegration and rehabilitation. It further recommended that the Commission pushes Member States to better assist employers in getting information about – and funding for – assistive technology, making workplaces more accessible and making working hours more flexible in relation to the individual's needs. In particular, the Commission should support research to build the business case for disability-inclusive workplaces. It could cooperate with social

⁶⁶ EESC Opinion on Disability Rights Agenda

partners at EU level to integrate disability into companies' employment policies and to promote ability-diverse workforces in the European process of Diversity Charters.

5.2.5. Education and training: no impact

The Committee on the Rights of Persons with Disabilities did not give strict recommendations in the Concluding Observations calling on the EU to take precise measures to ensure better access to inclusive education and it only recommended to **evaluate** the current situation in the Member States.

The Commission carried out research on the challenges faced in the implementation of the CRPD,⁶⁷ which revealed that **Member States made insufficient efforts** to ensure the provision of inclusive education on the basis of equal opportunities. It was also found that in most Member States the option of sending children with disabilities to **special educational facilities** is favoured. In addition, the frequent lack of resources for the provision of individualized services and support to learners with disabilities, and the lack of specialized training for teachers in supporting learners with disabilities, are also major challenges to the full and effective inclusion of persons with disabilities in the education system.

The establishment and funding of the Academic Network of European Disability experts (**ANED**) by the Commission contributed to monitoring and data gathering on education especially vocational education and early school leaving. This led to increased awareness raising. The action to include disability in the **European Pillar of Social Rights and European Semester** led to specific disability-related recommendations for Member States, based on the monitoring by ANED, in the context of the European Semester, also contributed to give a new dynamic to the effort of achieving positive outcomes in this area.⁶⁸

The Evaluation Study **could not find measurable impact** of actions from the Disability strategy on education and training. **Educational gaps** between persons with disabilities and persons without disabilities **persist**. Actions in this field were, apart from data gathering in the context of the European Semester by ANED, focused on funding of projects and awareness raising.

Many children with disabilities remain excluded from quality inclusive education in different EU Member States as a result of, for example, segregation policies, as well as of architectural barriers, stated the **European parliament** in the 2017 resolution on implementing the CRPD. Parliament called for the Commission and the Member States to remove legal, physical and organisational barriers for all persons with disabilities in order to guarantee inclusive education and lifelong learning systems. It urged the Member States to develop effective measures aimed at tackling the segregation and rejection of students with disabilities in schools and learning environments and to develop, in this context, national transition programmes to ensure quality inclusive education and vocational training, both formal and non-formal, including for persons with disabilities requiring a high level of support, based on the CRPD Committee recommendations. Parliament also called on the EU institutions and Member States to ensure that the Erasmus + and other youth programmes, such as the Youth Guarantee and European Solidarity Corps, are fully accessible to persons with disabilities through individualised reasonable accommodation.

⁶⁷ Challenges and Good Practices in the Implementation of the UN Convention on the Rights of Persons with Disabilities, <https://efc.issuelab.org/resource/study-on-challenges-and-good-practices-in-the-implementation-of-the-un-convention-on-the-rights-of-persons-with-disabilities-executive-summary.html>

⁶⁸ <https://www.disability-europe.net/theme/eu2020>

Access to mainstream education for PWD remains difficult, stated the **European Economic Social Committee**, resulting often in segregated educational settings. Young people with disabilities in the EU are on average 13% more likely to be early school leavers than their non-disabled peers and 14% less likely to access tertiary education. The EESC recommended that the EU institutions: invest EU funds in inclusive learning settings, early childhood intervention, lifelong learning programmes and training programmes to assist the transition from education to employment for PWD; take concrete actions to increase participation of students with disabilities in higher education by providing assistance for support needs and costs while studying or training; take measures to increase the accessibility of Erasmus+ programmes and increase participation of students with disabilities by providing assistance for support needs and costs while studying or training abroad; provide Member States with support to train staff on disability mainstreaming and focus on how assistive technology can be used to better integrate pupils with disabilities.⁶⁹

5.2.6. Social protection: addressing the widening poverty gap; improvements via the Social Pillar and Work-life Balance Directive

The CRPD Committee recommended preventing further **adverse and retrogressive effects of the austerity measures** on the adequate standard of living of persons with disabilities, including by setting a social protection floor that respects the core content of the right to an adequate standard of living and to social protection.

The Commission funded extensive **data gathering** on social protection via Eurostat and the **Academic Network of Disability Experts**.⁷⁰ This fed into to the European Semester cycle of dialogue and recommendations between Commission and Member States also in relation to social protection.

The Evaluation Study of the Disability Strategy gives general outcomes in the area of poverty and social exclusion and concludes that the situation of persons with disabilities has **not improved** substantially over the years. According to Eurostat EU SILC statistics, the rate of persons with disabilities at risk of poverty and social exclusion in the EU-28 was 29.6% in 2010 (20.8% for those without disabilities) and 29.1% in 2019 (18.4% for those without disabilities). This means that over the same period, while the risk of poverty and social exclusion decreased by 2.4 percentage points for persons without disabilities, it decreased by only 0.5 percentage points for persons with disabilities. The data also show that the **gap** between persons without disabilities and persons with disabilities as regards the **risk of poverty and social exclusion persist and worsen** (8.8 percentage points in 2010 and 10.7 percentage points in 2019).

In 2017, the European Parliament, the Council and the European Commission proclaimed the **European Pillar of Social Rights**, an overall policy framework meant to achieve better working and living conditions in the EU. The European Pillar of Social Rights allows for a better degree of coordination, integration and improvement of social policies across the EU, and it specifically recognises the right of persons with disabilities to inclusion.

The European Commission proposed legislation to advance with the implementation of the European Pillar of Social Rights, including a **Directive on work-life balance** that was meanwhile adopted by the EU legislators, improving existing leave rights for parents and carers, and a **Council recommendation** on access to social protection for workers and the self-employed, that **also covers disability and invalidity benefits**.

⁶⁹ EESC Opinion on Disability Rights Agenda

⁷⁰ ANED website on social protection: <https://www.disability-europe.net/theme/social-protection>

The EU invested into social inclusion and related national reforms via its **Funds** and programmes, such as the European Social Fund (ESF and ESF+), the European Regional Development Fund, the Rights, Equality and Citizenship programme and the EU programme for Employment and Social Innovation, as well as through the Structural Reform Support programme, where **persons with disabilities are amongst the target groups**. According to the Evaluation Study, these investments helped to **improve** the situation of persons with disabilities, as they contributed to the development of social services, community-based services and social economy.

The European Parliament called on the Commission to promote inclusive social protection systems across the EU, which would guarantee access to benefits and services to persons with disabilities across the life cycle and called on the Member States to set a social protection floor for persons with disabilities that would guarantee their adequate standard of living.⁷¹ It further recommended that the European Social Fund (ESF), the European Programme for Employment and Social Innovation (EaSI) and future EU social funds be used not only for employment activation measures, but also for social inclusion.

The **European Economic Social Committee** in its Opinion called on the EU to establish guidelines for the Member States on a social protection floor for people with disabilities and carers that would guarantee them an adequate standard of living; it suggested that the Commission provides guidance on benefit reforms to support the extra cost of disability-related devices, assistive technology, accommodation, transport, etc. and that it dissuades Member States from reducing disability benefits for their citizens as this increases the risk of poverty and social exclusion.⁷²

5.2.7. Health: unmet needs for medical examination and violations of human rights in care services

The **Concluding Observations** recommended to **explicitly prohibit discrimination** in the field of **health care**, to take measures to ensure access to quality health care and to evaluate the impact of the Directive on Patients' Rights in Cross border health care have not been followed.

The Evaluation Study concludes that the Disability Strategy **did not achieve its objectives** due to the **limited scope of the actions, the limited competence of the EU in this field, the limited availability of data and information** on the situation of persons with disabilities and the lack of disaggregated data. The Study criticizes that there is **no uniform approach** to measuring access to healthcare across the EU.

According to the Evaluation Study, the Strategy did help in **mainstreaming disability** considerations in legislation on **cross-border healthcare** (the Patients' Rights Directive). The Strategy also supported the production of statistics, data collection and monitoring activities, through the development of the 2011 EU-LFS ad-hoc module on the employment of persons with disabilities, the European Health Interview Survey and the European Health and Social Integration Survey. The Evaluation Study cites data from EU-SILC that indicate that 4.5% of persons with disabilities report unmet needs for medical examination (in 2019) compared to 1.1% of persons without disabilities.

In its 2017 resolution on implementing the CRPD the **European Parliament** expressed concerns about violations, including human rights violations, in mental health and care services. The resolution criticized the lack of access to multidisciplinary specialist care for persons with disabilities and, where it does exist, the long patient waiting times. It highlighted the Commission's lack of attention to disabilities in the Action Plan for the EU health workforce and the EU agenda for effective, accessible

⁷¹ Resolution on implementation of the CRPD 2017.

⁷² Opinion on Disability Rights Agenda

and resilient health systems, as they are not specifically dealt with in either of the two texts and urged the Commission to undertake a thorough analysis of the gaps between the UN's Concluding Observations and its own progress report, specifically in relation to the health priority area of the European Disability Strategy.

5.2.8. External action: inclusion of disability considerations

The **Concluding Observations** recommended to the EU to adopt a harmonized policy on disability-inclusive development and establish a systematic approach to mainstream the rights of persons with disabilities in all European Union international cooperation policies and programmes; to appoint disability focal points in related institutions; and take the lead in the implementation of disability-inclusive Sustainable Development Goals.

The Evaluation Study reports on the **actions** launched to implement the Disability Strategy in external relations. These include the promotion of disability rights in the EU Action Plan on Human Rights and Democracy 2015-2019 and the publication by the Commission of an operational guidance on the inclusion of persons with disabilities in EU-funded humanitarian aid operation.

Disability considerations have been included in the 2017 European Consensus on Development as well as in the 2014 Council conclusions on a rights-based approach to development cooperation, encompassing all human rights. In terms of capacity building, the network of disability focal points in EU Delegations and Headquarters has been relaunched in October 2019, and information on disability matters has been integrated in the Rights Based Approach training addressed to the staff.

There are no disaggregated data on disability, thus preventing monitoring of the rights of persons with disabilities in European Union development programmes and the outcomes for people with a disability of development programs.

The **European Parliament** called for the introduction at EU level of a disability rights marker in official development assistance reporting and called on the EU to ensure it plays a key role in ensuring that persons with disabilities are not left behind in development cooperation and humanitarian aid, as committed to in the European Consensus on Development, and to include addressing the multiple discriminations faced by vulnerable persons and marginalised groups.⁷³

The **European Economic and Social Committee** advised the EU institutions to ensure that candidate and potential candidate countries for EU accession show proof of safeguarding the rights of PWD to the same level as EU Member States.⁷⁴

5.3. Evaluation of actions outside priority areas of the Disability Strategy

The following paragraphs describe the evaluation of **actions outside the eight priority areas of the Disability Strategy** and which address concerns raised by the CRPD Committee in the Concluding Observations.

⁷³ Resolution on implementation of the CRPD 2017.

⁷⁴ EESC opinion on Disability Rights Agenda

5.3.1. Rights of women

The recommendation in the **Concluding Observations** to mainstream the rights of women and girls with disabilities into gender policies have been realized by **including disability issues in the EU's Strategic Engagement for Gender Equality** and the **EU Gender Equality Strategy 2020-2025**, according to the Evaluation Study.

The Study stated that **statistics and data collection** relating to the Disability Strategy are **insufficient**, especially in relation to disaggregated data. There is no overview of the position of women and girls with disabilities, nor a comprehensive gender perspective in disabilities policies.

In its 2017 resolution on implementation of the CRPD, the **European Parliament** highlighted the fact that women and girls with disabilities suffer from double discrimination due to the intersection of gender and disability, reiterated that women with disabilities are often at a greater disadvantage than their male counterparts and are more often at risk of poverty and social exclusion. The resolution asked for the European Institute for Gender Equality to provide guidance at European and Member State level concerning the specific situation of women and girls with disabilities, and should play an active role in advocacy work to secure equal rights and combat discrimination. The resolution further asked Member States to present national support strategies for informal carers, who are mostly female relatives of persons with disabilities in order to combat poverty and social exclusion among persons with disabilities.

The **Disability Intergroup of the European Parliament** promoted a Gender Equality Strategy inclusive of women and girls with disabilities. One such action was the amendment tabled by MEP Estaras Ferragut to the report on the EU Strategy for Gender Equality, which was successfully adopted and integrated in the final EP resolution, urged the Commission to put forward a consolidated proposal in the framework of the post-2020 European Disability Strategy that includes the development of positive actions targeting women with disabilities to ensure their full and effective participation in the labour market; to eliminate the discrimination and prejudices they face; to include measures to promote employment, training, job placements, equal career paths, equal pay, accessibility of and reasonable accommodation in the workplace and further learning; to pay attention to their digital inclusion and the need to safeguard work-life balance. The text also requested that measures regarding the gender pay gap, pension gap and care gap explicitly address the needs of parents and carers of children with disabilities, especially women and single-parent households and to take note of the need for a Disability Rights Guarantee with specific measures that address the needs of women with disabilities, as well as for a reinforcement of the Youth Guarantee.⁷⁵

5.3.2. Rights of Children

The Committee recommended in its **Concluding Observations** to the EU to take measures to develop support services for boys and girls with disabilities and their families in their local communities, to **prevent institutionalization** and promote access to mainstream, inclusive quality education.

These measures do not appear to have been taken or at least, just as with women with disabilities, there is insufficient data gathering on children with disabilities to allow to state the contrary and measure outcomes. The Evaluation Study states that the **Disability strategy did not adequately include children's rights**.

⁷⁵ The EU Strategy for Gender Equality, 21 January: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0025_EN.html

In January 2020, MEP Agius Saliba asked in a question to the Commission what actions it is taking in order to promote equal and fully inclusive access to education and lifelong learning without discrimination in all Member States.⁷⁶ The Commission answered to support and complement Member States' obligations and efforts in the area of inclusive education through policy cooperation and funding programmes (including strategic framework for European cooperation in education and training (ET 2020 and the European semester). The Commission proposed a **recommendation on promoting common values, inclusive education and the European dimension of teaching**, which the Council adopted in 2018.⁷⁷

5.3.3. Covid-19: Situations of risk and humanitarian emergencies

The Committee expressed concerns in the **Concluding Observations** about the lack of inclusion of people with disabilities in EU policies and guidelines on **humanitarian aid and emergency situations**. Recommendations called on the EU to: adopt an implementation plan in line with the Council conclusions on disability-inclusive disaster management of February 2015 and the Sendai Framework for Disaster Risk Reduction 2015-2030⁷⁸; establish a mechanism to build capacity and share good practices among the different European Union institutions and among its Member States on disability-inclusive and accessible humanitarian aid; and establish a monitoring and accountability framework for the implementation of European Union policies and programmes, including the collection of data disaggregated by sex, disability and age.

The Commission replied at that time that the needs of persons with disabilities were expected to be mainstreamed in operations within all sectors of humanitarian aid and that the needs of persons with disabilities will be considered in the drafting of new guidelines on shelter and settlements.

The **Covid-19 pandemic put the spotlight on the severe impact of the pandemic on people with disabilities and the lack of inclusion of disability in emergency policies in Member States**. The **European Disability Forum**, stated that **residential institutions** in Europe are becoming “**hotbeds of infection**” in the pandemic.⁷⁹ EDF reported a lack of protective equipment for persons with disabilities and staff of institutions; lack of care and residents left unattended due to staff shortage; forced medication and forced restraint measures under the pretence of preventive measures and forced confinement, citing examples from Greece, Italy, Poland, Spain and Germany.

A global **report** on disability rights based on testimonies and sponsored by the disability advocacy organization **Validity**⁸⁰ found that there was a rapid spread of the virus within residential institutions for people with disabilities and disproportionately high number of fatalities. Emergency measures taken by Governments to control the spread of the virus had in many cases an exacerbated effect on

⁷⁶ Question for written answer E-000473/2020:

https://www.europarl.europa.eu/doceo/document/E-9-2020-000473_EN.html

⁷⁷ Council recommendation 22 May 2018 on promoting common values, inclusive education, and the European dimension of teaching: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H0607\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018H0607(01)&from=EN)

⁷⁸ The Sendai Framework for Disaster Risk Reduction 2015-2030 outlines seven clear targets and four priorities for action to prevent new and reduce existing disaster risks: <https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>

⁷⁹ Web article: Residential institutions are becoming hotbeds of infection and abuse, March 2020. <https://www.edf-feph.org/newsroom-news-residential-institutions-are-becoming-hotbeds-infection-and-abuse-governments-need-act/>

⁸⁰ COVID-19 Disability Rights Monitor 2020, Lead author: Dr. Ciara Siobhan Brennan

Disability rights during the pandemic A global report on findings of the COVID-19 Disability Rights Monitor. Validity, International Disability Alliance, European network of Independent Living ENIL, Centre for Human Rights University of Pretoria, Disability Rights Fund, International Disability and Development Consortium. https://enil.eu/wp-content/uploads/2020/10/Disability-Rights-During-the-Pandemic-report_web-PDF.pdf

existing human rights abuse in the institutions, including the denial of access to health care, bans on visitors and denial to leave the institution. The study found that people with disabilities living in the community felt abandoned by their governments during lock down periods without access to food, medicines, additional cash benefits or other basic supplies. Essentials services that persons with disabilities rely on to live independently were not available.

Inclusion Europe drew similar conclusions in a document based on reports of member organizations in 40 European countries that documented the impact of Covid-19 on people with **intellectual disabilities**. The report quotes a study on disproportionately high death rate of people with intellectual disabilities (3,6 times higher than that of the general population in England).⁸¹ They found many instances of neglect and direct human rights violations and conclude that these were symptomatic of the **segregation and discrimination** that people with intellectual disabilities and their families have experienced during decades. Inclusion Europe also noted violence against women with disabilities increased during the pandemic, that access to health care was sometimes denied. Denial of healthcare was noted as a result of stopping of regular care in hospitals due to the high number of Covid-19 patients but also denial of healthcare due to triage protocols in place to determine which person was a priority to treat, taking into account comorbidity and disability. There was a lack of protective equipment in residential institutions, isolation and denial of visitors, closing down of special schools without providing alternative education, as well as of community support without provisions of alternative support within families. Furthermore, many people with intellectual disabilities lost their jobs during the pandemic, further worsening the already low employment rate of people with disabilities.

