**Meeting of the EU Framework with the national monitoring mechanisms for the UN Convention on the rights of persons with disabilities**

**15.00-18.00, 18 May 2017**

**European Parliament, Room ASP 5G2**

**Draft Minutes**

**Participants:**

EU Framework to promote, protect and monitor the implementation of the CRPD

European Ombudsman (EO): Elpida Apostolidou

European Parliament (EP): Monika Makay, Katja Vatter

European Disability Forum (EDF): An-Sofie Leenknecht, Saskia EMeetingswing

Fundamental Rights Agency (FRA): Henri Nickels

National frameworks established under Article 33(2) CRPD:

BE: Carole van Basselaere

CY: Kyriakis Kyriakou

CZ: Lenka Frydkova (written input)

DE: Leander Palleit

ES: Fatima Garcia Salazar

FI: Mikko Joronen

FR: Fabienne Jegu (written input)

HR: Darijo Jurisic and Branka Meic

LV: Anete Ilves

MT: Rhoda Garland (written input)

SK: Eva Megova (written input)

Speakers

Theresia Degener, Chair of the UN CRPD committee

Natasa Kokic, representative of the European Expert Group on the transition from institutional to community based care

1. **Welcome and purpose of the meeting**

FRA opened the meeting as chair of the EU Framework and welcomed the participants.

1. **Activities to promote, protect and monitor the implementation of the CRPD**

With the EP moderating, participants presented some of the activities they have undertaken to promote, protect and monitor the implementation of the CRPD since the last meeting in 2016.

EU Framework to promote, protect and monitor the implementation of the CRPD

Framework: The work programme was adopted; the first newsletter circulated; the Framework website was translated into all official languages; the mailing list was updated. The Framework met with the Council’s working group on human rights (COHOM) to discuss the EU’s ratification of the Optional Protocol. It also provided a CEPOL webinar on how EU agencies and bodies can better implement the convention in their work.

EDF: Awareness raising on the concluding observations made for the EU, also followed up with civil society hearings to measure the impact of those concluding observations on people. EDF began advocating for a follow-up to the European Disability Strategy. On the back of the 20th anniversary of EDF, EDF organised a conference with the aim to build a more inclusive disability movement, bringing in representative organisations of women with disabilities, children with disabilities, refugees, youth, older people, etc. On refugees, EDF established a working group to support its members that are working with refugees with disabilities. EDF organised a side event at the Conference of State Parties in New York in June. EDF began a project with UNICEF on the inclusion of children with disabilities in the Balkans. EDF adopted an emergency resolution on the proposed European Accessibility Act, calling for a stronger act.

EO: The Ombudsman’s own-initiative inquiry OI/4/2016/EA on whether the treatment of persons with disabilities under the Commission’s Joint Sickness Insurance Scheme (JSIS) complies with the CRPD is ongoing. Moreover, the Ombudsman is focusing on the area of web accessibility. In this context, she has engaged in making her Office’s website more accessible and user-friendly. By way of example, an external service provider recently assessed and validated the conformity of the Ombudsman’s website with the Web Content Accessibility Guidelines (WCAG 2.0), compliance level AA. The Ombudsman representative also referred to two inquiries on disability-related complaints, as regards: i) the Commission’s handling of two complaints from the same person concerning the application of the CRPD by the Czech Republic, ii) the Commission’s response to a complaint alleging that persons with disabilities are stigmatised by a picture warning to be used on tobacco products. The picture warning shows a person in a wheelchair alongside a text stating “smoking causes strokes and disability”. The second inquiry is ongoing.

EP/PETI**:**

The Policy Department for Citizens' Rights and Constitutional Affairs in the EP has issued a number of researches on the rights of persons with disabilities to assist in daily work. Currently, the policy department works on a study on inclusive education. In October 2017, a workshop on the rights of persons with disabilities as illustrated in petitions will be held. The last such workshop took place on 9 November 2016, to which the EU Framework participated. PETI worked on opinions on the Commission proposals for the European Accessibility Act and on the Marrakech treaty.

