

UNCRPD IMPLEMENTATION IN EUROPE - A DEAF PERSPECTIVE

Article 33:
National implementation and monitoring

Editor:

Petra Söderqvist



UNCRPD Implementation in Europe – A Deaf Perspective

An EUD Series

3

Article 33: National Implementation and Monitoring

Petra Söderqvist (Editor)

European Union of the Deaf
Brussels, Belgium

European Union of the Deaf (EUD)

Based in Brussels, Belgium, EUD is a not-for-profit European non-governmental organisation (ENGO) comprising National Associations of the Deaf (NADs). It is the only supranational organisation representing deaf people at European level, and is one of the few ENGOs representing associations in all 28 EU Member States, including Iceland, Norway, and Switzerland.

The primary aim of the organisation is to establish and maintain EU level dialogue with European Union institutions and officials, in consultation and co-operation with its member NADs. EUD has participatory status with the Council of Europe (CoE), operates as a full member of the European Disability Forum (EDF) as well as being a Regional Co-operating Member of the World Federation of the Deaf (WFD) in tackling issues of global importance. The Directorate General for Employment, Social Affairs and Inclusion at the European Commission financially supports the organisation.

EUD's aim is to achieve equality in public and private life for deaf people all over Europe, so that they can become full and politically mature citizens in their own right. The organisation's main objectives are:

- The recognition of the right to use an indigenous sign language;
- Empowerment through communication and information; and
- Equality in education and employment.

All rights reserved.

No part of this book may be reproduced or transmitted by any person or entity, including internet search engines or retailers, in any form or by any means, electronic or mechanical, including photocopying, recording, scanning or by any information storage and retrieval system without the prior written permission of the editor and/or publisher.

ISBN 978-2-9601505-2-0

© European Union of the Deaf (EUD), November 2015.

Printed in Brussels, Belgium.

Design: Churchill's I/S – www.churchills.dk

This publication is supported by an Operating Grant by the European Union Rights, Equality and Citizenship Programme.

For more information, see: http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm.

The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

1. Introduction

- a) *The Series – Remarks by the Editor*
Petra Söderqvist6
- b) *Welcome*
Dr Markku Jokinen
(President, the European Union of the Deaf)7
- c) *Foreword*
Marianne Thyssen8
(EU Commissioner for Employment, Social Affairs,
Skills and Labour Mobility)
- d) *Acknowledgements*.....9
- e) *Executive Summary* 11
- f) *Article 33 UNCRPD*.....12
- g) *The Paris Principles*.....13

- 2. Article 33 of the CRPD as the key to make human rights of persons with disabilities a reality**18
Madgi Birtha (PhD, School of Law, National University of Ireland,
Galway, Ireland)

- 3. Observations and suggestions on benefits from Article 33**.....37
Dr John Bosco Conama
(PhD Equality Studies, Centre for Deaf Studies,
Trinity College, University of Dublin, Ireland)

4. European Level

- a) *EU Focal point*.....51
Maria Luisa Cabral
(Head of Unit, Rights of Persons with Disabilities,
the European Commission)
- b) *The European Parliament Resolution on the List of Issues adopted by the United Nations Committee on the Rights of Persons with Disabilities in relation to the initial report of the European Union*59
Helga Stevens, Ádám Kósa, Rosa Estaràs Ferragut &
Soledad Cabezón Ruiz
(Members of the European Parliament)

- c) *The European Ombudsman’s role in relation to the CRPD*.....64
Emily O’Reilly
(European Ombudsman)

- d) *The role of the EU Agency for Fundamental Rights in monitoring the implementation of the CRPD in the EU*70
Constantinos Manolopoulos
(Director, a.i., European Union Agency for Fundamental Rights)

- e) *Civil Society involvement in the CRPD Committee’s review process and the Alternative Report*88
Yannis Vardakastanis
(President, the European Disability Forum)

- f) *The added value of being involved in the CRPD process*.....99
Petra Söderqvist
(Policy Officer, the European Union of the Deaf)

5. National Level

- a) Belgium
 - i. *The Implementation of the CRPD in a federal state* 111
Greet van Gool
(Policy Officer, Federal Public Service Social Security)

 - ii. *The responsibility of a monitoring mechanism*123
Véronique Ghesquière
(Head of Service Handicap/Convention ONU, the Belgian Interfederal Centre for Equal Opportunities)

 - iii. *Cooperation between two deaf associations*133
Filip Verstraete & Frédéric Bouquelloen
(Director, the Federation of Flemish Deaf Organisations & President, the French-speaking Federation of the Deaf Belgians)

- b) Czech Republic
 - i. *National implementation of the CRPD*.....138
Šárka Prokopiusová
(President, the Czech Republic Union of Deaf and Hard of Hearing)

- c) Denmark
 - i. *The Danish state's Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD)*144
Christina Kristholm Jørgensen
(Head of Section, Ministry of Social Affairs and the Interior, Office for People with Disabilities)
 - ii. *Trying to make changes for persons with disabilities*.....155
Signe Stensgaard
(Special Adviser, Danish Institute for Human Rights)
 - iii. *Getting involved in the CRPD parallel reporting process*164
Kasper Bergmann
(Former Executive Director, the Danish Deaf Association)
- d) Hungary
 - i. *The implementation objectives of a non-profit, public benefit organisation: What does the CRPD mean to us?*173
Dóra Hangya
(Head of labour market services and HR solutions, the Hungarian Association of the Deaf and Hard of Hearing)
- e) Spain
 - i. *Implementation and legislation*.....184
Patricia Mora Ruiz and Marta Muñoz Sigüenza,
Legal Advisors, the Spanish National Confederation of Deaf People
- f) Sweden
 - i. *Civil Society Participation*.....193
Csilla Gradwohl
(Intern, Equally Unique)
 - ii. *The CRPD implementation movement*.....202
Hanna Sejlitz
(President, the Swedish National Association of the Deaf)
- 6. **Equality bodies: promoting, protecting and monitoring the implementation of the CRPD**212
Anne Gaspard & Moana Genevey
(Executive Director & Policy and Communications Assistant,
Equinet – the European Network of Equality Bodies)

1. Introduction

a. The Series – Remarks by the Editor

Petra Söderqvist

This is the third book in the EUD publication series on the UN Convention on the Rights of Persons with Disabilities (CRPD). This book is divided into three main parts. The first part is a general and more academic introduction to Article 33 (National implementation and monitoring) and explores the background of the article and gives different national examples from a research perspective. The second part of the book presents how the implementation and monitoring of the CRPD is divided at EU level, and the third part describes six different national examples and what its implementation and/or monitoring can look like. The final chapter provides a complete view of the importance of stakeholders within monitoring mechanisms to assure thorough implementation of a convention.

The chapters are largely divided according to the structure of Article 33 National implementation and monitoring and its three sub-sections; representing focal points (governments), independent mechanisms (monitoring organisations) and civil society organisations (Disabled People's Organisations, DPOs). However, as it has not been possible to include representatives from all perspectives in this book¹, the numbering of the national examples (i), (ii) and (iii) does not directly correspond to the sub-sections in Article, 33(1), 33(2) or 33(3). National chapters starting with (i) do not necessarily represent stakeholders linked to Article 33(1), but merely represents the first chapter in this part of country examples.

As with the two previous books in this series, the introduction chapters also contain the full text of Article 33 of the CRPD. However, one additional chapter is included in this book, differentiating it from its predecessors, namely the full text of the Principles relating to the Status of National Institutions, more often identified as the Paris Principles. Many chapters of the book make reference to the Paris Principles, due to its significant association to Article 33 of the CRPD.

1 This book does not present a complete outline of countries and organisations working with Article 33 of the CRPD, it is only a selection made by EUD and its member NADs. However, in some country cases, more organisations or representatives have been contact but declined to participate.

1. Introduction

b. Welcome

Dr Markku Jokinen, President, the European Union of the Deaf (EUD)

I am very pleased to present this third book in the EUD publication series on the UN Convention on the Rights of Persons with Disabilities (CRPD). The focus of this edition addresses Article 33, National implementation and monitoring. The previous books in this publication series have been greatly received which is the reason why EUD strives to develop more resources such as this book.

I am excited that EUD has turned its attention to Article 33. Particularly in light of the significant event of the EU's review before the CRPD Committee earlier this year. The review process constitutes an important milestone in the process of the implementation and monitoring of the Convention. This EU review of the CRPD also included a more active role for EUD in the monitoring process, as a civil society organisation at EU level, according to Article 33(3). The EU review was a great experience and it summed up the dedicated work of all stakeholders involved, who have worked with this for years prior to the review. A special thank you goes to the European Disability Forum (EDF) for all its hard work and great cooperation with us at EUD.

I am delighted to have Commissioner Thyssen supporting this publication by contributing with the foreword. This is merely one example, but nevertheless an important one, that demonstrates the willingness and importance from the European Commission to cooperate with civil society organisations, such as EUD, to assure that the Convention is implemented in the best possible way.

We look forward to continued work and collaboration with the European Commission. With concrete recommendations from the CRPD Committee in the Concluding Observations, we all have another four years to do our best to assure even more improvements in the rights of persons with disabilities in the EU. Hopefully this book will come in hand and serve as a tool for all different stakeholders at both EU and national level.

1. Introduction

c. Foreword

Marianne Thyssen, EU Commissioner for Employment, Social Affairs, Skills and Labour Mobility

When the European Union (EU) became a party to the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2011, we were praised for being the first regional organisation to ratify a human rights treaty under the auspices of the UN. This set a positive precedent that we are proud of.

In September 2015, the UN Committee on the Rights of Persons with Disabilities has reviewed for the first time how we manage to live up to our commitment. We are pleased to see that the CRPD Committee values the work carried out by the EU to improve the life of people with disabilities in the EU and around the world.

For example, the UN welcomed that the European Structural and Investment Funds now contain obligations to enhance the promotion of equality, non-discrimination, and accessibility for persons with disabilities.

But more needs to be done to enable the full and equal participation of people with disabilities in society: across the EU, the employment rate for persons with a disability is around 48%, while only 27.8% have completed third-level education. One-third of persons with a disability is currently at risk of poverty.

The CRPD Committee's concrete recommendations will guide our work in the years to come as we strive to create a barrier-free Europe for all. Implementation structures and monitoring mechanisms, the focus of this book, will be essential to make the Convention a reality.

Delivering the Convention on the ground is a shared responsibility of the EU institutions and the EU Member States. It requires cooperation and coordination between different layers of governance and the active involvement of people with disabilities and their organisations.

This book brings together those different perspectives. It is a very useful tool to foster mutual understanding and cooperation among the involved actors, which is necessary for further progress in the implementation of the Convention.

1. Introduction

d. Acknowledgements

I am very proud to present this third book in the EUD publication series; it is the second book where I am involved as the editor and the first book where I am the sole editor.

First, I would like to thank all the people who have taken the time, out of what is always a busy time, to contribute their knowledge and experience in the different chapters of the book. As always, there are more people involved in a production like this than is shown in the names of the authors, so much gratitude to all of you who are working behind the scenes.

Thank you also to the EUD Board; President Dr Markku Jokinen, Vice-President Dr Humberto Insolera, Louise “Lolo” Danielsson, Alfredo Gómez Fernández, Dr Gergely Tapolczai, for your encouragement and support.

To the EUD Staff – thank you for the stimulating work environment you all contribute with at the office making my work with this book to be such a great experience! Also specifically, to Executive Director Mark Wheatley, whose continued dedication and work of leading EUD in addition to managing and securing future funding of EUD which amongst other things makes this publication possible. To Media and Communications Officer David Hay, who always makes my daily work much easier and enjoyable with his never ending patience to help me with whatever (technical) difficulties I face. To Financial and Administration Officer Heather Daley, whose 100% commitment to her role ensures that the office runs like a well-oiled machine. It is the little things you do that do not always gets noticed, that creates an efficient office. To Sign Language interpreter Cindy Cave, for allowing me to use you as a bouncing board when discussing language and wording, for the extra last minute proofreading and your constant positive energy. To intern Fredrik Olsen, whose work as fact checker amongst other various tasks have assisted in my workload. Thank you all!

A special thank you also goes to everyone at the European Disability Forum (EDF), and especially to the President Yannis Vardakastanis, to Executive Director Catherine Naughton and to Human Rights Officer An-Sofie Leenknecht. Without your support and cooperation with us at EUD this book would not be as comprehensive as it is.

To the proofreader Jen Dodds, thank you again for a great cooperation and for your excellent standard of work despite tight deadlines. Thank you to Simon Bak for your imaginative design with yet another book cover.

I also want to thank and acknowledge the European Commission the Unit for Persons with Disabilities, for the cooperation, support and interest in this publication series and for the funding to EUD, which allows for this publication series to become a reality.

It is very much appreciated that so many people are dedicated to this publication series on the UN Convention of the Rights of Persons with Disabilities (CRPD). It shows that the Convention is in fact a priority for people and an important tool to keep working with, in realising the rights of deaf people in Europe and globally alike.

1. Introduction

e. Executive Summary

This third book of the EUD's publication series exploring the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) from a deaf perspective focuses on Article 33, National implementation and monitoring.

The book is divided into three main parts exploring and describing Article 33 from different perspectives; firstly from an academic perspective, secondly from a European perspective and finally from a national perspective. The different structure of the second and third part are presented in a similar manner of the three subsections contained in Article 33; representing focal points (governments), independent mechanisms (monitoring organisations) and civil society organisations (Disabled People's Organisations, DPOs).

In this book you shall find analysis, opinions and experience from a variety of angles with the purpose of giving the reader a wider understanding of the implications of different ways and methods when implementing and monitoring of the CRPD. You will find many good examples of practice from policy makers, both at EU and national level, in how they have decided to structure and organise their work with the overall implementation of the Convention. Thus, the different chapters highlight different solutions that will serve as inspiration for other countries in their future work.

This innovative series aims to give a deeper understanding of the CRPD, to enable deaf associations and individuals alike to understand the ramifications of specific articles of the Convention and to work together with policy makers in implementing these adequately and equally.

