



EUROPEAN HUMAN RIGHTS REPORT

issue 1 - 2016

Marking 10 years of the United Nations Convention
on the Rights of Persons with Disabilities in Europe

This report is dedicated to the memory of Peter Lambregts, a great disability and independent living activist and EDF Board member, who passed away in 2016.

An accessible PDF and Easy to Read version of this report is available at EDF website: **www.edf-feph.org**

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Glossary

Concluding Observations: Views on how a State Party has implemented the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and recommendations for improvement made by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) after the Constructive Dialogue.

Constructive Dialogue: A six-hour dialogue between the CRPD Committee and a State Party's delegation, during which the CRPD Committee questions the State Party on how it is implementing the CRPD.

Days of General Discussion: A process to foster a deeper understanding of the content of the CRPD and to provide comprehensive guidance on the States Parties' obligations. The input from such discussions feeds into the drafting of General Comments.

Declaration: A unilateral statement by a State Party on its understanding of a matter contained in a treaty or its interpretation of a particular provision in a treaty. However, it does not exclude or modify the legal effect of an international treaty.

Disabled People's Organisations (DPOs): Organisations comprising a majority of persons with disabilities and their families which represent the interests and defend the human rights of persons with disabilities through self-representation and advocacy.

European Commission: The EU's politically independent executive arm. Its core responsibilities include proposing EU laws and policies and monitoring their implementation.

European Disability Forum (EDF): An independent organisation representing the rights of 80 million persons with disabilities in Europe. It is a unique platform which brings together representative organisations of persons with disabilities from across Europe and is run by persons with disabilities and their families.

European Economic and Social Committee (EESC): A consultative body of the European Union (EU). It contributes to strengthening the democratic legitimacy and effectiveness of the EU by enabling civil society organisations from EU Member States to express their views at the European level.

European Economic Area/European Free Trade Association (EEA/EFTA): The EEA unites the European Union (EU) Member States and the three EEA/EFTA states (Iceland, Liechtenstein and Norway) into an internal market governed by the same basic rules. These rules aim to enable goods, services, capital and persons to move freely about the EEA in an open and competitive environment, a concept referred to as the four freedoms.

European Parliament: The EU's law-making body. It is directly elected by EU voters every five years. The next elections take place in 2019.

European Union (EU): A unique economic and political union between 28 European countries.

General Comments: The form in which each of the United Nations' treaty bodies, including the CRPD Committee, publishes its interpretation of the provisions of its respective human rights treaty. Sometimes called General Recommendations.

General Obligations: The concrete actions outlined in article 4 of the CRPD that each State Party to the CRPD must take. The actions include adopting and amending legislation to promote the rights of persons with disabilities, providing training in the public and private sectors, undertaking research and development into accessible goods, services and

technology and consulting with persons with disabilities and their DPOs in all decision-making processes.

Individual communication: The complaint made under a procedure that permits individuals and a group of individuals in a State Party to the Optional Protocol to complain to the CRPD Committee that the State Party has breached one of its obligations under the CRPD. The CRPD Committee examines the complaint, formulates its views and recommendations and sends it to the State Party.

List of Issues: A list of questions that the CRPD Committee sends to a State Party for issues that require further clarification after reading a state report.

Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities: An additional legal instrument that allows individuals or groups of individuals to complain to the CRPD Committee about situations in which their rights under the CRPD are not respected.

Pre-session of the CRPD Committee: A meeting during which the CRPD Committee discusses a state report for the first time. During that meeting it will prepare the List of Issues.

Reservation: A unilateral statement by a state when ratifying an international treaty which allows the state to be a party to the treaty, while excluding the legal effect of that specific provision in the treaty to which it objects. A Reservation represents a limitation on the commitment undertaken by a state with regards to certain rights of the treaty. However, international law does not allow states to make Reservations when they are “incompatible with the object and purpose of the treaty or its Optional Protocol”.

Resolution: A text adopted by the European Parliament in its plenary session and through which the Parliament expresses its position.

Session of the CRPD Committee: A meeting during which the CRPD Committee holds its Constructive Dialogue with a State Party to the CRPD.

States Parties to the CRPD: Countries which have signed and ratified the CRPD and have committed to making the rights of persons with disabilities a reality.

State report: A report submitted to the CRPD Committee by States Parties to the CRPD on measures taken to implement the CRPD.

United Nations (UN): An international organisation currently made up of 193 Member States. Its main mission is the maintenance of international peace and security.

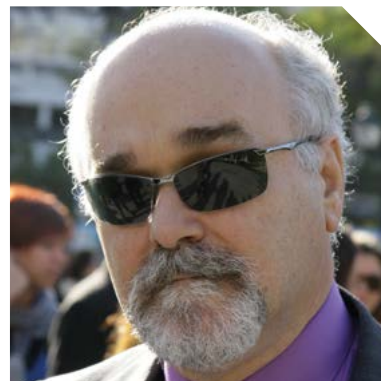
United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee): A body of 18 independent experts nominated by the countries that have ratified the CRPD. The CRPD Committee members are elected for a period of either two or four years and serve on the CRPD Committee in their individual capacities.

United Nations Convention on the Rights of Persons with Disabilities (CRPD): An international human rights treaty that reaffirms that all persons with disabilities must enjoy all human rights and fundamental freedoms. It clarifies that all persons with disabilities have the right to participate in civil, political, economic, social and cultural life of the community just as anyone else.

Introduction

From EDF President, Yannis Vardakastanis

I am honoured to introduce the first Human Rights Report of the European Disability Forum (EDF). EDF is an independent organisation representing the rights of 80 million persons with disabilities in Europe. This issue is the first in a series of human rights reports on the rights of persons with disabilities in Europe and gives an overview of the state of play on the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in Europe.



The CRPD is an international human rights treaty that reaffirms that all persons with disabilities must enjoy all human rights and fundamental freedoms. It clarifies that all persons with disabilities have the right to participate in civil, political, economic, social and cultural life of the community, just as anyone else. The CRPD clearly stipulates what public and private authorities must do to ensure and promote the full enjoyment of these rights by all persons with disabilities.

Undoubtedly, the CRPD has given the European disability movement a strong legal framework to advocate on the rights of persons with disabilities in the past decade. As it stands now, the European Union (EU) has ratified the CRPD, together with 27 of the 28 EU Member States; only Ireland has not ratified at the moment of publishing. It is the first time in history that a regional organisation is a State Party to an international human rights treaty. Also, all the EU's candidate countries, plus Iceland, Norway, Switzerland, Andorra and San Marino have ratified.

The purpose of this series is to track progress over time on the realisation of the rights of persons with disabilities in Europe. The series will stimulate comparison between European countries and study key aspects of the implementation of the CRPD at the national and European levels. Each year a new topic will be selected based on what is most relevant to EDF's members and policymakers across Europe.

This 2016 issue marks the 10th anniversary of the CRPD and provides an overview on the commitment to the CRPD in Europe. 2016 is also the eve of EDF's 20-year anniversary. This first EDF Human Rights Report demonstrates the rapid progress in ratifying the CRPD in Europe, albeit with some important gaps. Not all countries have ratified the CRPD or the Optional Protocol and many states have made Reservations and Declarations which limit their commitment to the CRPD.

Through illustrating which countries have ratified the CRPD and its Optional Protocol we aim to stimulate remaining states to make progress and to take away Reservations and Declarations. This report also offers an update on which countries have been reviewed by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) and when the remaining European countries are coming up for review. Finally, the report gives a summary of the jurisprudence of the CRPD Committee on States Parties' General Obligations under the CRPD, the four General Comments and Individual Communications adopted by the CRPD Committee.

The CRPD is not the only human rights instrument that protects the rights of persons with disabilities. EDF is also working hard to ensure the implementation and monitoring of related human rights instruments, such as the Convention on the Elimination of all Forms

of Discrimination Against Women, the Convention on the Rights of the Child, the Council of Europe Convention on preventing and combating violence against women and domestic violence and the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities.

I wish you a good read!

Yannis Vardakastanis

EDF President

From the Chair of the CRPD Committee, Professor Maria Soledad Cisternas Reyes

In celebration of the 10th anniversary of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the European Disability Forum (EDF) is publishing its first report on the implementation of the CRPD in Europe.

This analysis of the jurisprudence of the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) through its Concluding Observations and General Comments over the past four years reflects its genuine interest in promoting full implementation of the CRPD.

A comparative review of good practices is always a powerful input for the development, implementation and monitoring of public policies. The hard and systematic work that EDF has put into publishing this report seeks to bring about the best outcomes for persons with disabilities in Europe.

The CRPD Committee is pleased to acknowledge the ratification of the CRPD by several European states and the European Union (EU) as the first regional integration organisation. It welcomes the efforts made in implementation by EU Member States with regards to the Concluding Observations they received from the CRPD Committee which contain specific recommendations regarding each national reality.

Without a doubt, the European region will remain committed to the effective implementation of the CRPD Committee's General Comments on 'Equal recognition before the law and legal capacity', 'Accessibility', 'Women with Disabilities' and the 'Right to inclusive education'.

