

Implementation report of the UN CRPD recommendations for 2019

From the perspective of the rights of persons with psychosocial disabilities

| Art. | Recommendation | What has the EU done? ¹ | Status |
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| 1-4 | General Principles and obligations | | |
| | Ratify Optional Protocol | This issue appears in the 2015-2019 EU Human Rights Action Plan but certain Member States oppose it and unanimity is needed to ratify it. | Not implemented |
| | Conduct a comprehensive review of EU legislation to ensure full harmonisation with the Convention | The European Commission published an updated overview of EU acts referring to matters governed by the CRPD in an annex to the progress report on the European Disability Strategy 2010-2020. However, it does not constitute a legislative review. | Not implemented |
| | Adopt a strategy on the implementation of the Convention | <p>The European Commission considers the European Disability Strategy 2010-2020 to lay the ground for the implementation of the Convention. However, MHE published its own <u>evaluation</u> of the Strategy considering that the current European Disability Strategy is not suitable as many issues faced by persons with psychosocial disabilities are excluded and it is unclear what will be the follow-up once the Strategy comes to an end.</p> <p>Throughout 2019 the European Commission has carried out an extensive evaluation to assess the impact and shortcomings of the European Disability Strategy 2010-2020. The results might feed into a next European Disability Strategy.</p> <p>MHE calls for the European Commission to renew its commitment to the promotion and protection of the rights of persons with disabilities, including people with psychosocial disabilities, by adopting a comprehensive post-2020 European Disability Strategy. MHE also calls for the new strategy to cover all the provisions of the UN CRPD and to addressing the 2015 Concluding Observations of the UN CRPD Committee.</p> | Not implemented |

¹ Sources: The Academic Network of European Disability Experts (ANED) - DOTCOM: the Disability Online Tool of the Commission available at: <https://www.disability-europe.net/dotcom/>; Information communicated at Disability High Level Groups and other meetings; EU Framework to promote, protect and monitor the implementation of UN CRPD Work Programme 2017 – 2018 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: <https://ec.europa.eu/social/BlobServlet?docId=16995&langId=en>

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| | | Carry out mid-term assessment of the EU Disability strategy and establish clear guidelines for including recommendations from CRPD with benchmarks and indicators | <p>A public consultation was launched during 2016 on the mid-term review of the Strategy which many disability organisations, among which MHE, contributed to. The mid-term review of the Strategy included a list of all recommendations from the CRPD Committee and a progress report on their implementation. The Commission published the Progress Report on the Strategy in February 2017.</p> <p>Even though the mid-term assessment was done, clear guidelines with benchmarks and indicators were not established.</p> | Partially implemented |
| | | Set up structured dialogue with independent budget line and sufficient funding for coordination between EU agencies, bodies and institutions, and for meaningfully consulting persons with disabilities | 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. | Partially implemented |
| | | Update declaration of competence | The Commission published an updated overview of EU acts referring to matters governed by the CRPD in an annex to the progress report on the European Disability Strategy 2010-2020. This is intended to serve as a basis for revision of the declaration of competence but does not constitute a formal declaration of competence as this needs to be approved by Member States. | Not implemented |
| 5 | Equality and non-discrimination | <p>Adopt the horizontal directive on equal treatment, including provision of reasonable accommodation to persons with disabilities</p> <p>Ensure discrimination in all aspects based on disability is prohibited including multiple and intersectional discrimination</p> | There has been limited progress on the Equal Treatment Directive which still remains blocked at Council level in 2019. | Not implemented |
| 8 | Awareness raising | Develop a comprehensive campaign to raise awareness of the UNCRPD and combat prejudice, especially against persons with psychosocial disabilities | <p>The EU has not introduced a comprehensive campaign to combat prejudice and stigma of people with psychosocial disabilities. MHE continues to work on its own anti-stigma campaign Each of us.</p> <p>However, in 2019 the European Commission launched an online campaign on combating discrimination in the workplace for people with disabilities. This campaign focuses on employers and on the provision of reasonable accommodations. Besides the website, the Commission is also foreseeing national training seminars for employers.</p> | In progress |

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| 9 | Accessibility | Adopt the European Accessibility Act | The Accessibility Act was adopted in March 2019. The Act sets out new EU-wide minimum accessibility requirements for a limited range of products and services. However, the scope of services and products covered is very <u>limited</u> . | Partially implemented |
| 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. However, they have not yet been adopted. 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 |
| | | Step-up efforts to foster research, data collection and exchange of good practices on supported decision-making | The EU funded the European Law Academy which provides training as well as the AJuPID and Voices projects but the EU did little in 2019 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 | Within the framework of the European Union's Rights, Equality and Citizenship Programme 2014-2020, the European Law Academy organised a <u>series of seminars</u> for legal practitioners and civil servants on <u>EU Disability Law and the CRPD</u> . However, these trainings only reach a limited amount of justice personnel. | Partially 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 | The issue of informed consent is discussed within the ethical group on research under DG Research, however there is no information available on progress towards a review of guidelines nor the setting of good practice examples. | Not implemented |