1. Introduction

f. Article 33: National implementation and monitoring United Nations Convention on the Rights of Persons with Disabilities

The full text is available on the UN website (in PDF and accessible Word format, as well as in several sign languages): <http://www.un.org/disabilities/>

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

1. Introduction

g. Principles relating to the Status of National Institutions (The Paris Principles)

Adopted by General Assembly resolution 48/134 of 20 December 1993
Competence and responsibilities

The full text is available on the website of the UN Human Rights Office of the High Commissioner for Human Rights:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

1. A national institution shall be vested with competence to promote and protect human rights.

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

- (b) Trends in philosophical or religious thought;
- (c) Universities and qualified experts;
- (d) Parliament;
- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the

present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

2. Article 33 of the CRPD as the key to make human rights of persons with disabilities a reality

Magdi Birtha, PhD, School of Law, National University of Ireland, Galway, Ireland

Introduction

The UN Convention on the Rights of Persons with Disabilities (hereafter CRPD or the Convention) aims to open up new spaces between the government, human rights system and civil society to involve especially the organisations of persons with disabilities in law and policy-making (Article 4(3) CRPD) and in monitoring its implementation (Article 33). The process of opening up new spaces not only gives room for the disability movement to overcome past exclusion, but also transforms into better correspondence between international and domestic law. The CRPD, as the first human rights treaty of the 21st century, therefore pioneers the provision of an excellent legal framework for governments, non-governmental organisations (NGOs) and the human rights system to better promote human rights norms and create a more just and inclusive society.

The CRPD had been adopted with the notion that it will bring real change in the lives of persons with disabilities. The CRPD does not create new rights, but manifests that universal human rights must apply to this particularly marginalised group. Persons with disabilities in theory do have the same rights as any one else, but in practice had been treated as second-class citizens and facing social exclusion, oppression and serious human rights violations. The text of the CRPD strives to overcome those socially constructed barriers that prevented persons with disabilities from participation.

This chapter is therefore presenting Article 33 on national implementation and monitoring as the key catalyst, to ensure the rights enshrined in the text of the Treaty become reality and improve the lives of persons with disabilities. First of all, we will interpret the potential of Article 33 in narrowing the implementation gap in international law. Then, the chapter will discuss the structure and requirements of the monitoring framework based on Article 33 and propose five criteria to assess compliance with the provisions of the Convention. This will help to understand the complexity and the requirements of the monitoring framework that aims to bring people with disabilities and their experiences right to the centre of human rights monitoring. The last part of the paper will overview the comments of the CRPD Committee on the implementation of Article 33 and outline the greatest challenges in setting-up a CRPD compliant monitoring framework.

Article 33 of the CRPD as a tool to narrow the implementation gap

As Goodman and Jinks emphasise, ratification is not the ‘magic’ moment of human rights norms, but it is a point in the broader process of incorporation. (Goodman & Jinks 2003:173) It has long been well known that a considerable gap remains between the aspirations of the international human rights regime, and actual achievements. (Goodman, Jinks & Woods 2012:3) Stammers refers to a deep crisis in the legitimacy of human rights and the continuing dismissal of human rights and human rights activism. (Stammers 2009:214) This section provides a link between the implementation gap in international human rights law and the CRPD, and interprets Article 33 of the CRPD as a potential tool to narrow this gap in the context of disability. The section builds on the dual notion of ‘impact’ and ‘process’ to ensure that assessment of the implementation of the Convention will reflect both functional and structural challenges.

The UN Office of the High Commissioner for Human Rights (OHCHR) has launched several initiatives to ensure the effective future implementation of UN treaties in the States Parties. Nevertheless, the UN intends to build a much stronger international monitoring system. Narrowing the implementation gap and improving the transformation of treaty obligations into practice are still among the main challenges for international legal and policy actors.

The following table summarises the provisions of the CRPD on the participation of civil society in the two newly opened spaces: in liaison with the government during law, policy-making and decision-making processes, and in relation to the Article 33 monitoring framework. Article 4(3), General obligations, includes the voice of persons with disabilities in transforming the obligations of international law into domestic legislation, programmes and policies. However, this chapter is focusing only on Article 33, it is important to note that the two articles are inter-connected. Article 33 ensures that the voice of persons with disabilities is heard also during the monitoring process of the Convention. The CRPD therefore envisages a dual role for organisations of persons with disabilities in the process of change and in checking the reality at domestic level.

	Guarantees for civil society	Affected other party
Article 4(3) CRPD	Voice in the process of change	Government
Article 33(3) CRPD	Voice in reality check	NHRI

Table 1: Dual model on the participatory provisions of the CRPD and their affects

Both Article 4(3) and 33 of the CRPD include important provisions to narrow the implementation gap and to stimulate change in the operations of States and the human rights regime. Through these guarantees, the Convention aligns with the domestic level and could become a real instrument for persons with disabilities. The organisations of persons with disabilities are expected to use the participatory provisions for advocacy purposes, as the provisions entitle them to act as a channel between policy-makers and the human rights regime in enforcing Treaty provisions. Furthermore, the CRPD will likely have a future impact on the implementation of other human rights treaties. As Quinn argues, the implementation and monitoring regime introduced by the disability Convention has the potential “to trigger real political change where it matters most – within States Parties themselves”. (Quinn 2009b:220)

According to Goodman, Jinks and Woods, the implementation gap cannot be narrowed or closed with the tools of traditional legal and policy analysis. (Goodman, Jinks & Woods 2012:3) They suggest mainstreaming human rights as a subject of interdisciplinary research including politics, economics, sociology, communications, and psychology to understand the behavioural and organisational patterns of the regimes under observation. (Ibid)

Along with human rights academics, public policy literature discuss the great dissatisfaction with how ineffective policies and government initiatives are in addressing and solving social problems. Scholars have called this gap the ‘missing link’ in describing the insufficiency of policy formation and policy outcomes.² The implementation gap cannot therefore be restricted to international law, but should be understood as a general problem in the domestic policy process. It raises questions over whether the failure to implement human rights law lies in domestic policy implementation structures, or in the lack of effective provisions on implementation in the text of international law. Gaps could probably be found at both levels, and improvements should be carried out as parallel processes in national policy cycles and in international human rights law development. Despite their legally binding nature, international human rights treaties still have a weak enforcing power. Having said that, Article 33 of the CRPD is potentially a very important tool to improve the implementation and monitoring of international human rights provisions, and to provide a solid reference to governments to strengthen their domestic policy processes effectively. With the incorporation of such detailed provision, the CRPD has great potential to overcome past weaknesses of other UN treaties by providing more detailed guidance on implementation. Drafters of the CRPD could succeed in seeing the Convention move

2 See: Hill & Hupe (2009).

beyond representing solely a normative framework to offer innovations for national monitoring.³

The process of developing an inclusive monitoring system under Article 33 CRPD

In this section, first, we overview briefly the structural significance of involving a comprehensive monitoring provision in the CRPD, then each of the three paragraphs of Article 33 will be outlined from the perspective of the participation of persons with disabilities in this innovative space created by the Convention.

The reason behind the inclusion of Article 33, and such an explicit and binding provision affecting national implementation, was to give an appropriate answer to the criticism of the UN regime and the inability of previous treaties to generate real change in people's lives. A provision on monitoring was supported from the very beginning of the negotiation by a wide range of stakeholders. (Birtha 2015, Waddington, Quinn & Flynn 2015:53) There were in fact high expectations of creating a new form of monitoring mechanism and imposing compliance at national level, in contrast to previous treaties.⁴ States had a strong willingness to learn from past mistakes and establish an innovative system.⁵ The turning point in the negotiations was when Mexico, during the fourth session of the negotiations, "called for a specific article on both national and international monitoring mechanisms that takes into account existing mechanisms and involves civil society in deliberations". (United Nations 2004) The documentation of the negotiations clearly show that there was consensus among the States Parties on giving an explicit role to the organisations of persons with disabilities in monitoring the CRPD. (Birtha 2015, Waddington et al. 2015:53-57) Eventually, National Human Rights Institutions managed to convince the States Parties about the necessity to explicitly refer to the Paris Principles and thus the role of NHRIs in the text of the CRPD.

3 As Quinn notes, drafters of the CRPD reverted to a quite typical international monitoring model, but managed to create an innovative national monitoring mechanism. See: Quinn (2009b:225).

4 As a minimum standard, Brazil suggested that the monitoring mechanism of the CRPD should at least not be less effective than other Treaties.

5 The monitoring system of the core human rights treaties focuses on a written report submitted to the relevant CRPD Committee of experts. This group of experts invites States Parties to a 'dialogue' to raise further questions on the information provided in the report.

The final text of Article 33 was adopted during the seventh session, incorporating the recommendations of the OHCHR expert paper. Although States Parties at the time of ratification accepted their duty in implementing Treaty provisions, the complex implications of Article 33 for the domestic public administration system were probably underestimated.

The three paragraphs of Article 33 will be explained in the following section.

Article 33(1) CRPD

As Quinn points out, the triangulation in Article 33 requires a balance of power and functions between the government, the NHRI, and civil society. (Quinn 2009a) The government is deemed to be responsible for ensuring and promoting the full realisation of human rights and fundamental freedoms of all persons with disabilities in line with the General Obligations of the Convention. (Article 4(3) CRPD) Therefore, in line with Article 33(1) they must coordinate the implementation of the Convention across and within different departments.

According to Article 33(1) of the CRPD, States Parties shall appoint one or more focal points within government for matters relating to implementation of the Convention.⁶ Focal points are therefore an issue of internal public administration and have to be formally designated. (De Beco & Hoefmans 2011, European Commission 2010) Gatjens provides a non-exhaustive list of requirements for the focal point, including its preferred position in the governance. (Gatjens 2011:71)

Article 33(1) also refers to the potential establishment of a co-ordination mechanism to facilitate co-operation between different layers and sectors of public administration. Different government departments often adopt isolated measures that hinders the successful implementation of the Convention, thus a coordination mechanism can be very useful to avoid taking contradictory measures.

6 Countries can choose, depending on the structure of the State, to designate one focal point in the most relevant ministry for disability matters, or several focal points (sub-focal points) in different departments. Sub-focal points are often designated in federal states where responsibilities are shared between various layers of the government. See: European Commission (2010).

The focal point or co-ordination mechanism could further set up advisory boards or councils to include civil society, in particular disability organisations, in their work. As de Beco and Hoefmans define, councils are a

“privileged consortium of DPOs and other non-State actors as well as ministerial representatives towards which government is committed to regularly consult, inform and provide feedback following the consultation”.

(De Beco & Hoefmans 2013:60)

Article 33(2) and (3) CRPD

The second paragraph of Article 33 requires the establishment of a framework to promote, protect and monitor implementation with the involvement of the National Human Rights Institution (NHRI). (CRPD Article 33(2)) The third paragraph requires that organisations of persons with disabilities must be also involved in the work of the monitoring framework. Quinn argues that the triangulation of Article 33 is the engine room of the Convention that will bring the social model of disability right to power. (Quinn 2013) The most important source in the interpretation of Article 33(2) is the thematic study published by the OHCHR. (United Nations High Commissioner for Human Rights 2009). The report identifies three criteria that a monitoring framework needs to comply with:

- a) The framework must include one or more independent mechanisms taking into account the Paris Principles.
- b) The framework should be able to carry out all the three distinguished functions: promotion, protection and monitoring of the implementation of the Convention.
- c) Persons with disabilities and their representative organisations shall be involved, and participate fully in the monitoring framework (in line with Article 33(3) CRPD).

(a) Paris Principles’ compliant independent element

The explicit mention of the Paris Principles in the text of Article 33(2) of the CRPD applies to States that have an established NHRI to give a role as independent element to this organisation(s) in monitoring the CRPD. NHRIs are broadly defined as bodies

“established by a government under the constitution, or by law or decree, the functions of which are specifically designed in terms of the

promotion⁷ and protection⁸ of human rights”.
(United Nations 1995:6)

The main function of NHRIs therefore is to ensure that States comply with their international legal obligations.⁹ Furthermore, NHRIs act as a bridge between international norms and domestic implementation. In order to make a real impact on States' compliance with their human rights obligations, NHRIs must have formal independence, sufficient resources and close relations with civil society. (Cardenas 2012) Independence is guaranteed through the funding provisions in the Paris Principles that enable NHRIs to have their own staff and premises and carry out their activities without any financial control by the government.¹⁰

The Paris Principles provide the benchmarks for NHRIs to be accredited and define the level at which they can collaborate with other NHRIs at the international level.¹¹ The Paris Principles include sections on the competences and responsibilities of NHRIs, the composition and guarantees of independence and pluralism, the methods of operation, and finally additional principles on the status of commissions with quasi-jurisdictional competence.¹² Regarding the collaboration between NHRIs and persons with disabilities in line with Article 33 of the CRPD, it is important to note that the Paris Principles require that the election or appointment of members of the NHRI must guarantee the pluralistic representation of social forces, including NGOs,¹³ universities, government departments, Parliament, and trends in philosophical or religious thought. (Paris Principles 1993) NGOs therefore are supposed to play a role in the membership of NHRIs and directly influence their work in promoting and protecting human rights. Since NHRIs deal with a broad range of human rights issues, and the methods of selecting partner NGOs is not

-
- 7 Promoting this function of the NHRI aims to increase awareness of human rights norms by education or legitimising human rights.
 - 8 Protection requires more assertive focus and the remedying of human rights violations by investigating abuses, processing complaints and confronting rights violators.
 - 9 State compliance can be defined as 'any action by the state that conforms to international norms'. See: Cardenas. (2012:38). As Levi, Tyler and Sacks underline, without compliance there is no rule of law, no matter how well the regulations are designed. See: Levi, Tyler, & Sacks (2012:70).
 - 10 Paris Principles: 'The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.'
 - 11 The Principles were devised in 1991 at a workshop that was organised by the UN Centre for Human Rights. See: United Nations (1993), Art. 1.\$
 - 12 As Carver highlights, four of these competences explicitly relate to the harmonisation of international human rights standards to domestic law. See: Carver, R. (2010:11).
 - 13 Those responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists (Paris Principles).

well defined, organisations of persons with disabilities might be easily neglected.

Nevertheless, the section on 'Methods of Operations' in the Paris Principles particularly calls on NHRIs to develop relations with non-governmental organisations with special regard to 'physically and mentally disabled persons'. (Paris Principles 1993, Methods of operation (g))

(b) Three distinct functions: promotion, protection, monitoring

Article 33(2) of the CRPD outlines three areas where the monitoring framework has to carry out tasks in relation to the implementation of the Convention: promotion, protection and monitoring. The Thematic study of the OHCHR provides the list of activities under these tasks. (OHCHR 2009)

Promotion includes a wide range of activities, such as scrutiny of draft legislation to ensure compliance with the obligations under the Convention, or scrutiny of existing legislation, regulations and practices. Promotion of the CRPD should also happen through various awareness-raising campaigns, public events, research, and human rights education of the wider public as well as of targeted audiences. Promotion aims to increase awareness of disability rights that could directly eliminate prejudice against persons with disabilities.