The recommendations issued by the CRPD Committee are an important guidance for States Parties to fulfil the Sustainable Development Goals (SDGs), whose targets and indicators are contained within the framework of the 2030 Agenda for Sustainable Development.

The rigorous study of European reality within the legal framework of the CRPD will also be useful for the final steps of those European states approaching ratification of the treaty and its Optional Protocol.

This report is a document that should be in many different libraries in Europe, essential as it is for studying and promoting this topic for generations to come.

Professor María Soledad Cisternas Reyes

Chair of the CRPD Committee



Countries in Europe that have ratified the CRPD and the Optional Protocol

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol were adopted on 13 December 2006 by consensus of the General Assembly of the United Nations (UN). On 30 March 2007, the CRPD and the Optional Protocol were opened for signature at UN Headquarters in New York. Today, 168 countries worldwide (86% of UN members) and the European Union (EU) are States Parties to the CRPD, making it the world's most quickly ratified international human rights treaty.

In Europe, the CRPD has been ratified rapidly. The EU has been a State Party to the CRPD since 2011. Twenty-seven out of the 28 EU Member States have also ratified the CRPD. Only Ireland remains. All the candidate countries (Albania, Montenegro, Serbia, the Former Yugoslav Republic of Macedonia (FYROM) and Turkey) are States Parties, as well as three out of the four European Economic Area/European Free Trade Association (EEA/EFTA) countries (Iceland, Norway and Switzerland have ratified; Liechtenstein not yet). The European microstates of Andorra and San Marino have also ratified; Monaco has not ratified yet.

EDF calls on Ireland, Liechtenstein and Monaco to ratify the CRPD without further delay.

The EU has not concluded the Optional Protocol yet. Twenty-two out of the 28 EU Member States have ratified the Optional Protocol. All the candidate countries and the European microstates have ratified, except for Monaco. None of the EEA/EFTA countries have ratified it. The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) consistently calls on each State Party to ratify the Optional Protocol.

EDF calls on the EU as well as on Bulgaria, Czech Republic, Ireland, Monaco, the Netherlands, Poland, Romania, Iceland, Liechtenstein, Norway and Switzerland to ratify the Optional Protocol.

You can read the full text of the CRPD and the Optional Protocol on the web page of the CRPD Committee: www.ohchr.org/EN/HRBodies/CRPD.

Reservations and Declarations to the CRPD and the Optional Protocol

Reservations

The **European Union (EU)** made a Reservation with regards to article 27 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 'Employment'. This Reservation allows the EU and its Member States the right to not apply the principle of non-discrimination on the grounds of disability with respect to employment in the armed forces. Cyprus, Greece, Slovakia and the United Kingdom of Great Britain and Northern Ireland (United Kingdom) made similar Reservations with regards to employment of persons with disabilities in the armed forces.

The **United Kingdom** also made a Reservation with regards to article 24 of the CRPD on 'Education'. It reserves the right for children with disabilities to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of children with disabilities have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated. Finally, the United Kingdom made a Reservation with regards to liberty of movement and will continue to apply their national legislation that can deny foreigners the right to enter and stay in the United Kingdom.

Malta made a Reservation with regards to article 25 of the CRPD on 'Health' in order "not to create any abortion rights". On article 29 of the CRPD on 'Participation in political and public life', Malta reserves the right to continue to apply its current electoral legislation in so far as voting procedures, facilities and materials are concerned.

Poland made Reservations to article 25 of the CRPD on 'Health'. It states that these rights shall not be interpreted in a way conferring an individual right to abortion or mandating a State Party to provide access to abortion, unless that right is guaranteed by the national law. It also made a Reservation with regards to article 23 of CRPD on 'Respect for home and the family'. Poland reserves the right not to apply this article until relevant domestic legislation is amended. It states, "until the withdrawal of the reservation a person whose disability results from a mental illness or mental disability and who is of marriageable age, can not get married without the court's approval based on the statement that the health or mental condition of that person does not jeopardize the marriage, nor the health of prospective children and on condition that such a person has not been fully incapacitated".

Declarations

Belgium declares that the signature of the CRPD is equally binding on the French community, the Flemish community, the German-speaking community, the Walloon region, the Flemish region and the Brussels-Capital Region.

Estonia interprets article 12 of the CRPD on 'Equal recognition before the law' as it does not forbid restricting a person's active legal capacity when such a need arises from the person's ability to understand and direct his or her actions. In restricting the rights of persons with restricted active legal capacity the Republic of Estonia acts according to its domestic laws.

France declares that the consent needed in biomedical research can be given by a person who is able to consent, and in the case of persons who are not able to give their consent permission can be given by their representative or an authority or body provided for by law. France declares that the right to vote can also be restricted.

Lithuania interprets article 25 of the CRPD on 'Health' as "not to include services of support, encouragement or promotion of pregnancy termination, sterilization and medical procedures of persons with disabilities, able to cause discrimination on the grounds of genetic features".

The Netherlands made Declarations on articles 10, 12, 14, 15, 23, 25 and 29 of the CRPD. It interprets article 12 of the CRPD on 'Legal capacity' "as restricting substitute decision-making arrangements to cases where such measures are necessary, as a last resort and subject to safeguards". It declares "that the CRPD allows for compulsory care or treatment of persons, including measures to treat mental illnesses, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards. In the case of persons who are not able to give their consent, permission given by their representative or an authority or body provided for by law."

Norway declares "its understanding that the CRPD allows for the withdrawal of legal capacity or support in exercising legal capacity, and/or compulsory guardianship, in cases where such measures are necessary, as a last resort and subject to safeguards. It allows for compulsory care or treatment of persons, including measures to treat mental illnesses, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards."

The European Union (EU) is a different situation. As a regional body, the EU needs to declare which aspects of the CRPD it is responsible for, and what is the sole responsibility of Member States. Therefore it produced a Declaration of Competences.

Not all countries fully respect all the rights protected by the CRPD. EDF calls upon the above mentioned States Parties to withdraw their Reservations and restrictive Declarations to the CRPD as they are incompatible with the object and purpose of the CRPD. According to article 46 of the CRPD and according to principles of international public law, these Reservations and Declarations shall not be permitted.

All Reservations and Declarations to the CRPD can be found at www.treaties.un.org > Depository > Status of treaties > Chapter IV - Human Rights > 15. Convention on the Rights of Persons with Disabilities

European countries' reviews by the CRPD Committee

The principal task of the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) is to review progress in the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). States Parties are obliged to submit an initial report to the CRPD Committee on measures taken to implement the CRPD two years after the CRPD comes into force in their country.

During a first session, the CRPD Committee will discuss a state's report and it will prepare a list of questions to be sent to the State Party for issues that require further clarification. The State Party will then have to respond to this List of Issues within two months. In the next session, the CRPD Committee will meet the delegation of the State Party and will thoroughly discuss the report and the answers to the List of Issues in the Constructive Dialogue.

As a result, the CRPD Committee will give its view on how the State Party has implemented the CRPD and will make recommendations for improvement in its Concluding Observations. After this first review, periodic reports must be submitted every four years. There is currently a backlog of States Parties to be reviewed, and at present a state submitting its report may not be reviewed for four to five years.

Disabled People's Organisations (DPOs) also have the opportunity to participate in the reporting process. At the same time that a State Party prepares its report to the CRPD Committee, DPOs can prepare an alternative report presenting the situation of persons with disabilities from the perspective of DPOs, and covering gaps in the State Party's report. Before the CRPD Committee adopts the List of Issues and the Concluding Observations, DPOs can meet the CRPD Committee and present their main concerns.

As of November 2016, 14 States Parties have been reviewed by the CRPD Committee. These are, in the order of their review: Spain, Hungary, Austria, Sweden, Denmark, Germany, Belgium, Croatia, Czech Republic, Lithuania, Portugal, Slovakia and Italy. Cyprus's review will be completed in 2017. The European Union (EU) was reviewed in 2015 and Serbia (a candidate country to the EU) in 2015 and 2016. United Kingdom, Luxembourg, Montenegro and Latvia will be reviewed in 2017. Other European countries pending review by the CRPD Committee are, in the order of submission of their reports: Estonia, Bulgaria, Poland, the Former Yugoslav Republic of Macedonia (FYROM), Malta, Greece, Norway, Turkey, Slovenia, Switzerland and France.

States Parties coming up for second review by the CRPD Committee are, in the order of the second review: Spain and Hungary in 2017, Sweden, Austria, Belgium, Czech Republic, Denmark, Germany, Lithuania, Slovakia, Croatia, Serbia and Portugal. The EU itself is also coming up for second review. See in the following pages for a table detailing when the second state reports for these countries are due.