Inclusion Europe tabled a petition⁸² on the impact of COVID-19 on persons with intellectual disabilities, which was discussed at the Petitions Committee in May 2020.⁸³ This led to the adoption of **a resolution drafted by the Committee on Petitions and adopted by the European Parliament on the rights of persons with intellectual disabilities and their families in the COVID-19 crisis**.⁸⁴ The resolution condemned medical discrimination against persons with intellectual disabilities; recalled that relevant measures adopted by the Member States must comply with the CRPD and ensure equal and non-discriminatory access to health care and social services; requested that data be collected in each Member State concerning the treatment of persons with intellectual disabilities in hospitals, institutions and community-based services and on mortality rates of persons with disabilities, in order to assess whether or not persons with disabilities are receiving adequate protection, health care and support during the COVID-19 crisis; underlines that everyone has the right to independent living and that investing in the gradual transition from institutional care to community-based services for persons with intellectual disabilities should be a priority. The resolution called on the Commission and the Member States (among others) to ensure common protocols for possible future risk situations or humanitarian emergencies and natural disasters; and to consult and involve persons with disabilities and their representative organisations from the outset when adopting measures responding to a future

⁸¹ Death rates of people with learning disabilities, November 2020. <https://www.gov.uk/government/news/people-with-learning-disabilities-had-higher-death-rate-from-covid>

⁸² Petition No 0470/2020, on behalf of Inclusion Europe, on the rights of persons with intellectual disabilities in the COVID-19 crisis, https://www.europarl.europa.eu/doceo/document/PETI-CM-662067_EN.pdf and <https://www.europarl.europa.eu/petitions/en/petition/content/0470%252F2020/html/Petition-No-0470%252F2020-by-Helen-Portal-%2528Luxembourgish%2529%252C-on-behalf-of-Inclusion-Europe%252C-on-the-rights-of-persons-with-intellectual-disabilities-in-the-COVID-19-crisis>

⁸³ https://multimedia.europarl.europa.eu/en/peti-committee_20200519-1000-COMMITTEE-PETI_vd

⁸⁴ Resolution: Rights of persons with intellectual disabilities and their families in the COVID-19 crisis, P9_TA(2020)0183: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183_EN.html

crisis. The resolution further invited the Commission and the Member States to monitor whether health and social services are sustainable and able to adapt to new forms of service provision; called for genuine social inclusion to be promoted when allocating EU funding for these services, focusing on those that offer community-based living rather than institutionalisation; underlined the importance of ensuring that there are no financial barriers to access health care. The resolution also called on the Commission to put forward a comprehensive, ambitious and long-term post-2020 European Disability Strategy, including on the basis of the lessons learned from the COVID-19 crisis.

The **Parliamentary Disability Intergroup** took several initiatives to promote the rights and health of persons with disabilities during and after the COVID-19 pandemic. For instance, it sponsored a letter by 47 MEPs to the Commission on the ‘alarming’ lack of funding for disability care and support services. MEP Langensiepen, together with 15 co-authors, wrote parliamentary questions on the Coronavirus Response Instrument Initiative and called the Commission to ensure that the funds spent are in full compliance with the CRPD and the Charter of Fundamental Rights, that no funds are invested in the expansion of segregated settings, especially considering the high mortality rates in such places.⁸⁵ The Commission answered that it is required that the transition from institutional to family and community based care (deinstitutionalisation) to be part of the Member States’ national strategic policy framework for poverty reduction. The Commission made legislative proposals which were approved into EU law on the cohesion policy funds in the 2021-2027 period, which include both the **CRPD and the EU Charter on Fundamental Rights as horizontal enabling conditions and maintains the obligation as regards deinstitutionalisation**.

Disability Intergroup members promoted inclusion of disability in the **EP Resolution of 17 April 2020 on an EU coordinated response to COVID-19**.⁸⁶ Following a joint letter of EDF, AGE and EPSU, MEP Majorino, along with other MEPs, released a statement supporting further investigation on the impact of COVID-19 in residential institutions. The Commission requested research by the European Disability Experts (EDE, the follow up network of experts that replaced ANED) on the impact of Covid-19 and on disability inclusion in emergency disaster policies in Member States.⁸⁷ MEP Estaràs successfully proposed amendments on the draft report on the gender perspective in the Covid-19 crisis and post-crisis period.⁸⁸

5.3.4. Coordination and monitoring system, focal points

The Evaluation Study on the Disability Strategy 2010-2020 claims that a **sufficient mechanism** for the coordination and the monitoring of the implementation of the CRPD has been established at EU institutional level, although **there are no focal points at Directorate-General level within the European Commission nor in other EU institutions**. According to the Evaluation Study overall awareness about the Convention within the EU institutions is still limited. Occasional training on disability has been provided to personnel working in the EU institutions, but the training did not result in adequate general awareness on disability and in adequate knowledge among persons directly involved in disability policy-making.

⁸⁵ Question for written answer E-003780/2020: https://www.europarl.europa.eu/doceo/document/E-9-2020-003780_EN.html

⁸⁶ European Parliament resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054_EN.html

⁸⁷ ANED network is the predecessor of EDE. The report by EDE on Covid-19 and emergency policies is yet to be published.

⁸⁸ Report on the gender perspective in the COVID-19 crisis and post-crisis period (2020/2121(INI)): https://www.europarl.europa.eu/doceo/document/A-9-2020-0229_EN.html#title3

The **European Parliament**, in resolutions adopted in 2016, 2017 and 2020, expressed itself **in favour of installing Focal Points in all EU institutions**, which should be supported by an appropriate interinstitutional mechanism in order to coordinate the implementation of the CRPD across EU institutions and agencies.⁸⁹ The Langensiepen Report on the implementation of the Equal Employment Directive of March 2021⁹⁰ again stressed the need to appoint a disability focal point in all EU institutions, including in all Commission DGs and EU Agencies, in addition to establishing an interinstitutional coordination mechanism in order to ensure disability mainstreaming in all EU legislation. The Commission, in its 2021-2030 Disability Strategy, called for all EU institutions, bodies, agencies and delegations to designate '**disability coordinator**'.

The **European Economic and Social Committee** recommended to have disability focal points in all Directorates General and agencies of the EC, in all EU institutions, with the central focal point located within the general secretariat of the EC. It also proposed that a Disability Rights Committee be established, made up of these focal points, to oversee the implementation of the post-2020 disability strategy.⁹¹ The EESC also called for an interinstitutional mechanism between the EC, the Parliament and the Council and a working group on disability to be established within the Council to facilitate this and to mainstream disability equality issues into all EU economic, social and environmental policies, namely the Gender Equality Strategy, the Youth Guarantee, the Green New Deal, the Child Guarantee and the Green Paper on Ageing.

The **European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt**⁹² drafted by PETI rapporteur Agius Saliba called on EU institutions to establish focal points and to appoint persons with disabilities to the role of disability coordinators. The **European Disability Forum** repeated the same request in January 2020.⁹³

Up to now, the **EU institutions did not follow up** the various calls for focal points by setting up their own focal point. So far, the Commission has established a **disability unit** within the Directorate General of Employment and Social Affairs. The European Parliament has formed an informal **Intergroup on Disability**, supported by the European Disability Forum, which provides the secretariat.⁹⁴ Parliament also formed the **EP CRPD network** with representatives at political and administrative level from all parliamentary committees.⁹⁵ The EP has also an **Equality, Inclusion and Diversity Unit** within DG Personnel. The Intergroup and the EP CRPD network work together and argue for a standing

⁸⁹ European Parliament resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee, https://www.europarl.europa.eu/doceo/document/TA-8-2016-0318_EN.html; European Parliament resolution of 30 November 2017 on implementation of the European Disability Strategy, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html; European Parliament resolution of 18 June 2020 on the European Disability Strategy post-2020, https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.html

⁹⁰ Report on the implementation of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation in light of the UNCRPD. https://www.europarl.europa.eu/doceo/document/A-9-2021-0014_EN.html

⁹¹ Shaping the EU agenda for disability rights 2020-2030: a contribution from the European Economic and Social Committee (own-initiative opinion). Hereafter called EESC Opinion on Disability Rights Agenda, <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-eu-agenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion>.

⁹² European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt, 2020/2209(INI), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0414_EN.html.

⁹³ Communication EDF: European Disability strategy confirmed - Here are our demands. January 2020,

⁹⁴ <https://www.edf-feph.org/disability-intergroup/>

⁹⁵ <https://www.europarl.europa.eu/committees/en/crpd-network/product-details/20170322CDT01321#20170322CDT01321-section-0>

Parliamentary Disability Committee, but this has not been realised so far. At political level, all specialised **parliamentary committees** can defend the rights of persons with disabilities in the areas of their competence, but some committees are particularly active on disability issues. The **Committees on Employment and Social Affairs, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Petitions** lead EP works on disabilities, with the latter committee playing an important 'protection role' in relation to disabilities.⁹⁶

5.3.5. Implementation process

According to the Evaluation Study, there was **sufficient engagement** with Member States, EU institutions and organisations representing persons with disabilities in the Strategy's implementation via institutional mechanisms, public events, public consultations and informal meetings. The Evaluation Study notes that **civil society organisations have not always been involved** throughout the whole lifecycle of disability-related initiatives, especially in their conception phase.

Stakeholders who were consulted for the Evaluation Study agreed on the **positive effect of EU funding** for the implementation of Strategy but funding was considered **limited and not adequate** for the full implementation of the Strategy. Financial resources allocated to social issues usually did not include dedicated budget lines for disability. Stakeholders also pointed out that funding was not fully accessible for persons with disabilities due to inaccessible procedures and administrative burdens, and there was insufficient involvement of the disability community in funding programmes. The **EESC** recommended to make all the necessary means, human resources and financial support available to the EU Monitoring Framework of the CRPD to ensure it is able to carry out its tasks.⁹⁷

According to the Evaluation Study there has been **limited inclusion of disability in policy-making processes**: disability considerations were not applied at all stages of the policy or the legislative procedure, while they should be considered since the early stages of the process. There is no information on how the Impact Assessment Board assessed compliance with the CRPD for new policies and legislation.

Involving persons with disabilities in the decision-making process depends on availability and accessibility of information and accessibility of the consulting process. **The recommendations in the Concluding Observations on awareness raising and involving were only partially followed.** General awareness has been raised by organizing the yearly 'Access City Award' and the 'European Day of Persons with Disabilities'. However, outside these two public events, the Commission does not make all material related to capacity building, training, awareness raising and public statements available in accessible formats. A **pilot project on an application on online sign language** to facilitate communications between deaf persons and EU institutions as announced in the Disability Strategy was **terminated** after the pilot phase.⁹⁸ Easy read materials are not as a rule available on all public statements.

⁹⁶ see the study 'The protection role of the Committee on Petitions in the context of the implementation of the UN Convention on the Rights of Persons with Disabilities', [https://www.europarl.europa.eu/RegData/etudes/STUD/2015/536465/IPOL_STU\(2015\)536465_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/536465/IPOL_STU(2015)536465_EN.pdf), as well as the following 2016 update, [https://www.europarl.europa.eu/thinktank/mt/document.html?reference=IPOL_STU\(2016\)571384](https://www.europarl.europa.eu/thinktank/mt/document.html?reference=IPOL_STU(2016)571384) and the 2017 update, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/596827/IPOL_BRI\(2017\)596827_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/596827/IPOL_BRI(2017)596827_EN.pdf).

⁹⁷ EESC Opinion on the Disability Rights Agenda.

⁹⁸ Communication by the European Union of the Deaf

The **EESC** and the **European Parliament** were of the opinion that more could be done to ensure the involvement of people with disabilities in the design, adoption, implementation and monitoring of laws, policies and programmes covered by the Disability Strategy.⁹⁹ The EESC called for understandable and fully accessible consultation process and information (including upon request information in accessible formats) and recommended that the EU institutions would introduce specific benchmarks and measurable indicators to keep track of implementation gaps and effectively measure the progress made in the new Disability Strategy.¹⁰⁰

5.3.6. Legal capacity and political participation

Neither the Disability Strategy 2010-2020, nor the Evaluation Study, address the restriction of legal capacity, notwithstanding the **Concluding Observations'** recommendation to the EU to take appropriate measures to ensure that all persons with disabilities who have been deprived of legal capacity can exercise all their rights enshrined in European Union treaties and legislation, such as access to goods and services, banking, employment and health care, as well as voting and consumer rights. The Committee recommended to foster research, data collection and exchange of good practices on supported decision-making.¹⁰¹

The Committee also recommended to the EU to take the necessary measures, in cooperation with Member States and representative organizations of persons with disabilities, to enable all persons with all types of disabilities, including those under guardianship, to enjoy their **right to vote and stand for election**, including by providing accessible communication and facilities. Such recommendation was met by the Commission by raising awareness on these issues through the **High Level Group on Disability** and by evaluating the current situation on political participation via the Fundamental Rights Agency¹⁰² and the ANED network.¹⁰³

The **European Parliament** recognised that legal capacity is one of the prerequisites for the enjoyment of human rights, including the right to vote, and stated that any new strategy must work towards no one being denied legal capacity on the basis of disability in all areas of life. Parliament stated that the EU should adopt appropriate measures to ensure that all persons with disabilities can exercise all the rights enshrined in European Union treaties and legislation, such as access to justice, goods and services, including banking, employment and health care, as well as voting in European elections and consumer rights in line with the Convention and encourage non-coercive measures and supported-decision making in line with the CRPD.¹⁰⁴

The **EESC** recommended in its opinion on the post-2020 disability strategy the Commission to promote compliance of Member State legislation on legal capacity with fundamental political and civil rights, encourage non-coercive measures and supported decision-making for people with disabilities and facilitate exchange of expertise between Member States on these issues.

Inclusion Europe, a federation of associations of people with an intellectual disability and parents/family members, developed a project on political participation for the 2019 European

⁹⁹ Resolution 2017 on implementation of the CRPD

¹⁰⁰ EESC Opinion on the Disability Rights Agenda.

¹⁰¹ Substituted decision making occurs when decisions are taken on behalf of persons who are under guardianship. Supported decision making allows for the person under guardianship to be informed and supported to make his/her own decision.

¹⁰² FRA publication: 'Who will (not) get to vote in the 2019 European Parliament elections?' https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-right-vote-ep-elections-legal-capacity_en.pdf

¹⁰³ ANEF website on political participation: <https://www.disability-europe.net/theme/political-participation>

¹⁰⁴ Resolution 2017 on implementation of the CRPD

parliament elections.¹⁰⁵ The organisation found that during these elections, half a million people with disabilities were allowed to vote for the first time but that **800.000 persons with disabilities are still denied this right**.¹⁰⁶ This was due to legal barriers (people who are deprived of legal capacity are not allowed to vote) or other barriers, for example inaccessible voting procedures. A taskforce on political participation of people with disabilities, founded by Inclusion Europe, Coface Families Europe, the European Association of Service Providers for Persons with Disabilities, the European Disability Forum, the European Network on Independent Living and Mental Health Europe, presented a **study on improving political participation** at a round table conference in 2019 in the European Parliament.¹⁰⁷

The EP **Disability Intergroup** announced in its work plan its commitment to promote the amending of the EU Electoral law of 1976 with the aim of ensuring that during the next European elections in 2024 all persons with disabilities, including those with intellectual and psychosocial disabilities, will be able to exercise their right to vote.

The **European Parliament resolution of 26 November 2020 on stocktaking of European elections**¹⁰⁸ discusses in its paragraph 7 the exercise of passive and active voting rights of citizens with disabilities. It 'recalls with great concern that throughout the Union an estimated 800 000 citizens with disabilities were not able to vote in 2019 on account of national rules; calls on the Member States to step up exchanges of best practice in order to improve access to polling stations for persons with disabilities; points out that for voters with disabilities the practical voting arrangements are just as important as access to information or to polling stations'.

Parliament is also currently working on the modification of the Act concerning the election of the Members of the European Parliament by direct universal suffrage pursuant to Article 223(1) of the Treaty on the Functioning of the European Union, which could address also issues related to disability.¹⁰⁹

The **EESC** requested the EU institutions to undertake policy initiatives to remove all obstacles that hinder the political participation of people with disabilities PWD and deprive them of their right to vote and to stand for election, in particular for persons with intellectual disabilities and mental health issues who face particular discrimination.¹¹⁰

5.3.7. Statistics and data gathering

Concerning statistics and data gathering, the Committee recommended in its Concluding Observations to develop a human rights-based **indicators** system in cooperation with persons with disabilities and their representative organizations, as well as a comparable comprehensive **data collection** system, with data **disaggregated** by gender, age, rural or urban population and impairment type.

¹⁰⁵ <https://www.inclusion-europe.eu/elect/#Overview>

¹⁰⁶ <https://www.inclusion-europe.eu/round-table-vote-for-all-how-can-co-production-improve-the-political-participation-of-persons-with-disabilities/>

¹⁰⁷ https://www.inclusion-europe.eu/wp-content/uploads/2015/03/co-production-political-participation-19-November-draft-agenda_ah.pdf

¹⁰⁸ European Parliament resolution of 26 November 2020 on stocktaking of European elections (2020/2088(INI)): https://www.europarl.europa.eu/doceo/document/TA-9-2020-0327_EN.html.

¹⁰⁹ see [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2220\(INL\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2220(INL)&l=en)

¹¹⁰ EESC opinion on the future disability rights agenda

The Commission improved data gathering via Euro Stat, the Fundamental Rights Agency and the ANED network. Nonetheless, the Evaluation Study concludes that **data collection still is insufficient**, especially since **there are no disaggregated data on disability**.

In its resolution 2017 on implementing the CRD, the **European Parliament** strongly urged the Member States to disaggregate data by types of disability, and to work closely with Eurostat to collect comparable data on disability in different fields, which includes persons living in institutions, while linking the disability strategy to the Sustainable Development Goals process and the 2030 Agenda for Sustainable Development.

The **European Economic Social Committee** urged the Commission in 2019 to ensure that Eurostat, in collaboration with the national statistical authorities and representatives of OPDs, develops a human rights-based indicator system and a comparable comprehensive disability equality data collection system on the situation of PWD in the EU. It called for more relevant and disaggregated disability analyses, and to take into consideration the intersectionality of issues such as gender, age, refugee, asylum or migrant status or ethnic minority background, as well as different types of disability and the way they affect well-being and outcomes.¹¹¹ Data also needs to be collected on the number of PWD living in institutions and of children with disabilities living outside of households.

Member of European Parliament Fragkos, together with 13 members of the **European Parliament Intergroup on disability**, noted in written questions to EU institutions that during the Covid-19 pandemic Eurostat could not deliver disaggregated data by type of disability and data on children with disabilities under the age of 16, although national agencies, hospitals and the European Centre for Disease Prevention could provide a real-time overview of COVID-19 patients. The MEP asked the Commission to ensure that Eurostat would gather disaggregated data and to ensure collection of data about people living in institutional care.¹¹² The Commission answered that the collection of disaggregated data on disabilities to measure the gap between persons with and without disabilities will be extended to all EU social surveys, covering employment, education, poverty and social exclusion, living conditions, consumption, health, use of communication technologies and time use. Data on the type of disability is collected every 6 years in the European Health Interview Survey (EHIS). The next round of this Survey will also possibly cover barriers to participation in life domains. From 2022 onwards, the EU Statistics on Income and Living Condition (EU-SILC) will include the 6 Washington City Group questions¹¹³ every 3 years. In addition, from 2021, data on disabled children will be collected in EU-SILC every 3 years and possibly in EHIS from 2022.¹¹⁴ The European System of integrated Social PROtection Statistics (ESSPROS) collects data on the number of disabled persons receiving a disability pension, as well as the total expenditure on disability in the EU (as foreseen by Regulation (EC) No 458/2007)¹¹⁵.