EP/EMPL:

Currently drafting a new implementation report on the disability strategy, with Helga Stevens as the rapporteur. She wants to involve persons with disabilities and disabled persons’ organisations (DPOs) inter alia through eight workshops, the outcome of the discussions will directly feed into the draft report. EMPL commissioned a study on female workers with disabilities, which will be available in first half of June.

FRA: The main activity has consisted of the fieldwork for the project on right to independent living, which is nearing completion. The findings will be published during the course of 2018. FRA also worked on preparing papers to be presented at the Estonian Presidency’s October 2017 expert-level conference on “Dignity + independent living = DI”.

National frameworks established under Article 33(2) CRPD

BE: the national framework (UNIA) currently prioritises work in the area of education and in the area of employment. UNIA published a general brochure about [reasonable accommodation at work](http://www.unia.be/fr/publications-et-statistiques/publications/au-travail-avec-un-handicap-qr) and one about [reasonable accommodation in school](http://www.unia.be/fr/publications-et-statistiques/publications/lecole-de-ton-choix-avec-un-handicap-les-amenagements-raisonnables-dans-lenseignement). Unia also developed a new module for an [e-learning tool](http://www.ediv.be/) concerning reasonable accommodation in the workplace. UNIA also led a [campaign](http://unia.be/en/awareness-prevention/campaigns/i-have-rights) by and for persons with disabilities, in the context of the 10 years of the convention.

CY: The national framework was involved in the review process of Cyprus by the CRPD Committee. They report on the dialogue with the CRPD Committee is under preparation. The framework was part of organising a campaign on the right to vote.

CZ: There still isn’t a national monitoring mechanism in place, but a bill has been discussed in Parliament, according to which the Public Defender of Rights could become in charge of the mechanism. The proposal is now before the Senate.

DE: the national framework:

* Cooperated with government to have key documents of the CRDP Committee translated into German;
* Convinced the government that the Committee is right in saying that judges need training in regard of the CRPD and its implementation. The government is now funding a two-year programme for training modules for judges.
* Set up networking and training activities with Federal states, so that monitoring also happens at the regional level.
* Cooperated with DPOs to collect their experiences in participation processes, in the context of establishing action plans, reforming laws, conferences, etc.
* Faced difficulties in convincing the legislator to regulate more in the private sector with regard to the rights of persons with disabilities.

ES: CERMI dealt with complaints they received and forwarded them to the responsible bodies, following up on cases until they are concluded. CERMI also specifically works on matters of accessibility, for example by testing how accessible public services are and informing relevant bodies of the outcomes of this testing. The national framework also works in field of awareness raising, with seminars, sessions to inform persons with disabilities of their rights and on how the UN CRPD works. For example, CERMI led a campaign against forced sterilisation of women with disabilities.

FI: the national framework is beginning its work, following ratification of the CRPD in summer 2016. There are five areas of work included in the frameworks’ strategic plan:

* Legal mechanism: discrimination on ground of disability.
* Participation in society: accessibility and employment.
* Promoting independent decision making/self-determination, participating in inspection of parliament to close institutions.
* Promoting involvement of persons with disabilities in decision making processes:.
* Developing monitoring activities.

FR: The *Défenseur des droits* highlighted two publications that came out December 2016:

* [*Guide : La Convention relative aux droits des personnes handicapées : Comprendre et mobiliser la Convention pour défendre les droits des personnes handicapées*](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/convention_relative_aux_droits_des_personnes_handicapees.pdf)
* [*L'effet direct des stipulations de la Convention internationale relative aux droits des personnes handicapées*](https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/02._rapport_de_michel_blatman.pdf).

HR: The ombudswoman for persons with disabilities follows the deinstitutionalisation process, with particular attention paid to foster care for adults with psychosocial and intellectual disabilities. The office continued disseminating the Concluding observations on Croatia, as well as it ensured that these concluding observations were taken into consideration in drafting Croatia’s new disability strategy. The ombudswoman also worked on promoting inclusion in employment and education. The ombudswoman also conducted field visits to local communities, visiting institutions where persons with disabilities reside, work or study, as well as to meet with DPOs and their members.