De Beco and Hoefmans argue that promotion in fact does not require the same level of independence as the other two functions, protection and monitoring. They suggest that promotional tasks should be shared between various actors outside the monitoring framework and potential non-independent elements within the framework, such as organisations of persons with disabilities. (De Beco & Hoefmans 2013:46)

The function of 'protection' requires a lot more independence than promotion, as it is undertaken against State authorities. (Ibid:47) Protection covers among others, investigation and examination of individual and group complaints, conducting of enquiries, litigation, and filing *amicus curiae* briefs. Protection should ensure that human rights violations are stopped and legal remedy is provided.¹⁴ Protection requires legal expertise and a specific mandate to represent someone in court or to deal with complaints with quasi-judicial power. For instance, *amicus curiae* briefs provide the court with additional useful information on a case that requires legal knowledge in terms of substance and form of legal submissions. Protection is an extremely important tool for human rights advocacy in order to bring human rights violations before the court and have an

14 See also: De Beco & Hoefmans (2013).

increasing number of legally binding decisions that could form the basis of case law when enforcing CRPD implementation. Mostly, equality bodies and Ombudsmen carry out the functions of protection. These bodies do not necessarily have a human rights mandate, but could be easily involved in the Article 33(2) framework.

Monitoring aims to assess the implementation and adaptations of the provisions of the CRPD at domestic level.¹⁵ Monitoring includes the collection of data and information on human rights violations¹⁶ and the development of indicators and benchmarks to measure progress.¹⁷ Monitoring also involves visiting places where violation often occurs, and contributing to State Reports to the UN Committee. Monitoring helps to alert States about human rights situations and violations and to develop measures that can prevent further violations.¹⁸ In line with the recommendations of international DPOs, monitoring should have a ‘twin-track approach’. That is, on one hand disability should be mainstreamed in all policies and programmes, and on the other hand disability-specific programmes must be developed to implement specific obligations of the CRPD.¹⁹ As de Beco and Hoefmans suggest, considering that monitoring potentially involves criticism of State authorities, it should be exercised independently with great distance from the State. (De Beco & Hoefmans 2013:48)

(c) Involvement of persons with disabilities (Article 33(3))

In line with Article 33(3) of the CRPD, civil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in the monitoring process. This third element of the triangulation makes Article 33 truly innovative, by involving in the monitoring process the voice of civil society and in particular persons with disabilities. The NHRI is still required to fulfil the role of the independent mechanism in the framework, but the activities are enriched by the collaboration with civil society. Thus, Article 33 even goes beyond providing detailed arrangements on the implementation and monitoring of the Convention to the governing bodies and the public administration machinery. It requires new forms of collaboration between NHRIs and

15 OHCHR introduces the term ‘monitoring cycle’ to assess the various phases of human rights monitoring.(OHCHR 2010:40).

16 Article 31 of the CRPD also requires States to collect data and statistics to ensure an accurate assessment of the situation of persons with disabilities.

17 The UN suggests monitoring human rights alongside three core groups of indicators: structural, process and outcome indicators. See: OHCHR (2012), Human Rights Indicators – A Guide to Measurement and Implementation, New York and Geneva.

18 See: De Beco & Hoefmans (2013).

19 See more: OHCHR (2010:38).

the organisations representing the disability movement. The provision on formal collaboration with the human rights system creates the second new space for the disability movement to become agents of change and tackle oppressive practices. The demands of Article 33 on independent monitoring symbolise a new stage in the relationship between disability groups and mainstream human rights organisations, which has been strained in the past. (Quinn 2009b)

DPOs that carry out monitoring with the independent mechanism must have great understanding of the provisions of the CRPD and of the principles of human rights monitoring in general. De Beco notes that even financial help might not result immediately in equal capacity to deliberate, due to long-term exclusion and inequalities. (De Beco 2013:58) According to the OHCHR, capacity building of DPOs indeed forms part of and complements the monitoring work. (OHCHR 2010:36)

As the UN guideline highlights, monitoring of human rights of disabled people must have a cross-disability and cross-society focus and, for instance, involve among the monitors disabled people from all genders, socio-economic backgrounds, types of disabilities,²⁰ age groups, and ethnic groups.²¹ Schulze highlights that the obligation on national monitoring requiring the active participation of civil society sets a new standard and challenges monitoring at national level in general.²²

It was suggested earlier that beside the three explicit requirements of Article 33, two further criteria should be considered to ensure the successful implementation of the Convention. (Birtha 2015, Waddington et al. 2015:60)

(d) **Formal designation**

It is necessary to get the governments to formally designate the monitoring framework, in order to ensure the actions and recommendations will be recognised and implemented. Without a formal designation, the government has no driving force to consider the critical observations of the framework. Furthermore, a formal designation would ensure the accountability of the framework and clarify the actors involved in monitoring CRPD implementation as well as the role they play.

20 'Including those with physical, mental, intellectual or sensory impairments.' See: OHCHR (2010:34).

21 Ibid.

22 See Schulze (2014), p. 210.

(e) **Financial resources to the framework**

Systematic monitoring is a great workload, and actors involved in the framework have to allocate some of their resources to fulfil this new role. Without additional funding from the government, these actors may face serious challenges when carrying out tasks under promotion, protection and monitoring the CRPD. As outlined in the OHCHR report, monitoring covers a broad range of activities, such as assessing legal reforms, litigation, developing indicators, collecting data and writing reports or analysis. In countries with a worse economic situation, it will present a great challenge to invest that much money in monitoring disability rights and to allocate funding for solving the discovered inequalities with effective and sustainable programmes. The task to establish a sustainable and independent framework must not be neglected on the base of financial concerns. Nevertheless, the NHRIs that serve as an independent mechanism to the CRPD will not be able to reallocate funding to this activity from other areas of work, so their budget guaranteed by law must be increased sufficiently to cover the mandate under the CRPD.

Based on the discussion above, we suggest applying the following assessment framework to evaluate the compliance of states parties with the requirements of the CRPD under Article 33:

Figure 1: 5 criteria to assess the compliance with Article 33 CRPD

Perspectives of the CRPD Committee on the implementation of Articles 4(3) and 33 of the CRPD

The Concluding Observations issued by the CRPD Committee formally close a chapter of the reporting cycle. They include immediate feedback to States Parties on their on-going implementation, articulating the most important concerns about human rights violations. The Concluding Observations also include recommendations to States Parties on how to improve implementation, and emphasise those obligations under the treaty that aim to tackle current human rights violations. The Concluding Observations are adopted in a closed meeting of the Committee, but are later made publicly available to any interested department, organisation or individual.²³

Despite the fact that States Parties are requested to follow up the concerns of the Committee, the Concluding Observations are soft laws and barely have an enforcing effect on governments. Concluding Observations should function as a catalyst of change in implementing international human rights provisions in a more effective and treaty-compliant way. At the time of writing the chapter,²⁴ the CRPD Committee has issued thirteen Concluding Observations in consideration of the State Reports of the following States: Tunisia, Spain, Peru, Argentina, China, Hungary, Paraguay, Austria, Australia, El Salvador, Sweden, Costa Rica and Azerbaijan.²⁵

Considering that Article 33 demands great structural changes and more progressive monitoring than any other UN Treaty, it has particular relevance whether the Committee uses forceful language to address these changes in the State Parties. We will provide a table highlighting three categories of non-compliance that the Committee addressed in the Concluding Observations: lack of independence, lack of civil society involvement and other remarks.

It is important to note that the Concluding Observations, as they address the governments, do not include remarks on the relationship between the organisations that serve as independent mechanism in the monitoring framework and the organisations of persons with disabilities. Therefore, we do not refer to this aspect now. It would be too early to draw any general conclusions based on just thirteen Concluding Observations, as we

23 Concluding Observations of the CRPD Committee always follow a similar structure: beginning with the 'Introduction', then highlighting the 'Positive aspects' of the implementation, followed by the main substantive part focusing on 'Principal areas of concerns and recommendations', and finally explaining some technical details on the follow-up and dissemination of the Concluding Observations.

24 The Chapter was drafted in August 2014.

25 All Concluding Observations are available online. For more information, see: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRPD.

do not have reliable information on how other countries implement Article 33 of the CRPD.²⁶ The thirteen countries also do not represent all regions equally; therefore, we avoid drawing general conclusions, but discuss only those countries that had the first round of reporting with the Committee. At the same time, the Concluding Observations could be a very useful tool for other States to re-consider their domestic implementation based on the recommendations of the CRPD Committee.

The Concluding Observations show that most States Parties failed to establish a monitoring mechanism that is compliant with the provisions of Article 33. Only Spain and Austria designated such mechanisms that fulfil the structural requirements under Articles 33(2) and 33(3). Notably, the Committee did not make any remarks on the operational work of the framework, but looked only at whether the structure of the framework is compliant with the Convention.

Most States do not have an adequate framework established (Hungary, Peru, etc.) or have not established a framework at all (China, El Salvador, etc.). The Committee in its analyses focused on two main characteristics in the implementation of Article 33:

- Independence in line with the Paris Principles;
- Participation of civil society and the representative organisations of persons with disabilities.

The disappointing results show that the process of change is very complex, and the Treaty body wants to see serious steps from States Parties in ensuring the shift from tokenism towards meaningful participation. The negative remarks of the Committee could motivate States Parties to develop a clear strategy on how to include the voice of the disability movement more effectively in their work. It would also be very useful if the CRPD Committee developed a guideline or General Comment in the near future on what is necessary to guarantee the participation of persons with disabilities in public policy and law development. Such a General Comment could give clear guidance on what sort of structural changes are needed to fill the new space in a mutually beneficial way. This would serve as a very helpful tool for States Parties, NHRIs, and organisations of persons with disabilities in interpreting Articles 4(3) and 33 of the CRPD.

The following table summarises the remarks of the Committee on Article 33 implementation and indicates the main problems mentioned in the Concluding Observations:

26 The work of Gauthier de Beco and the OHCHR is a very useful source to describe European improvement in the field of implementing Article 33 of the CRPD. However, comparative analysis is not available from other parts of the world in this regard.

States Parties that went under reporting until February 2014	Compliance with the provisions of Article 33 of the CRPD	Non-Compliance with the provisions of Article 33 of the CRPD		
		Lack of independence in line with the Paris Principles	Lack of involvement of civil society	Other remarks
Tunisia		X	X	
Spain	X			
Peru		X	X	Lack of clarity of functions of the bodies involved in Article 33 implementation.
Argentina		X	X	
China		X	X	Overall absence of independent organisations and the voice of DPOs.
Hungary		X	X	
Paraguay		X	X	Allocation of necessary resources.
Australia			X	Establish a responsive structure for the implementation and monitoring of the CRPD.
Austria	X	X		Be provided with own budget and establish independent mechanisms in the Länder.
El Salvador		X	X	Lack of any monitoring mechanism.
Sweden		X		Ministry of Health and Social Affairs should not co-ordinate the implementation of the CRPD.
Costa Rica		X	X	Lack of an established monitoring framework as such.
Azerbaijan	n.d.*	n.d.	n.d.	Involve the organisations of persons with disabilities in drafting the periodic report.

n.d. = no data.

Table 2: Summary of remarks of the CRPD Committee on Article 33 CRPD

Conclusion

Article 33 manifests the important mission of the CRPD to renew traditional human rights monitoring and facilitate the successful implementation of international human rights norms at national level. In order to achieve that, Article 33 gives unprecedented roles for NHRIs and civil society to monitor together the obligations of the Treaty. The fulfilment of this new space requires NHRIs and DPOs to establish partnerships and enrich the monitoring activities with their distinctive expertise. Persons with disabilities could contribute with first-hand experience on the violations of the rights of disabled people, while NHRIs can offer their fully independent voice and traditional expertise in monitoring human rights.

The three requirements to implement Article 33 are: involvement of a Paris-Principles-compliant independent element in the framework; carry out tasks under promotion, protection and monitoring; and involvement of organisations of persons with disabilities in monitoring. Moreover, in order to ensure successful operation it is strongly recommended that governments officially designate the monitoring framework and provide sufficient funding for its operations. We suggested applying these five criteria to assess the implementation of Article 33 of the CRPD.

The Concluding Observations on the implementation of Article 33 of the CRPD show similar patterns in the thirteen States Parties in terms of the lack of effective involvement of persons with disabilities and the lack of governments' efforts to comply with their international obligations. Based on the recommendations of the CRPD Committee, States Parties must start establishing independent monitoring frameworks in line with the Paris Principles and ensure that the voices of persons with disabilities are involved effectively in all such frameworks and in the development of law, policies and programmes. This is inevitably important if States Parties want to take their legal obligations seriously and make disability rights real. Involving the lived experiences of persons with disabilities in the monitoring of the Convention is the only way to improve the efficiency of the implementation progress and translate international law successfully into national law.

Bibliography

Birtha (2015). A chance to pioneer or a lost opportunity?: Monitoring disability rights effectively and independently in the EU in line with Article 33 of the UN CRPD In: Waddington, L., Quinn, G. & Flynn, E. (2015). *European Yearbook of Disability Law*, Vol.5. Intersentia Ltd. Cambridge, Antwerp, Portland.

Cardenas, S. (2012). National Human Rights Institutions and State Compliance. In: R. Goodman & T. Pegram (eds.) (2012). *Human Rights, State Compliance, and Social Change*. Cambridge University Press.

Carver, R. (2010). A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Human Rights Law. In: *Human Rights Law Review*, 10, pp. 1-32.

De Beco, G. (ed.) (2013). *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention*. Leiden/Boston: Martinus Nijhoff Publishers.

De Beco, G. & Hoefmans, A. (2011). *The UN Convention on the Rights of Persons with Disabilities: An Integral and Integrated Approach to the Implementation of Disability Rights*. Study commissioned by the Belgian Federal Public Service Social Security. Available at: http://www.socialsecurity.fgov.be/eu/docs/agenda/18-19_11_10_background_document.pdf (Accessed on 12 July 2013).

De Beco, G. & Hoefmans, A. (2013). National Structures for Implementation and Monitoring. In: G. de Beco (ed.). *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention*. Leiden/Boston: Martinus Nijhoff Publishers.