¹¹¹ EESC opinion on the future disability rights agenda

¹¹² Question for written answer E-006492/2020 to the Commission. https://www.europarl.europa.eu/doceo/document/E-9-2020-006492_EN.html

¹¹³ The Washington Group on Disability Statistics (WG) promotes and coordinates international cooperation in the area of health statistics focusing on the development of disability measures suitable for census and national surveys. <https://www.washingtongroup-disability.com/>

¹¹⁴ Answer given by Mr Gentiloni on behalf of the European Commission
Question reference: E-006492/2020. https://www.europarl.europa.eu/doceo/document/E-9-2020-006492-ASW_EN.html

¹¹⁵ Regulation (EC) No 458/2007 of the European Parliament and of the Council of 25 April 2007 on the European system of integrated social protection statistics (ESSPROS) (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32007R0458>

5.3.8. European Union institutions compliance with the Convention

As noted before, **the Disability Strategy** is a *de facto* implementation plan for the CRPD but it **does not address all issues and recommendations contained in the Concluding Observations**, as only eight priority areas were chosen and the EU prioritized policy areas where it has shared competence with Member States. The Strategy also does not address all concerns and recommendations made by the Committee in relation to the compliance of European Institutions with the Convention.

The **Committee** expressed a series of **concerns** on the fact that there is a lack of access to the European Court, due to physical and procedural barriers; that employees of the European Union who are persons with disabilities, or who have family members with disabilities, do not always receive reasonable accommodation in the work place; that these employees might be discriminated against by European health insurance schemes; that their children with disabilities are sometime rejected by the European Schools; that the EU does not act as a role model in hiring employees with a disability; that websites and other forms of communication by the EU are not fully accessible.

The accessibility of EU's websites is covered by the European Accessibility Act. Information such as publications by the EU are not all made accessible in all possible formats, but are made **available if specific requests are made**.

The **lack of disaggregated data** on disability as noted in the Evaluation Study does also apply to the EU institutions. The EU does not know how many of its employees have a disability or a family member with a disability. There is no specific goal to increase the proportion of employees with a disability. The policy in place is to provide reasonable accommodation to employees and those who seek employment and to co-finance extra costs for education and living arrangements for disabled children of Commission staff.

The recommendation of the Committee to ensure that all students enjoy their right to inclusive education and to implement a non-rejection policy in **European Schools** have **not been fully followed**. European schools form a network of 13 intergovernmental schools, primarily teaching children of EU employees. Employees of the Commission have reported cases of rejection of children with disabilities. The **European Parliament has raised this matter in its resolutions**, notably its resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee, as well as in its resolution of 30 November 2017 on implementation of the European Disability Strategy, which dealt with the Commission mid-term evaluation of the EU Disability Strategy. The latter resolution called on 'the European Schools, nurseries and after-school centres to provide quality inclusive and UNCRPD-compliant education to all children of EU staff, including those with complex or high-level support needs'.¹¹⁶

A 2018 report by the **European Disability Forum** and **Human Rights Watch** documented several cases of children with disabilities whose admission was rejected by European Schools because of their disability and cases of children with disabilities who were enrolled but did not receive adequate accommodation.¹¹⁷

The **board of Governors** of the European Schools adopted in December 2018 a policy to ensure better accommodation for students with disabilities. The 2018 report stated that eleven pupils were known

¹¹⁶ European Parliament resolution of 30 November 2017 on implementation of the European Disability Strategy, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474_EN.html.

¹¹⁷ Report Sink or Swim: Barriers for Children with Disabilities in the European School System. Human Rights Watch, EDF, December 2018: <https://www.hrw.org/node/324667>

to be rejected due to their support needs, which could not be met by the schools. The policy made clear that although European Schools prepare their pupils for the Baccalaureate exam, the schools can decide to admit children who will not be able to sit for that exam. Based on the report, an action plan was introduced in the European Schools. Still, a non-rejection clause was not part of the policy of the Board of Governors.¹¹⁸

The **European Ombudsman started an inquiry** on the rejection by the European Schools in 2018.¹¹⁹ The **Commission** replied to the enquiry by the Ombudsman by announcing that the implementation of the action plan of the European schools will be assessed by the Commission in 2021. The Commission declared it would compensate all additional costs of alternative (special) schools for all children with disabilities who cannot be accommodated in the European Schools. In 2015, around 100 children received such financial assistance with a total budget of about EUR 1,35 million. The budget spent by the European institutions for co-financing fees for pupils with special educational needs attending alternative schools is increasing, according to the EC Disability Support Group, an association of staff members with a disability of family member with a disability. The Group acknowledges that the action plan encouraged European Schools to develop a more inclusive education system but **systematic barriers remain**, resulting in non-admittance of children with disabilities and higher costs for parents.¹²⁰

The lack of disaggregated data on disability as noted in the Evaluation Study does also apply to the EU institutions. As already noted, the EU does not know how many of its employees have a disability or a family member with a disability. Furthermore, there is no specific goal to increase the proportion of employees with a disability. The policy is to provide reasonable accommodation to employees and those who seek employment, and to co-finance extra costs for education and living arrangements for disabled children of Commission staff.

The Concluding Observations expressed concern that EU staff members with a disability or with a disabled family member, are **discriminated against by EU health insurance schemes**. The **European Ombudsman conducted an inquiry in 2016** after receiving complaints from staff members, who had encountered problems getting their own or their family members' medical expenses fully reimbursed. The Ombudsman found in 2016 that the failure of the European Commission to take any effective action in response to the Committee's recommendation amounted to **maladministration**. In a further report in **2018** the Ombudsman notes that the Commission did take action as recommended and asked the Commission to report on the implementation of the recommendation.¹²¹ According to the EC Disability Support Group, the adjustment the Commission made to the EU health insurance system in 2020 was **limited and inadequate**. The Group concluded that there is a risk for disability related costs,

¹¹⁸ Report on /inclusive education in the European Schools. Approved by the Board of Governors in its meetings of 4 to 7 December 2018: <https://www.eursec.eu/Documents/2018-09-D-28-en-4.pdf>

¹¹⁹ United Nations Convention on the Rights of Persons with Disabilities ('UNCRPD') and the European Schools. Case SI/4/2018/TE <https://www.ombudsman.europa.eu/en/case/en/53527>

¹²⁰ Report on the European Ombudsman targeted consultation on the Joint Sickness Insurance Scheme and the UN Convention on the Rights of Persons with Disabilities (OI/4/2016/EA): <https://www.ombudsman.europa.eu/en/doc/inspection-report/en/99617>

¹²¹ Decision of the European Ombudsman in her strategic inquiry OI/4/2016/EA into how the European Commission treats persons with disabilities under the Joint Sickness Insurance Scheme for EU staff. <https://www.ombudsman.europa.eu/en/case/en/47803>

as they are still not fully reimbursed.¹²² The European Disability Support Group confirmed this conclusion in 2020 by calling for equal access to the health insurance scheme.¹²³

5.4. Petitions regarding persons with disabilities rights

The **Committee on Petitions** (PETI committee) of the European Parliament regularly receives petitions concerning alleged violations of the rights of persons with disabilities. The committee has a special ‘protection role’, as it receives the complaints of persons with disabilities and examines and discusses them during public committee meetings where petitioners are invited to present their petition in front of MEPs and representatives of other EU institutions. The Commission receives the petitions, communicates its views on the matter to the committee and the petitioner and follows up when it deems it necessary, paying particular attention to ensure the correct implementation of the CRPD. The Committee on Petitions takes a decision on the most appropriate action to ensure follow up on the petitions received, by asking for information and calling for solutions in collaboration with other EU institutions and with the Member States.

In the years 2020-2021, several petitions were tabled in relation to disabilities: on the delay in licensing a public transport vehicle for people with disabilities in Greece; on problems encountered by persons with disabilities in Bulgaria; on the right to work of persons with disabilities in Italy; on the fundamental rights of people with unacknowledged disabilities in Finland; on denial of health care services for disabled persons in Romania; on unequal treatment based on the disability of a family member. Inclusion Europe sent in a petition on the impact of COVID-19 to persons with intellectual disabilities,¹²⁴ which was discussed at the Petitions Committee in May 2020.¹²⁵ This led to the adoption of a **resolution by Parliament on the rights of persons with intellectual disabilities and their families in the COVID-19 crisis**.¹²⁶ The European Union of the Deaf submitted a petition requesting the EP to allow for the tabling of petitions in national sign languages.¹²⁷

The ‘**European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt**’ was drafted by the PETI committee on the basis of a series of petitions received. It proposed reforms to promote the rights and dignity of this group of people.¹²⁸ The committee noted that a quarter of EU citizens have a disability or impairment of some kind and remarked that the EU would benefit from a harmonized disability status in the Union,

¹²² Conclusion by the EC Disability Support Group: <http://www.uccleparents.org/wp-content/uploads/2013/06/EC-DISABILITY-SUPPORT-GROUP-Info-EN.pdf>

¹²³ Report Feedback from the European Parliament Disability Support Group (EP DSG, page 7: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12603-Disability-rights-strategy-for-2021-30/F1155321_en

¹²⁴ No 0470/2020, on behalf of Inclusion Europe, on the rights of persons with intellectual disabilities in the COVID-19 crisis, https://www.europarl.europa.eu/doceo/document/PETI-CM-662067_EN.pdf

¹²⁵ https://multimedia.europarl.europa.eu/en/peti-committee_20200519-1000-COMMITTEE-PETI_vd

¹²⁶ Resolution: Rights of persons with intellectual disabilities and their families in the COVID-19 crisis, P9_TA(2020)0183: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183_EN.html

¹²⁷ Petition 1056/2016 by Mark Wheatley (British), on behalf of the European Union of the Deaf, requesting the European Parliament to allow for the tabling of petitions in national sign languages used in the EU : <https://www.europarl.europa.eu/petitions/en/petition/content/1056%252F2016/html/Petition-No-1056%252F2016-Mark-Wheatley-%2528British%2529%252C-on-behalf-of-European-Union-of-the-Deaf%252C-requesting-the-European-Parliament-allow-for-the-tabling-of-petitions-in-national-sign-languages-used-in-the-EU>, and see PETI Committee meeting July 2020: https://multimedia.europarl.europa.eu/en/peti-committee-meeting_20200714-0900-COMMITTEE-FEMM_vd

¹²⁸ European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt, 2020/2209(INI), https://www.europarl.europa.eu/doceo/document/TA-9-2021-0414_EN.html

universally recognized in all Member States. The report repeats the request to ratify the Optional Protocol of the CRPD, which would allow the [Committee on the Rights of Persons with Disabilities](#) to consider individual and groups' complaints against violations of the Convention. Noting the issue of digital accessibility and access to information, the report urges EU public bodies to ensure that their websites are accessible to everyone, including those with special needs, as required by the accessibility directive. More generally, the resolution underlines that persons with disabilities need to be included in the digital transformation. The resolution welcomes the fact that the European Accessibility Act has become law, but regrets that it does not include provisions on access to buildings and physical spaces, noting that everyone should be able to access public places and buildings, through accessibility mainstreaming in planning processes.

Parliament deplored for the umpteenth time the Council's inability to pass the Equality horizontal Anti-Discrimination Directive due to the blockage caused by some Member States within the Council.

Member States and EU bodies are urged to address issues related to travel, education and housing for persons with disabilities. The EU should mandate shorter pre-notification periods for assistance with rail travel, and implement the European Disability Card, which would enhance equal access to free movement rights and cross-border access to health benefits. Education systems need the capacity to accommodate all kinds of learners in a personalized way, and disabled persons need access to good-quality, non-institutionalized housing, so that they can participate independently in their community. According to the resolution, cohesion funds should be used to improve the living situations of persons with disabilities and Member states should mobilize available resources to boost the equal rights and dignity of persons with disabilities.

6. THE RENEWED DISABILITY STRATEGY 2021-2030

The Commission presented a renewed Disability Strategy in March 2021, entitled '**Union of Quality: Strategy for the Rights of Persons with Disabilities 2021-2030**'.¹²⁹ The aim of the Strategy is to ensure the full participation into society of people with disabilities, on an equal basis with others in the EU and beyond, in line with the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union, which establish equality and non-discrimination as cornerstones of EU policies.¹³⁰ **The Strategy supports the implementation by the EU and its Member States of the CRPD at both EU and national levels.**

The Disability Strategy 2021-2030 sets out initiatives around **three main themes: EU rights, independent living and autonomy, and non-discrimination and equal opportunities**. The Commission states that the Strategy 2010-2020 contributed to improving the situation in a number of areas, in particular accessibility for persons with disabilities and promoting their rights by putting disability high on the EU agenda.¹³¹ The new Strategy is needed because persons with disabilities still face considerable barriers in access to healthcare, education, employment, recreation activities as well as in participation in political life and they have a higher risk of poverty or social exclusion (28.4%) compared to persons without disabilities (18.4%) while half of persons with disabilities say they personally felt discriminated against in 2019.¹³²

The Strategy explains that the EU has shared **competences** in some areas and that the main competence remains with Member States in other areas, thus Member States have the primary responsibility to design national disability policies in line with the CRPD. The Commission states that it wants to lead by example in its implementation of the CRPD and that it intends to intensify its work with other EU institutions to that end. The Strategy 2021-2030 presents data and statistics on the position of people with disabilities, recalls the actions were taken during the decade 2010-20 and proposes new actions.

6.1. Accessibility: creation of the resource centre 'AccessibleEU'

A number of **EU rules have been adopted to make the EU more accessible: the European Accessibility Act covering products and services, the Web Accessibility Directive, the Electronic Communications Code, the Audiovisual Media Services Directive and copyright legislation**. The Strategy illustrates other adopted measures, such as the establishment of European accessibility standards to support implementation in the built environment and ICT and EU rules that make accessibility requirements compulsory for the Member States to benefit from shared management funds; and the obligation enacted in public procurement to buy accessible goods, services and infrastructure. Member States are also encouraged to mainstream accessibility funding under the Recovery and Resilience Plans.

A flagship initiative for the period 2021-2030 is the launch of a European resource centre **AccessibleEU**. This cooperation framework will bring together national authorities responsible for implementing and

¹²⁹ Union of Quality. Strategy for the Rights of Persons with Disabilities 2021-2030.

https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_21_810/IP_21_810_EN.pdf

¹³⁰ Web communication by the Commission: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_810

¹³¹ Union of Quality, page 4.

¹³² Special Eurobarometer 493, Discrimination in the EU, May 2019: <https://europa.eu/eurobarometer/screen/home>

enforcing accessibility rules with experts and professionals from all areas of accessibility, to share good practices across sectors, to inspire policy development at national and EU level, as well as to develop tools and standards aiming to facilitate implementation of EU law.

The Commission will also propose creating a fully-fledged **European Disability Card** aiming to be recognized in all Member States, developing the pilot project that involved only some Member States on a voluntary basis.

The Commission acknowledges that persons with disabilities face difficulties when exercising their **right to vote** and will work with Member States in the European Cooperation Network on Elections to support full electoral participation and accessibility of the European elections (both as voter and as candidate). The Commission will establish, in cooperation with Member States in the framework of the European Cooperation Network on Elections, a **guide of good electoral practice** addressing participation of citizens with disabilities; it will seek to address the needs of citizens with a disability in the compendium on e-voting envisaged under the European Democracy Action Plan; it will support inclusive democratic participation, including for persons with a disability, through the new Citizenship, Equalities, Rights and Values programme (CERV).

6.2. Independent living: guidance to improve independent living and inclusion in the community

The Disability Strategy 2021-2030 states the **EU funding made an important contribution** to the independent living and social inclusion in the community for persons with disabilities but acknowledges that still many persons with disabilities, adults and children, are **segregated** from community and have no controls over their life, especially those living in institutions. There is also acknowledgement of the fact that quality of **support services** varies across Europe and that persons with disabilities living in rural areas are prone to insufficient provision of social and health services.

The Commission intends to issue **guidance** recommending to Member States improvements on independent living and inclusion in the community, in order to enable persons with disabilities to live in accessible, supported housing in the community, or to continue living at home (including personal assistance schemes).

The Commission will also present, by 2024, a specific **framework for Social Services of Excellence** for persons with disabilities, to improve service delivery for persons with disabilities and to enhance the attractiveness of jobs in this area including through upskilling and reskilling of service providers.

The Commission also calls on Member States to implement good practices of **deinstitutionalisation** in the area of mental health and in respect of all persons with disabilities, including children, to strengthen the transition from institutional care to services providing support in the community and to promote and secure financing for accessible and disability-inclusive social housing.

6.3. Education: continuation of support to Member States

The Disability Strategy 2021-2030 remarks there is a **considerable need for action** in this area. More young persons with disabilities leave school early and fewer learners with disabilities complete a university degree. Many children and young persons with disabilities are enrolled in special schools which do not always offer effective bridges to the mainstream education system, continued training, or to the labour market. No sufficient systematic research has been carried out on the conditions

necessary for learners with disabilities to succeed, including learners with invisible disabilities such as autism, dyslexia, or hyperactivity.

The Commission announced its will to **continue supporting** Member States via the **European Agency for Special Needs and Inclusive Education** and through **EU funding** for the Erasmus+ programme and the European Solidarity Corps, the Cohesion policy and the Recovery and Resilience Facility, with the aim of mitigating the impact of Covid-19. The Strategy further refers to the European Education Area, calling for aligning educational systems in Member States to the CRPD.

The Commission will issue a **Toolkit for inclusion** in early childhood education and care with a chapter on children with disabilities.

The Strategy notes that, despite the right to access mainstream **vocational education and training**, the proportion of young persons with disabilities being referred to special vocational schools is high, as revealed by a study by ANED that refers to the general lack of accessibility and reasonable accommodation as one of the main root causes.¹³³

The Commission also calls on **Member States** to set targets for the participation of adults with disabilities in learning, in order to increase their participation; ensure that national skills strategies cover the specific needs of persons with disabilities to help achieve the target in the Skills Agenda and in the action plan implementing the Pillar of Social Rights; and to adopt targeted measures and flexible training formats to ensure inclusive and accessible Vocational Education Training programmes.

6.4. Employment: Member States to set targets in 2024

In the Strategy chapter on employment, the Commission examines the current problems faced by persons with disabilities, such as the **employment gap** between persons with and without disabilities, that remains high, as persons with disabilities have a lower employment rate, are disproportionately affected by unemployment, and leave labour markets earlier. A large number of persons with severe disabilities do not work in the open labour market, but in facilities offering so-called sheltered employment. Deprivation of legal capacity can limit the ability of persons with intellectual or mental disabilities to conclude contracts or start a business, thus making self-employment and entrepreneurship impossible.

The Commission announces in the Strategy that it will support Member States in the implementation of the relevant **Employment Guidelines** through the **European Semester**. It will provide **guidance** and support mutual learning on strengthening capacities of employment and integration services, promoting hiring perspectives through affirmative action and combating stereotypes, ensuring reasonable accommodation, securing health and safety at work and vocational rehabilitation schemes in case of chronic diseases or accidents, exploring quality jobs in sheltered employment, and pathways to the open labour market. The Commission will **call on Member States** to establish, by 2024, targets for increasing the employment rate of persons with disabilities and reducing employment rate gaps between persons with and without disabilities to help achieve the 2030 headline employment target proposed in the Action Plan to implement the European Pillar of Social Rights for endorsement by the European Council.

¹³³ ANED, 2018, p.103.; Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case (Article 2 UNCRPD).

The Commission announced the publication of the implementation report on the EU Employment Equality Directive¹³⁴ and will examine and propose, 'if appropriate', a new legal proposal to strengthen the role of **equality bodies**. It will furthermore issue an Action Plan on **Social Economy** to improve the enabling environment for the social economy, including opportunities related to persons with disabilities, through social enterprises with a focus on integration into the open labour market.

