



# Implementation report of the UN CRPD recommendations for 2016

*From the perspective of the rights of persons with psychosocial disabilities*

| Art. |                                    | Recommendation  | What has the EU done? <sup>1</sup>  | Status                |
|------|------------------------------------|---|---|-----------------------|
| 1-4  | General Principles and obligations | Ratify Optional Protocol  | This issue appears in the EU Human Rights action plan but there has been no further discussion, certain MS oppose it and unanimity is needed to ratify.   | Not implemented       |
|      |                                    | Conduct a comprehensive review of EU legislation to ensure full harmonisation with the Convention   | Commission has informed that they are carrying out a review of legislation.<br><br>There was also an extensive list of relevant legislation provided in the review of the Disability Strategy, however it did not constitute a legislative review.  | In progress           |
|      |                                    | Adopt a strategy on the implementation of the Convention  | There have been no discussions to move forward on this as the Commission maintains that the current European Disability Strategy is suitable for the implementation of the recommendations despite the fact that many issues facing persons with psychosocial disabilities are excluded. The mid-term review of the Strategy included a list of all recommendations from the CRPD Committee and a progress report on their implementation. However, these are not integrated in the actions for the remaining years of the Strategy, nor does the report talk about follow-up after the Strategy ends or how to implement the CRPD more generally.<br><br>An own-initiative report led by MEP Stevens was adopted by the European Parliament which called on the Commission to adopt a comprehensive EU strategy. | Not implemented       |
|      |                                    | Carry out mid-term assessment of the EU Disability strategy and establish clear guidelines for including recommendations from CRPD with benchmarks and indicators | A public consultation was launched during 2016 on the mid-term review of the Strategy which many disability organisations contributed to. The Commission published the Progress Report on the Strategy in February 2017.  | Partially implemented |
|      |                                    | Update declaration of competency  | Commission has informed that they are carrying out a review of legislation as recommended by Committee but has stressed that this is not a formal declaration of competency because this will need to be approved by  | In progress           |

<sup>1</sup> Sources: Information communicated at Disability High Level Groups and other meetings, EU Framework to promote, protect and monitor the implementation of UN CRPD Work Programme 2015 – 2016, available at <http://ec.europa.eu/social/BlobServlet?docId=14156&langId=en> – Minutes from EU CRPD Framework meetings available at: <http://fra.europa.eu/en/theme/people-disabilities/eu-crpd-framework/resources>, COMMISSION STAFF WORKING DOCUMENT Progress Report on the implementation of the European Disability Strategy (2010 – 2020), available at: [file:///C:/Users/Ailbhe/Downloads/SWD%20Progress%20Report%20EDS\\_EN.pdf](file:///C:/Users/Ailbhe/Downloads/SWD%20Progress%20Report%20EDS_EN.pdf). MHE's work is funded through financial support received from the European Union Programme for Rights, Equality and Citizenship. The views expressed herein should not be taken to reflect the official opinion of the European Commission. MHE is following the implementation of articles and recommendations which are the most relevant to its work, so please note this report will not follow the implementation of all recommendations.

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|    |  |  | Member States. However, this is intended to serve as a basis for revision of the declaration of competence.  |                 |
|    |  | Set up structured dialogue with independent budget line and sufficient funding for coordination between EU agencies etc and for meaningfully consulting persons with disabilities  | The list of legislation was also included in the midterm review of the European Disability Strategy but as mentioned above, this does not constitute a legislative review nor a declaration of competency.<br>Although there is still no established structured dialogue between the EU and DPOs, DG Employment now has a structured dialogue with civil society which sometimes deals with disability issues.   | In progress     |
| 5  | Equality and non-discrimination                | Adopt the horizontal directive on equal treatment, including provision of reasonable accommodation to persons with disabilities. Eu ensure discrimination in all aspects based on disability is prohibited including multiple and intersectional discrimination. | There was limited progress on the Equal Treatment Directive during 2016 which remains blocked at Council level.  | In progress     |
| 8  | Awareness raising                              | Develop a comprehensive campaign to raise awareness of the UNCRPD and combat prejudice, especially against persons with psychosocial disabilities  | MHE has not been consulted or received news on progress toward the development of a campaign during 2016, although we continue to work on our own anti-stigma campaign <a href="#">each of us</a> .  | Not implemented |
| 9  | Accessibility                                  | Adopt the European Accessibility Act   | The Accessibility Act has been drafted and discussions are taking place throughout 2016 and will continue in 2017 at the European Parliament and the Council.  | In progress     |
| 11 | Situation of risk and humanitarian emergencies | Mainstream disability in EU migration and refugee policies   | Newly proposed drafts of recast directives on asylum, resettlement and reception do reference persons with disabilities and special needs they might have. A new proposal for a directive on third country national's entry to Europe for the purposes of highly skilled work also proposes some standards against discrimination on the grounds of illness or disability although is weak as currently drafted.<br><br>The Commission acknowledged in its Progress Report on the Disability Strategy that this issue was absent from the Strategy but this needs to be revisited as a priority. | In progress     |
|    |  | Issue guidelines that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the UNCRPD   | No progress  | Not implemented |
| 12 | Equal recognition before the law               | Ensure that all persons with disabilities deprived of their legal capacity can exercise all the rights enshrined in EU treaties and legislation  | No progress  | Not implemented |