European Commission (2010). Final report of the work forum on the implementation of Article 33 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Organised by the Belgian Presidency of the Council of the European Union and the European Commission. Brussels.

Gatjens, L.F.A. (2011). Analysis of article 33 of the UN Convention: The critical importance of national implementation and monitoring. In: *SUR International Journal on Human Rights*, 14, p. 71-84.

Goodman, R. & Jinks, D. (2003). Measuring the Effects of Human Rights Treaties. In: *European Journal of International Law*, 14 (1), pp. 171-183.

Goodman, R., Jinks, D., & Woods, A.K. (eds.) (2012). *Understanding Social Action, Promoting Human Rights*. Oxford University Press.

Hill, M. & Hupe, P. (2009). *Implementing Public Policy*. Sage.

Levi, M., Tyler, T.R, & Sacks, A. (2012). *The Reasons for Compliance with Law*. In: R. Goodman, D. Jinks, & A.K. Woods (eds.)(2012). *Understanding Social Action, Promoting Human Rights*. Oxford University Press.

OHCHR (2009). *Thematic Study on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities*. A/HRC/13/29 22. Available at: http://europe.ohchr.org/Documents/Publications/Art_33_CRPD_study.pdf (Accessed on 19 July 2013).

OHCHR (2010). *Monitoring the Convention on the Rights of Persons with Disabilities, Guidance for human rights monitors, Professional Training series, No. 17*.

OHCHR (2012). *Human Rights Indicators – A Guide to Measurement and Implementation*. New York and Geneva.

Quinn, G. (2009a). *New Zealand Parliament. Presentation by Prof Gerard Quinn, 19 February 2009*, Available at: <http://www.nuigalway.ie/cdlp/documents/publications/GQ-190209.pdf> (Accessed on 4 January 2013).

Quinn, G. (2009b). *Resisting the “temptation of elegance”: Can the Convention on the Rights of Persons with Disabilities socialise states to right behaviour?*. In: *The UN Convention on the Rights of Persons with Disabilities*, Martinus Nijhoff Publishers, pp. 215–256.

Quinn, G. (2013). *Foreword*. In: G. De Beco (ed.) (2013). *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention*. Leiden/Boston: Martinus Nijhoff Publishers.

Schulze, M. (2014). *Monitoring the Convention’s Implementation*. In: M. Sabatello & M. Schulze (eds.). *Human Rights and Disability Advocacy*. Pennsylvania Studies in Human Rights.

Stammers, N. (2009). *Human Rights and Social Movements*. Pluto Press.

United Nations High Commissioner for Human Rights (2009). *Thematic study by the Office of the United Nations High Commissioner for Human Rights on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons*

with Disabilities. A/HRC/13/29. UN Human Rights Council. Available at: <http://www.refworld.org/docid/4bbda5062.html> (Accessed 22 August 2013).

United Nations (1993). Principles relating to the Status of National Human Rights Institutions, UNGA Res. 48/134, UN Doc. A/RES/48/134. Available at: <http://www.un.org/documents/ga/res/48/a48r134.htm> (Accessed 26 October 2015).

United Nations (1995). National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for Promotion and Protection of Human Rights. New York: United Nations.

United Nations (2004). UN Convention on the Rights of People with Disabilities. Daily summary of discussions related to Article 25 Monitoring mechanism, UN Convention on the Rights of People with Disabilities, Fourth session of the Ad Hoc Committee, Volume 5, #1, August 23, 2004. Available at: <http://www.un.org/esa/socdev/enable/rights/ahc4sumart25.htm> (Accessed 17 January 2014).

Waddington, L., Quinn, G. & Flynn, E. (2015). European Yearbook of Disability Law, Vol.5. Intersentia Ltd. Cambridge, Antwerp, Portland.

Biography

Magdi Birtha is working as a Policy Officer at Inclusion Europe, the European Association of Persons with Intellectual Disabilities and their Families since February 2015. Prior to that, Birtha has held a variety of positions in the field of disability rights, ranging from academic researcher fellow in Ireland to project manager with local and European NGOs in Budapest and Brussels. She holds a master's degree in Sociology from ELTE University in Budapest. In 2015, she completed her doctoral studies with the Centre for Disability Law and Policy at the National University of Ireland, Galway. In the past eight years she has developed expertise in several areas, including CRPD monitoring, legal capacity, independent living, accessibility, education, and participation.

3. Observations and suggestions regarding benefits from Article 33

**John Bosco Conama, Ph.D (Equality Studies),
Centre for Deaf Studies, Trinity College, University of
Dublin, Ireland**

Introduction

The United Nations (UN) Convention on the Rights for Persons with disabilities (CRPD) is truly a historically significant document; not just because it focuses on the rights of persons with disabilities, but because its many clauses are well detailed and thought out, often having been inserted at the behest of representative organisations of persons with disabilities. Article 33 is no exception. Of course, Article 33 cannot be understood in isolation, but needs to be placed in a wider context. Most articles in the CRPD are very much intertwined and are complementary to other articles. The historic nature of the CRPD is well documented elsewhere, as is the connectedness of many clauses, which have been adequately researched in other studies (de Beco 2014, Birtha 2014, McCallum 2010). Hence, for the sake of brevity, Article 33 will be closely studied, and we will focus on Article 33 on a stand-alone basis. It is important to remember that Article 33 in itself is complementary to other articles in the Convention, especially Article 4 (General obligations).

This paper focuses on how Article 33 can maximally benefit deaf people and their communities²⁷ within the European Union (EU) Member States. It takes a sequential approach, outlining what the sub-clauses of Article 33 mean and what we can do with them. Some external commentaries are added for the benefit of seeing how others see, or interpret, these sub-clauses. As Ireland has not ratified the CRPD, the author has to rely on documentary research and use his own experience of dealing with the Irish State on such matters. Of course, this is not necessarily to say that his own personal experience is representative of what happens in Europe generally, but his experiences and views can be taken as a stepping off point for reflection. Additionally, several EU Member States have taken various routes towards ratifying the CRPD, with some countries not having ratified the Optional Protocol attached to it.²⁸ While mindful of this issue, this study does not make any specific distinctions in regards to how

27 This article aims at the specific group of deaf people who use sign language; it is not respectfully intended to exclude those who identify as not being part of deaf communities.

28 For a full list of countries which have ratified the CRPD and its' Optional Protocol, see: <http://www.un.org/disabilities/countries.asp?id=166>

the CRPD can be implemented in any particular country.

Readers may note that this work is primarily aimed at representative organisations of deaf people at national or federal level. While this may be true, individuals and other local groups may modify their approaches to suit local or individual circumstances.

A report on Article 33 by the UN Human Rights Office of the High Commissioner (OHCHR)²⁹ lists a number of questions for those who want to ensure the effective setting up of implementation and monitoring of the Convention. (OHCHR, 2014). These questions will provide a basis for appropriate responses and commentary, especially from a deaf perspective.

General commentary

The rationale for the World Federation of the Deaf's (WFD) decision to pursue the CRPD as a key point in achieving equal rights and status for signed languages which could benefit deaf people, has been well documented and critiqued elsewhere (Murray 2015, de Meulder 2014). Although de Muelder (2014) states the the CRPD as a whole can be applied to the situation of deaf people, there are five clauses specifically referring to signed languages. These five clauses are key areas for national associations to concentrate on, especially as Article 33 is being implemented and monitored. For some commentators, the Convention is the best possible way to achieve significant equality for deaf people who use signed languages (Battersbury 2012, de Muelder et al, 2015, Murray 2015). However, they urge caution, arguing that the CRPD should not be seen as the sole guiding document, but rather should be considered alongside a number of national and international treaties³⁰ that can be pursued individually or simultaneously.

Nevertheless, since we have the CRPD, the aim is to maximise the benefits we can gain from it. Let us thus focus on Article 33, the main purpose of which is to implement a national monitoring mechanism. There are three sub-clauses:

- Article 33(1) proposes that the State sets up one or more focal points within government to ensure coordination and compliance with the Convention.
- Article 33(2) requires the State to set up an independent mechanism.
- Article 33(3) aims to ensure that civil society, especially persons

29 For the sake of convenience, this report is to be referred to as 'The OHCHR report' throughout this article.

30 International treaties here are, for example, the International Convention for Social, Economic and Cultural Rights (ICSECR), the UN Convention on Human Rights and UN Convention on the Rights of the Child (CRC).

with disabilities and their representative organisations, are involved and participate fully in the monitoring process.

The last sub-clause can be linked to Article 4 of the CRPD (General principles), which places an obligation on the coordination mechanism that representative organisations of persons with disabilities are fully consulted with, and have full participation in implementing and monitoring the Convention.

An excellent document published by the Mental Disability Advocacy Center in Hungary (Mental Disability Advocacy Center 2012) advises persons with disabilities to develop the necessary skills and gain further knowledge to ensure effective implementation and monitoring of the CRPD. It suggests that they should focus on the development of skills and knowledge in areas such as:

- Determining levels of accessibility
- Enabling multiple forms of involvement
- Reasonable accommodation
- Enabling capacity-building (although the State is obliged to ensure this, under Article 29 (Participation in political and public life), of the CRPD)
- Collection of data and statistics

It is a well known fact that persons with disabilities are a highly diverse group, and the process of gaining such skills and knowledge can be disability-specific for many such sub-groups. For deaf communities, specific knowledge and skills are needed so that deaf people do not need to rely on their own collective experience, but can survive and succeed within bureaucratic systems. Without maximising such skills and knowledge, it can be extremely challenging to survive, never mind to achieve success, within such systems.

Key recommendations:

- National Associations of the Deaf³¹ are strongly advised to audit their own skills and gain knowledge about how to procure the same if their current skills and knowledge are found wanting.
- National associations should develop their own interpretations of the five specific clauses in relation to sign languages (with the cooperation, of course, of the European Union of the Deaf (EUD) and the WFD).

31 National Associations of the Deaf will be known as 'national associations' for the remainder of this paper.

Key issues in relation to Article 33(1)

The OHCHR report advises that advocates should check the following issues:

- Has a coordination mechanism³² been established or designated?
- Which ministries or other public bodies are represented?
- What is the exact function of this coordination mechanism?
- What are the resources of the coordination mechanism?
- How many people are employed?
- What has been done to familiarise these people with the CRPD?

(OHCHR 2014)

It is important for national associations to identify the focal point and coordination mechanism in their country. They need to know which ministries or other public bodies are responsible for the coordination mechanism on the CRPD. They also need to know the exact function of this mechanism, because the function can be constrained by law or other factors, such as the availability of resources and number of staff. It should be checked whether staff members attached to the mechanism are familiar with the Convention.

Once national associations establish that the coordination mechanism has been established and identify who is responsible for maintaining the mechanism, it is vital for national associations to then gain insight into what exact functions this mechanism operates under. Reif (2014) has demonstrated the comparative differences and limitations under which coordination mechanisms can operate. It is important to recognise the laws of one's own country and effects of this legislation on the mechanism.

National associations should ensure that adequate resources are made available to the mechanism, not only to ensure it is adequately resourced, but also to ensure that there is a specific budget allocated for communication with the public. This is because, for example, sign language interpretation fees may be seen as a drain on resources by staff, unless states have resources set aside for this specific purpose and/or are explicitly aware that this provision forms part of their mandate. If resources are constrained in this regard, it may be necessary for national associations to bring the matter to a higher authority.

From this author's experience in Ireland, interpretation fees are often a vexing issue for public officials; a situation not uncommon in many

32 "Coordination mechanisms aim to boost cooperation between ministries and to avoid that policymakers adopt isolated measures. The establishment or designation of a coordination mechanism, however, is not a legal obligation. It is optional." (OHCHR, 2014:4).

European countries. Confusion over who is responsible for paying interpreters has a potential effect on relationship building and the consequential rapport between public officials and national associations. Unfortunately, but pragmatically, under these circumstances, national associations have to accept responsibility for educating public officials properly on the importance of providing appropriately qualified (or, in countries where no qualification pathway currently exists, appropriately skilled) sign language interpreters, and to ensure that a specific budget is ring-fenced for this purpose. National associations should also be mindful of the fact that such education will be cyclical in nature: institutional memory is short and so it falls to our associations to repeat our message to the institutions regularly.

National associations should realise that education on the importance of having appropriately qualified/skilled sign language interpreters during consultations is not the sole issue here. They should also familiarise public officials with the existence of deaf culture and heritage, and note how much these are valued within the community. National associations should develop and adopt a policy of inviting key public officials or representatives to cultural and political events and, where possible, involving them in some meaningful way. Rapport with public officials is a key issue and should be rigorously pursued.

It is important to remember that various groups interpret UN treaties differently, including the CRPD. Mechlem (2009) states that despite the current rules of interpretation, as set by the Vienna Convention³³, different interpretation of treaties can be held, even within the same state³⁴. Hence, it is necessary to develop a rapport with public officials, to negotiate and refine local interpretations. Before doing this, national associations need to develop their own policies and their own interpretations, especially in regard to the five sign language/deaf-relevant clauses of the Convention³⁵. It can quite easily occur that a single clause can be interpreted in several divergent ways. For example, at a conference where Article 24 (Education) of the CRPD was being discussed, the author encountered an interpretation of the clause concerning inclusive education for children with disabilities that differed from his own, but was very much dominant, meaning this

33 For more information see: <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>

34 The Iona Institute, a Catholic think tank in Ireland, issued a dossier claiming that NGOs have adopted a radical interpretation of UN treaties to justify their agendas. Such a claim exemplifies what Mechlem refers to as different interpretations within one country. For more information, see: http://www.ionainstitute.com/assets/files/Human_Rights_centre%20spread%20to%20view.pdf

35 The relevant clauses in the CRPD are: Article 2 (Definitions), Article 9 (Accessibility), Article 21 (Freedom of expression and opinion, and access to information), Article 24 (Education) and Article 30 (Participation in cultural life, recreation, leisure and sport).

interpretation could be detrimental to the bilingual education of deaf children³⁶.

Additionally, de Beco (2014), notes that several states have been puzzled by this sub-clause setting up a coordination mechanism. He stresses the importance of realising that this area may be a new territory for many. de Beco (ibid) advises NGOs to take a proactive role in advising the State in this regard. The Convention makes it clear that access to focal points and the coordination mechanism must be easy and visible; therefore national associations should regard this as a key point for enhancing their ability to communicate and their role in being consulted etc.