6.5. Social Protection: call on Member States to tackle gaps in social protection

The European Pillar of Social Rights led to intensified reforms by Member States of their social protection systems, including of their disability assessment frameworks and benefits, according to the Disability Strategy 2021-2030. All countries have measures in place to provide a replacement income for persons with disabilities. Personal budgets and financial support, including for carers, are becoming a common practice. However, **the objective of an adequate living standard for all has not yet been achieved**. Insufficient labour market participation, in combination with insufficient social protection and extra costs related to disability, including family care, are the main reasons why persons with disabilities and their families are at a **higher risk of financial poverty**. The Strategy states that a considerable number of Member States received support for reforms of their social protection systems from the Commission.

The Commission calls on **Member States** tackle gaps in social protection for persons with disabilities to reduce inequalities, including by compensating extra costs related to disability.

The Commission will launch a **study on social protection and services** for persons with disabilities to examine good practices on disability benefits, old-age income, health insurance, cash and non-cash benefits as well as on extra-costs due to disability and provide **guidance** to support Member States in further reforms of social protection focusing on persons with disabilities and disability assessment frameworks.

6.6. Equality and non-discrimination and Optional Protocol: need for further progress

The Commission acknowledges the **gap in EU law to ensure equal treatment** of persons with disabilities outside the field of employment, such as social protection, healthcare, education and access to goods and services, including housing. It calls on Member States to enable the adoption of the Commission proposal for a **horizontal directive** on implementing the principle of equal treatment outside the field of employment, including in relation to disability.

The **Optional Protocol** of the UNCRPD allows persons with disabilities to address the related Committee when they claim to be victims of a violation by that State Party of the provisions of the CRPD. Not all Member States have acceded the Protocol, and a proposal for a Council Decision for EU accession to the Optional Protocol of the UNCRPD has been pending since 2008. The Commission states in the Strategy that it will follow the progress of accession by Member States to the Optional Protocol and re-examine the **EU's ratification** of the UNCRPD Optional Protocol in that light.

¹³⁴ The report was published on 19 March 2021, see : https://ec.europa.eu/info/sites/default/files/report_on_the_application_of_the_racial_equality_directive_and_the_employment_equality_directive_en.pdf

6.7. Access to justice

Practical and legal barriers hinder people with disabilities access to justice. Digitalisation of judicial systems is, according to the Disability Strategy 2021-2030, essential for improving access to justice.

In its planned actions, the Commission announces it will pay particular attention to **women** with disabilities who are two to five times more likely to face violence than other women, and also to persons with disabilities living in **institutions**. It will launch a **study on the protection of vulnerable adults** in cross-border situations, notably those with intellectual disabilities, to pave the way for ratification by Member States of the 2000 Hague Convention on the international protection of vulnerable adults, in line with the CRPD.

The Commission will furthermore launch a **study on procedural safeguards for vulnerable adults in criminal proceedings**, and assess the need for legislative proposals strengthening the support and protection of vulnerable adults who fall victims of crime, in line with the EU Victims' Rights Strategy (2020-2025); it will provide **guidance to Member States on access to justice** for persons with disabilities in the EU, building on international guidance provided by the United Nations; and develop measures to support Member States in boosting the **participation** of persons with disabilities as professionals in the justice system and collect good practices on supported decision-making.

6.8. Access to Healthcare: call on Member States to improve access

The Disability Strategy states that **further action is needed** as persons with disabilities report unmet needs for medical examinations. The **COVID-19 crisis** revealed weak spots in health systems, in particular regarding persons with disabilities living in institutions with limited access to emergency and intensive care.

To strengthen patient rights, the Commission will carry out an **evaluation of Directive 2011/24/EU on patients' rights in cross-border healthcare**.

The Commission will address issues related to health and disability through the Steering Group on Promotion and Prevention (SGPP); support stakeholders to address and alleviate the burden that the COVID-19 pandemic imposes on the mental health of European citizens.

The Commission incorporated the impact of Covid-19 on people with disabilities in the area of employment, social protection and education in its Joint Employment report 2021, as adopted by the Council in March 2020.¹³⁵

The Commission calls on **Member States** to improve access for persons with disabilities to the entire healthcare portfolio including sexual and reproductive healthcare and prevention services and raise awareness and develop support strategies for patients with disabilities related to rare diseases and identify and examine ways of facilitating access to state-of-the-art treatment including making use of digital innovations across Member States.

¹³⁵ Joint Employment Report 2021.:

<https://ec.europa.eu/social/main.jsp?advSearchKey=joint+employment+report&mode=advancedSubmit&catId=22&policyArea=0&policyAreaSub=0&country=0&year=0>

6.9. Access to art, culture, recreation, leisure, sport, and tourism: cooperation with Paralympic Committee and a study

The Commission will strengthen participation of persons with disabilities in all these areas by pursuing cooperation with mainstream and disability-specific sports organisations (including **International Paralympic Committee**) with support from **EU funding** such as the Creative Europe Programme.

The Commission will launch a **study** evaluating the implementation of Article 30 of the CRPD to support Member States in policies to increase the participation of, and support to, persons with disabilities in sport, culture and leisure activities and promote the development of accessible **tourism** by cities, via the European Capital of Smart Tourism award.

6.10. Protection from violence and protection in emergencies

A grim picture of **violence, abuse, hate speech and hate crime and bullying** experienced by persons with disabilities is given in the Disability Strategy. Persons with disabilities experience a higher risk of becoming victims of violence and abuse both in their home environment and in institutions, in particular women, older persons and children with disabilities. Persons with disabilities are also targeted by hate speech and bullying, including in education institutions. Human traffickers exploit the vulnerabilities of persons with disabilities for the purpose of sexual exploitation, forced begging and sham marriages. The safety and wellbeing of migrants, applicants for and beneficiaries of international protection, including of children with disabilities, are not always protected in reception centres or other facilities hosting them.

To ensure better protection against violence and crime, the Commission will carry out targeted actions within the Gender Equality Strategy 2020-2025 and the EU Strategy on the Rights of the Child, comprising **capacity building** of professionals and **awareness raising campaigns**. The Commission will ensure **mainstreaming** of disability-related aspects of violence and abuse into relevant future **EU policies**. **EU funding** will be used to raise awareness for the needs of persons with disabilities using meetings with the Civil Protection Forum and the Union Civil Protection Knowledge Network. The Commission will continue to **finance training programmes for disaster situations**, including preparedness projects and exercises, taking account of the needs of persons with disabilities and strengthen dedicated monitoring in prevention actions.

The Commission will also provide by 2024 **guidance** to Member States and practitioners, including police officers, on improving support for **victims of violence** who are persons with disabilities and invite the **Fundamental Rights Agency** to examine the situation of persons with disabilities living in institutions in relation to violence, abuse and torture.

6.11. External action: Promoting the rights of persons with disabilities globally

The EU will continue to uphold the human rights of persons with disabilities and support their social inclusion in all international relations, and as part of all external actions, promises the Disability Strategy. The EU will use all its tools ranging from political, human rights and trade dialogues, to cooperation with third countries in the EU's neighbourhood, enlargement and international partnership policies covering also humanitarian action and cooperation with multinational organisations.

As concrete actions, the Commission and the High Representative for Foreign Affairs and Security Policy / Vice-President of the Commission (HRVP) will update the **Toolbox** on the "Rights Based

Approach, encompassing all human rights for EU development cooperation” to address all inequalities, including discrimination against persons with disabilities, in external actions; ensure that the **EU delegations** play a more active role in supporting the implementation of the CRPD and fostering global ratification; systematically use the OECD Development Assistance Committee (DAC) **disability marker** to track disability inclusive investments for a targeted monitoring of EU funding; provide **technical assistance** together with Member States to partner countries’ administrations through their programmes and facilities; organise regular structured **dialogues** during the annual UNCRPD Conference of State Parties, and in the context of other existing multilateral fora, and enhance cooperation with a focus on accessibility and employment.

6.12. EU Institutions compliance with the CRPD: New Disability Platform

The Commission will establish a new ‘**Disability Platform**’, which will replace the existing High Level Group on Disability and support the implementation of the Disability Strategy, as well as national disability strategies. It will bring together **national CRPD focal points, organisations of persons with disabilities and the Commission**. The Platform could also be used as a forum to exchange information on the UN’s assessments of Member States’ implementation of the CRPD.

The Commission will call on all **EU institutions and bodies, agencies and delegations to designate disability coordinators** for their institutions and for their disability strategies; to organise regular **high-level meetings** between the European Parliament, the Council, the Commission and the EEAS, involving representative organisations of persons with disabilities; arrange an annual exchange of views with the European Economic and Social Committee and the Committee of Regions.

To support the implementation of this Strategy and of the UNCRPD, the EU will continue to promote the use of **EU funding** by the Member States as provided for in the Multiannual financial framework 2021-2027¹⁰¹ and by new funding opportunities under Next Generation EU. The Commission will also explore funding opportunities through the new Citizenship, Rights, Equalities and Values Programme (CERV) to foster engagement of citizens with disabilities on equal basis with others and support Member States to use EU Funds in compliance with the CRPD, by respecting accessibility and ensuring that EU funds do not support actions that contribute to segregation or exclusion. In order to guarantee this, Member States must meet so-called ‘**enabling conditions**’ for projects with EU funding. One of these requires that a national framework is in place to ensure implementation of the CRPD.

The Commission will reinforce the Better Regulation toolbox to enhance disability-inclusiveness for ensuring UNCRPD consistency, the assessment of disability matters in impact assessments and evaluations where relevant, including through training of staff preparing initiatives on the UNCRPD.

The Commission aims to boost recruitment, employment and career perspectives of staff with disabilities and created a **Diversity and Inclusion office** to oversee the actions. The inter-institutional European Personnel Selection Office (EPSO) will guarantee reasonable accommodation and strengthen reporting by the management of all Commission services on diversity, including reasonable accommodation for staff with disabilities.

The Commission will improve **web accessibility** in all EU institutions, bodies and agencies; improve by 2023 accessibility across its audiovisual communications and graphic design services as well as of its publications and events, including where relevant sign language interpretation and documents in ‘easy-to-read’ format; ensure accessibility for all newly occupied buildings of the Commission, with the objective that by 2030 all Commission buildings follow European accessibility standards.

The Commission will initiate work with the Council to **update the EU declaration concerning the competence** of the EU with regards to matters governed by the UNCRPD as recommended by the UNCRPD Committee, as the number of relevant EU legal acts has increased from about 40 listed in the declaration in 2008 to **over 130**.

6.13. Monitoring and reporting, data gathering

The Commission will **reinforce data collection and research** in areas where gaps have been identified such as health, humanitarian aid, employment, including data on persons living in institutions. It will do so under the EU Research and Innovation Framework Programme Horizon Europe (2021-2027). The Commission will also develop and publish a **monitoring framework** for the objectives and actions of this strategy and develop new disability **indicators** with a **roadmap for implementation**. These should include indicators for children and the situation of persons with disabilities in employment, education, social protection, poverty and social exclusion, living conditions, health, use of new communication technologies, supporting the indicators for the EU Social Scoreboard, the European Semester Sustainable Development Goals. **In 2024** the Commission will prepare a **report** assessing progress in implementation of the Strategy and if necessary, **update** objectives and actions.

7. ANALYSIS OF THE NEW DISABILITY STRATEGY 2021-2030 IN RELATION TO THE CONCLUDING OBSERVATIONS.

In this chapter, the new Disability Strategy 2021-2030 is analysed, including by presenting the views of the EP, both through the recent resolution drafted by PETI and the EP Disability Intergroup, and the EDF. In doing so, it will look into how the Strategy relates and eventually contributes to implement the Concluding Observations of 2015.

7.1. Remarks and remaining issues by EDF and the European Parliament

The **European Disability Forum** welcomed the Strategy as a landmark for the European disability movement.¹³⁶ EDF particularly appreciated the recognition of the dreadful situation faced by persons with disabilities due to the COVID-19 pandemic; the proposal for an EU-wide Disability Card; the preparation of independent living guidance for Member States in 2023 and the quality framework for social services to persons with disabilities in 2024; the initiative to increase the employment of persons with disabilities within the EU institutions and the commitment to involve organisations of persons with disabilities in the Strategy's implementation.

The creation of the "AccessibleEU" resource centre by 2022 is regarded as positive by EDF, but it is considered to fall short of the potential that a new EU agency on accessibility (the EU Access Board) could have had. EDF welcome a Guide on good electoral practice but urges Parliament and Council to amend the Electoral Law to really ensure the right to vote of all persons with disabilities.

EDF misses any alternative plan to ensure non-discrimination across the EU in all fields, as the 2008 Equal Treatment Directive is still blocked in the Council. The recognition of the specific situation of persons with disabilities experiencing multiple forms of discrimination on the grounds of, for instance, their gender, age, sexual orientation or ethnic background, would also need to be better reflected and addressed through targeted actions.

EDF also welcomes the creation of the Disability Platform and the commitment to appoint disability coordinators in all institutions and agencies to ensure an adequate mainstreaming of the CRPD and interinstitutional coordination. The organisation is critical of the lack of a CRPD unit to ensure coordination of the CRPD at the EU level: while the strategy does pay attention to mainstreaming (such as committing to systematic references to the CRPD in all relevant policy fields or staff training on disability rights), without strengthened human and financial resources within the Commission, or the establishment of a strong and influential CRPD focal point, it is hard to see how this will be achieved.

Disappointment is expressed about the Council Conclusions on the Disability Strategy, as these did not outline any concrete commitments of the Council itself, and it did not put any pressure on Member States or other EU institutions to take a more ambitious stance on the implementation of the Strategy.¹³⁷

The **European Parliament Disability Intergroup** found the Disability Strategy 2021-2030 as not meeting the ambition of the European Parliament resolution on the post-2020 disability strategy, but

¹³⁶ Statement by EDF: <https://www.edf-feph.org/a-new-journey-for-disability-rights-the-european-disability-forum-welcomes-the-new-disability-rights-strategy-2021-2030/>

¹³⁷ Statement Portuguese Council Presidency. The results from a disability perspective: <https://www.edf-feph.org/portuguese-council-presidency-the-results-from-a-disability-perspective/>

welcomed it as a positive step in the right direction.¹³⁸ It welcomed the new mechanisms such as the Disability Platform and the appointment of disability coordinators, but stressed the need to finally appoint CRPD focal points in all EU institutions, including in the European Parliament and in the Council. The proposal for an EU-wide Disability Card is welcomed by the Intergroup as a long-demanded action. Other positive measures are: the framework for social services of excellence for persons with disabilities; guidance for Member States on supporting deinstitutionalisation and independent living, and the involvement of disability organisations in the implementation and monitoring of the Strategy. Still, the Strategy misses a stronger focus on supporting carers, as well as personal assistance to persons with disabilities. Also the Disability Intergroup demands further proposals to tackle discrimination in all areas of life as soon as possible, notably as the Equal Treatment Directive is still blocked in the Council. The Intergroup recalls the urgent need to amend the EU Electoral Law to ensure full voting rights and accessible elections to all persons with disabilities.

The **PETI committee** drafted in 2021 a report based on a series of petitions received by the Committee in which it proposes further reforms to promote the rights and dignity of this group of people.¹³⁹ The PETI report, authored by MEP Agius Saliba, was approved after incorporating a series of amendments and served as a basis for the extensive resolution adopted by the European Parliament in October 2021 as **'European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt.'**¹⁴⁰ The resolution, by using the prism of petitions, examines the situation of PWD in the EU and in the Member States, analyses the new Disability Strategy 2021-2030 and makes recommendations on issues that remain problematic, by proposing actions and measures to overcome these problems, including those that are not sufficiently addressed in the new Disability Strategy.

The resolution represents the latest point of view of the EP on the rights of persons with disabilities. It recalls that persons with disabilities continue to face multiple obstacles and discrimination in everyday life preventing them to participate fully in society. **The petitioners' most common concerns regarding the equality of persons with disabilities centre around accessibility and social protection, along with employment rights and the right to live independently in the community.**

The resolution calls for the Commission to align the proposed EU Disability Platform with the European Pillar of Social Rights; to set clear objectives to improve the living and working conditions of persons with disabilities and to present a strategic EU care agenda that should reflect the situation of the 100 million informal carers in the EU.

It calls on the Member States to fully implement and continuously monitor all accessibility-related legislation, including the European Accessibility Act, in order to effectively and definitively remove and prevent barriers for workers with disabilities, and to improve and ensure the availability of accessible services and the suitability of the conditions under which these services are provided.

¹³⁸ Statement on behalf of the Intergroup by EDF: <https://www.edf-feph.org/the-disability-intergroup-is-ready-to-strengthen-the-eu-disability-rights-strategy/>

¹³⁹ Report on The protection of persons with disabilities through petitions: lessons learnt. (2020/2209(INI)) : [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2209\(INI\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2209(INI)&l=en)

¹⁴⁰ European Parliament resolution of 7 October 2021 on the protection of persons with disabilities through petitions: lessons learnt (Petitions Nos 2582/2013, 2551/2014, 0074/2015, 0098/2015, 1140/2015, 1305/2015, 1394/2015, 0172/2016, 0857/2016, 1056/2016, 1147/2016, 0535/2017, 1077/2017, 0356/2018, 0367/2018, 0371/2018, 0530/2018, 0724/2018, 0808/2018, 0959/2018, 0756/2019, 0758/2019, 0954/2019, 1124/2019, 1170/2019, 1262/2019, 0294/2020, 0470/2020, 0527/2020, 0608/2020, 0768/2020, 0988/2020, 1052/2020, 1139/2020, 1205/2020, 1299/2020, 0103/2021 and others) (2020/2209(INI)): https://www.europarl.europa.eu/doceo/document/TA-9-2021-0414_EN.html

The resolution notes the proposal by the Commission to create the 'AccessibleEU' resource centre but would rather see an **EU agency on accessibility** (EU Access Board). It calls on the Commission to use the European Accessibility Act as a basis for adopting a robust EU framework for an accessible and inclusive environment with fully accessible public spaces, services, including public transport, communication, administrative and financial services, and the built environment.

The lack of **mutual recognition of disability status** between Member States hinders freedom of movement within the EU for persons with disabilities – access to public transport, physical, sensory and cognitive accessibility of the built environment, goods, services and programmes, use of sign languages and all other means and types of accessible communication and information, financing of and equal access to education and vocational training, access to the labour market, access to personal assistance and community inclusion, and equality in opportunity and treatment in employment and occupation. The resolution urges that the **EU Disability Card** should be made mandatory in all Member States, so as to help persons with disabilities to exercise their right to free movement in a barrier-free EU. It highlights the need to extend the benefits of such Card so that mutually recognised health access benefits are also included.

Parliament repeatedly urged, and does this again in the resolution, the Member States to implement appropriate policies to ensure that persons with disabilities can fully enjoy their social, political and economic rights and calls on the Commission and the Member States to ensure the real right of persons with disabilities to vote in European Parliament election.

Persons with disabilities, particularly those with high support needs, are often at high risk of being institutionalized, states the resolution, while the current financial support by Member States is not enough, especially regarding community based, person-centred support that would protect the rights of persons with disabilities. The resolution calls on the Member States to ensure a process that provides for a shift in living arrangements for persons with disabilities, from institutional settings to a system enabling social participation and in which services are provided in the community according to individual will and preference and calls on the Member States to include specific targets with clear deadlines in their deinstitutionalisation strategies. The resolution calls on the Commission and the Member States to include in the partnership agreements on the European Structural and Investment Funds and in these funds' programmes objectives and approaches that improve the living conditions of persons with disabilities and that support the **transition from institutional to community-based living**. It asks the Commission to monitor closely the use of EU funds in line with the CRPD in order to ensure people with disabilities enjoy the equal right to live independently and be included in the community.