The reports of States Parties, List of Issues, Concluding Observations and the alternative reports of DPOs, along with the schedule of their review by the CRPD Committee, are available online at www.ohchr.org > [Human rights bodies](#) > [All Human Rights Bodies](#) > [Committee on the Rights of Persons with Disabilities](#) > [Sessions](#)

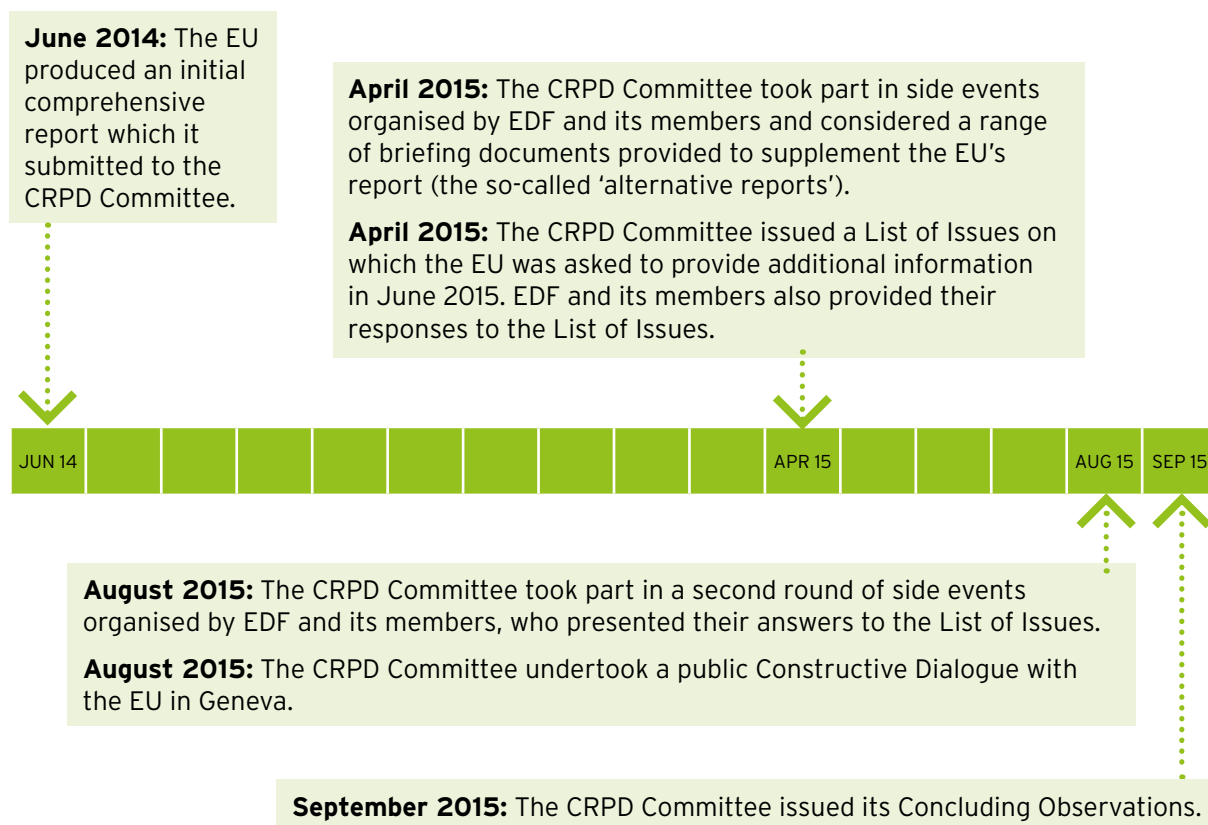
The European Union's review by the CRPD Committee



For the first time in its history, the European Union (EU) was reviewed by a United Nations (UN) human rights treaty body, the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee). It received recommendations from the CRPD Committee in September 2015 that gave clear guidance to the EU on how to better promote, protect and ensure the rights of persons with disabilities in the EU.

The European Disability Forum (EDF) and its members were actively involved in the review process of the EU before the CRPD Committee. EDF submitted an alternative report to the CRPD Committee on the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in the EU and it presented its concerns and recommendations on several occasions to the CRPD Committee. All of EDF's input to the CRPD Committee was developed by EDF's membership network through joint analysis and recommendations. EDF also consulted widely with other human rights networks in the development of its report and throughout the review process.

The review process took place as follows:



You can read the EU report, the alternative reports, the Concluding Observations and the full transcript of the Constructive Dialogue online at www.ohchr.org > [Human rights bodies](#) > [Treaty bodies](#) > [Committee on the Rights of Persons with Disabilities](#) > [Sessions](#) > [14th session](#) > [European Union](#)

You can watch the Constructive Dialogue at www.treatybodywebcast.org > [Webcast-archives](#) > [CRPD](#)

The EU review process and the Concluding Observations are historic in many senses. The EU is the first inter-governmental organisation to ratify any UN human rights treaty and therefore the first to be examined by a UN treaty body. That the EU has restated its commitment to human rights and to the rights of persons with disabilities is a real occasion for celebration. The EU has also recognised in the Constructive Dialogue that the implementation and monitoring of the CRPD is a work in progress and, most importantly, that it is ready to embark on new initiatives to continue to promote and protect the rights of persons with disabilities in the EU.

As a response to the recommendations from the CRPD Committee, the European Parliament adopted a Resolution on the follow-up to the UN's Concluding Observations on 9 June 2016. Helga Stevens, Belgian Member of the European Parliament (MEP) in the European Conservatives and Reformists (ECR) Group, was the rapporteur of the Resolution. More than 30 MEPs from several European Parliament committees contributed to the report, creating a comprehensive overview of the European Parliament's approach to implementation of the CRPD. EDF and its members contributed to this report. It is available online at www.europarl.europa.eu > [Committees](#) > [Employment and Social Affairs](#) > [Documents](#) > [Reports](#)

The European Economic and Social Committee (EESC) is currently drafting an opinion on the follow-up to EU Concluding Observations. The opinion calls for a new strategy for persons with disabilities in the EU. EDF President Yannis Vardakastanis, in his capacity as member of the EESC, is the rapporteur. More information can be read online by searching 'Opinions Concluding Observations of the UN CRPD Committee to the European Union - A new strategy for persons with disabilities in the European Union' at www.eesc.europa.eu.

The EU was asked by the CRPD Committee to report after one year on its progress on the following three urgent matters:

1. Reviewing the EU's Declaration of Competences to the CRPD

As a regional organisation, the EU submitted to the UN a list of policy areas and legislation adopted on the rights of persons with disabilities. The CRPD Committee requested that the EU complete and update this Declaration and include all pieces of legislation and policy which have been recently adopted by the EU and which touch upon the rights of persons with disabilities.

2. The prompt adoption of the European Accessibility Act

This Act, if it becomes EU law, will make certain goods and services accessible in the EU. The CRPD Committee requested that this new piece of legislation is in line with the CRPD. It also requested an effective and accessible mechanism to allow consumers to complain when a good or service is not accessible, and to enforce companies to comply with the Act. The participation of persons with disabilities, through their representative organisations, should be guaranteed in the adoption process of the Act.

3. The independence and adequate resourcing of the EU Monitoring Framework

This Framework is the body at EU level that promotes, protects and monitors the implementation of the CRPD. The CRPD Committee requested that the European Commission removes itself from the Framework as it was both taking up the role of implementing the CRPD and monitoring its implementation. The CRPD Committee also requested adequate resources for the Framework to enable it to perform its functions.

At the time of printing we are awaiting the EU's progress report on these matters, which was due by September 2016.

EDF produced an official response to the EU Concluding Observations. EDF welcomed the Concluding Observations and hailed them as a new disability agenda for the EU, giving us guidance on the most important next steps in the implementation of the CRPD at the EU level. EDF regretted that the CRPD Committee did not make reference to one important matter of concern for EDF, namely the EU focal point for the implementation of the CRPD. This focal point was moved in 2014 from the European Commission's Directorate-General (DG) Justice (the Directorate responsible for justice, non-discrimination and human rights issues) to DG Employment, Social Affairs and Inclusion. EDF fully recognises the need for a focal point in DG Employment, Social Affairs and Inclusion, but maintains that the main CRPD focal point should return to DG Justice. DG Justice is where the European Commission handles human rights and discrimination issues and the CRPD is a human rights instrument.

The CRPD Committee asked for a set of focal points in each EU institution, agency and body, and to establish an inter-institutional coordination mechanism. The implementation of this recommendation is critically important to ensure a coherent approach across all EU institutions.

The CRPD Committee's recommendations to States Parties

The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) has developed a vast source of jurisprudence and made many recommendations on how to apply the United Nations Convention on the Rights of Persons with Disabilities (CRPD) at the national and European levels. For this first Human Rights Report, we will present the recommendations given to States Parties on their General Obligations under articles 1 to 4 of the CRPD. Reports in the coming years will go into more depth on other specific aspects and articles of the CRPD.

Some systemic and transversal recommendations have been made with regards to articles 1 to 4 on the CRPD's purpose, definitions, general principles and obligations that are important to mention. These provide guidance which all States Parties should consider in their approach to the CRPD.