Key recommendations for national associations:

- Identify your country's coordination mechanism and its exact functions.
- Establish the level of resources available to this mechanism and explore if there are sufficient resources for interpretation costs for regular consultations.
- Develop a policy of building up a cooperative and enhanced rapport with the public officials attached to the mechanism.

Article 33(2)

The OHCHR report lists several questions for this second sub-clause of Article 33. The main issues are:

- To check who are the representatives on the coordination mechanism.
- Are they representative? How are they appointed to the mechanism?
- To check if persons with disabilities are adequately represented on the mechanism.
- Is this mechanism able to handle grievances arising from apparent violations of the CRPD?
- If there are several mechanisms, one should check to see how they coordinate actions as obliged by the CRPD.

(OHCHR 2014)

The second sub-clause of Article 33 requires a good deal of investigative work. National associations must determine how independent the coordination mechanism of the State is. The best way to determine this level of independence is to apply the Paris Principles. These Principles are often applied when judging the status of national human rights institutes

36 The Centre for Disability and Law in National University of Ireland in Galway hosted this conference. For more information, see: http://www.nuigalway.ie/cdlp/summer_school/2012/summer_school_info.html

(NHRIs). In some states, NHRIs are often tasked with the coordination mechanism to monitor the implementation of the CRPD. Therefore, the Paris Principles are a useful tool in determining the independence of the mechanism.

In short, the Paris Principles require that the coordination mechanism must be fully independent of the State, must be adequately resourced, must have the ability to issue reports and must interact with other human right bodies nationally and internationally. The final piece mentioned is diversity of representation of the governing board behind the coordination mechanism.

Reif (2014) believes, arising from her comparative study of Canadian and other states' human rights infrastructures, that stand-alone NHRIs will not comply fully with the Paris Principles. She believes that a coalition of human rights orientated bodies is the way forward. However, Strand (2014) states that despite the CRPD being awarded a weaker legal status in Norway in comparison to other human rights conventions, the Norwegian Ombudsman adopts a more hands-on role in ensuring that the CRPD is adequately complied with. It is thus obvious that going from state to state, it is difficult to determine the best approach for any one national association.

Having established the status of the coordination mechanism, it is essential to determine the level of participation by deaf people in the framework, and how they are represented. National associations should be aware of the ways in which they are consulted with by this mechanism. Are they consulted with on an official level, for example, or is consultation limited to regular public consultation processes? Some organisations will receive accredited status; it is therefore important for national associations to ensure they are fully accredited, if this process applies in their country.

It is common to see national associations grouped together with organisations for disabled people. If it is not difficult or impossible to achieve separate accreditation, it is vital for national associations to adopt a strategy of cooperation with their partner organisations to ensure their concerns are effectively aired.

Coordination mechanisms may have their own list of priorities, and it is important for national associations to understand these priorities. For example, the State might have experienced a recession, leading to a changed list of national priorities. Failing to ensure compatibility between the priorities of the national association and those of the coordination mechanism can lead to a dissatisfactory relationship and increased frustration.

National associations should also ensure that the complaints procedure under this sub-clause is fully accessible for sign language users, and the procedure should be easy to avail of through sign language. Annual complaints reports should be made accessible through issuing sign language translations (possibly via a website) so that sign language users can feel involved in the process. While experiences do differ from country to country, this author has experienced a reaction of incredulity from public officials when asked to provide a facility on their website or other means, to enable sign language users to avail of a complaints procedure (Conama 2010).

Key recommendations:

- Know the basics of the Paris Principles and determine the level of independence of your country's coordination mechanism.
- Understand the consultative and monitoring framework that the coordination mechanism operates under.
- Ensure that representation on the coordination mechanism is diverse and reflective of wider society, and that deaf representatives are appointed to the coordination mechanism. If this is not possible, make sure that representatives are familiarised with the specific issues facing deaf communities.
- The complaints procedure should be fully accessible for sign language users, being also mindful of diversity within deaf communities, for example deaf-blind people.
- The coordination mechanism should have its own independent budget to ensure that an adequate portion should be ring-fenced for communication purposes (i.e. sign language interpretation, etc.)

Article 33(3)

The final sub-clause of Article 33 covers the involvement of persons with disabilities in the advisory bodies. While in some EU countries there is an excellent relationship between deaf organisations and representative organisations for persons with disabilities, this kind of relationship is not enjoyed in other countries.

National associations need to determine how much they are involved in the implementation of the CRPD. They need to also ensure that they are properly consulted with by the coordination mechanism.

They have to consider the level of participation of deaf people in this framework, and ensure that access to the framework is possible, ranging from organisational access, to access for deaf individuals. This notion of access should be centred on usage of sign languages and the ready

availability of appropriately qualified /skilled interpreters³⁷. It should be ensured that interpreters are competent and qualified to take on tasks. I have also mentioned that a specific budget should be set aside for these interpretation costs. Failing to do this would hinder progress in developing rapport and cooperation with the coordination mechanism.

National associations need to determine whether they are officially being consulted with, or just one part of the general consultation process. They have to judge the situation and attempt to gain maximum benefit out of the consultation. Moriarty and Dew (2011) report that the willingness of the New Zealand government in this regard enhanced the success of the CRPD's implementation, as it carried out intensive consultation with civil society organisations, including organisations of persons with disabilities. Taking this into account, it is essential for national associations to build up alliances with various civil society organisations, and not just representative organisations of persons with disabilities - to ensure they understand our concerns and priorities.

If there is an umbrella body for organisations of persons with disabilities that can be regarded as a single contact for consultation by the coordination mechanism, national associations will have to adopt a strategy to ensure their concerns are being properly heard. Historically, there has occasionally been some tension between deaf-led organisations and organisations for persons with disabilities (Corker 1998, Ladd 2003 for instance). National associations will have to adopt a diplomatic approach to lessen any such tension and have their concerns heard. Furthermore, where it is possible to facilitate a consensus-based approach through working consultatively with partner NGOs, a more effective outcome may be facilitated in the medium to longer term (e.g. European Union of the Deaf has effectively worked with the European Blind Union and lobbied collaboratively on matters relating to telecommunications at EU level).

Advisory bodies are established in most countries. It is preferable to have direct representation rather than relying on other countries, but if this is not achieved, national associations have to develop a strategy of building strong pan-national alliances.

Key recommendations:

- Ensure that representative organisations of deaf people are adequately represented on the coordination mechanism.
- If the state insists that national disability organisations will be represented via an umbrella body, national associations have to

³⁷ This should be compliant in line with the European Forum of Sign Language Interpreters' (EFSLI) Learning Outcomes for Graduates of a Three Year Sign Language Interpreting Training Programme (EFSLI 2013).

- develop regular cooperation and communication with such an umbrella body, and potentially a consensus agenda for lobbying purposes.
- Determine the level of consultation – national associations are advised to seek as high-level a position as possible within the consultation and monitoring process.

Conclusion

Several commentators have identified Article 33 as the most crucial part of the CRPD, though there are other safeguards in the Convention for its successful implementation and monitoring.

National associations are strongly advised to take heed of the recommendations here; however, they can be modified or prioritised differently depending on the social, economic and political nature of each country. The recommendations are laid out in the general sense.

Article 33 has a huge potential impact regarding how the CRPD can be implemented and monitored in years ahead. Commentators have pointed out how essential it is for persons with disabilities, individually or through their representative organisations, to have a role in the process. National associations have a massive role to play in ensuring the deaf perspective is intact and well represented in this process, given a number of potential challenging factors; such as differing interpretations of clauses of the CRPD and the nature of bureaucratic systems.

Bibliography

Batterbury, S. C. E. (2012) Language justice for Sign Language Peoples: the UN Convention on the Rights of Persons with Disabilities. *Language Policy*. August 2012, Volume 11, Issue 3, 253-272

Birtha, M. (2014) A chance to pioneer or a lost opportunity? : Monitoring Disability Rights Effectively and Independently in the EU in line with Article 33 of the UNCRPD. *European Yearbook of Disability Law*, Volume 5 NUI Galway.

Corker, M. (1998) *Deaf and Disabled or Deafness Disabled*. Buckingham: Open University Press.

de Beco, G. (2011) 'Article 33 (2) of the UN Convention on the Rights of Persons with Disabilities. Another Role for National Human Rights Institutions?', 29 (1) *Netherlands Quarterly of Human Rights* 84-106.

de Beco, G. (2014) 'Article 33: The UN Convention on the Rights for Persons with disabilities: Practice and Evaluation'. *European Yearbook of Disability Law*, Volume 5 NUI Galway

de Beco, G. (ed.), (2013) *Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the CRPD Convention* Leiden/Boston: Martinus Nijhoff Publishers.

de Meulder, M. et al (2015) 'On "diversity" and "inclusion": exploring paradigms for achieving Sign Language Peoples' rights' MMG Working Paper 15-02. Available at: <http://www.mmg.mpg.de/workingpapers> (Accessed on 31 August 2015).

de Meulder, M. (2014) The UNCRPD and Sign Language Peoples. In A. Pabsch (ed.) *UNCRPD Implementation - A Deaf Perspective*. Article 29: Participation in Political and Public Life. *European Union of the Deaf*, pp. 12-28.

EFSLI (2013) *European Forum of Sign Language Interpreters' Learning Outcomes for Graduates of a Three Year Sign Language Interpreting Training Programme*. European Forum of Sign Language Interpreters.

Ladd, P. (2003). *Understanding Deaf Culture: In Search for Deafhood*. Multilingual Matters, Cleveadon, UK.

McCallum, R. (2010) 'The United Nations Convention on the Rights of Persons with Disabilities: Some Reflections'. The University of Sydney Law School Legal Studies Research Paper No. 10/30. Available at: <http://ssrn.com/abstract=1563883> (Accessed on 31 August 2015).

Mechlem, K. (2009). Treaty bodies and the interpretation of human rights. *Vanderbilt Journal of Transnational Law*, v. 42, p. 905-947.

Mental Disability Advocacy Centre (Budapest) (2012) *Building the Architecture for Change: Guidelines on Article 33 of the UN Convention on the Rights of Persons with Disabilities*. Available at: http://mdac.org/sites/mdac.org/files/Article_33_EN.pdf (Accessed on 5 October 2015).

Moriarty, L. & Dew, K. (2011) 'The United Nations Convention on the Rights of Persons with Disabilities and participation in Aotearoa New Zealand', *Disability & Society*, 26:6, 683-697.

Murray, J.J. (2015) Language Planning and Sign Language Rights. *Sign Language Studies* Volume 15, Number 4, Summer 2015: 375-378.

OHCHR (2014) *Study on the Implementation of Article 33 of the UN Convention on the Rights of Persons with Disabilities in Europe*. Available at: http://europe.ohchr.org/Documents/Publications/Art_33_CRPD_study.pdf (Accessed on 5 October 2015)

Reif, L. (2014) "Ombudsman Institutions and Article 33(2) of the United Nations Convention on the Rights of Persons with Disabilities" (2014) 65 *University of New Brunswick Law Journal* 213-248.

Strand, V.B., (2014) Norway's Ratification of the UN Convention on the Rights of Persons with Disabilities: Highlighting Current Discourses in the Field of Human Rights in Norway. *Nordic Journal of Human Rights*, Vol. 32, Iss. 1, 2014.

Biography

John Bosco Conama (Ph.D, M. Litt, BA) was formerly the chairperson of the Irish Deaf Society, and is currently a board member. Dr Conama completed his PhD in 2010. His thesis centred on a comparative analysis of language policies affecting signed languages in Ireland and Finland. He is currently working as the course coordinator of the Bachelor in Deaf Studies degree programme in the Centre for Deaf Studies, Trinity College Dublin. He lectures on various Deaf Studies and Equality Studies modules there and abroad. Dr Conama was recently made the European Language Label's Language Ambassador, in recognition of his academic work and active participation in the campaign for the recognition of Irish Sign Language.

4. European level

a. EU Focal point

Maria Luisa Cabral, Head of Unit, Rights of Persons with Disabilities, the European Commission

The European Union as a party to the UN Convention

The European Union (EU) is the first regional integration organisation to become a party to a United Nations (UN) human rights treaty. The EU concluded the UN Convention on the Rights of Persons with Disabilities (CRPD) on 22 January 2011 (Official Journal of the European Union 2010). This is a milestone for the EU and reinforces its commitment to promote and protect the rights of persons with disabilities.

The UN Committee on the Rights of Persons with Disabilities (‘the CRPD Committee’) praised the EU for this ground-breaking ratification, recognising it as a positive precedent in public international law. (CRPD Committee 2015, para. 4)

The EU is bound to the CRPD to the extent of its competences. The core elements of the CRPD are reflected in the European Disability Strategy 2010-2020.

All 28 Member States have signed the CRPD and 25 have ratified it, while the remaining three (Finland, Ireland and the Netherlands) are advancing towards ratification. This means that the EU and the Member States that are parties to the CRPD are committed to upholding and protecting the rights of persons with disabilities as enshrined in it.

Focal point and coordination mechanism for implementing the CRPD

The European Commission is the focal point for the implementation of the CRPD at EU level. The role of the focal point is ensured by the Commission’s Unit for the Rights of Persons with Disabilities in Directorate-General (DG) Employment, Social Affairs and Inclusion. In this capacity, the Unit promotes coordination within its departments, with the other EU institutions and bodies, and between the EU and the Member States.

A Code of Conduct between the Council, the Member States and the European Commission specifies arrangements for the implementation and representation of the EU in matters related to the CRPD.³⁸ It sets out

38 Code of Conduct between the Council, the Member States and the European

aspects of coordination between the EU and the Member States, especially with regard to the participation and representation in the UN Conference of State Parties and the reporting to the UN on implementation of the CRPD.

The formal coordination with the Member States is ensured through the Council's Working Group on the human rights aspects of EU external relations (COHOM). The implementation of the CRPD is also regularly discussed in meetings of the Disability High Level Group, bringing together representatives of the Member States, civil society and organisations of people with disabilities (DPOs).

The Work Forum, organised by the Commission every year since 2010, gathers focal points, coordination mechanisms, monitoring mechanisms, civil society and DPOs from the EU and the Member States to discuss the implementation and monitoring of the CRPD. The Work Forum has become a platform for mutual learning and exchange on how to give effect to the CRPD, and how to ensure a strong governance system, with effective cooperation and coordination between different levels of government (EU, national, regional and local level) across sectors.