The Commission and the Member States should better acknowledge the importance of accessible and quality support services and systems for independent living. The resolution stresses the need to promote strategies and standards for personalised quality support for dependent persons with disabilities and their carers, including improved social protection and various forms of support for informal carers. The Commission is called on to present a **strategic EU care agenda** as a further step forward in qualitatively empowering the healthcare sector in the EU, including personal and household service workers and the care agenda also needs to reflect the situation of the 100 million informal carers in the EU, who provide 80 % of long-term care but whose work mostly goes unrecognized.

The resolution remarks that petitions have repeatedly highlighted the limitations in terms of **access to education** for persons with disabilities, which lead to lower participation in educational activities than the population average and, as a consequence, to a risk of social and economic exclusion. Member States are to increase their education systems' capacity to provide high-quality accessible education

for all learners by promoting specific measures and personalised support, such as accessible and tailored curricula and learning materials, accessible ICTs and appropriate digital education. The resolution reiterates that the implementation and allocation of the relevant EU funding programmes should contribute to the transition towards inclusive education. It stresses that persons with disabilities should be guaranteed access to education.

Employment and occupation levels for persons with disabilities are low, standing at 50,6 % compared to 74,8 % for those without disabilities, quotes the resolution. It regrets that multiple and intersectional discrimination is insufficiently addressed in the European Disability Strategy 2021-2030. It calls on the Commission to start revising the **Employment Equality Directive** as soon as possible with a view to fully harmonising it with the provisions of the CRPD. The resolution further urges the Commission and the Member States to step up their efforts to tackle the persisting disability employment gap and urges to introduce workplace quotas for persons with disabilities.

Regarding the rights of women, the resolution calls on the Commission and the Member States to address the **employment gap faced by women with disabilities**, by tackling gender stereotypes, strengthening their participation in the digital economy, increasing their representation in education, training and employment, and combating deterrents to work such as sexual harassment and calls on the Commission and the Member States to take concrete measures to ensure that women with disabilities participate in decision-making and receive equal pay for equal work, to combat their high risk of in-work poverty and to adjust labour regulations such as flexible working arrangements and parental leave to their specific needs.

The resolution draws attention to the **importance of early childhood intervention** and to the fact that children with disabilities must participate and be included in society from the very early stages of their lives. There is a need to increase the funding opportunities for inclusive education, both for the promotion of inclusive education's impact on children with or without disabilities as well as for the funding of research in inclusive education.

The resolution reiterates the need to ratify the **Optional protocol** as it considers the Optional Protocol to be an indivisible part of the CRPD. It also urges the Member States to adopt the **EU horizontal anti-discrimination directive** tabled by the Commission in 2008 and calls on the Commission to present an alternative solution in order to move forward in tackling discrimination across the EU, in all areas of life. The Commission and the Member States should continue empowerment programmes for persons with disabilities to enable them to recognise and report cases of discrimination against them.

The resolution further calls for EU and national investigations into the **disproportionate COVID-19 infection and death rates in nursing and care homes** and in the context of residential services for older people and persons with disabilities and other social services. When adopting measures related to the COVID-19 pandemic, such as recovery and vaccination plans, and in any future crisis persons with disabilities and the organisations that represent them, should be consulted and involved.

With regard to access to justice, the resolution asks the Commission to work with the **Court of Justice of the European Union** on communication and accessibility strategies in order to ensure that persons with disabilities have the ability to access the EU justice system without facing any form of discrimination.

The resolution welcomes references in the Disability Strategy to the specific challenges faced by **women and girls** with disabilities and calls for the intersection of gender and disability to be mainstreamed in all EU policies, programmes, initiatives, and in Member States' national action plans. It calls on the Commission and the Member States to address the gender-based violence that women

and girls with disabilities face to a disproportionate degree, via the **Istanbul Convention** and by extending the areas of crime to encompass specific forms of gender-based violence in accordance with Article 83(1) of the TFEU. It also calls on the Commission to ensure that the needs of women with disabilities are included in initiatives that provide support to victims through the Gender Equality Strategy and the Victims' Rights Strategy, and to ensure that support for victims is designed in accordance with the principle of accessibility.

Children and adults with disabilities are at higher risk of **violence** than their non-disabled peers and children with mental or intellectual impairments appear to be among the most vulnerable, with 4,6 times the risk of sexual violence than their non-disabled peers. The resolution urges, therefore, for the creation of a European framework for the protection of persons with disabilities from any sort of violence.

The resolution asks to **conduct a cross cutting review of EU legislation**.

Member States should adopt ambitious timelines for the implementation of the strategy. The Commission should develop detailed indicators in the forthcoming delegated act on the revised social scoreboard to measure the progress toward the goals and objectives of the Disability Strategy.

The resolution acknowledges the Commission's call for all EU institutions, bodies, agencies and delegations to designate '**disability coordinators**'; and calls on the EU institutions to prioritise the appointment of persons with disabilities to the role of disability coordinators;

The Commission is asked to carry out an annual review of **disability mainstreaming under the European Semester process**.

EU institutions should improve the level and quality of accessibility in all of their buildings and remove the existing barriers to their websites, debates and documentation. It highlights the need to provide sign language interpretation services and easy-to-read language translations for committee meetings, plenary meetings and all other Parliament meetings, in order to make them accessible for persons with disabilities.

The resolution welcomes the Commission's commitment to adequately **involve organisations of persons with disabilities** at all stages of the implementation of the European Disability Strategy 2021-2030.

7.2. Concluding Observations: not all issues are addressed by the Disability Strategy

Several resolutions by the European Parliament from 2016 on addressed the issues raised in the reporting cycle of the Convention on the Rights of Persons with Disabilities and notably the List of issues, the Commission replies and the Concluding Observations by the Committee. Notwithstanding the Committee recommendations supported by the EP and stakeholders, the 2017 Commission midterm evaluation of the Disability Strategy 2010-2020 did not lead to the incorporation into the Strategy of the recommendations for action suggested by the Concluding Observations of 2015. The evaluation of the Disability Strategy 2010-2020 touched upon many issues raised also in the Concluding Observations, but did not address all of them.

Unfortunately, also the new **Disability Strategy 2021-2030 does not thoroughly address the complete list of concerns and recommendations from the Concluding Observations**.

No effective alternative or remedy is presented in the Disability Strategy to overcome the blockage by and within the Council in relation to the ratification of the **Optional Protocol** and the adoption of

the **2008 horizontal Equal Treatment Directive**. The Council itself does not address these issues in its conclusions on the Disability Strategy.¹⁴¹

The Committee recommended to set up a structured dialogue for coordination among European Union institutions, agencies and bodies and to ensure meaningful consultation with, and the participation of, persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations. The Commission announces in the Disability Strategy to set up a new **Disability Platform** for this structured dialogue. The announcement of a new **Disability Platform** to replace the High Level Group on Disability does not clarify in what way the Platform will bring change, other than the name change.

There is no proposal for the recommended cross cutting comprehensive **review of EU legislation**, but the Disability Strategy announces an update the Declaration of Competence as recommended by the Committee.

Although **the Disability Strategy contains some very concrete actions, with a clear timeframe other objectives are rather vague or 'aspirational'** as EDF stated in its reaction to the Strategy.¹⁴² In areas where the Commission has supportive competences, actions in the Disability Strategy are often reduced to stating that the EU calls on Member States to take action, to include persons with disabilities in their policies and the EU expresses its readiness to coordinate at EU level, or to seek synergies among Member States. **But the Strategy does not make clear how the support and coordination can guarantee further progress.**

An example is the difficulties persons with disabilities face when exercising their right to vote. The Commission announces only that it 'will work with Member States in the European Cooperation Network on Elections to support full electoral participation and accessibility of the European elections.

7.2.1. Education: urgent need for action but no action.

Actions in the area of education are another example of how actions remain rather **vague and indecisive**. The Concluding Observations expressed concern about the high number of boys and girls with disabilities who cannot access inclusive, quality education. The Disability Strategy does acknowledge a considerable need for action in this area, but when it comes to action, the Commission suffices with the announcement that it will continue supporting Member States via the European Agency for Special Needs and Inclusive Education.

7.2.2. The use of EU funds to renovate institutions: no proposal

The number of people with disabilities living in institutions and the possible use of EU funds to renovate them were of great concern to the UN Committee. NGOs provided evidence of the wrongful use of EU funds. Parliament asked to ensure that EU funds are only to be used to support the transition from institutional to community-based living.

The Strategy 2021-2030 does not refer to the reported use of EU funds for the renovation of institutions. **The actions and instruments proposed in the Strategy to 'guard' the proper use of EU Funds seem weak.** The Strategy states that Member States must meet 'enabling conditions' such as the

¹⁴¹ Council conclusions approved at the Employment, Social Policy, Health and Consumer Affairs Council, 14-15 June 2021, see : <https://www.consilium.europa.eu/en/meetings/epsco/2021/06/14-15/> and <https://data.consilium.europa.eu/doc/document/ST-9127-2021-INIT/en/pdf>

¹⁴² Web article 'A new journey for disability rights. The European Disability Forum welcomes the new Disability Rights Strategy 2021-2030': <https://www.edf-feph.org/a-new-journey-for-disability-rights-the-european-disability-forum-welcomes-the-new-disability-rights-strategy-2021-2030/>

requirement to have a national framework in place to ensure implementation of the CRPD. This is a superfluous requirement that every Member State can easily meet, including Member States who use EU funds to renovate institutions, notably as every state party to the CRPD is required to have an implementation plan.

No other concrete measure is mentioned on the matter, except for the issue of guidance on independent living and promotion of good practices.

7.2.3. Data gathering on education, work and employment and social protection increased awareness

The Commission undertook **research** and gathered **data** on vocational education, employment and social protection. Research and data gathering contributed significantly to more awareness raising and were used to support Member States in their policies on employment and social protection and vocational education. The support offered by the EU was based on recommendations that could not easily be ignored by Member States, as they were part of European Semester cycle. The Strategy announces that the Commission will continue to make efforts to improve the situation via the European Semester and the related recommendations.

7.2.4. Concerns about mainstreaming of disability in all policies

The Disability Strategy 2021-2030 strives to ensure the **mainstreaming** of disability throughout all policy areas. Newly proposed instruments to ensure that disability is fully taken into account in policy development do not seem to differ much from current instruments. The Commission announced that it would reinforce the Better Regulation Toolbox and ensure inclusion of disability matters in impact assessments 'where relevant'.

But while the Concluding Observations recommended to include a **comprehensive list of issues in the guidelines on impact assessment**, the Commission commits only to ensure assessment of disability matters in impact assessments and evaluations '**where relevant**'.

The Gender Equality Strategy 2020-2025 and especially the EU Strategy for the Rights of the Child contain specific descriptions of the problem faced by women and children with disabilities and actions aimed at addressing these problems. However, other policy plans are void of description of problems that people with disabilities experience and they do not propose precise measures or targets which might benefit people with disabilities. An example is the **European Health Union**¹⁴³ launched by the Commission in November 2020, aiming at supporting Member States in developing policies to improve the resilience of their health systems, including for persons with disabilities. However, the European Health Union Communication does not contain any concrete description of the problems that persons with disabilities face in access to health care. The document contains only a reference stating that Member States shall ensure access to healthcare for persons with disabilities only **in a footnote**.¹⁴⁴

Another example is the **European Education Area**.¹⁴⁵ This communication does contain a chapter on making education and training more inclusive and gender sensitive. Disability is mentioned twice in the document: once to simply state that education systems at all levels should comply with the CRPD,

¹⁴³ Commission Communication (COM/2020/724 final). European Health Union: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0724&qid=1605690513438>

¹⁴⁴ Footnote 31 in the European Health Union: 'In this context, it is also important to ensure that persons with disabilities have access to essential social support services as well as access to information on protective measures.'

¹⁴⁵ Communication on achieving the European Education Area by 2025: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0625>

and the other to recall that governments, together with stakeholders, should foster inclusive education across all sectors of education and training in accordance with the commitments of Member States and the EU towards the implementation of the CRPD. In both cases, it is **not clear how to ensure this in practice, as no specific action or measure is proposed or suggested**.

The Disability Strategy promises to ensure mainstreaming of disability-related aspects of **violence and abuse** into relevant future EU policies and refers to, among others, the New Pact on **Migration** and Asylum. However, the Commission communication on the Pact itself does not even contain the word disability, making it **difficult to see how mainstreaming will be implemented in practice** across the various initiatives covered by the Pact.¹⁴⁶

7.2.5. Women and children: Action needed but not much offered

The new Disability Strategy does address concerns and recommendations on the rights of women and children with disabilities. The EU effectively mainstreamed the rights of women and children with disabilities in the general gender and children's policies, and is working on improved data gathering and research. However, the urgency with which the Committee recommended to foster **deinstitutionalization**, to prevent new institutionalization and to ensure access to mainstream quality education, is not equalled in the Disability Strategy. The Strategy does acknowledge the need for further action, but not much action is offered. The Commission satisfies itself with the continuation of the support to Member States already provided in the last ten years, and with the issuing of a Toolkit for inclusion in early childhood education and care containing a chapter on children with disabilities.

7.2.6. Accessibility, personal mobility, humanitarian emergency, access to information.

The Disability Strategy was **successful in improving accessibility and recommendations were followed**. The Commission also realizes that in the coming years it will be important to focus on supporting the correct implementation within the Member States of the Accessibility Act, of the regulations on passenger rights and of the rules for procurement and of the other announced actions.

7.2.7. Freedom of movement: Disability Card

The problem constituted by the barriers faced by persons with disabilities when moving to live or work in another Member State is addressed through the proposal to introduce the European Disability Card, which shall be valid and recognised by all Member States. The European Disability Forum, the European Economic Social Committee and the European Parliament all support this Card and welcome its introduction. The Disability Strategy does not make clear if the Card will guarantee the portability of social security benefits or not.

7.2.8. Non-discrimination in health

To strengthen patient rights, the Commission will carry out an evaluation of Directive 2011/24/EU on patients' rights in cross-border healthcare. However, this does not address the recommendation in the Concluding Observations explicitly prohibit **discrimination** on the grounds of disability in health care.

The **Covid-19** pandemic put the spotlight on the severe impact on people with disabilities, including discrimination. People with disabilities are reported to have been denied healthcare, social support, protective equipment. The death rate in institutions for people with disabilities were reported to be disproportionality high. Concrete recommendations for actions to combat this discrimination by the

¹⁴⁶ New Pact on Migration and Asylum : <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>

European Parliament¹⁴⁷ are not addressed in the Disability Strategy. The Strategy refers to the European Health Union in this regard, but it is worrisome that the call to Member States to ensure access to healthcare for persons with disabilities is only mentioned in a footnote of the communication on the European Health Union.¹⁴⁸

7.2.9. EU institutions compliance with the CRPD as public administrations

The Concluding Observations noted that **EU staff** with disabilities do not always receive reasonable accommodation and experience discrimination in access to EU health insurance schemes and not always access for children with disabilities in European Schools. These issues are **very briefly addressed** in the Disability Strategy and are not sufficiently discussed nor resolved through specific and clear proposals for actions and measures.

7.2.10. Issues not addressed

Issues that are only superficially touched upon, or not addressed at all, in the Disability Strategy 2021-2030 include (following the order of the Concluding Observations): not ratifying the Optional Protocol; the lack of a cross cutting comprehensive review of EU legislation; the non inclusion of compliance with the CRPD within the impact assessment guidelines; the legal gap in the prohibition of discrimination in all aspects on the ground of disability; the mainstreaming of disability in migration and refugee policies and restrictive detention of persons with disabilities in the context of migration and asylum seeking; the restriction of legal capacity of a large number of persons with disabilities; the involuntary detention of persons with disabilities in psychiatric hospitals on the basis of impairment; protecting the integrity of the person; setting a social protection floor for an adequate standard of living; the promotion of support for families with persons with disabilities and ensuring the right of children with disabilities to live in the community; the (lack of) explicit prohibition of discrimination on the grounds of disability in health care; the provision of reasonable accommodation, access to health insurance scheme and access to European schools for staff members of EU institutions with disabilities or their children with disabilities.

¹⁴⁷ Resolution: Rights of persons with intellectual disabilities and their families in the COVID-19 crisis, P9_TA(2020)0183: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183_EN.html

¹⁴⁸ Footnote 31 in the European Health Union.

8. CONCLUSIONS

8.1. Not all issues addressed

The reporting cycle of the List of Issues, replies and recommendations in the Concluding Observations made clear that there were **considerable gaps in implementing the CRPD by the EU**. The new Strategy 2021-2030 has a broader scope than its predecessor, but some **issues are still not explicitly addressed**. In areas where the EU has **limited competence** and only a role in supporting Member States, it could be said that both the Disability Strategy 2010-2020 and 2021-2030 are **limited in action**.

The 2021-2030 Strategy **does not systematically refer to the concerns and recommendations from the Concluding Observations**. There are no benchmarks nor indicators based on the Concluding Observations. Resolutions by the Parliament and the Opinion by the European Economic and Social Committee, which were specifically based on the Concluding Observations, were not referred to either. This lack of references to the Concluding Observations makes it more difficult to assess where and how improvements in securing the realization of the rights of people with disabilities have been realized.

The reason for not addressing the concerns and recommendations from the Concluding Observations in the Disability Strategy might have different causes. A reason could be that the Council or Commission choose to set different and less priorities than the UN Committee does. It might also be that the Disability Strategy wants to avoid and silence issues where there is a lack of political agreement or limited competence for the EU. This then leads to a shorter list of issues that the EU proposes to deal with in the Disability Strategy.

A very different approach is visible in the work of the EP PETI Committee, which issued in 2021 a report based on received petitions in which it proposes further reforms to promote the rights and dignity of this group of people.¹⁴⁹ The PETI report led to a resolution adopted by the European Parliament in October 2021, containing an extensive list of recommendations addressing issues not sufficiently addressed in the new Disability Strategy.¹⁵⁰ While such approach is positive as it allows to cover the various issues raised by the Concluding Observations, the PETI Committee could in the future prioritise them on the basis of urgency, while taking EU competences more into account when making recommendations on actions to be taken.

8.2. Improvement through legislation

All stakeholders agree that in the area of accessibility much improvement has been realized with the European Accessibility Act and other regulations and projects, although some are critical of the lack of enforcement and voluntary approach to accessibility requirements in the build environment.

The EU has **shared competence in the internal market**. This made it politically possible to introduce legislation and regulations that are to be implemented by the Member States. The European Accessibility Act is considered a huge success because it is **binding legislation** that is introduced all over the EU. Binding legislation forces the Member States not only to review national legislation but also to consult with civil society and people with disabilities. This raises awareness and creates an atmosphere in which the EU can more easily target research and fund projects that lead to innovation,

¹⁴⁹ Report on The protection of persons with disabilities through petitions: lessons learnt (2020/2209(INI))

¹⁵⁰ Resolution on The protection of persons with disabilities through petitions: lessons learnt, P9_TA(2021)0414: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0414_EN.html

which facilitates implementation of the new legislation. The EU requirements to make digital products accessible could lead to a commercially interesting market for innovative digital products.

The example of the Accessibility Act leads to the conclusion that, where the EU can introduce legislation, all other soft instrument instruments on implementing the CRPD can be more effective.