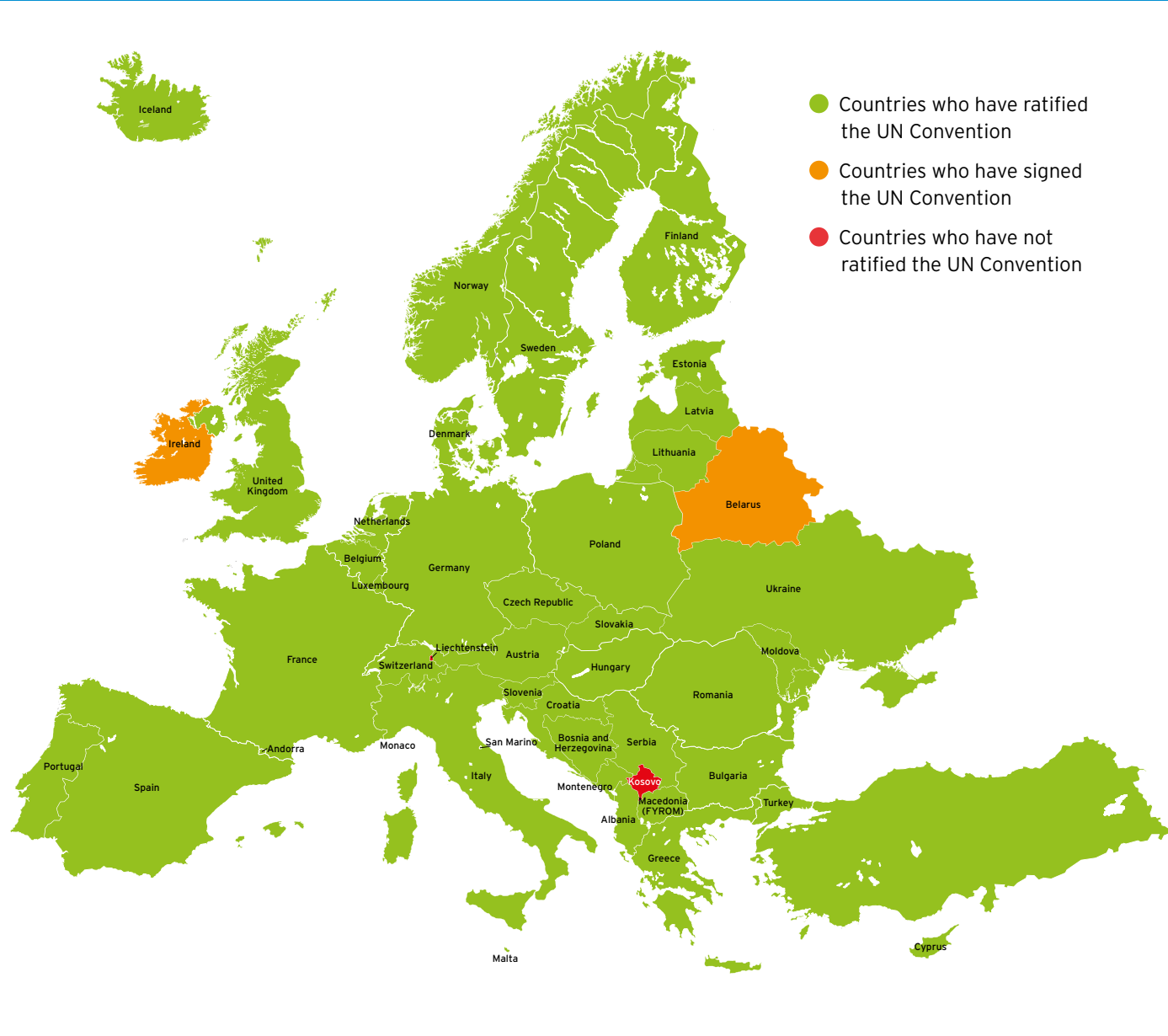
The CRPD encompasses a human rights model of disability which stresses human dignity of persons with disabilities. It carefully addresses discrimination faced by men, women and children with disabilities arising from various barriers that may hinder their full and effective participation in society on an equal basis with others. The CRPD Committee recommends amending all definitions of persons with disabilities to align with this human rights model of disability. It also calls on the States Parties to review their disability assessment criteria to determine the degree of disability of an individual, and to bring these into line with the CRPD.

The CRPD Committee is concerned at the lack of a coherent and comprehensive disability strategy to implement the CRPD. It recommends developing such a strategy with the necessary resources, timeline and indicators to monitor its realisation. The CRPD Committee also recommends that States Parties initiate a comprehensive review of existing legislation, including where necessary steps to bring existing legislation and policies into line with the CRPD.

The involvement of persons with disabilities through their representative organisations in decision-making processes lies at the heart of the CRPD. The CRPD Committee on several occasions has expressed its concerns about the insufficient participation of persons with disabilities and their representative organisations in the review and design of disability-related legislation and policies. In particular, the CRPD Committee has urged countries to take effective measures to consult with and actively involve persons with disabilities, including children and women with disabilities, through their representative organisations in the planning, execution and monitoring of public decision-making processes at all levels and in particular in the matters affecting them. The CRPD Committee highlights the need to give Disable People's Organisations (DPOs) reasonable and realistic timelines for providing their views, and to provide them with adequate funding in order to enable them to fulfil their role under article 4, 3 of the CRPD.

Finally, the CRPD Committee has recommended that States Parties should apply the CRPD to all parts of federal states without any limitations or exceptions. The CRPD Committee addresses the importance of ensuring that federal, regional and local authorities are aware of the rights set out in the CRPD and of their duty to effectively implement those rights. The CRPD Committee is concerned that persons with disabilities do not enjoy the same rights in all parts of a country due to different action plans developed at regional and local levels.

Maps on the ratification of the CRPD and the Optional Protocol in Europe



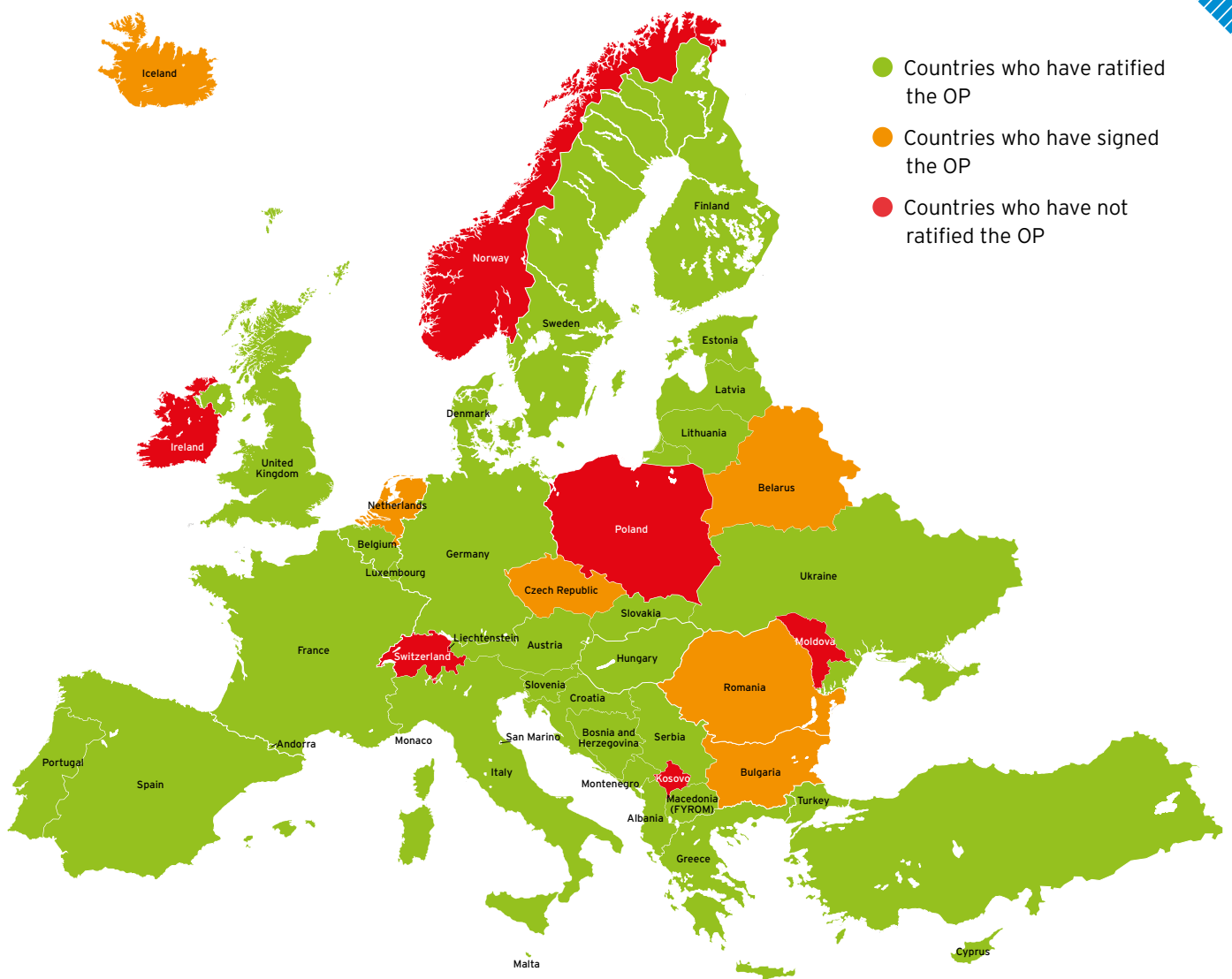


Table on the ratification of the CRPD and the Optional Protocol in Europe

ALBANIA

CRPD signature 22 December 2009 - ratification 11 February 2013

Optional Protocol signature 22 December 2009 - ratification 11 February 2013

State report submitted 28 May 2015

ANDORRA

CRPD signature 27 April 2007 - ratification 11 March 2014

Optional Protocol signature 27 April 2007 - ratification 11 March 2014

AUSTRIA

CRPD signature 30 March 2007 - ratification 26 September 2008

Optional Protocol signature 30 March 2007 - ratification 26 September 2008

Review by the CRPD Committee:

9th Session: adoption of List of Issues (17 April 2013)

10th Session: Constructive Dialogue and adoption of Concluding Observations (30 September 2013)

Next state report due on 26 October 2018

BELGIUM

CRPD signature 30 March 2007 - ratification 2 July 2009

Optional Protocol signature 30 March 2007 - ratification 2 July 2009

Review by the CRPD Committee:

1st Pre-Session: adoption of List of Issues (12 May 2014)

12th Session: Constructive Dialogue and adoption of Concluding Observations (28 October 2014)

Next state report due on 2 August 2019

BULGARIA

CRPD signature 27 September 2007 - ratification 22 March 2012

Optional Protocol signature 18 Dec 2008 - not ratified

State report submitted 21 July 2014

CROATIA

CRPD signature 30 March 2007 - ratification 15 August 2007

Optional Protocol signature 30 March 2007 - ratification 15 August 2007

Review by the CRPD Committee:

2nd Pre-Session: adoption of List of Issues (30 October 2014)

13th Session: Constructive Dialogue and adoption of Concluding Observations (15 May 2015)

Next state report due 15 September 2021

CYPRUS

CRPD signature 30 March 2007 - ratification 27 June 2011

Optional Protocol signature 30 March 2007 - ratification 27 June 2011

Review by the CRPD Committee:

6th Pre-Session: adoption of List of Issues (6 September 2016)

17th Session: Constructive Dialogue and adoption of Concluding Observations (28 and 29 March 2017)

CZECH REPUBLIC

CRPD signature 30 March 2007 - ratification 28 September 2009

Optional Protocol 30 March 2007 - not ratified

Review by the CRPD Committee:

2nd Pre-Session: adoption of List of Issues (28 October 2014)

13th Session: Constructive Dialogue and adoption of Concluding Observations (15 May 2015)

Next state report due 28 October 2019

DENMARK

CRPD signature 30 March 2007 - ratification 24 July 2009

Optional Protocol - ratification 23 September 2014

Review by the CRPD Committee:

1st Pre-Session: adoption of List of Issues (12 May 2014)

12th Session: Constructive Dialogue and adoption of Concluding Observations (30 October 2014)

Next state report due 24 August 2019

ESTONIA

CRPD signature 25 September 2007 - ratification 30 May 2012

Optional Protocol - ratification 30 May 2012

State report submitted 30 June 2014

EUROPEAN UNION

CRPD accession (equivalent to a State Party's signature) - 23 December 2010

CRPD conclusion (equivalent to a State Party's ratification) - 22 January 2011

Optional Protocol not signed nor ratified

Review by the CRPD Committee:

13th Session: adoption of List of Issues (15 May 2015)

14th Session: Constructive Dialogue and adoption of Concluding Observations (2 October 2015)

Next state report due 23 January 2021

FINLAND

CRPD signature 30 March 2007 - ratification 11 May 2016

Optional Protocol signature 30 March 2007 - ratification 11 May 2016

State report due 11 May 2018

FORMER YUGOSLAV REPUBLIC OF MACEDONIA (FYROM)

CRPD signature 30 March 2007 - ratification 29 December 2011

Optional Protocol signature 29 July 2009 - ratification 29 December 2011

State report submitted 3 October 2014

FRANCE

CRPD signature 30 March 2007 - ratification 18 February 2010

Optional Protocol signature 23 September 2008 - ratification 18 February 2010

State report submitted 18 May 2016

GERMANY

CRPD signature 30 March 2007 - ratification 24 February 2009

Optional Protocol signature 30 March 2007 - ratification 24 February 2009

Review by the CRPD Committee:

1st Pre-Session: adoption of List of Issues (12 May 2014)

13th Session: Constructive Dialogue and adoption of Concluding Observations (13 May 2015)

Next state report due 24 March 2019

GREECE

CRPD signature 30 March 2007 - ratification 31 May 2012
Optional Protocol signature 27 September 2010 - ratification 31 May 2012
State report submitted 1 June 2015

HUNGARY

CRPD signature 30 March 2007 - ratification 20 July 2007
Optional Protocol signature 30 March 2007 - ratification 20 July 2007
Review by the CRPD Committee:
7th Session: adoption of List of Issues (16 May 2012)
8th Session: Constructive Dialogue and adoption of Concluding Observations
(22 October 2012)
Next state report due 20 August 2017

ICELAND

CRPD signature 30 March 2007 - ratification 23 September 2016
Optional Protocol signature 30 March 2007 - not ratified

IRELAND

CRPD signature 30 March 2007 - not ratified yet
Optional Protocol not signed nor ratified

ITALY

CRPD signature 30 March 2007 - ratification 15 May 2009
Optional Protocol signature 30 March 2007 - ratification 15 May 2009
Review by the CRPD Committee:
5th Pre-Session: adoption of List of Issues (29 April 2016)
16th Session: Constructive Dialogue and adoption of Concluding Observations (31 August 2016)

LATVIA

CRPD signature 18 July 2008 - ratification 1 March 2010
Optional Protocol signature 22 January 2010 - ratification 31 August 2010
State report submitted 3 April 2014
Review by the CRPD Committee in 2017

LIECHTENSTEIN

No signature nor ratification of the CRPD and Optional Protocol

LITHUANIA

CRPD signature 30 March 2007 - ratification 18 August 2010
Optional Protocol signature 30 March 2007 - ratification 18 August 2010
Review by the CRPD Committee:
4th Pre-Session: adoption of List of Issues (1 October 2015)
15th Session: Constructive Dialogue and adoption of Concluding Observations (11 May 2016)
Next state report due 18 September 2020

LUXEMBOURG

CRPD signature 30 March 2007 - ratification 26 September 2011
Optional Protocol signature 30 March 2007 - ratification 26 September 2011
State report submitted 4 March 2014
Review by the CRPD Committee in 2017

MALTA

CRPD signature 30 March 2007 - ratification 10 October 2012
Optional Protocol signature 30 March 2007 - ratification 10 October 2012
State report submitted 10 November 2014

MONACO

CRPD signature 23 September 2009 - not ratified
Optional Protocol not signed, nor ratified yet

MONTENEGRO

CRPD signature 27 September 2007 - ratification 2 November 2009
Optional Protocol signature 27 September 2007 - ratification 2 November 2009
State report submitted 13 March 2014
Review by the CRPD Committee in 2017

NETHERLANDS

CRPD signature 30 March 2007 - ratification 14 June 2016
Optional Protocol signature 24 September 2009 - not ratified yet
State report due 14 June 2018

NORWAY

CRPD signature 30 March 2007 - ratification 3 June 2013
Optional Protocol not ratified yet
State report submitted 2 July 2015

POLAND

CRPD signature 30 March 2007 - ratification 25 September 2012
Optional Protocol not signed nor ratified yet
State report submitted 24 September 2014

PORTUGAL

CRPD signature 30 March 2007 - ratification 23 September 2009
Optional Protocol signature 30 March 2007 - ratification 23 September 2009
Review by the CRPD Committee:
4th Pre-Session: adoption of List of Issues (1 October 2015)
15th Session: Constructive Dialogue and adoption of Concluding Observations (18 April 2016)
Next state report due 23 November 2023

ROMANIA

CRPD signature 26 September 2007 - ratification 31 January 2011
Optional Protocol signature 25 Sep 2008 - not ratified yet
State report has not been submitted yet, although was due on 2 February 2013

SAN MARINO

CRPD signature 30 March 2007 - ratification 22 February 2008
Optional Protocol signature 30 March 2007 - ratification 22 February 2008
State report was due on 3 June 2010 but has not been submitted yet

SERBIA

CRPD signature 17 December 2007 - ratification 31 July 2009
Optional Protocol signature 17 December 2007 - ratification 31 July 2009
Review by the CRPD Committee:
4th Pre-Session: adoption of List of Issues (2 October 2015)
15th Session: Constructive Dialogue and adoption of Concluding Observations (23 May 2016)
Next state report due 31 August 2023

SLOVAKIA

CRPD signature 26 September 2007 - ratification 26 May 2010

Optional Protocol signature 26 September 2007 - ratification 26 May 2010

Review by the CRPD Committee:

4th Pre-Session: adoption of List of Issues (24 September 2014)

15th Session: Constructive Dialogue and adoption of Concluding Observations (17 May 2016)