The Forum discusses both substantive issues, such as legal capacity and access to justice, and governance issues, like reporting, monitoring and the use of statistics and indicators. The sixth Work Forum, held in April 2015, focussed on how to improve synergies between the EU and the national level and discussed what could be done differently to implement the CRPD in the EU.

Organisations such as the European Disability Forum (EDF) and the European Network on Independent Living (ENIL) presented the Parallel Reports they submitted to the UN ahead of the EU's examination, giving their views and ideas for improvement.

A strategy to implement the CRPD

On 15 November 2010, the Commission adopted the European Disability Strategy for the years 2010-2020³⁹. The Strategy provides the overall

Commission setting out internal arrangements for the implementation by and representation of the European Union relating to the United Nations Convention on the Rights of Persons with Disabilities, OJ C 340, 15.12.2010, p. 11. The adoption of the Code of Conduct enabled the EU to complete the procedure of conclusion of the CRPD by depositing its instruments of formal confirmation with the UN Secretary General in New York on 23 December 2010. The CRPD entered into force for the EU on 22 January 2011.

39 For more information, see: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52010DC0636>

framework for the implementation of the CRPD at EU level. It also aims to support the Member States in their implementation process.

It sets out the priorities and a work plan to tackle the many barriers that persons with disabilities still face in their daily lives. It focuses on eight priority areas, dealing with: accessibility, participation, equality, employment, education and training, social protection, health and external action. Actions are foreseen for each of the eight priority areas.⁴⁰ Progress in the implementation of the actions is regularly reviewed via the Commission's Inter-service Group on Disability (European Commission, 2010).

Mainstreaming disability in the Commission's work

To promote the rights of persons with disabilities in the development and implementation of EU policies and legislation, the Commission uses different tools throughout the policy life-cycle.

One such tool is cooperation and coordination between services of the Commission. In addition to specific actions, the Disability Strategy is also a strategy for the mainstreaming of disability in EU policies, guided by the CRPD.

An Inter-service Group on Disability gathers most departments within the Commission and plays an important role in ensuring that the needs and rights of persons with disabilities are taken into consideration when formulating new legislative proposals and initiatives, as well as in their implementation, monitoring and evaluation. The Group meets regularly to exchange information and promote understanding of the CRPD. It contributed to the preparation of the first report to the UN in 2014 and the dialogue with the CRPD Committee in 2015. The Disability Unit participates actively in consultations on new policy and legislative proposals prepared by other services that have an impact on the rights of persons with disabilities.

Impact assessments are also used to prepare new initiatives likely to have significant impacts. The new Better Regulation package adopted by the Commission in May 2015 contains more operational guidance for impact assessment: when assessing the social and fundamental rights impacts of possible initiatives, Commission departments are explicitly asked to consider whether and how an option ensures respect for the rights of persons with disabilities, in conformity with the CRPD.

40 For more information, see SEC(2010) 1324 final, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:1324:FIN:en:PDF>

Reporting to the UN

Parties to the CRPD need to periodically inform the CRPD Committee about the measures taken to implement it. The Commission, as focal point, is responsible for preparing such periodic reports to the UN.

The Commission published its report on 5 June 2014 and submitted it to the CRPD Committee for consideration (European Commission, 2014). The report covers the period from the CRPD's entry into force for the EU in January 2011 to December 2013⁴¹ and shows tangible impacts on the ground.

Union institutions, agencies and bodies were consulted and provided an input to the report. In preparing the report, the Commission held consultations with and regularly informed relevant stakeholders, including Member States through COHOM, as well as the Disability High-Level Group, the EU Framework to promote, protect and monitor the implementation of the of the CRPD, and civil society meetings organised by EDF and the European Economic and Social Committee (EESC) in 2013 and 2014.

In 2015, the CRPD Committee reviewed for the first time how the EU has been implementing its obligations. In June 2015, the Commission replied in writing to questions sent by the UN in this respect (European Commission, 2015b). In August 2015, the CRPD Committee engaged in a dialogue with the EU in Geneva.

Following the dialogue, on 3 September 2015 the Committee issued its recommendations for follow-up. The Committee acknowledged that much has been done at EU level to improve the lives of the 80 million persons with disabilities living in the EU. For example, it welcomed the European Structural and Investment Funds Regulations' provisions that enhance the promotion of equality, non-discrimination, inclusion and accessibility for persons with disabilities; and that disability is mainstreamed in development policy and in disaster management.

However, the Committee also highlighted existing challenges and made concrete recommendations for action to tackle them. The Commission will follow up on these recommendations and work with determination to make the CRPD a reality.

41 Where relevant, it refers to previously adopted legislation and measures falling under the scope of the CRPD, as well as to key legislation proposed during the reporting period, and adopted in the first quarter of 2014.

Promoting participation of persons with disabilities

Persons with disabilities and their representative organisations, such as the European Union of the Deaf (EUD), play an important role in promoting, protecting and monitoring the implementation of the CRPD at EU level. They collect data, issue position papers and reports, receive complaints from individuals and bring these to the attention of responsible administrations.

European networks have the capacity to gather and mobilise member organisations from different Member States into an open forum of discussion/exchange of expertise and experience able to inform and influence policy-making. They also relay EU action vis-à-vis their members, contributing to bringing Europe closer to citizens.

This importance is reflected in the Commission's financial support to a number of European level NGOs, including DPOs, to facilitate their role in the implementation and monitoring of the CRPD, and be actively involved in EU decision-making. Since 2010, grants directly aimed at supporting and strengthening the operational and advocacy capacity of EU-level organisations have been awarded annually. In 2015-2017, EUR 2.2-3 million will be available annually for such support, and a partnership has been established with eight leading EU-level NGOs representing a diversity of disabilities and stakeholders, including deaf people.⁴²

Consultation of interested parties is essential before the Commission adopts initiatives. The Commission holds consultations when developing new initiatives or revising existing ones. Building on the existing minimum standards on consultation, the Commission's new Better Regulation Guidelines⁴³ strengthen the commitment to carry out consultations of a high quality, transparent, and that reach all stakeholders. New guidance on public consultations asks that the choice of methods and tools take into account accessibility needs; in particular by ensuring the use of a variety of communication means and accessible formats; to allow persons with disabilities to participate effectively in consultations. Last but not least, after the Commission has adopted a proposal, it will invite citizens or stakeholders to provide feedback within eight weeks: to feed these views into the legislative debate, the Commission will collect them and present them to the European Parliament and the Council (European Commission, 2015a).

42 Another 16 organisations active in the promotion of social inclusion, poverty reduction or microfinance and social enterprise finance are supported under the EU Programme for Employment and Social Innovation (2014-2020), which aims to promote a high level of quality and sustainable employment, guaranteeing adequate and decent social protection, combating social exclusion and poverty and improving working conditions.

43 Better regulation for better results - An EU agenda (COM(2015) 215 final), available at: http://ec.europa.eu/smart-regulation/guidelines/index_en.htm

In line with the CRPD's obligation to consult with and involve DPOs, the Commission ensures participation of persons with disabilities, their families, their European representative organisations and other stakeholders in the development and implementation of disability policies. Persons with disabilities can participate through different channels, such as, consultation documents and meetings⁴⁴, or participation in expert groups, such as the Disability High-Level Group.

44 For the development of the European Disability Strategy, for instance, the Commission organised an online public consultation and hosted a consultative workshop with the main stakeholders representing civil society, sectoral business representatives, service providers and social partners.

Bibliography

CRPD Committee (2015) Concluding observations on the initial report of the European Union. CRPD/C/EU/CO/1.

European Commission (2010). European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe. COM/2010/0636 final. Available at: <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52010DC0636> (Accessed on 1 October 2015).

European Commission (2014). Report on the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union. SWD(2014) 182 final. Available at: http://ec.europa.eu/justice/discrimination/files/swd_2014_182_en.pdf (Accessed on 1 October 2015).

European Commission (2015a). Public consultation on the revision of the Commission's Impact Assessment Guidelines. Available at: http://ec.europa.eu/smart-regulation/guidelines/consultation_2014/impact-consultation/index_en.htm (Accessed on 2 October 2015).

European Commission (2015b). Reply of the European Union to the list of issues in relation to the initial report of the European Union on the implementation of the UN Convention on the Rights of Persons with Disabilities. SWD(2015) 127 final. Available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=1138&newsId=2242&furtherNews=yes> (Accessed on 1 October 2015).

Official Journal of the European Union (2010). Council Decision of 26 November 2009 concerning the conclusion, by the European Community (2010/48/EC), of the United Nations Convention on the Rights of Persons with Disabilities. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010D0048> (Accessed on 1 October 2015).

Biography

Maria Luisa Cabral joined the European Commission in 2004, leaving behind a career in Portuguese public administration. She has held many positions in the European Commission and was the assistant to the Director-General for Justice from 2010 to 2014. She has headed the Unit for the Rights of Persons with Disabilities since May 2014. From November 2015 she is working as Head of Unit for Social security coordination. She has a degree in Political Sciences, from the Université Libre de Bruxelles and a post-degree in European Studies, from the Instituto Superior de Economia e Gestão of the Universidade Técnica of Lisbon.

4. European level

b. The European Parliament Resolution on the List of Issues adopted by the United Nations Committee on the Rights of Persons with Disabilities in relation to the initial report of the European Union

Helga Stevens, Ádám Kósa, Rosa Estaràs Ferragut and Soledad Cabezón Ruiz, Members of the European Parliament

Introduction

The European Parliament decided to put forward a resolution with regards to the List of Issues adopted by the United Nations (UN) Committee on the Rights of Persons with Disabilities, in relation to the initial report of the European Union (EU)⁴⁵. This resolution was an effort by the European Parliament towards the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD), ratified by the EU in 2010. In particular, the resolution complements the efforts made by the European Commission in submitting its initial report and providing responses to the List of Issues.

Resolution⁴⁶

Preamble

The resolution explicitly states that persons with disabilities “have equal rights and are entitled to inalienable dignity, equal treatment, independent living and full participation in society” (A). It stresses that:

“full inclusion and equal participation of persons with disabilities can only be achieved by taking a human-rights-based approach to disability at all levels of EU policymaking, implementation and monitoring, including intra-institutionally” (E).

45 2015/2684(RSP). Available here: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bMOTION%2bB8-2015-0460%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>

46 The following is a short summary of a number of points highlighted in the resolution. This does in no way mean that those mentioned are more important or carry more meaning than the others contained in the resolution.

CRPD review process

In Article 1, the European Parliament:

“Assures the CRPD Committee that the European Parliament will respond to questions directly addressed to it, while also urging the Commission to take Parliament’s views into account when formulating its own answers to the committee.”

At the same time, the European Parliament:

“Considers it regrettable that the Code of Conduct was adopted by the Commission and the Council without the involvement of Parliament, with the result that Parliament has limited competences with regard to the monitoring of the CRPD” (Article 2).

Involvement of persons with disabilities and their representative organisations

In the resolution, the European Parliament takes the view that a structured dialogue must be developed as part of the review process, including consultation and cooperation with organisations representing persons with disabilities. This specifically includes the formulation of answers to the List of Issues, and more generally, the development, implementation and monitoring of EU policies in this area (Article 6). Furthermore, it:

“Recommends that EU funds be used to promote accessibility and e-accessibility for persons with disabilities, [...] and to invest in capacity-building for organisations representing persons with disabilities” (Article 10).

Specific articles relevant to sign language users

While the resolution is broadly focussed and encompasses all persons with disabilities, there are a number of articles that might be more relevant to deaf sign language users than others. For example, Article 9 “urges the Council to accelerate its work on the proposal for a directive on the accessibility of public sector bodies’ websites”; thereby, amongst other things, improving the accessibility of websites in general; and, more specifically, videos. By mentioning alternative formats and means of communication, inter alia, sign language is included. Article 11(a) mentions the organisation of sign languages courses, which were and still are organised as part of professional training. This was originally offered to frontline staff, but has now been extended to all interested parties among the European Parliament staff.

The European Parliament's responses to the List of Issues

The European Parliament noted its responses to the List of Issues, stating that it had “set up an inter-committee coordination working group made up of members from each of the relevant committees” (11a), as well as seeing an increase in the number of Members of European Parliament (MEPs) with a disability (11c). Furthermore, it committed itself “to working actively with the relevant actors to find a pragmatic solution to acceding to the Marrakesh Treaty” (11d) and highlighted the need for accessible 112 emergency services (11b). The resolution calls on the European Commission:

“[T]o deliver the requested explanation as to how it can ensure in current and future legislation that persons with disabilities are guaranteed equal opportunities, fundamental rights, equal access to services and the employment market, and the same rights and obligations in accessing social security as nationals of the Member State in which they are covered, in line with the principle of equal treatment and non-discrimination, so that all persons with disabilities can enjoy the right to free movement held by all EU citizens” (Article 11f).

Finally, it also calls:

“[O]n the Member States and the Commission to ensure that access to justice in respect of EU legislation is in full compliance with the CRPD, so that fundamental rights are accessible to all” (Article 11g).

Further actions

The interactions with the CRPD Committee, including the constructive dialogue and the Concluding Observations, reflect the views the European Parliament expressed in the resolution. The European Parliament closely monitors the implementation of the CRPD in its daily activities and aims to continue doing so in the coming years. It cooperates with other institutions and agencies, such as the EU Agency for Fundamental Rights, the European Ombudsman, and the European Commission, as well as civil society.

The European Parliament's commitment continues to show via its forthcoming activities. For example, the Committee on Petitions (PETI) is organising an accessible public hearing where a number of concrete petitions from persons with disabilities will be presented and analysed.

The Committee on Employment and Social Affairs (EMPL), in cooperation with the PETI Committee and the Committee on Civil Liberties, Justice, and Home Affairs (LIBE), will be drawing up an implementation report on the CRPD, aiming to follow up on the Concluding Observations⁴⁷ adopted by the CRPD Committee in September 2015. The report will be drafted in close consultation with Disabled People's Organisations (DPOs) and at least one public hearing is planned to take place prior to the adoption of the report.

Internally, the European Parliament has set up an inter-committee CRPD network to promote *public debate* and the political role of the European Parliament, to ensure implementation of the CRPD and the Concluding Observations by the European Parliament. Furthermore, the network will review and screen documents (including legislative and non-legislative proposals, as well as opinions) and activities to raise awareness of possible disability-related issues and promote a coordinated approach whenever possible. This will promote public debate and the political role of the European Parliament in the implementation of the CRPD.