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| | | forms and preventing substitute decision-making in this area | | |
| 16 | Freedom from exploitation, violence and abuse | Mainstream disability in legislation, policies and strategies and provide protection from violence, abuse and exploitation | No progress | 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 Member States | 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 |
| 18 | Freedom of movement | Take action for social security benefits to be portable across Member States | No progress | Not implemented |
| 19 | Living independently and included in the community | Develop an approach to guide and foster DI | Despite the adoption of the Council conclusions on Enhancing Community-Based Support and Care for Independent Living , no progress has been made on developing an approach to guide and foster DI in a holistic way in the EU. The Fundamental Rights Agency (FRA) undertook an extensive project to identify drivers and challenges for DI in some countries. The project findings, publications and recommendations can be found here. | Limited progress |
| | | Strengthen monitoring of the use of European Structural and Investment Funds | The Commission continues to work with the European Expert Group (EEG) , of which MHE is a member, to receive expert advice on how to use EU funding to promote the transition from institutional to community-based care. The Commission has increasingly integrated the transition from institutional to community-based care in the European Semester process to ensure a better monitoring of progresses and challenges at the national level. The Commission has also proposed to continuing investing in DI through EU funding by including the transition from institutional to community-based care as a priority for the 2021-2027 funding period. | 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 2019 due to breaches of fundamental rights. | Not implemented |

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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>The European Pillar of Social Rights was adopted in 2017. Although it remains a non-binding declaration, it marks an important step and commitment to promote support for families with persons with disabilities and ensure the right of children with disabilities to live in their communities.</p> <p>The European Union adopted the Directive on Work-life Balance for Parents and Carers in 2019. The Directive introduces EU-wide standards on leaves and flexible working arrangements for parents and carers, and will contribute to the well-being of many workers in Europe. However, it is also a missed opportunity to adequately implement the UN CRPD since the text of the Directive does not explicitly mention mental health problems and disability, including psychosocial disability, as reasons to request leave and flexible working arrangements.</p> | In progress |
| 24 | Education | Facilitate access to inclusive education and include disability specific indicators in the Europe 2020 strategy when pursuing the education target | No progress | Not implemented |
| 25 | Health | Prohibit discrimination on the grounds of disability in the field of health care | No progress | Not implemented |
| | | Ensure access to quality health care for all persons with disabilities | The European Pillar of Social Rights was adopted in 2017 and it has a principle on health care. The implementation of the Pillar is monitored through the European Semester and the European Commission proposed to allocate EU funding to its implementation in the next funding period (2021-2027). However, the rights of persons with disabilities, including persons with psychosocial disabilities, are not fully mainstreamed through the Pillar and its implementation. | In progress |
| 27 | Work and employment | Measure and increase the employment for persons with disabilities including by providing training for member states on reasonable accommodation and accessibility | The European Pillar of Social Rights, adopted in 2017, has a principle on equal opportunities, one on active support to employment and one on disability. However, as mentioned above, the rights of persons with disabilities, including persons with psychosocial disabilities, are not fully mainstreamed through the Pillar and its implementation. | In progress |
| 28 | Standard of Living & social protection | 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 | The adoption of the European Pillar of Social Rights allowed for a re-balancing of the narrative on austerity measures to ensure that the standards of living of disadvantaged groups, including persons with disabilities, are adequate. Adequate standards of living in EU Member States are also increasingly monitored through the European Semester process with Member States | In progress |

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| | | | receiving more recommendations on how to set and ensure a social protection floor. | |
| 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>Work was undertaken by Academic Network of European Disability Experts (ANED) and FRA to develop indicators and provide policy recommendations.</p> <p>In 2019 the European Economic and Social Committee published an information report entitled the Real rights of persons with disabilities to vote in European Parliament elections. This presents the state of play of the implementation of the right of EU citizens with disabilities to vote in elections to the European Parliament.</p> | In progress |
| 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>In 2017 Bridging the Gap was funded by the European Union under the Development Cooperation Instrument (DCI), Thematic Programme “Global Public Goods and Challenges”. The project carried out actions aimed at increasing the inclusion of persons with disabilities at both the international and country level.</p> <p>The project consisted of two parts:</p> <p>“Bridging the Gap I: Human rights indicators for the Convention on the rights of Persons with Disabilities in support of a disability-inclusive 2030 Agenda for Sustainable Development”, and</p> <p>“Bridging the Gap II: Inclusive policies and services for equal rights of persons with disabilities”.</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. ² 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 |
| | | Designate focal points in each EU institution, agency and body | No progress as far as MHE is aware. | Not implemented |

² FRA legal opinion on requirements under Article 33(2) of the CRPD within the EU context