Next state report due 26 June 2020

SLOVENIA

CRPD signature 30 March 2007 - ratification 24 April 2008

Optional Protocol signature 30 March 2007 - ratification 24 April 2008

State report submitted 5 August 2014

SPAIN

CRPD signature 30 March 2007 - ratification 03 December 2007

Optional Protocol signature 30 March 2007 - ratification 03 December 2007

Review by the CRPD Committee:

5th Session: adoption of List of Issues (20 June 2011)

6th Session: Constructive Dialogue and adoption of Concluding Observations (19 October 2011)

Next state report due 20 August 2017

SWEDEN

CRPD signature 30 March 2007 - ratification 15 December 2008

Optional Protocol signature 30 March 2007 - ratification 15 December 2008

10th Session: adoption List of Issues (30 September 2013)

11th Session: Constructive Dialogue and adoption of Concluding Observations (12 May 2014)

Next state report due 20 August 2017

SWITZERLAND

CRPD ratification 15 April 2014

Optional Protocol not signed nor ratified

State report submitted 15 January 2016

TURKEY

CRPD signature 30 March 2007 - ratification 28 September 2009

Optional Protocol signature 28 September 2009 - ratification 26 March 2015

State report submitted 3 August 2015

UNITED KINGDOM

CRPD signature 30 March 2007 - ratification 08 June 2009

Optional Protocol signature 26 February 2009 - ratification 07 August 2009

State report submitted 24 November 2011

Review by the CRPD Committee in 2017

The CRPD Committee's General Comments

To date, the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) has adopted four General Comments, on: accessibility (article 9 of the CRPD), legal capacity (article 12 of the CRPD), women with disabilities (article 6 of the CRPD) and education (article 24 of the CRPD). The CRPD Committee is currently drafting a General Comment on independent living in the community (article 19 of the CRPD).

Days of General Discussion were organised by the CRPD Committee on 21 October 2009 with regards to legal capacity (article 12 of the CRPD), on 7 October 2010 with regards to accessibility (article 9 of the CRPD), on 17 April 2013 on women and girls with disabilities (article 6 of the CRPD) and on 19 April 2016 with regards to independent living (article 19 of the CRPD).

To read the General Comments and to find more information on the Days of General Discussions, as well as the views of EDF and other Disabled People's Organisations (DPOs) on the General Comments, please visit the web page of the CRPD Committee: www.ohchr.org > [Human rights bodies](#) > [Treaty bodies](#) > [Committee on the Rights of Persons with Disabilities](#) > [General Comments](#)

General Comment 1: 'Equal recognition before the law'

General Comment No. 1 was adopted on 11 April 2014 by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee). It clarifies States Parties' General Obligations under article 12 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) to ensure equal recognition for persons with disabilities before the law. The CRPD Committee decided to develop this General Comment in response to States Parties' reports, in which it observed a "general failure to understand" that the human rights framework requires governments to move away from substitute decision-making (such as by forced mental health treatment, guardianship or conservatorship) in favour of supported decision-making, in which persons with disabilities enjoy full recognition and equality under the law and can exercise their legal capacity to make fundamental decisions about their own lives.

The General Comment explains that legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights. The denial of legal capacity to persons with disabilities has, in many cases, led to their being deprived of many fundamental rights, including the right to vote, the right to marry and found a family, reproductive rights, parental rights, the right to give consent for intimate relationships and medical treatment, and the right to liberty. Persons with intellectual or psychosocial disabilities have been, and still are, disproportionately affected by substitute decision-making regimes and denial of legal capacity.

The General Comment clarifies the definition and scope of the term 'legal capacity'. It confirms that legal capacity includes recognition, under the law, of a person's rights and duties, as well as his or her authority to take action to exercise those rights or duties. The CRPD Committee notes that States Parties have confused legal capacity with mental capacity and discriminatorily limit or deny a person's legal capacity based on his or her perceived disability or decision-making skills. According to the General Comment, a disability or impairment should never be the basis for a denial of legal capacity.

Article 12 requires states to provide access to support for the exercise of legal capacity and to implement safeguards to protect against abuse. Supports for persons with disabilities may take many forms, both formal and informal, such as peer support and assistance with communication, and should allow individuals to create an advanced plan for times when they cannot communicate their own will or preferences (an 'advanced directive'). However, the General Comment stresses that supports should not take the form of substitute decision

making. Supports are intended to remove barriers and help individuals in exercising their full legal capacity.

Safeguards should be designed to guarantee that a person's rights, will and preferences are respected and protected from abuse on an equal basis with the rights of others. The General Comment specifically recommends the replacement of the 'best interest' standard with the 'best interpretation' safeguard to ensure that the rights of persons with disabilities to legal capacity are protected.

The last obligation under article 12 is for States Parties to take legislative, administrative, judicial and other practical measures to ensure the rights of persons with disabilities to access their financial and economic affairs on an equal basis with others.

In this General Comment, the CRPD Committee also highlights the close relationship between article 12 and other articles of the CRPD, including article 5 on 'Equality and non-discrimination', article 6 on 'Women with disabilities', article 7 on 'Children with disabilities', article 9 on 'Accessibility', article 13 on 'Access to justice', article 14 on 'Liberty and security', article 25 on 'Health', article 18 on 'Nationality', article 19 on 'Living independently and being included in the community' and article 29 on 'Political participation'.

The General Comment concludes with recommended steps for the full implementation of article 12 of the CRPD at the national level. The CRPD Committee calls on states to: 1) abolish "substitute decision-making regimes" and other mechanisms that unequally deny legal capacity to persons with disabilities, and implement legislation to protect the right to legal capacity for all persons; 2) provide support for the exercise of legal capacity; and 3) meaningfully involve persons with disabilities, including children and their representative organisations, in the development of legislation, policies and other efforts to implement article 12 of the CRPD.

General Comment 2: 'Accessibility'

The General Comment No. 2 addresses accessibility under article 9 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Adopted in 2014, it emphasises the importance of accessibility as a precondition to living independently and fully participating in society. It provides more detailed explanation of States Parties' obligations to respect, protect and fulfil the right. In its discussion of accessibility, the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) includes "access to the physical environment, to transportation, to information and communication, including information and communications technologies and systems, and to other facilities and services open or provided to the public...". It identifies a lack of adequate monitoring of accessibility standards, a lack of stakeholder training and insufficient involvement of persons with disabilities and their representative organisations in policymaking as common challenges to States Parties' implementation of article 9 of the CRPD.

The CRPD Committee clarifies that accessibility standards apply to both public and private entities, stating that: "As long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise." In this regard, "states parties are also required to take measures to ensure that private entities that offer facilities and services that are open or provided to the public take into account all aspects of accessibility for persons with disabilities..." and they should include such stakeholders in training, and address discrimination by such actors in national legislation. To maintain consistency, allow for interoperability and respect individuals' freedom of movement, the CRPD Committee also indicates that each state's accessibility standards should be consistent with those of other States Parties.

The General Comment advocates the use of 'universal design', which makes society equally accessible to all persons. It ensures that all products, facilities, technologies and services meet consistent accessibility standards. The CRPD Committee does, however, distinguish between the obligation to ensure that all new facilities, goods and services are accessible and the obligation to ensure that existing infrastructure and services are accessible. With respect to the former, states have an obligation to guarantee immediate accessibility, but with respect to the latter states may implement accessibility standards gradually.

The General Comment also makes clear that the duty to provide accessibility is an *ex ante* duty. The state may not wait until it receives a request to implement accessibility standards for a good or service. It must make a plan of action and allocate the necessary resources to make new and existing buildings accessible. When accessibility standards are not sufficient, the duty to provide reasonable

accommodation for an individual in a given situation is *ex nunc*, meaning that the request is immediately enforceable.

The CRPD Committee explains the steps States Parties may take to ensure accessibility. According to the CRPD Committee, states should review their legal framework and implement appropriate accessibility legislation in consultation with persons with disabilities and their representative organisations. States must also establish minimum standards for services provided by both public and private enterprises. With this review, action plans and strategies should be adopted to identify existing barriers to accessibility, time frames with specific deadlines should be set and provision made for both the human and material resources necessary to remove the barriers. Additionally, bodies that have the authority to ensure that plans and strategies are implemented and enforced should continually monitor compliance with accessibility standards.

Finally, the General Comment addresses the close relationship between the right to accessibility and other rights protected by the CRPD, including article 21 on the 'Right to freedom of expression and opinion and access to information', article 24 on 'Education', article 25 on 'Health', article 27 on 'Work and employment' and articles 29 and 30 on 'Participation in political and cultural life'.

General Comment 3: 'Women with disabilities'

General Comment No. 3 was adopted on 26 August 2016 by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) and addresses States Parties' General Obligation under article 6 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) to recognise that women and girls with disabilities are subject to multiple discrimination. In this regard, States Parties have a duty to take measures to ensure the full and equal enjoyment by women with disabilities of all human rights and fundamental freedoms.

The General Comment points out that there is strong evidence to affirm that women and girls with disabilities face barriers in most areas of life. These barriers create situations of multiple and intersecting forms of discrimination against women and girls with disabilities, particularly with regard to equal access to education, access to economic opportunities, access to social interaction, access to justice and equal recognition before the law, the ability to participate politically and the ability to exercise control over their own lives across a range of contexts.