47 CRPD/C/EU/CO/1. Available here: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1&Lang=en

Biography

All MEPs are co-authors of the resolution and are active in the Disability Intergroup, as well as the monitoring and implementation of the CRPD both inside and outside the European Parliament.

Helga Stevens (Belgium/Flanders, European Conservatives and Reformists Group, ECR) is a newly elected deaf MEP. She is a member of the LIBE Committee, as well as a substitute for EMPL and co-chair of the Disability Intergroup.

Dr Ádám Kósa (Hungary, Group of the European People's Party, EPP) is the first deaf MEP and was re-elected to the European Parliament in 2014. He is a member of the EMPL Committee and the co-chair of the Disability Intergroup.

Rosa Estaràs Ferragut (Spain, EPP) is the Vice-Chair of the PETI Committee and a co-chair of the Disability Intergroup.

Soledad Cabezón Ruiz (Spain, Group of the Progressive Alliance of Socialists and Democrats in the European Parliament, S&D) has been a MEP since 2014. She is the S&D PETI Coordinator, member of the Committee on Industry, Research and Energy (ITRE) and a substitute for ENVI (Environment, Public Health and Food Safety).

4. European Level

c. The European Ombudsman's role in relation to the CRPD

Emily O'Reilly, European Ombudsman

Introduction

The United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) came into force in the European Union (EU) in January 2011. As part of the EU Framework under the CRPD, independently and within her mandate, the European Ombudsman (the 'Ombudsman') has the role of protecting, promoting and monitoring the implementation of the CRPD at EU institutional level: a role she shares with the European Parliament, the European Commission⁴⁸, European Union Agency for Fundamental Rights (FRA) and the European Disability Forum (EDF).

The Ombudsman is an independent and impartial body that holds the EU administration to account. The Ombudsman investigates complaints about maladministration in EU institutions, bodies, offices, and agencies (the 'EU institutions'). Only the Court of Justice of the EU, acting in its judicial capacity, falls outside the Ombudsman's mandate. The Ombudsman deals with complaints against the EU administration only; she does not deal with complaints about national, regional or local administrations, even when a complaint concerns EU matters.

The Ombudsman may find maladministration to be the case if an institution fails to respect fundamental rights, legal rules or principles, or the principles of good administration. Within this context, a breach by an EU institution of any right contained in the CRPD could constitute maladministration.

There is no charge when making a complaint to the Ombudsman. Complaints may be made by any citizen or resident of an EU Member State and by businesses, associations or other bodies with a registered office in the EU. The person who complains need not be personally affected by the maladministration. Where a complaint is not admissible, for example because it is made by a non-citizen who resides outside

48 After this chapter was written, the European Commission announced it is withdrawing from the EU Framework as recommended by the CRPD Committee in the Concluding Observations to the EU. This decision does not affect the Commission's role as EU-level focal point. For more information, see: <http://ec.europa.eu/social/main.jsp?catId=1189&langId=en> (Editor's remark).

the EU, the Ombudsman can opt to deal with the issue nevertheless, by means of an own-initiative inquiry.

The Ombudsman is committed to using plain and clear language when engaging with complainants. Furthermore, her decisions can be made available in large print or audio formats upon request.

Transparent and accessible EU institutions

The Ombudsman has no formal role in the development and implementation of EU policies. However, the Ombudsman's remit with regard to maladministration does include ensuring that EU institutions consult adequately and offer appropriate opportunities for public participation, including for persons with disabilities.

Moreover, the Ombudsman seeks to consult persons with disabilities and their representative organisations, where relevant, in the course of inquiries.

The European Ombudsman's methods

Conducting an inquiry is the usual method employed by the Ombudsman in seeking to ensure that the EU administration lives up to its obligation under the CRPD. Inquiries may be opened either into complaints from citizens and organisations, or at the Ombudsman's own initiative.

Matters that fall within the Ombudsman's remit to investigate include the requirement on EU institutions to ensure that: their services are accessible to persons with disabilities; persons with disabilities have access to information from, and means of communication with, the institutions; the EU institutions have open, inclusive, and accessible work environments; and that persons with disabilities can participate fully and effectively in political and public life.

Since March 2014, a seconded national official has reinforced the Ombudsman's team, making the Ombudsman's role in protecting and monitoring the application of the CRPD within the EU administration more visible.

Own-initiative inquiries

In 2014, the Ombudsman opened an own-initiative inquiry into the compliance with fundamental rights of the EU's cohesion policy, after having received a number of complaints in this area, including one about the investment of EU funds in the renovation of institutional care facilities for persons with disabilities. This own-initiative inquiry

concerned how the European Commission ensures that the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union⁴⁹ are complied with when EU cohesion policy is implemented by Member States.⁵⁰

It was launched as the EU embarked on a new seven-year period of funding, covering 2014-2020, under a new legal framework. In her decision, the Ombudsman considered that, given the visibility of the EU in the projects that are funded through the cohesion policy, the European Commission should do all in its power to ensure respect for fundamental rights as projects in the Member States are implemented and EU funding is utilised. The fact that the European Commission is not directly responsible for managing the funds should never be used as a reason for not acting if fundamental rights have been, or risk being, violated.

This own-initiative inquiry involved the European Commission, national ombudsmen and human rights institutions, as well as stakeholders and representatives of civil society. On the basis of their feedback, the Ombudsman produced eight guidelines for improvement to support the Commission as it supervises the Member States in this area.

The Ombudsman's decision and the stakeholders' contributions have been published and are available on the Ombudsman's website⁵¹.

Complaints

Reasonable accommodation in selection tests

In 2014, a profoundly deaf candidate in a European Personnel Selection Office (EPSO) competition asked to be granted additional time to sit the selection tests. The candidate considered that his request was not accommodated and he therefore turned to the Ombudsman. In this case, the Ombudsman decided to consult stakeholders and experts to explore the issue of an individual need for reasonable accommodation and equal treatment. The inquiry into this complaint is ongoing and additional information will be made available on our website later this year.

49 For more information, see: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

50 Case OI/8/2014/AN. For more information, see: <http://www.ombudsman.europa.eu/cases/correspondence.faces/en/58451/html.bookmark>

51 For more information, see: <http://www.ombudsman.europa.eu/start.faces>

Sign language interpretation during events organised or funded by European institutions

In 2015, the Ombudsman dealt with a complaint concerning the failure to provide for reasonable accommodation in an event organised by an EU agency. At the registration stage, some participants asked to be provided with sign language interpretation. The event organisers confirmed that sign language interpretation would be available, but just a few days before the event, these participants were informed that it would not be available, due to a late cancellation by the interpreter. In this case, the Ombudsman considered that it was not acceptable that an EU agency should discover, shortly before a particular event, that it could not provide the interpretation service required. In order to prevent a recurrence of this problem, the Ombudsman asked the EU agency concerned to review its arrangements for the provision of sign language interpretation. The Ombudsman commented that, in the case of public events not specifically aimed at persons with disabilities, it will also be important to ensure that the attendance of persons with disabilities will be facilitated where they wish to attend. These comments apply not just to the EU agency under investigation, but to all EU institutions and agencies.

A case received in 2015 concerned a research project financed by an EU grant agreement. The complainant had requested sign language interpretation be provided throughout an event organised in the context of the project. The Ombudsman asked the Commission for its view regarding the general obligation of EU funded projects to respect the CRPD and, in particular, the accessibility obligation guaranteed therein. The Commission replied that projects need to be in compliance with international and European law principles such as transparency and non-discrimination. The Commission also said that it proposes to closely monitor the implementation of grant agreements and to strengthen compliance with obligations under international and EU law, in order to enhance the participation of persons with disabilities in EU programmes, including EU research programmes. In this respect, the Commission will review its guidelines in order to bring them into full compliance with the CRPD.

Conclusion

The European Ombudsman seeks to engage with all relevant stakeholders, including persons with disabilities and their representative organisations. In this way, the Ombudsman hopes to further the objectives of the Convention across all of the EU institutions which come within her remit.

Biography

Emily O'Reilly was elected as the European Ombudsman in July 2013 and took office on 1 October 2013. She was re-elected in December 2014 for a five year mandate. She is an author and former journalist and broadcaster who became Ireland's first female Ombudsman and Information Commissioner in 2003. In 2007, she was also appointed Ireland's first Commissioner for Environmental Information.

As former political editor, broadcaster and author, her career has attracted significant domestic and international recognition, including a Harvard University Fellowship in 1988 and multiple national awards. In the course of her journalistic career, she won two awards: Journalist of the Year and Woman Journalist of the Year.

4. European level

d. The role of the EU Agency for Fundamental Rights in monitoring the implementation of the CRPD in the EU

Constantinos Manolopoulos, Director, a.i., European Union Agency for Fundamental Rights (FRA)

The European Union Agency for Fundamental Rights (FRA) is, alongside the European Parliament, the European Ombudsman, the European Commission⁵² and the European Disability Forum (EDF), one of the members of the EU Framework to promote, protect and monitor the EU's implementation of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) (the 'EU CRPD Monitoring Framework'). This article starts by looking specifically at the role of FRA within the EU CRPD Monitoring Framework. It then explores how the CRPD is already driving wide-ranging reform processes at the EU and national levels, with a particular focus on how legal and policy changes are helping people with hearing impairments to be fully included in community life. The article concludes by looking ahead at how the CRPD Committee's review of the implementation of the Convention by the EU and the Member States is likely to spur future reforms.

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

FRA was established in 2007 to provide independent, evidence-based assistance and expertise on fundamental rights to EU institutions and Member States (European Council, 2007). Based on the collection and analysis of reliable and comparative data, FRA aims to contribute to ensuring full respect for fundamental rights across the EU. FRA addresses the rights of persons with disabilities as part of its broader work on discrimination on all the grounds covered by Article 21 of the Charter of Fundamental Rights of the EU⁵³, one of the thematic areas included in the multiannual framework setting out the scope of the Agency's areas of work (European Council 2013, Article. 2).

52 After this chapter was written, the European Commission announced it is withdrawing from the EU Framework as recommended by the CRPD Committee in the Concluding Observations to the EU. This decision does not affect the Commission's role as EU-level focal point. For more information, see: <http://ec.europa.eu/social/main.jsp?catId=1189&langId=en> (Editor's remark).

53 For more information, see: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

Figure 1: FRA’s role in the EU CRPD Monitoring Framework

FRA has responsibilities under:	
Promotion Addressing the rights of persons with disabilities through awareness-raising activities and mainstreams disability across other thematic areas e.g. events, infographics, videos	Monitoring Collecting and analysing comparable data, and developing indicators and benchmarks e.g. reports, human rights indicators

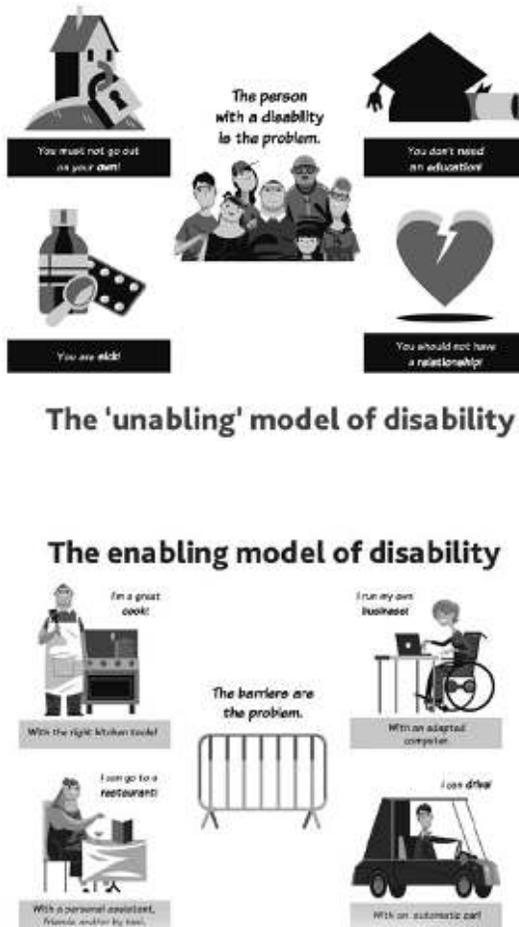
Source: FRA 2015

Complementing its mandate to work on the rights of persons with disabilities, FRA became a member of the EU CRPD Monitoring Framework following the 2012 Council decision on the composition of the EU’s Article 33(2) mechanism (Council of the EU 2012). The FRA’s main role in the EU CRPD Monitoring Framework is to collect and analyse data, and to develop indicators and benchmarks. This, as with all of the FRA’s disability work, is framed by the CRPD and its human rights-based approach to disability.

The work of FRA on the rights of persons with disabilities started in 2009 with comparative legal and social research on the rights of persons with mental health problems (psychosocial disabilities) and persons with intellectual disabilities.⁵⁴ The five reports stemming from this project focus on different aspects of autonomy and inclusion, including the right to political participation (FRA 2010), non-discrimination of persons with mental health problems and reasonable accommodation (FRA 2011), independent living (FRA 2012b), involuntary placement and involuntary treatment (FRA 2012c), and legal capacity (FRA 2013b).

⁵⁴ Information on the FRA’s project on the fundamental rights of persons with intellectual disabilities and persons with mental health problems is available at: <http://fra.europa.eu/en/project/2009/fundamental-rights-persons-intellectual-disabilities-and-persons-mental-health-problems>

Figure 2: FRA postcard explaining the shift to the human rights-based model of disability



Source: FRA disability project postcard (Available at: <http://fra.europa.eu/en/publication/2012/fra-disability-project-postcard>)

FRA has developed human rights indicators on the right to political participation,⁵⁵ the results of which were published in 2014 (FRA 2014),

55 FRA's indicators on persons with disabilities' right to political participation are available at: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/political-participation>

and the right to live independently and be included in the community.⁵⁶ In 2015, FRA is finalising research on children with disabilities' experiences of targeted hostility and abuse⁵⁷ (FRA 2015 forthcoming) and conducting research on the transition from institutional to community-based care, the first results of which will be published in 2016 and 2017.⁵⁸

In addition, FRA helps to promote the CRPD in the EU, engaging with stakeholders through awareness raising and communication activities. For example, FRA developed infographics on persons with disabilities' right to political participation (FRA 2014) and published a postcard explaining the shift from a medical to a human rights-based model of disability. The Agency also mainstreams the rights of people with disabilities across other areas of its research; for instance on multiple and intersectional discrimination (FRA 2013a) and access to justice (FRA 2012a).