Without legislative back up, the soft instruments such as funding projects and sharing good practices do not yield as much result.

The **labour market** is an area where the EU also has **shared competence** and where its **support to Member States can have a more enforceable character**. In the area of employment and social protection severe concerns were expressed. The employment gap between persons with and without disabilities remains high and people with a disability have a higher risk of being poor and socially excluded. Discrimination on the basis of disability on the labour market and vocational education is prohibited in the EU, but this apparently cannot prevent the huge employment gap. Increased efforts in research and data gathering during the past decade led to more awareness raising. Research has and will be used to support Member States in their policies on employment and social protection and vocational education. Support was given in the form of **pressing recommendations adopted within the framework of the European Semester** that cannot be easily be ignored by Member States. This process can be reinforced by the proposal to set targets by 2024 on employment and social protection.

The Disability Strategy 2021-2030 does not introduce legislative proposals in this area but announced the report on the implementation of the EU Employment Equality Directive and a possible initiative to strengthen the role of equality bodies. The report could feed into the political debate on the horizontal Equal Treatment Directive which has been blocked in the Council for over 13 years. At the same time, the adoption of the proposed directive on equality beyond the labour market could have a positive spill-over impact in relation to equal treatment in employment, making discrimination across society less accepted and promoting a horizontal culture of equality.

The recommendation in the Concluding Observations to conduct a cross cutting comprehensive review of its legislation (so far not followed) could get a different meaning if the review would be given a slightly different purpose. The review was to be aimed at harmonizing legislation with the provisions of the Convention, but it maybe could be better aimed at **analysing outcome results**, so to answer to the following questions: do existing legislative rules and soft law instruments actually help in realizing the fundamental rights of people with disabilities in the specific areas examined?

8.3. Limited competence

Health, education and independent living are areas where the EU has limited competence and it cannot impose legislation. Both the Disability Strategy 2021-2030 and the Concluding Observations express concern about the **segregation** in education, the number of adults and children with disabilities forced to live in **institutions** and the **discrimination** in access to health (which has been exposed during the Covid-19 pandemic). This shared concern by the EU and the Committee did however not lead to a concerted effort in analysing the situation and proposing effective instruments to remedy it.

There are **no instruments proposed** in the Disability Strategy to decrease segregation in primary and secondary education other than that the European Agency for Special needs and Inclusive Education will continue its support to Member States. Specific concrete recommendations on the rights of persons with intellectual disabilities and their families in the Covid-19 crisis are **not properly addressed** in the Disability Strategy 2021-2030.

De-institutionalisation is supported by the European Union with the soft instrument of EU-funding and using ex-ante conditions. Member States are required to use EU funds in compliance with the CRPD. Research tells that the progress has slowed down since 2013 and that alternative support systems, such as personal assistance, represent a minority form of provision. Moreover, there is evidence that in some Member **States EU funds are being used to renovate and extend institutions and that the EU does not want or cannot reclaim funds that are used for these institutions**. The Disability Strategy does not analyse this situation. Therefore **it remains unclear whether the EU disputes the evidence or whether the EU shies away from considering actions against the wrong use of EU Funds**.

8.4. Lack of political agreement

The urge to shy away from issues where the EU has very limited competence can be suspected also in other areas, such as **legal capacity, increasing political participation and ensuring the right to vote for people with intellectual disabilities** - areas where there is **limited political agreement**. The history of the horizontal Equal Treatment directive makes it clear that **some issues relevant for implementing the CRPD cannot be brought further because there is no political agreement** across the Member States. Recommendations from the Concluding Observations alone are not enough to convince the Council to yield.

The Evaluation Study concluded that the Disability Strategy did not achieve all of its objectives due to the **limited competence of the EU** but also due to the **limited availability of data and information** on the situation of persons with disabilities.

These unresolved issues can be **explored further** through research, monitoring and data gathering, notably through the European Disability Experts (EDE, successor of ANED) and the Fundamental Rights Agency, which could contribute to create knowledge on issues that are not dealt with by current policies.

8.5. Mainstreaming disability may hinder effective remedies

The Disability Strategy 2010-2020 did not achieve all of its objectives due to the **limited scope of some of the actions**, according to the Evaluation Study, and the new Disability Strategy could run the same risk. The decision in the Disability Strategy 2021-2030 to **mainstream disability** throughout all policy areas could lead to a **masking of the limited scope of some actions**. Some actions are formulated in a general and non-specific way, such as 'ensuring equal access to health', or 'call on Member States to ensure compliance with the CRPD'. Such formulated actions, if mainstreamed in general strategies and policy plans, do not always secure that specific actions aiming at people with disabilities are implemented, due to their vagueness.

9. RECOMMENDATIONS TO EU INSTITUTIONS

The CRPD reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. Signing the Convention by the EU was a ground breaking act as the CRPD is the **first international legally binding instrument** setting minimum standards for **rights of people with disabilities**; it is the **first human rights convention to which the EU has become a party**; and the EU is the **first regional organization** to have ratified a human rights treaty. Joining the Convention means that the EU must carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination.

This is not a quick and easy task as the EU has over a 100 million citizens with a disability who do not enjoy the same level of employment, education, social inclusion, right to travel, work and study, to live independently and receive support in participating and contributing to society as people without disabilities do. Moreover, the EU has shared and supporting competences in different areas and is to work together with Member States who have their own implementation plans for the CRPD. Full implementation of the CRPD by the EU is in these circumstances a huge and complicated task for which setting priorities would be a logical thing to do.

The below recommendations are aimed at giving some directions for further **reflection and action** in the view of determining the next steps by the EU in achieving the full implementation of the CRPD and of the Concluding Observations, and in relation to the EU disability policy in general.

Recommendation 1: Prioritize issues based on urgency of concerns

The **Commission** has set out its priorities and timelines for the main actions and measures in its Disability Strategies, but these are not based on the concerns expressed in the Concluding Observations, but more on the divisions of competences within the EU and the political limits to EU action that are set by the **Member States** within the **Council**. The **European Parliament**, on the contrary, takes a broad view in its resolutions in relation to the implementation of the CRPD, describing extensively where rights are not properly realised, and urging the Commission, the Council and Member States to take action on a broad list of issues, without setting precise priorities and timelines.

The recommendation for EU institutions is consequently to **set clear priorities** and timelines based on the concerns expressed in the **Concluding Observations**, taking into consideration the **urgency** of the concerns, as well as **EU competences**.

These elements are relevant and useful also in relation to the assessment of the issues that are to be presented to the UN Committee for the **next reporting cycle**.

Recommendation 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** and reply to the following question: do existing legislative rules and soft law instruments actually help in realizing the fundamental rights of people with disabilities in specific areas?

Recommendation 3: Promote new legislation and ensure proper implementation by Member States

The EU has **shared competence in the internal market, as well as in many other relevant areas for disabilities**. This shared competence allows it to introduce legislation and regulations to be implemented by the Member States. For instance, the European Accessibility Act is considered a huge success because it consists of **legislation** that is **binding** all over the EU, which forces the Member States to introduce new legislation or adapt their legislation already in force. Such EU legislation furthermore functions as back up to implement soft instruments such as funding projects and sharing good practices. At the same time, the introduction of EU legislation and national legislation often leads to consultations with civil society and people with disabilities. This raises awareness and creates an atmosphere in which the EU can more easily target research and fund projects aimed at facilitating the implementation of the new legislation. For instance, in the area of the internal market, the EU requirements to make digital products accessible could lead to a commercially interesting market for innovative digital products. These considerations lead to the following recommendation: **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**. In relation to the latter, it is important to realize that the EU has a specific duty to ensure that EU legislation introduced to implement the CRPD is properly transposed and applied in the Member States. To reach this objective, institutions shall use all the instruments at their disposal to ensure compliance (such as infringement proceedings).

Recommendation 4: Analyse in order to build political support

The study has noted that a number of **pressing concerns** in relation to the rights of persons with disabilities, the CRPD and the Concluding Observations have **not been addressed** through concrete actions or have **not led to real results**. Among these, we can recall the non-approval of the equal treatment anti-discrimination directive, the persistence of segregation in education, the use of EU funds to renovate institutions, discrimination in access to health. This lack of action or lack of results is often linked to the limited competences of the EU in a certain area, or the lack of political will, or the lack of data and information on a certain issue. It is important to **analyse** which are the precise reasons behind a stalemate situation, gather data and research 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.

Recommendation 5: Beware of cosmetic mainstreaming of disability

Mainstreaming disability in all policy areas is extremely important and needed but should not be done without a proper and specific analysis of which problems people with disabilities experience and how their rights can and should be realised. If actions are formulated in a general and non-specific way, such as 'ensuring equal access to health' or 'call on Member States to ensure compliance with the CRPD', they risk becoming mere **'cosmetic' mainstreaming** of disability issues in general strategies of the EU. The recommendation is to sufficiently **analyse** a disability issue and clearly specify, describe and elaborate on which policy-instruments are needed to address disability within a general policy.

ANNEX 1 - TABLE ON THE IMPLEMENTATION OF THE CRPD

TABLE ON THE IMPLEMENTATION OF THE CRPD AND OF THE CONCLUDING OBSERVATIONS AND RECOMMENDATIONS BY THE EU THROUGH THE 2010-2020 AND 2021-2030 DISABILITY STRATEGIES

Articles CRPD	Concerns in Concluding Observations (CO)	Recommendations in the CO	Disability Strategy 2010-2020 and evaluation/comments on it	Disability Strategy 2021 – 2030 or other announcements	CO Implemented?	Comments
General principles and obligations (arts. 1-4)	The Committee is concerned that the European Union has not ratified the Optional Protocol to the Convention.	Ratify the Optional Protocol	The Council blocks ratifying the Optional Protocol. The Commission and the Parliament support ratifying the OP.	The Commission will follow the progress of accession by Member States to the Optional Protocol and re-examine the EU's ratification of the UNCRPD Optional Protocol in that light.	No	Member States who have not ratified the Optional Protocol, block ratification of the Protocol by the EU.
	Failure to conduct a cross-cutting, comprehensive review of its legislation aimed at harmonizing it with the Convention. No strategy on the implementation of the Convention across all its institutions exists.	Conduct a cross-cutting, comprehensive review of legislation in order to ensure full harmonization with the provisions of the Convention, and actively involve representative organizations of persons with disabilities and independent human rights institutions in the process. Also: adopt a strategy on the implementation of the Convention, with the allocation of a budget, a time frame for	European Parliament noted in its 2017 resolution on implementation of the DS: There continues to be new and revised legislation without any reference to the CRPD and accessibility.	The commission will work with the European Parliament and the Council to (...) to identify gaps in existing legislation. The Commission intends to strengthen the EU framework (consisting of the European Ombudsman, the Committee on Petitions of the European Parliament, the Fundamental Rights Agency and the European Disability Forum), and propose actions; ensure monitoring and reporting and develop disability indicators	No	The announcement to identify 'gaps' in existing legislation cannot be regarded as a cross cutting comprehensive review. Specific actions to strengthen the implementation framework are not clear. There is no specific allocation of budget nor a timeframe.

		implementation and a monitoring mechanism.				
	The mid-term assessment of the European Disability Strategy 2010-2020, which was due in 2015, has not yet been carried out and there are no clear benchmarks and guidelines on how the recommendations in the present concluding observations will be incorporated into the implementation of the strategy during the second half (2016-2020) of its term.	Carry out the mid-term assessment of the European Disability Strategy 2010-2020 and establish clear guidelines for including the recommendations in the present concluding observations, with clear benchmarks and indicators, in close consultation with persons with disabilities and their representative organizations.	According to the Evaluation Study there has been limited inclusion of disability in policy-making processes: disability considerations were not applied at all stages of the policy or the legislative procedure.	Some implicit referrals are being made to the Concluding Observations.	No	There is no explicit assessment of the concerns and recommendations of the Concluding Observations. Actions in the Disability Strategy do not refer to the Concluding Observations.
	The impact assessment guidelines only include one reference relating to compliance with the Convention.	Review and modify the impact assessment guidelines in order to include a more comprehensive list of issues to better assess compliance with the Convention.	European Parliament noted in its 2017 resolution on implementation of the DS: "there continues to be new and revised legislation without any reference to the CRPD and accessibility".	The Commission intends to ensure disability matters in impact assessments and evaluations where relevant. The Commission will reinforce the Better Regulation toolbox to enhance disability-inclusiveness for ensuring UNCRPD consistency, the assessment of disability matters in impact assessments and evaluations where relevant, including through training of staff preparing initiatives on the UNCRPD.	No	The scope of the actions by the Commission is unclear. There is no announcement of a review and modification of the existing impact assessment guidelines.

	There is a lack of a cross-cutting, overarching framework for consultation among different bodies in the European Union and persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations.	Take the necessary measures to set up a structured dialogue with an independent budget line and sufficient funding for coordination among EU institutions, agencies and bodies and for meaningful consultation with and the participation of persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations.	<p>Stakeholders who were consulted for the Evaluation Study of the Disability Strategy agreed on the positive effect of EU funding for the implementation of Strategy but funding was considered limited and not adequate for the full implementation of the Strategy.</p> <p>According to the Evaluation Study there has been limited inclusion of disability in policy-making processes: disability considerations were not applied at all stages of the policy or the legislative procedure.</p> <p>A pilot project on an application on online sign language to facilitate communications between deaf persons and EU institutions was terminated after the pilot phase. Easy read materials are not as a rule available on public statements.</p> <p>The EESC and the European Parliament are of the opinion that more could be done to ensure the involvement of people with disabilities in the design, adoption, implementation and monitoring of laws, policies and programmes.</p>	<p>Designate disability coordinators in all EU institutions and bodies, agencies and delegations.</p> <p>Organise regular high-level meetings between the EP, the Council, the Commission and the EEAS, involving representative organisations of persons with disabilities.</p> <p>Establishment of Disability Platform to replace the High Level Group on Disability. The Platform could be used as a forum to exchange on the UN's assessments of Member States' implementation of the UNCRPD.</p>	Partially	It is unclear how establishment of the Disability platform and the designation of disability coordinators can strengthen the EU framework for consultation with persons with disabilities and their representative organizations.
	The declaration of competence further to article 44 of the	Regularly update the declaration of competence and its list of instruments		The Commission will initiate work with the Council to update the EU declaration concerning the	No	Updating the declaration of competence will be

	Convention has not been updated and does not comprehensively refer to legislation applicable to or affecting persons with disabilities.	to include recently adopted instruments and instruments that may not specifically refer to persons with disabilities, but that are relevant to persons with disabilities.		<p>competence of the EU with regards to matters governed by the UNCRPD as recommended by the UNCRPD Committee, as the number of relevant EU legal acts has increased from about 40 listed in the declaration in 2008 to over 130.</p> <p>The Strategy explains that the main competence remains with Member States in most areas, thus Member States have the primary responsibility to design national disability policies in line with the CRPD.</p> <p>The Strategy announces that the EU will continue the use of EU funding by the Member States to support implementation of the CRPD and will require Member States to meet enabling conditions for projects with EU-funding. One of these conditions is that a national framework is in place for ensuring implementation of the CRPD.</p>		initiated in the current strategy period.
Equality and non-discrimination (art. 5)	Council directives 2000/43, 2004/113 and 2006/54 fail to explicitly prohibit discrimination on the grounds of disability and to provide reasonable accommodation to persons with disabilities in the	Adopt the proposed horizontal directive on equal treatment, extending protection against discrimination to persons with disabilities, including by the provision of reasonable accommodation in all areas of competence.	The Council blocks the horizontal directive on equal treatment. The Parliament stated in its 2017 resolution on implementing the CRPD that data on discrimination and abuse of persons with disabilities are alarming; and that the denial of reasonable accommodation does not constitute discrimination within	The Commission acknowledges the gap in EU law to ensure equal treatment of PWD's. It calls on Member States to enable the adoption of the Commission proposal for a horizontal directive on implementing the principle of equal treatment outside the field of employment, including in relation to disability.	No	There is no indication of any debate in the Council or among Member States on this legal gap.

	areas of social protection, health care, (re)habilitation, education and the provision of goods and services, such as housing, transport and insurance.	Also: ensure that discrimination in all aspects on the grounds of disability is prohibited, including multiple and intersectional discrimination.	the framework of the Employment Equality Directive.	The Commission will publish the implementation report on the EU Employment Equality Directive and will examine and propose, 'if appropriate', a new legal proposal to strengthen the role of equality bodies.		
Women with disabilities (art. 6)	The EU has neither mainstreamed a disability perspective in all its gender policies, programmes and strategies, nor adopted a gender perspective in its disability strategies.	<p>Mainstream a women and girls with disabilities perspective in the forthcoming gender equality strategy, policies and programmes, and a gender perspective in its disability strategies.</p> <p>Also: develop affirmative actions to advance the rights of women and girls with disabilities, establish a mechanism to monitor progress and fund data collection and research on women and girls with disabilities.</p> <p>Also: accede to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) as a step to combating violence against women and girls with disabilities.</p>	<p>Disability issues are mainstreamed in the EU's Strategic Engagement for Gender Equality and the EU Gender Equality Strategy 2020-2025, according to the Evaluation Study.</p> <p>This study remarks that statistics and data collection relating to the Disability Strategy are insufficient. There is no overview of the position of women and girls with disabilities, nor a comprehensive gender perspective in disabilities policies.</p> <p>Parliament asked for the European Institute for Gender Equality to provide guidance at European and Member State level concerning the specific situation of women and girls with disabilities, and asked Member States to present national support strategies for informal carers, who are mostly female relatives of persons with disabilities in order to combat poverty and social</p>	<p>To ensure better protection against violence and crime, the Commission will carry out targeted actions within the Gender Equality Strategy 2020-2025, comprising capacity building of professionals and awareness raising campaigns.</p> <p>The Commission will ensure mainstreaming of disability-related aspects of violence and abuse into relevant future EU policies.</p>	Partially	The EU will mainstream women and girls with disabilities in gender equality strategies. There is no specific action to include a gender perspective in all disability strategies.

			exclusion among persons with disabilities.			
Children with disabilities (art. 7)	The Committee is concerned about the number of boys and girls with disabilities living in institutions across the European Union who have no access to mainstream, inclusive, quality education. The Committee notes with concern the adverse effect that austerity measures have on the availability of support services for families with children with disabilities in local communities, that disability strategies do not include children and that the European Union Agenda for the Rights of the Child has expired.	Take the necessary measures, including through the use of the ESIF and other relevant EU funds, to develop support services for boys and girls with disabilities and their families in local communities, foster deinstitutionalization, prevent any new institutionalization and promote social inclusion and access to mainstream, inclusive, quality education for boys and girls with disabilities. Also: include in the Agenda for the Rights of the Child a comprehensive rights-based strategy for boys and girls with disabilities and safeguards to protect their rights. Also: all disability strategies should address and mainstream the rights of boys and girls with disabilities.	The Evaluation Study states that the Disability Strategy did not adequately include children's rights. There were no specific actions to develop support services, prevent institutionalization nor to provide access to mainstream, inclusive quality primary and secondary education.	To ensure better protection against violence and crime, the Commission will carry out targeted actions within the EU Strategy on the Rights of the Child, comprising capacity building of professionals and awareness raising campaigns. The Commission will ensure mainstreaming of disability-related aspects of violence and abuse into relevant future EU policies.	No	The proper use of EU funds for de-institutionalization is contested (see with art. 19). There are no specific measures to develop support services or mainstream inclusive education for children (see further at art.24) and there is no comprehensive rights based strategy for boys and girls with disabilities.
	There is a lack of awareness regarding the rights of boys and girls with disabilities and that boys and	Ensure that boys and girls with disabilities and their representative organizations are consulted on all matters	No specific actions or measures for awareness raising. Consultation via the European Disability Forum.	The PETI Committee of EP in its resolution 2021 on the protection of PWD through petitions, lesson learnt: drew attention to the importance of early childhood	No	Lack of action.