The CRPD Committee explains that multiple discrimination encompasses those situations where a person can experience discrimination on two or more grounds. Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable. Grounds for discrimination include, but are not limited to: age; disability; ethnic, indigenous, national or social origin; gender identity; political or other opinion; race, refugee, migrant or asylum status; religion; and sex or sexual orientation.

The CRPD Committee therefore expresses serious concern about the prevalence of multiple discrimination and intersectional discrimination against women with disabilities on account of their gender, disability and other factors which are not sufficiently addressed in legislation and policies. In addition, the CRPD Committee emphasises the persistence of violence against women and girls with disabilities, including sexual violence and abuse, forced sterilisation, female genital mutilation (FGM), sexual and economic exploitation, and institutionalisation.

The General Comment also highlights the lack of, or insufficient participation of, women with disabilities in decision-making processes in public and political life. Women and girls with disabilities indeed encounter many barriers to participation in public decision making. Due to power imbalances and multiple forms of discrimination, they still have fewer opportunities to establish or join organisations that can represent their needs as women and as persons with disabilities.

The General Comment concludes with recommendations for the full implementation of article 6 at the national level. The CRPD Committee urges States Parties to: 1) combat multiple discrimination through repealing discriminatory laws, policies and practices that prevent women with disabilities from enjoying all the rights of the CRPD; 2) adopt appropriate laws, policies and actions to ensure the rights of women with disabilities are included in all policies; 3) remove all barriers that prevent or restrict the participation of women with disabilities and ensure that women with disabilities, through their representative organisations, are included in the design, implementation and monitoring of all programmes which have an impact on their lives; and 4) take all appropriate measures to ensure the development, advancement and empowerment of women with disabilities in political and public life on an equal basis with others by promoting the creation of organisations and networks of women with disabilities, and by ensuring adequate support for women with disabilities to take leadership roles in public decision-making bodies at all levels.

General Comment 4: 'Education'

The General Comment No.4, adopted by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) on 26 August 2016, regards the States Parties' obligation to ensure the realisation of the right of persons with disabilities to education through an inclusive education system at all levels, including pre-schools, primary, secondary and tertiary education, vocational training and lifelong learning, extracurricular and social activities, and for all students, including persons with disabilities, without discrimination and on equal terms with others.

The CRPD Committee underlines that the right to inclusive education introduced by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) requires a real transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of students with disabilities. The concept of inclusive education focuses on the full and effective participation, accessibility, attendance and achievement of all students, especially those who, for different reasons, are excluded or at risk of being marginalised. Inclusion means access to and progress in high-quality education without discrimination. To this end, it demands an in-depth change of education systems in legislation and policy, and in the mechanisms for financing, administration, design, delivery and monitoring of education.

The General Comment highlights that inclusive education implies flexible curricula, and teaching and learning methods adapted to different strengths, requirements and learning styles. The education system must provide a personalised educational response, rather than expect the student to fit the system. Moreover, all teachers and other staff should receive education and training giving them the core values and competencies to accommodate inclusive learning environments. Inclusive education also encompasses respect for diversity and learning-friendly environments where everyone feels safe, supported, stimulated and able to express themselves. The CRPD Committee calls for an 'effective transition' to ensure that learners with disabilities receive adequate support at school and through to vocational and tertiary education, and finally to work. Importantly, as a continuing process, inclusive education must be monitored and evaluated on a regular basis to ensure that segregation is not happening either formally or informally. Monitoring, according to article 33 of the CRPD, should involve persons with disabilities, including children and persons with intensive support requirements, through Disabled People's Organisations (DPOs), as well as parents or caregivers of children with disabilities where appropriate.

The essential features of the right to inclusive education are availability,

accessibility, acceptability and adaptability. Availability implies that public and private educational institutions and programmes must be available in sufficient quantity and quality. Accessibility requires that education at all levels must be affordable for students with disabilities. Acceptability is the obligation to design and implement all education-related facilities, goods and services taking full account of and respecting the requirements, cultures, views and languages of persons with disabilities. Adaptability requires States Parties to apply the Universal Design for Learning (UDL) approach, which consists of a set of principles to create adaptable learning environments and develop instruction to meet the diverse needs of all learners.

The CRPD Committee has identified a number of consistent challenges facing States Parties in the implementation of article 24 at national level:

- 1) responsibility for the education of persons with disabilities at all levels, together with the education of others, must rest with the education ministry;
- 2) States Parties must implement or introduce legislation, based on the human rights model of disability, that fully complies with article 24 of the CRPD;
- 3) a comprehensive and coordinated legislative and policy framework for inclusive education must be adopted, together with a clear and adequate time frame for implementation and with sanctions for violations;
- 4) States Parties must promote a structured process of de-institutionalisation of persons with disabilities; and
- 5) inclusive education requires a support and resource system for teachers in educational institutions at all levels.

A complaint against Austria on accessibility of live information in public transport

The author of the complaint, with the initial F., is a person with a visual disability who relies on public transport for his daily activities and work. F. claimed that the failure by the State Party to install an audio system on trams violates the two-senses principle of accessibility. According to this principle, all information, including guidance aids, must be perceivable by a minimum of two senses out of three (hearing, sight and touch). This enables persons with visual or hearing disabilities to access all important information without outside assistance. F. further argued that the lack of an audio system prevents him, as a person with a visual impairment, being able to access the information that is only visually available. He emphasised that this barrier to communication amounts to discrimination, as it deprives him of the use of transport services on an equal basis with others.

The CRPD Committee concluded that the State Party is under an obligation to remedy the lack of access to information visually available for all lines of the tram network. In general, the State Party is under an obligation to take measures to prevent similar violations in future by ensuring that the existing minimum standards for the accessibility of public transport guarantee access for all persons with visual and other types of disabilities to the live information visually available to other users of the tram and other forms of public transport. The CRPD Committee therefore encouraged Austria to ensure that disability rights laws concerned with non-discriminatory access in areas such as transport and public procurement include access to information and communications technology.

A complaint against Italy on work and employment rights

The author of the complaint, with the initials A.F., has had Gaucher's disease since childhood resulting in a physical impairment. His name was included in the list of unemployed persons with disabilities under the Italian law on the right to employment for persons with disabilities. The law provides for a bonus on social security tax fees and a funding scheme to adapt premises and working conditions to the needs of workers with disabilities. According to the law, at least 7 per cent of the workforce recruited by public employers with more than 50 employees should be persons with disabilities. The University of Modena and Reggio Emilia, where A.F. applied for a job, held a competitive examination to recruit a science technician. A.F. applied for the job, took the examination and came third in the ranking. However, he was not recruited as the university selected another candidate for the only post available.

A.F. claimed that the university did not comply with the 50 per cent quota to be reserved for persons with disabilities, thereby violating article 27 of the United Nations Convention on the Rights of Persons with Disability (CRPD). The CRPD Committee concluded that A.F. did not provide any element affirming that the national legislation and its application amounted to a violation of article article 27 of the CRPD. The CRPD Committee stated that the national courts thoroughly and objectively assessed all the elements of the case. It did not conclude that the non-selection of A.F. for the position was discriminatory. As a result, the CRPD Committee concluded that the decision made was based on objective and reasonable considerations and that article 27 of the CRPD was not violated.

A complaint against Sweden on reasonable accommodation and work

This complaint was submitted by Mrs Jüngelin, who has a visual disability and claimed to have been discriminated against in the workplace. She claimed this occurred when she applied to work at the Swedish Social Insurance Agency and was informed that, although she fulfilled the competence, experience and reference requirements, she could not be given the post because the Agency's computer systems could not be adapted for her visual impairment. Mrs Jüngelin reported the case to the Swedish Disability Ombudsman which held that the Social Insurance Agency failed to carry out a proper survey of the options available for adjusting the working conditions to her needs and to assess the potential financial support available from the Rehabilitation Department of the Public Employment Service. The Swedish Labour Court dismissed the Ombudsman's claims. It found that the different support and adaptation measures that the Social Insurance Agency would have had to adopt were not reasonable.

The CRPD Committee pointed out that, when assessing the reasonableness and proportionality of accommodation measures, States Parties enjoy a certain margin of appreciation. The CRPD Committee concluded that the Labour Court thoroughly and objectively assessed all the elements before reaching the conclusion that the support and adaptation measures recommended by the Ombudsman would constitute an undue burden for the Social Insurance Agency. The CRPD Committee concluded that the decision made was based on objective and reasonable considerations and could not find a violation of the CRPD.

A complaint against Germany on career advancement for persons with disabilities

Mrs Gröninger complained to the CRPD Committee that German federal social legislation is preventing the integration of persons with disabilities into the labour market. She applied for an integration subsidy for her son with disabilities at an employment agency. The agency was, however, not able to grant the subsidy as the social legislation envisages these subsidies as being reserved for persons whose full working capacity will be restored within 36 months.