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|    |  | Step-up efforts to foster research, data collection and exchange of good practices on supported decision-making   | Funded the Academy of European Law which provides training as well as the <a href="#">AJuPID</a> and <a href="#">Voices projects</a> but the EU did little in 2016 to foster research, data collection and exchange of good practices through its own work as far as MHE is aware.   | Partially implemented |
| 13 | Access to justice                                  | Ensuring full procedural accommodation and funding for training justice personnel in Member States  | As mentioned above the EU funded the <a href="#">AJuPID project</a> , however this project was limited to 6 Member States and focused on persons with intellectual disabilities.   | Not implemented       |
| 14 | Liberty and security                               | Take all possible measure to ensure liberty and security of all persons with disabilities   | No progress  | Not implemented       |
| 15 | Freedom from torture                               | Review ethics guidelines on research and set good practice examples by developing consent forms and preventing substitute decision-making in this area. | The issue of informed consent is apparently discussed within the ethical group on research under DG Research, however there is no news on progress towards a review of guidelines nor the setting of good practice examples.   | Not implemented       |
| 17 | Protecting the integrity of person                 | Ensure that individuals' right to free, prior and informed consent to treatment is upheld and supported decision mechanisms are provided in EU MS.      | The Commission reported in an Annex to the progress report on the Disability Strategy that ongoing awareness-raising of issues relating to informed consent is being undertaken with DG Sante and DG Justice.  | Limited progress      |
| 19 | Living independently and included in the community | Develop an approach to guide and foster DI  | No progress during 2016 on developing an approach to guide and foster DI in a holistic way although MHE has become aware of the intention of the Estonian Presidency to work on this in 2017. Fundamental Rights Agency (FRA) have also undertaken some work to identify drivers and challenges for DI in some countries.  | In progress           |
|    |  | Strengthen monitoring of the use of European Structural and Investment Funds.   | The Commission continues to work with the European Expert Group (EEG) on the transition from institutional to community-based care whose members, including MHE, monitor the funds. <sup>2</sup> The Commission has dedicated budget towards DI reinforcing its DI policy in terms of the Structural Funds as well which could contribute to the monitoring.<br><br>Desk Officers and Monitoring Committees continue to try to monitor the use of Structural Funds however there are still concerns that the Commission lacks capacity to fully monitor their use further along the process. | In progress           |
|    |  | Suspend, withdraw and recover payments if obligations to respect fundamental rights are breached  | MHE is not aware that any suspension, withdrawal or recovery of payments occurred in 2016 due to breaches of fundamental rights.   | Not implemented       |

<sup>2</sup> For more information on the work of the EEG, please see: <https://deinstitutionalisation.com/>.