	girls with disabilities are not systematically involved in decisions that affect their lives nor do they have the opportunity to express their opinion on those matters that affect them directly.	that affect them and that appropriate assistance, according to their disability and age, is provided.		intervention and that children with disabilities must participate and be included in society from the very beginning.		
Awareness-raising (art. 8)	Awareness-raising strategies on the rights of persons with disabilities are not continuous, do not include all institutions and staff and exclude certain groups of persons with disabilities. Also: capacity-building and training materials, public campaigns, statements and other documents published by the European Union institutions are not available in accessible formats.	Develop a comprehensive campaign to raise awareness about the Convention and combat prejudice against persons with disabilities, including women and girls, and especially persons with psychosocial disabilities, intellectual disabilities and older persons with disabilities. Make all materials related to capacity-building, training, awareness-raising and public statements, among others, available in accessible formats.	General awareness has been raised by organizing the yearly 'Access City Award' and the 'European Day of Persons with Disabilities'. However, outside these two public events, the Commission did not make all material related to capacity building, training, awareness raising and public statements available in accessible formats.	The Commission will improve web accessibility in all EU institutions, bodies and agencies; improve by 2023 accessibility across its audiovisual communications and graphic design services as well as of its publications and events, including where relevant sign language interpretation and documents in 'easy-to-read' format The Access City Award and European day of PWD will be extended	Partially	Progress has been made. No clear announcement of new initiatives.
Accessibility (art. 9)	European Accessibility Act has not yet been adopted by the European Union and existing European policies, legislation, regulations and	Take efficient measures towards the prompt adoption of an amended European Accessibility Act that is aligned to the Convention (..), including effective and accessible enforcement and	Adopted: European Accessibility Act; Web Accessibility Directive; Passenger's rights regulations;	A European resource centre AccessibleEU will be launched. This will bring together national authorities responsible for implementing and enforcing accessibility rules with experts and professionals from all areas of accessibility, to share good	Yes	Accessibility Act is adopted. The launch of AccessibleEU will help implement the legislation. No clear idea on effective enforcement and complaint

	programmes have not been sufficiently assessed in respect of accessibility for persons with disabilities.	complaint mechanisms. Also: ensure the participation of persons with disabilities, through their representative organizations, in the adoption process.	inclusion of accessibility provisions in the Audiovisual Media services directive; European Electronic Communications Code (Marrakesh directive). The Parliament in 2017 and the EESC: monitoring of implementation of legislation on accessibility is weak. Other adopted measures are the establishment of European accessibility standards to support implementation in the built environment and ICT; EU rules that make accessibility requirements compulsory for the Member States to benefit from shared management funds; and the obligation enacted in public procurement to buy accessible goods, services and infrastructure. Member States are also encouraged to mainstream accessibility funding under the Recovery and Resilience Plans.	practices across sectors, to inspire policy development at national and EU level, as well as to develop tools and standards aiming to facilitate implementation of EU law. In addition to the extended accessibility directives and measures during the period 2010-2020: Member States are encouraged to mainstream accessibility funding under the Recovery and Resilience Plans.		mechanism at national level.
Situations of risk and humanitarian emergencies (art. 11)	The emergency number 112 is not fully accessible across the European Union to all persons with all types of disabilities. The civil protection policies of its member States are not in line with the new Council	Take the necessary measures to ensure that the emergency number 112 is fully accessible across the EU to all persons with all types of disabilities and that all aspects of disaster risk-reduction policies and programmes are inclusive of and	Several studies gave evidence of severe impact of the Covid-19 pandemic on PWD's with disproportionately high death rate and the lack of inclusion of disability in emergency policies in Member States. European Parliament drafted in 2019 a resolution on the rights of persons with intellectual		No	There is no concrete action to ensure that aspects of disaster risk-reduction policies and programmes are inclusive of and accessible to all PWD.

	conclusions on disability-inclusive disaster management.	accessible to all persons with disabilities.	disabilities and their families in the COVID-19 crisis, condemning medical discrimination against persons with intellectual disabilities and calling on the Commission and the Member States to ensure common protocols for possible future risk situations or humanitarian emergencies and natural disasters; and to consult and involve persons with disabilities and their representative organisations from the outset when adopting measures responding to a future crisis.			
	There is a lack of inclusion of persons with disabilities in all European Union policies and guidelines on humanitarian aid and lack of mechanisms to share knowledge and good practices that are in line with the Convention among the different European Union institutions and among its member States.	The EU is to: (a) adopt an implementation plan in line with the Council conclusions on disability-inclusive disaster management of February 2015 and the Sendai Framework for Disaster Risk Reduction 2015-2030; (b) establish a mechanism to build capacity and share good practices among the different European Union institutions and among its member States on disability-inclusive and accessible humanitarian aid; (c) establish a monitoring and accountability framework for the implementation of EU policies and programmes, including the collection of data		The Commission will ensure mainstreaming of disability-related aspects of violence and abuse into relevant future EU policies. EU funding will be used to raise awareness for the needs of persons with disabilities using meetings with the Civil Protection Forum and the Union Civil Protection Knowledge Network. The Commission will continue to finance training programmes for disaster situations, including preparedness projects and exercises, taking account of the needs of persons with disabilities and strengthen dedicated monitoring in prevention actions	No	There is no actual implementation plan. There is no plan to systematically collect data and monitor disability-inclusive disaster management

		disaggregated by sex, disability and age.				
	There is concern about the precarious situation of persons with disabilities in the current migrant crisis in the European Union. There is concern that refugees, migrants and asylum seekers with disabilities continue to be detained within the EU in conditions which do not provide appropriate support and reasonable accommodation. There is concern that the migration decision-making procedure is not accessible for all persons with disabilities and that information and communication are not provided in accessible formats.	Mainstream disability in migration and refugee policies. Also: issue guidelines to EU agencies and member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the Convention.		The DS 2021-2030 acknowledges that the safety and wellbeing of migrants, applicants for and beneficiaries of international protection, including of children with disabilities, is not always protected in reception centres or other facilities hosting them.	No	There is no account of how disability is mainstreamed in migration and refugee policies.
Equal recognition before the law (art. 12)	There is deep concern that across the European Union, the full legal capacity of a large number of persons with disabilities is restricted.	Take appropriate measures to ensure that all persons with disabilities who have been deprived of their legal capacity can exercise all the rights enshrined in EU treaties and legislation, such as	Neither the Disability Strategy 2010-2020, nor the Evaluation Study, address the restriction of legal capacity. Parliament stated in its resolution on implementing the CRPD that the EU should ensure that PWD can exercise all the rights		No	There have been no specific activities or measures to ensure that all persons who have been deprived of legal capacity can exercise their rights. Nor have there been

		access to justice, goods and services, including banking, employment and health care, as well as voting and consumer rights. (...) Also: step up efforts to foster research, data collection and exchange of good practices on supported decision-making, in consultation with representative organizations of persons with disabilities.	enshrined in EU treaties and legislation, such as access to justice, goods and services, including banking, employment and health care, as well as voting in European elections and consumer rights in line with the Convention and encourage non-coercive measures and supported-decision making in line with the CRPD.			research and data collecting on supported decision making.
Access to justice (art. 13)	Concern about discrimination faced by persons with disabilities in accessing justice, owing to the lack of procedural accommodation in European Union member States.	Take appropriate action to combat discrimination faced by persons with disabilities in accessing justice by ensuring that full procedural accommodation and funding for training justice personnel on the Convention are provided in Member States.		Digitalisation of judicial systems is, according to the Strategy 2021-2030, essential for improving access to justice. The Commission will launch a study on the protection of vulnerable adults in cross-border situations, notably those with intellectual disabilities, to pave the way for ratification by Member States of the 2000 Hague Convention on the international protection of vulnerable adults, in line with the CRPD. The Commission will launch a study on procedural safeguards for vulnerable adults in criminal proceedings, and assess the need for legislative proposals strengthening the support and protection of vulnerable adults who fall victims of crime, in line	No	New actions are still to be taken and consist mainly of announcement of studies.

				with the EU Victims' Rights Strategy (2020-2025); it will provide guidance to Member States on access to justice for persons with disabilities in the EU, building on international guidance provided by the United Nations; and develop measures to support Member States in boosting the participation of persons with disabilities as professionals in the justice system and collect good practices on supported decision-making.		
Liberty and security of the person (art. 14)	There is concern about the involuntary detention of persons with disabilities in psychiatric hospitals or other institutions on the basis of actual or perceived impairment.	Take all possible measures to ensure the liberty and security of all persons with all types of disabilities.		<p>The Strategy acknowledges that PWD experience a higher risk of becoming victims of violence and abuse both in their home environment and in institutions, in particular women, older persons and children with disabilities. Persons with disabilities are also targeted by hate speech and bullying.</p> <p>Human traffickers exploit the vulnerabilities of persons with disabilities for the purpose of sexual exploitation, forced begging and sham marriages. The Commission will provide by 2024 guidance to Member States and practitioners, including police officers, on improving support for victims of violence who are persons with disabilities and invite the Fundamental Rights Agency to examine the situation of persons</p>	No	Acknowledgement of the scale of violence against PWD is a good start for taking actions but action is scarce.

				with disabilities living in institutions in relation to violence, abuse and torture.		
Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)	There is concerned that research funded by the EU is not accompanied by ethics guidelines to ensure that all persons with disabilities involved in such research are enabled to give their informed consent.	Review ethics guidelines regarding research and especially set good practice examples by developing consent forms in accessible and easy-to-read formats, and prevent substituted decision-making in this area.		No specific mention of ethic guidelines or setting good practice examples.	No	No specific mention of ethic guidelines or setting good practice examples.
Freedom from exploitation, violence and abuse (art. 16)	Persons with disabilities, especially women, girls and boys, and older persons, are subjected to violence, abuse and exploitation, especially in institutional settings.	Take the necessary measures to mainstream disability in all legislation, policies and strategies for combating violence, abuse and exploitation, and provide effective protection from violence, abuse and exploitation to all persons with all types of disabilities inside and outside of the home environment.		<p>The Strategy paints a grim picture of violence, abuse, hate speech, hate crime, bullying and sexual exploitation experienced by PWD. The safety and wellbeing of migrants, applicants for and beneficiaries of international protection, including of children with disabilities, is not always protected in reception centres or other facilities hosting them.</p> <p>To ensure better protection against violence and crime, the Commission will carry out targeted actions within the Gender Equality Strategy 2020-2025 and the EU Strategy on the Rights of the Child, comprising capacity building of professionals and awareness raising campaigns. The Commission will ensure mainstreaming of disability-related</p>	Partially	<p>Violence and exploitation is acknowledged and measures are announced to mainstream disability in strategies for the rights of children and gender equality.</p> <p>It is not clear though if mainstreaming is more than lip service and whether it will actually provide for better protection of PWD.</p>

				aspects of violence and abuse into relevant future EU policies.		
Protecting the integrity of the person (art. 17)	Persons with disabilities are exposed to involuntary treatment, including forced sterilization and abortion, in European Union Member States.	Take all possible measures to ensure that the individual's right to free, prior and informed consent to treatment is upheld and supporting decision-making mechanisms are provided in EU member States.	This issue is not addressed	This issue is not addressed	No	This issue is not addressed
Freedom of movement (art. 18)	The Committee is concerned at the barriers faced by persons with disabilities and persons with family members who have disabilities when moving to live or work in another European Union member State, irrespective of the length of the stay.	Take immediate action to ensure that all persons with disabilities and their families can enjoy their right to freedom of movement on an equal basis with others, including with regard to the portability of social security benefits, in a coordinated manner across member States.	European Disability Card was launched in participating Member States granting equal access to benefits in the area of culture, leisure and sports (not social security).	The Commission will propose creating a fully-fledged European Disability Card aiming to be recognized in all Member States.	Partially	A European disability Card can lead to easier travelling and short stays in Member States. It does not grant portability of social security benefits.
Living independently and being included in the community (art. 19)	Across the European Union, persons with disabilities, especially persons with intellectual and/or psychosocial disabilities live in institutions rather than in their local communities. Despite changes in regulations, the European Structural and Investment Funds	Develop an approach to guide and foster deinstitutionalization and strengthen the monitoring of the use of the European Structural and Investment Funds so as to ensure that they are used strictly for the development of support services for persons with disabilities in local communities and not for the redevelopment or	The ex-ante conditionalities in the context of ESI Funds have not been sufficient to guarantee the transition from institutional to community-based services. The EU permits investing in long stay institutions on condition that progress in general on independent living and deinstitutionalization is made. the number of people living in institutions have not decreased significantly	Disability Strategy 2021-2030 acknowledges that still many PWD's are segregated from community and have no controls over their life, especially those living in institutions. The Commission intends to issue guidance recommending to Member States improvements on independent living and inclusion in the community.	No	Some efforts are made to foster de-institutionalisation but there is evidence that EU funds are also used to reinforce institutionalised living. The specific issue of preventing the use of European Social Funds to

	continue to be used in different member States for the maintenance of residential institutions rather than for the development of support services for persons with disabilities in local communities.	expansion of institutions. Also: suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached.		<p>The Commission will present, by 2024, a specific framework for Social Services of Excellence for persons with disabilities, to improve service delivery for PWD's.</p> <p>The Commission will by 2024 invite the Fundamental Rights Agency to examine the situation of persons with disabilities living in institutions in relation to violence, abuse and torture.</p>		redevelopment of institutions and to withdraw and recover payments used for renovating institutions is not addressed.
Personal mobility (art. 20)	There is concern about the varied practices of different national enforcement bodies in charge of implementing the rights of passengers with disabilities in different European Union member States, which may lead to unequal treatment and restrictions to the enjoyment of rights by passengers with disabilities.	Strengthen the monitoring of the implementation of legislation on passenger rights and harmonize the work of the national enforcement bodies in order to ensure the effective and equal enjoyment of rights by all passengers with disabilities across the European Union, including the implementation of the European Mobility Card. Also: harmonize existing legislation on passenger rights to bring it into line with regulations concerning the rights of maritime passengers.	European Disability Card was launched in participating Member States granting equal access to benefits in the area of culture, leisure and sports (not social security).	The Commission will propose creating a fully-fledged European Disability Card aiming to be recognized in all Member States.	Partially	A European disability can lead to easier travelling and short stays in Member States. It does not grant portability of social security benefits.
Freedom of expression and opinion, and	Across the EU persons with disabilities do not always have access to information	Take the necessary measures to enforce the implementation of its		The Commission will improve web accessibility in all EU institutions, bodies and agencies; improve by	Yes	Measures are being taken, see article 9: accessibility.

access to information (art. 21)	and communication in accessible formats and technologies appropriate to different kinds of disabilities, including sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication of their choice, including easy-to-read formats.	legislation on access to information and communication so as to facilitate access in accessible languages, formats and technologies appropriate to different kinds of disabilities, including sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication of their choice, including easy-to-read formats, for all persons with all types of disabilities, and to promote official recognition of sign language and Braille.		2023 accessibility across its audiovisual communications and graphic design services as well as of its publications and events, including where relevant sign language interpretation and documents in 'easy-to-read' format. See also with article 9, accessibility		
Respect for home and the family (art. 23)	Austerity measures have resulted in cuts in social services and support to families and community-based services, among others, which restrict the right of persons with disabilities to family life, and the right of children with disabilities to live in family settings.	Take appropriate measures to ensure that its economic and social policies and recommendations promote support for families with persons with disabilities and ensure the right of children with disabilities to live in their communities.	The European Commission proposed legislation to advance with the implementation of the European Pillar of Social Rights, including a Directive on work-life balance that was meanwhile adopted by the EU legislators, improving existing leave rights for parents and carers. In its 2017 resolution on implementation of the CRPD Parliament asked Member States to present national support strategies for informal carers, who are mostly female relatives of	All countries have measures in place to provide a replacement income for persons with disabilities. Personal budgets and financial support, including for carers, are becoming a common practice according to the Disability Strategy 2021-2030.	Partially	It is not clear if families with PWD receive adequate support. There are no studies nor data gathering on this issue.

			persons with disabilities in order to combat poverty and social exclusion among persons with disabilities.			
	The long-awaited maternity leave directive has been withdrawn and equal rights for women, mothers and fathers, children and adults with disabilities are not adequately addressed in the European Union work-life balance policy.	Ensure that people with disabilities and families of persons with disabilities are included in the newly announced road map, "New start to address the challenges of work-life balance faced by working families".	The European Commission proposed legislation to advance with the implementation of the European Pillar of Social Rights, including a Directive on work-life balance that was meanwhile adopted by the EU legislators, improving existing leave rights for parents and carers.		Partially	It is not clear if families with PWD receive adequate support. There are no studies nor data gathering on this issue.
Education (art. 24)	In different EU member States, many boys and girls, and adults with disabilities cannot access inclusive, quality education in line with the Convention.	Evaluate the current situation and take measures to facilitate access to and enjoyment of inclusive, quality education for all students with disabilities in line with the Convention, and include disability-specific indicators in the Europe 2020 strategy when pursuing the education target.	The establishment and funding of the Academic Network of European Disability experts (ANED) by the Commission contributed to monitoring and data gathering on education especially vocational education and early school leaving. This led to increased awareness raising. Many children with disabilities remain excluded from quality inclusive education in different EU Member States stated the European parliament in the 2017 resolution on implementing the CRPD. Parliament called for the Commission and the Member States to remove legal, physical and organisational barriers for all persons with disabilities in order	The Disability Strategy acknowledges that PWD face considerable barriers in access to education. Measures: continuation of supporting the European Agency for Special Needs and Inclusive Education which aims to support Member States; the European Education Area is to call for aligning educational systems in Member States to the CRPD. The Commission will issue a Toolkit for inclusion in early childhood education and care with a chapter on children with disabilities. The Commission wants Member States to set targets for the	No	Concrete measures are limited to the area of vocational or adult education and a general call on Member States. There is no specific goal or awareness raising policy on increasing inclusion in primary and secondary education.