The CRPD Committee confirmed that the provisions of the social legislation related to granting an integration subsidy are discriminatory as they are applicable only to persons with disabilities who are temporarily incapable of working. The policy conforms to the medical model of disability because it considers disability as transitional and something that can be "surpassed or cured" with time. The CRPD Committee noted that the above scheme appears to serve as a deterrent, rather than as an encouragement, for employers. The administrative complexities put applicants at a disadvantage and may in turn result in indirect discrimination. The CRPD Committee decided that the integration subsidies scheme is not in accordance with the State Party's obligation under article 27 of the CRPD to promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment.

A complaint against Hungary on the denial of legal capacity and voting rights

Six persons with intellectual disabilities complained to the CRPD Committee that Hungary violated their rights under article 29 of the CRPD on participation in political and public life. The persons were placed under partial or general guardianship and as an automatic consequence of their placement under guardianship their names were removed from the electoral register, in accordance with the Constitution of Hungary. At the time of examination of the complaint, Hungary had changed its Constitution so that it no longer allowed for the automatic removal from the electoral register of all persons under guardianship. However, the new law still allows courts to remove a person's legal capacity and right to vote after undertaking an individual assessment.

The CRPD Committee recalled that article 29 of the CRPD requires States Parties to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, including by guaranteeing their right to vote. Article 29 does not provide for any reasonable restriction or exception for any group of persons with disabilities. An exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualised assessment, constitutes discrimination on the basis of disability. The CRPD Committee highlighted that States Parties must recognise and uphold the legal capacity of persons with disabilities “on an equal basis with others in all aspects of life”, including political life, which encompasses the right to vote. Accordingly, the CRPD Committee was of the view that, by depriving the authors of their right to vote, based on a perceived or actual intellectual disability, the State Party failed to comply with its obligations under article 29 of the CRPD.

A complaint against Hungary on accessibility of information

Two Hungarian nationals with visual disabilities, Mrs Nyusti and Mr Takács, claimed to the CRPD Committee that they were victims of a violation by Hungary of their rights to have access to automatic teller machines (ATMs). They had a private current account with the OTP Bank. However, the authors of the complaint were unable to use the ATMs without assistance as the keyboards of the ATMs were not accessible. The ATMs were not marked with Braille, nor did they provide audible instructions and voice assistance for banking card operations. They therefore could not use the services provided by the ATMs at the same level as clients without visual disabilities and so received less services for the same fees.

The CRPD Committee recalled that States Parties are required, in accordance with article 9 of the CRPD, to take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to information, communications and other services, including electronic services, by identifying and eliminating obstacles and barriers to accessibility. States Parties should take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public. Private entities that offer facilities and services which are open or provided to the public should take into account all aspects of accessibility for persons with disabilities. The CRPD Committee concluded that Hungary is under an obligation to remedy the lack of accessibility for the authors to the banking card services provided by the ATMs operated by OTP Bank. Moreover, Hungary has to take

measures to prevent similar violations in the future by establishing minimum standards for the accessibility of banking services provided by private financial institutions for persons with visual and other types of disabilities.

A complaint against the United Kingdom on redundancy at work due to disability

Mr McAlpine complained to the CRPD Committee that his right to work was violated as he was made redundant because of his disability. He was diagnosed with diabetes mellitus, which he controlled by daily injections of insulin. He was working at Oracle as a consultant. When Oracle announced that it would merge with another firm, involving a reorganisation of its structure, Mr McAlpine was informed by a director of the company that he had been provisionally selected for redundancy because his role was no longer required due to the changing business model. Mr McAlpine lodged a complaint with the United Kingdom's Employment Tribunal Service, claiming that Oracle failed to follow the appropriate dismissal and redundancy procedures. He held that he was selected for redundancy because of his disability and/or because he had requested a reduction in his workload due to his disability, and that Oracle failed to make reasonable adjustments that would enable him to stay in the firm, carrying out his tasks in an adequate manner. In July and August 2007, both the claim for unfair redundancy and the claim for disability discrimination were dismissed by the Employment Tribunal Service.

The CRPD Committee considered that it could not examine alleged violations of the CRPD that occurred before the entry into force of the Optional Protocol for the State Party. The CRPD Committee observed that the author's claim that his dismissal from his post as a service delivery manager was based on the assumption that his disability could result in prolonged periods of time off due to illness and was therefore discriminatory. However, both his dismissal and the judicial review took place before the entry into force of the CRPD and the Optional Protocol for the State Party. The CRPD Committee therefore decided that the individual communication was inadmissible.

A complaint against Sweden on accessibility, medical treatment and rehabilitation

The author of the complaint, with the initials H.M., claimed that she had been discriminated against because of the refusal by the Swedish authorities to grant building permission to construct a hydrotherapy pool for her rehabilitation on the grounds that the extension in question was incompatible with the city development plan. H.M. has a chronic connective tissue disorder, Ehlers-Danlos Syndrome (EDS), which has led to hypermobility, severe joint displacements, fragile and easily-damaged blood vessels, weak muscles and severe chronic neuralgia. Access to a hydrotherapy pool at home would have been an essential and effective mean to improve the health needs of the claimant.

The CRPD Committee stated that the refusal of Sweden to approve the claimant's request for a building permit represented a failure to accommodate the specific circumstances of her case and her particular disability-related needs. The CRPD Committee noted that the decisions of the domestic authorities to refuse a departure from the development plan in order to allow the building of the hydrotherapy pool were disproportionate and produced a discriminatory effect that adversely affected her access, as a person with disability, to

the health care and rehabilitation required for her specific health condition. The CRPD Committee underlined that the State Party is under a specific obligation to redress the violation of the CRPD, including by reconsidering her application for a building permit for a hydrotherapy pool. The Committee also emphasised that Sweden has the general duty to prevent similar violations in the future and ensure that legislation does not have the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of any right for persons with disabilities on an equal basis with others.

Conclusions

Much progress has been made in Europe since the United Nations Convention on the Rights of Persons with Disabilities (CRPD) entered into force 10 years ago. The CRPD has acted as a stimulus for a comprehensive recognition of the rights of persons with disabilities. However, in reality these last 10 years have not been years where people with disabilities have experienced a better quality of life, higher employment rates, etc. Poverty, inequality and social exclusion of persons with disabilities persist in Europe, and globally. Worse still, efforts to fight poverty and inequality rarely address men, women and children with disabilities in the most marginalized situations- such as those forced to live in institutions.

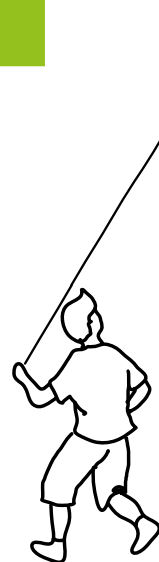
The European Disability Forum (EDF) calls on the European Union (EU) and Europe's countries to take immediate actions to fully implement the CRPD and to involve persons with disabilities and their representative organisations in this process. Here is a summary of the important problems which persist:

- Not all European countries or the EU have ratified the CRPD and its Optional Protocol.

EDF calls on Ireland, Liechtenstein and Monaco to ratify the CRPD without further delay. The EU as well as Bulgaria, Czech Republic, Ireland, Monaco, the Netherlands, Poland, Romania, Iceland, Liechtenstein, Norway and Switzerland should ratify the Optional Protocol without further delay.

- Not all countries fully respect all the rights protected by the CRPD. Many European countries and the EU itself have made Reservations and Declarations upon ratifying the CRPD. These Reservations and Declarations allow, for example, continuing restrictions of persons with disabilities' legal capacity and other important related rights, such as the right to liberty and security, health, family life and the right to vote. These Reservations and Declarations are contrary to the purpose and effect of the CRPD as they impede the full application of the CRPD for all persons with disabilities, including persons with psychosocial and intellectual disabilities. Article 46, 1 of the CRPD states that "reservations incompatible with the object and purpose of the present convention shall not be permitted".

EDF calls upon the above mentioned States Parties to withdraw their Reservations and restrictive Declarations to the CRPD. It also calls upon the United Nations (UN) to develop guidelines on the application of article 46 of the CRPD and to forbid Reservations and Declarations that undermine the object and purpose of the CRPD.



- As can be derived from the jurisprudence of the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) and the experience of EDF and its members, General Obligations under article 4 of the CRPD have not been fully implemented:
 - Many countries do not apply the human rights approach to persons with disabilities in their laws and policies.

The definitions of disability and the disability assessment criteria to determine the degree of disability of an individual shall be brought in line with the CRPD.

- A comprehensive and coherent strategy to implement the CRPD is lacking and the implementation of the CRPD differs in different regions of the same country in Europe.

A coherent and comprehensive disability strategy to implement the CRPD should be adopted, and it should be ensured that persons with disabilities in all different regions of a country and in all the EU Member States can equally enjoy his or her rights as protected under the CRPD.

- Persons with disabilities and their representative organisations are not sufficiently involved in all decisions that concern them.

The EU and all European countries should establish a structure to consult with and actively involve persons with disabilities, including children and women with disabilities, through their representative organisations in the planning, execution and monitoring of public decision-making processes at all levels and in particular in the matters affecting them. Adequate funding and support should be provided to enable them to fulfil their role under article 4, 3 of the CRPD, including to self-advocacy organisations representing persons with intellectual and psychosocial disabilities.





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