LV: Every year, the national framework organises a conference on the CRPD. In 2016, the theme was inclusive education. In 2017, the theme will be employment. The national framework also organised networking events for DPOs and persons with disabilities, as well as lectures and seminars for persons with disabilities to inform them about their rights. The national framework also began a procedure to change procedural laws that prohibit persons with disabilities form testifying in court.

MT: The Commission for the Rights of Persons with Disabilities undertook the following activities

* Promote: Disability Equality Training provided to various entities when requested; organising conferences and seminars to raise awareness on specific issues relevant to the CRPD.
* Protect: The commission has an Equal Opportunities Compliance Unit within its Secretariat, charged with promoting equality of opportunity and implementing the provisions of the Equal Opportunities Act (persons with disability), which came into effect on 1 October 2000. The commission also handled, investigated and prosecuted complaints.
* Monitor: a shadow report on the National State report on the implementation of the CRPD is in preparation. Meetings were held with DPOs, NGOs and a committee of persons with intellectual impairments to gather their thoughts on issues arising in the disability sector.

SK: the Office of the Commissioner for people with disabilities started its activities in March 2016. Until December 2016, it filed 466 complaints. Breaches were found in 49 cases. 24 cases were taken to court. The office started cooperating with 80 NGOs, governmental agencies, (local) government representatives and MPs. The office also set up its own webpage.

1. **Implementation of Article 19 of the CRPD**

EDF moderated this session, which consisted of a presentation of draft General Comment on Article 19 by Theresia Degener, Chair of the CRPD Committee; a presentation on the use of European Structural and Investment Funds to support independent living by Natasa Kokic, representing the European Expert Group on the transition from institutional to community-based care; and, an open discussion on these presentations in the plenary.

**Presentation of draft General Comment on Article 19 CRPD by Theresia Degener**

Independent living and community living are concepts written in the disability movement, it is not culturally biased. This concept is valid in all cultures. Legally, it is rooted in the liberty of movement and adequate level of living. It is a hybrid human right, with civil and socio-economic aspects.

Regarding the normative content, Article 19 gives a definition of ‘independent living’, ‘community living’, and ‘personal assistant’. One has to ensure there is no ‘hijacking’ of these definitions by service providers to avoid complying with article 19.

The following issue was raised for discussion: *In the draft of general comment, we are wondering if Article 19a also covers the ‘right to choose to live in an institution’, if there is a choice to do so. Do you agree? Can we strike it down? Why? If we put it in the general comment, need to focus on ‘is there a legal obligation for states to maintain those institutions?’*

Three possible answers:

* There is no state party obligation because the choice to live in an institution is never a real choice.
* There is no state party obligation to maintain institutions because non-disabled people also have no right to live in those institutions.
* The respect for autonomy requires that we respect the choice to live in an institution, but this right does not correspond to a state party obligation to maintain institutions.

**Presentation on use of European Structural and Investment Funds to support independent living, by Natasa Kokic, representative of the EEG on the transition from institutional to community based care**:

The EEG has regular meetings with EU institutions and gives experts help on policy, legislative parts. EEG found out inappropriate use of structural funds. The issue is how to detect that the funds are not spent as planned for the period 2007-2013. For example, €150 million were used to support institutions, rather than for community based services. For example, some group homes that function like institutions were built on the outskirts of cities, which can lead to segregation.

Monitoring systems on how structural funds are used should be simplified and be made more user-friendly. Concerning monitoring committees, CSOs should be treated as equal partners and be included in the monitoring process, as well as in all stages of the programming period, including preparation.

ENIL campaign launched in November 2016: ‘EU funds for our rights!’ in order to encourage the EU and Member states to improve monitoring and complaints systems.

**Open discussion**

Points raised in the open discussion include:

* The choice to live in institutions might never be a real choice. Instead, it would always be a “conditioned choice”.
* The issue at hand is not necessarily about having a choice, but about being able to make an informed decision, on the basis of the availability of different options.
* The way in which the general comment is presented should not contradict the provisions of the CRPD.
* In relation to the use of structural funds, it would be useful for national frameworks to be informed of how the monitoring of the funds functions.

1. **Closing and next steps**

FRA summarised the key points that emerged from the meeting and thanked participants for their active involvement and looked forward to the next meeting in 2018.