			<p>to guarantee inclusive education and lifelong learning systems. Parliament called for the EU institutions and Member States to ensure that the Erasmus + and other youth programmes, such as the Youth Guarantee and European Solidarity Corps, are fully accessible to persons with disabilities.</p> <p>Access to mainstream education for PWD remains difficult, stated the EESC, resulting often in segregated educational settings.</p>	<p>participation of adults with disabilities in learning.</p>		
Health (art. 25)	<p>Discrimination on the grounds of disability is not explicitly prohibited in the field of health care. The Committee notes the barriers faced by persons with disabilities in accessing health care in different member States.</p>	<p>Prohibit explicitly discrimination on the grounds of disability in the field of health care and take measures to ensure access to quality health care for all persons with all types of disabilities. Also: evaluate the impact of the European Parliament and the Council of the European Union Directive 2011/24/EU on patients' rights in cross-border health care with regard to gaps in access for persons with disabilities, including accessible information, reasonable accommodation and training of professionals.</p>	<p>The Commission proposed a Directive to extend protection from discrimination in the provision of health care services on more grounds, including disability, but the Council did not agree. The Commission aimed in the Disability Strategy to support policy development for equal access to healthcare. The Disability Strategy did not achieve the objective to support policy development for equal access to health due to the limited scope of the actions and the limited competence of the EU in this area., according to the Evaluation Study.</p> <p>The European Parliament has concerns in its 2017 resolution on implementing the CRPD about human rights violations, in mental health and care services and lack</p>	<p>The Disability Strategy acknowledges that the COVID-19 crisis revealed weak spots in health systems, in particular regarding PWD living in institutions with limited access to emergency and intensive care.</p> <p>Concrete recommendations for actions to combat this discrimination by the European Parliament in its 2021 resolution on Covid-19 are not addressed in the Disability Strategy.</p> <p>The Strategy states that access to health for PWD is mainstreamed in the European Health Union by way of a footnote asking Member States to ensure access to health for PWD.</p>	No	<p>There is no specific prohibition of discrimination on the grounds of disability in the field of Health care.</p> <p>The Covid-19 pandemic put the spotlight on the severe impact on people with disabilities, including discrimination. People with disabilities are reported to have been denied healthcare, social support, protective equipment. The death rate in</p>

			<p>of access to specialist care for PWD's. Parliament highlighted the Commission's lack of attention to disabilities in the Action Plan for the EU health workforce and the EU agenda for effective, accessible and resilient health systems, as they are not specifically dealt with in either of the two texts.</p> <p>The Evaluation Study states that the Strategy did help in mainstreaming disability considerations in legislation on cross-border healthcare (the Patients' Rights Directive).</p>	<p>The Commission will address issues related to health and disability through the Steering Group on Promotion and Prevention (SGPP) and support stakeholders to address and alleviate the burden that the COVID-19 pandemic imposes on the mental health of European citizens.</p> <p>The Commission will carry out an evaluation of Directive 2011/24/EU on patients' rights</p>		<p>institutions for people with disabilities were reported to be disproportionality high. Ensuring access to health care is mentioned only in a footnote of the European Health Union.</p>
Work and employment (art. 27)	<p>There is concern about the high unemployment rates for persons with disabilities, especially women with disabilities and persons with intellectual and/or psychosocial disabilities, in comparison with other population groups in the European Union.</p>	<p>Take effective action to measure the employment of persons with disabilities and increase their employment rate in the open labour market, including by providing training for Member States on reasonable accommodation and accessibility in the context of employment.</p>	<p>The Commission created stronger coordination between EU and Member States through the European Semester and the related recommendations and the Pillar of Social Rights on employment.</p> <p>The Parliament regretted in its 2017 resolution on implementing the CRPD that the denial of reasonable accommodation does not constitute discrimination within the framework of the Employment Equality Directive. Parliament asked for positive discrimination measures, including the adoption of minimum percentages for the employment of persons with disabilities in the public and private sectors; called on the</p>	<p>The Disability Strategy acknowledges that PWD still face considerable barriers in access to employment.</p> <p>There will be continuation of the coordination between EU and Member States through the European Semester and the Pillar of Social Rights.</p> <p>Member States will be asked to set targets for increasing the employment rate of persons with disabilities and reducing employment rate gaps between persons with and without disabilities.</p> <p>The Commission announced the publication of the implementation report on the EU Employment Equality Directive and will examine</p>	Partially	<p>Action has been taken to effectively coordinate action between Member States. The outcomes so far have not shown significant improvement but awareness has been raised.</p>

			<p>Member States to ensure that benefit traps do not constitute a barrier to participation in the labour market, and asks for the separation of disability-related benefits from income support taking into account additional care and other needs that persons with disabilities may have; recalled that burdening persons with disability and their partners with the cost of their assistance reduces not only their present income, but also their employment prospects and future income in old age; calls on the Member States, in line with the UNCRPD, to consider removing all legal barriers to employability, including, for example, measures that run contrary to Article 12 of the UNCRPD.</p> <p>The EESC remarked in its opinion on the Disability Strategy 2010-2020 that the employment rate of PWD remains disproportionately low compared to that of persons without disabilities.</p>	and propose, 'if appropriate', a new legal proposal to strengthen the role of equality bodies.		
Adequate standard of living and social protection (art. 28)	The Committee notes with deep concern the disproportionately adverse and retrogressive effect that the austerity measures in the EU have on the adequate	Take urgent measures, in cooperation with member States and representative organizations of persons with disabilities, to prevent further adverse and retrogressive effects of the austerity measures on the	The EU invested into social inclusion of PWD via the European Social Fund, the European Regional Development Fund, the Rights, Equality and Citizenship programme and the EU programme for Employment and Social Innovation, as well as	The European Pillar of Social Rights led to intensified reforms by Member States of their social protection systems. All countries have measures in place to provide a replacement income for persons with disabilities. Personal budgets and financial support, including for	Partially	The EU took measures and coordinated reforms in Member States. A social protection floor has not been set.

	standard of living of persons with disabilities.	adequate standard of living of persons with disabilities, including by setting a social protection floor that respects the core content of the right to an adequate standard of living and to social protection.	<p>through the Structural Reform Support programme.</p> <p>In 2017, the European Parliament, the Council and the European Commission proclaimed the European Pillar of Social Rights, an overall policy framework meant to achieve better working and living conditions in the EU. The European Pillar of Social Rights allows for a better degree of coordination, integration and improvement of social policies across the EU.</p> <p>The Commission proposed a Directive on work-life balance, improving existing leave rights for parents and carers, and a Council recommendation on access to social protection for workers and the self-employed, that also covers disability and invalidity benefits.</p> <p>Data show that the situation of persons with disabilities has not improved substantially over the years.</p> <p>European Parliament and the EESC called for setting a social protection floor.</p>	<p>carers, are becoming a common practice. However, the objective of an adequate living standard for all has not yet been achieved. PWD's and their families are at a higher risk of financial poverty. The Strategy states that a considerable number of Member States received support for reforms of their social protection systems from the Commission.</p> <p>The Commission will launch a study on social protection and services for persons with disabilities to examine good practices on disability benefits, old-age income, health insurance, cash and non-cash benefits as well as on extra-costs due to disability and provide guidance to support Member States in further reforms of social protection focusing on persons with disabilities and disability assessment frameworks.</p>		
Participation in political and public life (art. 29)	There is deep concern that across the European Union, persons with disabilities, especially those deprived of their legal capacity or	Take the necessary measures, in cooperation with member States and representative organizations of persons with disabilities, to enable	The Commission raised awareness through the High Level Group on Disability and by evaluating the current situation on political participation via the Fundamental	The Disability Strategy acknowledges that PWD still face considerable barriers in participation in political life.	Partially	A start has been made by awareness raising and initiating studies and financing projects, but this does not

	residing in institutions, cannot exercise their right to vote in elections and that participation in elections is not fully accessible.	all persons with all types of disabilities, including those under guardianship, to enjoy their right to vote and stand for election, including by providing accessible communication and facilities.	Rights Agency and the ANED network. The EP Disability Intergroup announced in its workplan its commitment to promote the amending of the EU Electoral law of 1976 with the aim of ensuring that during the next European elections in 2024 all persons with disabilities, including those with intellectual and psychosocial disabilities, will be able to exercise their right to vote.	The Commission will work with Member States in the European Cooperation Network on Elections to support full electoral participation and accessibility of the European elections. The Commission will establish, a guide of good electoral practice addressing participation of citizens with disabilities; it will seek to address the needs of citizens with a disability in the compendium on e-voting envisaged under the European Democracy Action Plan; it will support inclusive democratic participation, including for persons with a disability, through the new Citizenship, Equalities, Rights and Values programme (CERV).		seem at the level that is needed to actually change the situation. The new Disability Strategy contains more concrete actions.
Participation in cultural life, recreation, leisure and sport (art. 30)	The EU has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, which provides for access to published material by blind persons and persons with visual impairments or print disabilities.	Take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.		The Commission will cooperate with mainstream and disability-specific sports organisations (including International Paralympic Committee) with support from EU funding. The Commission will launch a study evaluating the implementation of Article 30 of the CRPD to support Member States.	Yes	The Treaty has been ratified
Statistics and data collection (art. 31)	There is a lack of consistent and comparable data on persons with disabilities in the	Develop a human rights-based indicators system in cooperation with persons with disabilities and their representative	Data gathering via Euro Stat, the Fundamental Rights Agency and the ANED network has improved. Nonetheless, the Evaluation Study concludes that data collection still	The Commission will develop a monitoring framework for the objectives and actions of this strategy and develop new disability indicators with a	Partially	There is improvement compared to 2015. The intention is to collect more

	European Union, and a lack of human rights indicators.	organizations, as well as a comparable data collection system, with data disaggregated by gender, age, rural or urban population and impairment type.	is insufficient, especially since there are no disaggregated data on disability. MEPs expressed in 2020 in written questions dissatisfaction with the apparent inability of Eurostat to deliver disaggregated data by type of disability and data on children with disabilities.	<p>roadmap for implementation. These should include indicators for children and the situation of persons with disabilities in employment, education, social protection, poverty and social exclusion, living conditions, health, use of new communication technologies, supporting the indicators for the EU Social Scoreboard, the European Semester Sustainable Development Goals. In 2024 the Commission will prepare a report assessing progress in implementation of the Disability Strategy and if necessary.</p> <p>In answers to written question in the EP, the Commission announced extension of the collection of disaggregated data on disabilities to all EU social surveys, covering employment, education, poverty and social exclusion, living conditions, consumption, health, use of communication technologies and time use. The European Health Interview Survey (EHIS) will in future possibly cover barriers to participation in life domains. From 2022 onwards, the EU Statistics on Income and Living Condition (EU-SILC) will include the 6 Washington City Group questions every 3 years. In addition, from 2021, data on disabled children will be collected in EU-SILC every 3 years and</p>		disaggregated data on disabilities and develop disability indicators. It is not clear if this counts as a full human rights indicators system which has been discussed with PWD and their organisations.
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				possibly in EHIS from 2022. The European System of integrated Social PROtection Statistics (ESSPROS) collects data on the number of disabled persons receiving a disability pension, as well as the total expenditure on disability in the EU (as foreseen by Regulation (EC) No 458/2007)		
International cooperation (art. 32)	There is a lack of a systematic and institutionalized approach to mainstream the rights of persons with disabilities across all EU international cooperation policies and programmes. Also: a lack of coordination and coherence among European Union institutions and the lack of disability focal points. There is concern that EU international development funding is used to create or renovate institutional settings for the placement of persons with disabilities, segregated special education schools and sheltered workshops, contrary to the principles and	Adopt a harmonized policy on disability-inclusive development and establish a systematic approach to mainstream the rights of persons with disabilities in all European Union international cooperation policies and programmes, appoint disability focal points in related institutions and take the lead in the implementation of disability-inclusive Sustainable Development Goals. Also: identify and put in place mechanisms to disaggregate data on disability in order to monitor the rights of persons with disabilities in European Union development programmes. Also: interrupt any international development funding that	Disability rights were promoted in the EU Action Plan on Human Rights and Democracy 2015-2019. The Commission published an operational guidance on the inclusion of persons with disabilities in EU-funded humanitarian aid operation. Disability considerations have been included in the 2017 European Consensus on Development as well as in the 2014 Council conclusions on a rights-based approach to development cooperation, encompassing all human rights. In terms of capacity building, the network of disability focal points in EU Delegations and Headquarters has been relaunched in October 2019, and information on disability matters has been integrated in the Rights Based Approach training addressed to the staff. The European Parliament called for the EU to introduce a disability	The EU will use all its tools ranging from political, human rights and trade dialogues, to cooperation with third countries in the EU's neighbourhood, enlargement and international partnership policies covering also humanitarian action and cooperation with multinational organisations. The Commission and the High Representative for Foreign Affairs and Security Policy / Vice-President of the Commission will update the Toolbox on the "Rights Based Approach, encompassing all human rights for EU development cooperation" to address all inequalities, including discrimination against PWD, in external actions; ensure that the EU delegations play a more active role in supporting the implementation of the CRPD and fostering global ratification; systematically use the OECD Development Assistance Committee (DAC) disability marker to track disability inclusive investments for a targeted	Partially	There is a policy on disability-inclusive development and the rights of PWD's in international cooperation policies and programmes is mainstreamed. There is no disaggregate data gathering on disability in order to monitor the rights of persons with disabilities in European Union development programmes.

	provisions of the Convention.	is being used to perpetuate the segregation of persons with disabilities, and re-allocate such funding towards projects and initiatives that aim at compliance with the Convention.	rights marker in official development assistance reporting.	monitoring of EU funding; provide technical assistance together with Member States to partner countries' administrations through their programmes and facilities; organise regular structured dialogues during the annual UNCRPD Conference of State Parties, and in the context of other existing multilateral fora, and enhance cooperation with a focus on accessibility and employment.		
National implementation and monitoring (art. 33)	The EU framework for implementation and monitoring of the Convention is not fully in line with the Paris Principles nor adequately resourced. Moreover, the European Commission is designated as both a focal point (art. 33.1) for implementation and a mechanism for monitoring the implementation (art. 33.2) of the Convention.	Take measures to decouple the roles of the European Commission in the implementation and monitoring of the Convention, by removing it from the independent monitoring framework, so as to ensure full compliance with the Paris Principles, and ensure that the framework has adequate resources to perform its functions. Also: consider the establishment of an inter-institutional coordination mechanism and the designation of focal points in each European Union institution, agency and body.	<p>The Evaluation Study on the Disability Strategy 2010-2020 claims that a sufficient mechanism for the coordination and the monitoring of the implementation of the CRPD has been established at EU institutional level, although there are no focal points at Directorate-General level within the European Commission nor in other EU institutions. According to the Evaluation Study overall awareness about the Convention within the EU institutions is still limited.</p> <p>The European Parliament, in resolutions adopted in 2016, 2017 and 2020, expressed itself in favour of installing Focal Points in all EU institutions.</p> <p>The Commission has established a disability unit within the Directorate General of Employment and Social Affairs.</p>	<p>In order to reinforce UNCRPD implementation and to better reflect the commitment taken by the EU as a party to the Convention, the Commission will invest in strengthening coordination at EU level. The Commission will work with the European Parliament and the Council to ensure that disability matters are adequately taken into account in inter-institutional negotiations and will work together to identify gaps in existing legislation.</p> <p>Disability coordinators will be designated within EU institutions.</p>	Partially	<p>The Commission is removed from the monitoring framework.</p> <p>No focal point but designating disability coordinators.</p> <p>Not clear whether the framework has adequate resources.</p>

			The European Parliament has formed an informal Intergroup on Disability, supported by the European Disability Forum. Parliament also formed the EP UN CRPD network with representatives at political and administrative level from all parliamentary committee.			
European Union institutions' compliance with the Convention (as public administrations)						
Equality and non-discrimination (art. 5)	Not all employees or delegates of the European Union who are persons with disabilities, or have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships equally.	Take the necessary measures to ensure that all employees of the EU who are persons with disabilities, or who have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships on an equal basis with others.	The EU does not know how many of its employees have a disability or a family member with a disability. The policy in place is to provide reasonable accommodation to employees and those who seek employment and to co-finance extra costs for education and living arrangements for disabled children of Commission staff.	The inter-institutional European Personnel Selection Office (EPSO) will guarantee reasonable accommodation and strengthen reporting by the management of all Commission services on diversity, including reasonable accommodation for staff with disabilities.	No	It is unclear how EPSO can guarantee reasonable accommodation.
Access to justice (art. 13)	There is concern about the lack of access to justice for persons with disabilities in European courts.	Guarantee full access to justice and eliminate all barriers, including physical and procedural barriers, and those relating to legal capacity, in European courts.		The Commission sees digitalisation of judicial systems as essential for improving access to justice. It will launch a study on the protection of vulnerable adults in cross-border situations to pave the way for ratification by Member States of the 2000 Hague Convention on the international protection of vulnerable adults, in line with the CRPD.	Partially	Concrete measures are announced to ameliorate access to justice.

				<p>The Commission will launch a study on procedural safeguards for vulnerable adults in criminal proceedings, and assess the need for legislative proposals strengthening the support and protection of vulnerable adults who fall victims of crime, in line with the EU Victims' Rights Strategy (2020-2025); it will provide guidance to Member States on access to justice for persons with disabilities in the EU, building on international guidance provided by the United Nations; and develop measures to support Member States in boosting the participation of persons with disabilities as professionals in the justice system and collect good practices on supported decision-making.</p>		
<p>Freedom of expression and opinion, and access to information (art. 21)</p>	<p>Not all the websites of the various European Union institutions are fully implementing accessibility standards. There is concern about the lack of information in sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication for persons with</p>	<p>Take the necessary measures to ensure the full application of web accessibility standards to the websites of all EU institutions and offer information in sign languages, Braille, augmentative and alternative communication, and other accessible means, modes and formats of communication for persons with disabilities, including easy-to-read</p>	<p>The accessibility of EU's websites is covered by the European Accessibility Act. Information such as publications by the EU are not all made accessible in all possible formats, but are made available if specific requests are made.</p>	<p>The Commission will improve web accessibility in all EU institutions, bodies and agencies; improve by 2023 accessibility across its audiovisual communications and graphic design services as well as of its publications and events, including where relevant sign language interpretation and documents in 'easy-to-read' format; ensure accessibility for all newly occupied buildings of the Commission, with the objective that by 2030 all Commission</p>	<p>Yes</p>	<p>Considerable progress has been made, however more action is needed.</p>

	disabilities, including easy-to-read format.	formats, in official interactions.		buildings follow European accessibility standards.		
Education (art. 24)	Not all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools in line with the Convention, and the schools do not comply with the non-rejection clause. European schools are not fully accessible to children with disabilities nor do they provide for inclusive, quality education.	Take the necessary measures to ensure that all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools. It also recommends that European schools implement a non-rejection policy on the grounds of disability and ensure inclusive, quality education for all students with disabilities.	Measures have been taken to ensure that children receive reasonable accommodation in European schools. Yet, in 2018 it was reported that eleven students were rejected due to their support needs. The number of children with disabilities referred to alternative (special) schools seems to be increased since 2015. A non rejection policy has not been implemented.		No	Systematic barriers remain, resulting in non-admittance of children with disabilities.
Health (art. 25)	EU staff members with disabilities or who have family members with disabilities are discriminated against by European Union health insurance schemes.	Revise the Joint Sickness and Insurance Scheme so as to comprehensively cover disability-related health needs in a manner that is compliant with the Convention.	The Ombudsman found in 2018 that the Commission did revise the Joint Sickness and Insurance Scheme. According to the EC Disability Support Group, the adjustment was limited and inadequate.		Partially	Disability related costs are still not fully reimbursed.
Work and employment (art. 27)	EU institutions are not role models with regard to employment of	Increase employment of persons with disabilities in all EU institutions.	The policy in place is to provide reasonable accommodation to employees and those who seek employment and to co-finance extra costs for education and	The Commission aims to boost recruitment, employment and career perspectives of staff with disabilities and created a Diversity	No	The employment PWD is supported but there is no specific policy nor specified goal to employ more

	persons with disabilities.		living arrangements for disabled children of Commission staff. There is no specific goal to increase the proportion of employees with a disability.	and Inclusion office to oversee the actions.		persons with disabilities.
Concluding Observations Fully implemented: 4 Partially implemented : 16 Not implemented: 22						

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.