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| 23 | Respect for home and family            | <p>Take 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.</p> <p>Include persons with disabilities and families in the road map “New start to address the challenges of work life balance faced by working families”</p> | <p>Work-life balance consultation has been held with many DPOs and families contributing.</p> <p>There have been discussions around legislation for a carers leave directive but discussions as are still ongoing and is linked to the proposed Social Pillar, particularly the domain on gender equality &amp; work life balance. Although as the Social Pillar is still not finalised, it remains to be seen whether the domains will be maintained as they are. A key point of interest will be whether legislation on this area will be recommended.</p>  | Partially implemented                     |
| 25 | Health                                 | <p>Prohibit discrimination on the grounds of disability in the field of health care</p> <p>Ensure access to quality health care for all persons with disabilities</p>  | <p>No progress</p> <p>The domain on healthcare in the Social Pillar is one way of improving this situation but it is unclear what real impact the Social Pillar will have yet.</p>  | <p>Not implemented</p> <p>In progress</p> |
| 27 | Employment                             | <p>Measure and increase the employment for persons with disabilities (special concern for psychosocial disabilities) including by providing training for member states on reasonable accommodation and accessibility</p>   | <p>The European network of legal experts in gender equality and non-discrimination published a legal analysis of the situation in the EU Member States in terms of the Employment Equality Directive and supporting people with psychosocial disabilities in the workplace.</p> <p>The Recommendation on Long-term Unemployment is intended to target persons with disabilities. MHE welcomed this initiative especially its support of integrated services, however we were concerned that the cut-off point of 18 months is counter-productive and that the recommendation is too general and cannot respond to the individual needs of persons with disabilities. We therefore recommended the adoption of a separate strategy for persons with disabilities.</p> <p>The proposed European Social Pillar of Rights included a domain on equal opportunities and active support to employment which could help to increase the employment of persons with disabilities. Although it remains to be seen whether these domains will be maintained and what the outcome will be for persons with psychosocial disabilities on the ground and whether the rights of persons with disabilities will be mainstreamed in all domains of the Pillar, including on employment.</p> | In progress                               |
| 28 | Standard of Living & social protection | <p>Prevent further adverse and retrogressive effects of austerity measures on the adequate standard of living of persons with disabilities including by setting a social protection floor.</p>   | <p>The proposed Social Pillar includes a domain on disability benefits but overall the UN CRPD is not mainstreamed throughout nor referenced in the communication nor the draft of the Pillar. The aim of the of the Social Pillar is partly to re-balance the narrative on austerity measures to ensure that the</p>   | In progress                               |

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|     |  |  | <p>standards of living of disadvantaged groups including persons with disabilities are not adversely impacted by austerity measures.</p> <p>The Commission also stated in its Progress Report on the Disability Strategy that the European Semester allows space to raise these issues with MS although we have found that this space has been limited recently due to the ‘streamlining’ of recommendations.</p> <p>Through the social Open Method of coordination, the EU has been promoting exchanges of good practice between Member States in the area of social protection, including the inclusion of persons with disabilities. This topic is also discussed within the DHLG.</p> |                 |
| 29  | Participation in political and public life | Take the necessary measures 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. | <p>No progress</p> <p>Work was undertaken by Academic Network of European Disability Experts (ANED) and FRA to develop indicators and provide policy recommendations.</p> <p>A study on this topic is being undertaken by the EESC.</p>   | Not implemented |
| 31  | Statistics & data collection               | Develop a human rights-based indicators system as well as a comparable comprehensive data collection system, with data disaggregated by gender, age, rural or urban population and impairment type.  | <p>A project with OHCHR supported by DG DEVCO is working on the development of indicators related to each domain of the CRPD</p> <p>Commission have informed that EuroStat now have the ability to collect disaggregated data by disability and other factors in the area of employment.</p>  | In progress     |
| 33  | Implementation & monitoring                | Remove the European Commission from the independent monitoring framework   | Informally, the Commission left the European Independent Monitoring Framework in October 2015. <sup>3</sup> The withdrawal of the Commission was formalised by a Council Decision in January 2017, and this decision was communicated to the CRPD committee shortly thereafter.   | Implemented     |
|     |  | Consider the establishment of an inter-institutional coordination mechanism  | No progress as far as MHE is aware.   | Not implemented |
| §90 | Follow-up                                  | EU to submit, within 12 months, information on the measures taken to implement the committee recommendations.  | The deadline for submission was September 2016. There was a delay in the drafting and submission of the report but we have been informed that it was submitted in 2017.   | Implemented     |

<sup>3</sup> FRA legal opinion on requirements under Article 33(2) of the CRPD within the EU context



[Mental Health Europe](#) (MHE) is a European non-governmental network organisation committed to the promotion of positive mental health, the prevention of mental distress, the improvement of care, advocacy for social inclusion and the protection of human rights for (ex)users of mental health services, their families and carers. MHE's membership includes associations and individuals active in the field of mental health in Europe, including people with (a history of) mental health problems, as well as volunteers and professionals in a variety of related disciplines. MHE's work is funded through financial support received from the European Union Programme for Rights, Equality and Citizenship. The views expressed herein should not be taken to reflect the official opinion of the European Commission. MHE is following the implementation of articles and recommendations which are the most relevant to its work, so please note this report will not follow the implementation of all recommendations.

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