Figure 3: FRA infographics help to raise awareness of the voting rights of people with disabilities



Source: <http://fra.europa.eu/en/project/2013/political-participation-persons-disabilities/infographics>

56 FRA human rights indicators on Article 19 CRPD are available at: <http://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living/indicators>

57 Information on FRA's project on children with disabilities' experiences of targeted hostility and abuse is available at: <http://fra.europa.eu/en/project/2012/children-disabilities-targeted-violence-and-hostility>

58 Information on FRA's project on transition from institutional to community-based care is available at: <http://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living>

The CRPD as a driver of change

The evidence collected by FRA acts as a powerful illustration of the EU and its Member States' efforts to give effect to their CRPD obligations.⁵⁹ It shows that the CRPD is already stimulating wide-ranging processes of change at both EU and national levels. A few examples from previous FRA research serve to highlight how these changes are helping to ensure that persons with disabilities can enjoy their rights on an equal basis with others.

One of the building blocks of CRPD implementation, whether at EU or national level, is an action plan or strategy on how to turn the rights of persons with disabilities into reality. Although not required by the Convention, the CRPD Committee has identified such policies as “an excellent method of bringing laws, policies and practices in line with the United Nations Convention on the Rights of Persons with Disabilities” (CRPD Committee 2013, para. 4). The EU adopted the European Disability Strategy 2010-2020 in late 2010, at the same time as concluding the CRPD. Setting out eight areas of action, including accessibility, participation and equality, it gives overarching direction to EU disability policy (European Commission 2010).

At national level, such action plans or strategies can take many forms, ranging from general human rights strategies to action plans focused on specific rights enshrined in the Convention. As examples of the first group, the Greek (Greece 2014) and Polish (Poland 2013) national action plans integrate the rights of persons with disabilities into broader strategies to promote fundamental rights.

A different type of strategies directly target persons with disabilities. These often have the explicit aim of giving overall direction to CRPD implementation, as is the case with the Cypriot (Cyprus 2013) and Latvian (Latvia 2014) action plans. Reflecting the CRPD Committee's preference for such policy documents, the Italian action programme followed the first Italian State party report to the CRPD Committee (Italy 2013).

Other Member States have complemented general action plans with strategies focused on specific issues. The Croatian (Croatia 2011) and Lithuanian (Lithuania 2014) national disability strategies are accompanied by specific deinstitutionalisation plans, for example.

A number of Member States have already evaluated, or are in the process of evaluating, current or previous programmes and strategies, using these experiences to inform future policy documents. In Germany, the results

⁵⁹ This section draws heavily on the information and analysis presented in FRA (2015b).

of the evaluation completed in 2014 are providing the basis for ongoing enhancements of its national action plan.

Another building block of CRPD implementation concerns the change in approach to non-discrimination and the related duty to provide reasonable accommodation, when required to promote equal treatment. EU legislation currently prohibits discrimination on the grounds of disability in employment and occupation, including the duty to provide reasonable accommodation in this area (FRA 2011).

The CRPD Committee has repeatedly emphasised the broad application of the principle of non-discrimination, calling for protection that explicitly covers “multiple disability, perceived disability and association with a person with a disability”, as well as denial of reasonable accommodation (CRPD Committee 2011, para. 20). National legislation is reflecting this broad understanding in several ways. Many Member States have extended protection against discrimination on the grounds of disability beyond the area of employment and occupation. Reforms passed in 2013 in Spain, for instance, foresee measures to widen reasonable accommodation to telecommunications, information and society, transport, public goods and services, relations with public administration, justice and cultural inheritance (Spain 2013).

As well as specific equality legislation, the principle of non-discrimination is increasingly shaping legal reforms related to other articles of the Convention. For instance, in the area of accessibility, the CRPD Committee has underlined that “denial of access should be considered to constitute a discriminatory act” (CRPD Committee 2014, para. 13). Reflecting this, since January 2015, the Swedish Discrimination Act has included lack of access for persons with disabilities as a form of discrimination; encompassing various areas of life, including employment, goods and services, healthcare and social services (Sweden 2014:958).

As FRA evidence shows, legislating from a non-discrimination perspective in the area of disability poses significant challenges for EU Member States, as it requires a paradigm shift in traditional approaches to many laws addressing persons with disabilities (FRA 2013b; 2012b). Nevertheless, framing the rights enshrined in the CRPD, as rooted in the principle of non-discrimination, means that further action at the EU level to promote equality can play a role in harmonising national legislation with the Convention. Secondary EU legislation, notably the proposed equal treatment directive, could play a particular role in this process by extending protection against discrimination on the grounds of disability to all the areas covered by the existing Racial Equality Directive (FRA 2015a).

CRPD inspired actions to counter discrimination in the EU: Making a difference for persons with hearing impairments

People with different types of impairments face a variety of barriers to their equal participation and inclusion in society, with specific actions required to overcome the different obstacles they encounter. Given the barriers that deaf and hard of hearing people face, an especially important focus of these reforms is the accessibility of information and communication, including media and access to sign language interpretation. Taking a non-discrimination perspective in this area is already helping persons with hearing impairments to be more included in community life.

As of 2014, 16 EU Member States had established legal accessibility standards for public and private providers of audio-visual media.⁶⁰ In the Flemish Community in Belgium, for example, the principle of non-discrimination has applied to commercial communication and public service announcements on radio and television since 2012 (Belgium 2012). The law obliges broadcasters to make a significant proportion of programmes accessible to people with visual and hearing impairments, while 100% of both public and private broadcasters’ news programmes must be subtitled.

Figure 4: Are there legal accessibility standards to public and private providers of media in EU Member States?

Yes, covering public and private providers	Yes, covering public providers only	No
AT, BE-Flemish community, CY, DE, EL, ES, FI, FR, HU, IE, NL, PL, PT, RO, SE, SK	BG, CZ, DK, HR, IT, SI, UK	BE - French community, EE, LT, LU, LV, MT

Source: FRA, 2014.

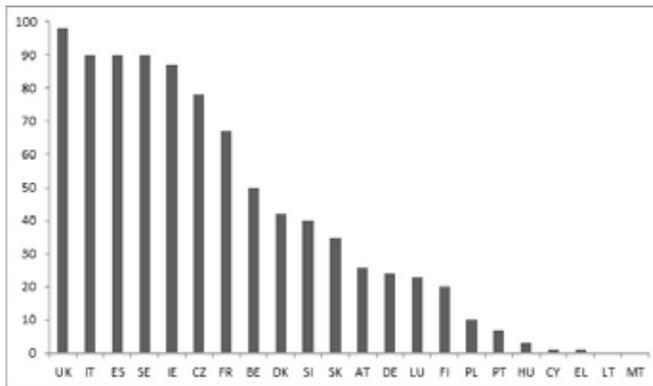
Many Member States have supplemented legal standards with specific targets for accessible audio-visual material. The Access Rules published by the Broadcasting Authority of Ireland in 2012, for example, specify targets for each broadcaster for the percentage of programmes that have subtitling, Irish Sign Language interpretation and audio description (Ireland 2012).

Earlier data from a 2008 EU-funded project covering 25 EU Member States shows the highest reported percentage of programming by a main public broadcaster with subtitling, sign language interpretation and audio

60 All indicators, including country data, are available online at: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/political-participation>

description, respectively. The results indicate that in 10 Member States, less than 25% of programmes were subtitled. Figures for sign language interpretation were even lower (MeAC 2008).⁶¹ While the situation may have changed since this data was collected, information gathered by FRA in 2014 suggests that accessibility measures for television often remain limited to certain broadcasts; for example, news and current affairs (FRA 2014).

Figure 5: Subtitled programmes on a main public sector television channel, by EU Member State (%)



Source: *Measuring Progress of eAccessibility in Europe, 2007-2008*, FRA 2015.

Another way Member States have moved to improve access to information and communication is through official recognition of national sign languages.⁶² This reflects the CRPD Committee’s concluding observations, which have commended State parties for recognising sign languages (CRPD Committee 2012; 2013). Sweden (Sweden 2009:600) and Estonia (Estonia 2011, Section 3, para. 2) have both passed Language Acts recognising their respective national sign languages, as well as the right of deaf and hearing impaired persons to communicate in sign language. Since CRPD ratification, similar legislative acts recognising sign languages as official languages have also been passed in Denmark and Spain. In Denmark, this occurred in conjunction with the creation of a Danish Sign Language Council, whose role is to devise principles and guidelines for the monitoring of Danish Sign Language and to offer advice and information (Denmark, 2014).⁶³

61 Some further data are now available for 12 countries here: <http://www.eaccessibility-monitoring.eu/>

62 For further information, see Wheatley & Pabsch (2012).

63 For more information, see: <http://www.dsn.dk/tegnprog/about-the-danish-sign-language-council>

Recognition of sign language is not, however, limited to enhancing its legal status. The Polish National Bank (*Narodowy Bank Polski*, NBP), as part of its campaign to improve access to financial services, has prepared a directory of economic terms translated into Polish Sign Language, and guidelines for financial institutions on what persons with disabilities need in their contact with banks. The NBP is cooperating with the Vis Maior Foundation (*Fundacja Vis Maior*) and the Polish Deaf Association (*Polski Związek Głuchych*) in this initiative (Narodowy Bank Polski 2014; FRA 2015a).

One area which has seen a combination of measures to improve the accessibility of audio-visual material and increased provision of sign language interpretation is political participation.⁶⁴ For example, the Latvian Central Election Commission implemented a project to improve the accessibility of political broadcasts for persons with hearing impairments during the 2010 European Parliament elections and the 2010 national parliamentary elections.⁶⁵ Information about the candidate lists and election programmes was translated into Latvian Sign Language. On the legislative side, a 2011 regulation in Spain includes a number of measures, ranging from the accessibility of polling stations and public and official spaces where electoral campaign activities are held, to the provision of a free-of-charge sign language interpreting service (Spain 2011).

Accessibility is another area where future EU action could support Member States to meet their CRPD obligations. For example, secondary EU legislation could set minimum standards to be applied at national level. The planned European Accessibility Act, which aims to improve the market for accessible goods and services by stimulating innovation and harmonising accessibility standards, was given renewed impetus by the European Commission which took office in 2014. Although the act is not specifically listed in the Commission's 2015 work programme, a proposal is expected in late 2015 or early 2016.

Looking ahead: drivers of future reforms

Evidence collected by FRA demonstrates that wide-ranging legal and policy changes are taking place across the EU following or in anticipation of accession to the CRPD. This illustrates how the adoption of international commitments acts as a driver for broad and systematic processes of change in the EU.

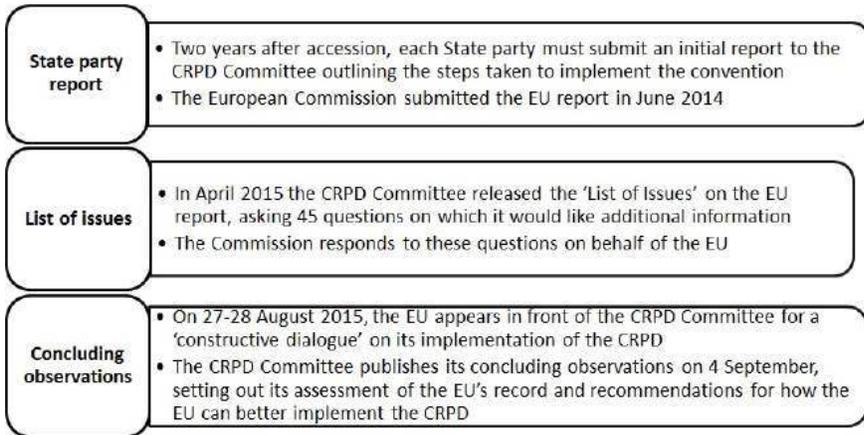
Looking ahead, this process is likely to continue. The EU's implementation of the Convention was reviewed by the CRPD Committee in summer 2015.

⁶⁴ For more information, see FRA (2014).

⁶⁵ For further information, see <http://cvk.lv/pub/public/29699.html> and <http://cvk.lv/pub/public/29402.html>

This marks the first time that the EU has been reviewed by a UN human rights treaty body. The feedback the EU received through the CRPD Committee's Concluding Observations, as well as its general comments and responses to individual communications, will be invaluable in guiding the EU's further implementation of the Convention.

Figure 6: Key steps in the review of the EU by the CRPD Committee



Source: FRA 2015.

The EU CRPD Monitoring Framework has an important role to play in this process. All of its members participated actively in the review during 2015, holding two meetings with the CRPD Committee and, in August 2015, giving opening and closing statements during the constructive dialogue between the EU and the CRPD Committee. In addition, the European Parliament organised a public hearing on the EU's implementation of the Convention, at which all Framework members spoke.

Figure 7: How is FRA contributing to the EU review process?



Source: FRA 2015.

Moreover, each EU CRPD Monitoring Framework member has stated its willingness to contribute to the follow up of the review process will all available resources. This commitment is also reflected in the agreement on a work plan for the Framework's activities in 2015 and 2016, which sets out various actions to promote, protect and monitor the implementation of the CRPD.⁶⁶

With the Member States retaining competence for implementing the Convention in many policy areas, it is at national level that most steps to bring standards and policies in line with the CRPD will be taken. In addition to the CRPD Committee's jurisprudence, these actions are increasingly being shaped by national court rulings drawing on the Convention, as well as by the work of national independent monitoring mechanisms established under Article 33(2) of the CRPD.

Despite their different competences regarding CRPD implementation, the EU and its Member States are subject to a "duty of sincere cooperation" (European Commission 2014, para. 15) when fulfilling the obligations set out in the Convention. In addition to its responsibility in areas of EU competence, the Union can play a significant role by assisting Member States in their efforts to improve the conformity of their legislation with the convention. In particular, framing different articles of the CRPD in non-discrimination terms makes them of greater relevance to EU law and policy. This, in turn, creates opportunities for further EU action in the area of equality – such as the proposed equal treatment directive – to play a role in harmonising national legislation with the Convention.

⁶⁶ The work plan is available at: <http://ec.europa.eu/social/BlobServlet?docId=14156&langId=en>

Bibliography

Belgium (2012). Decree of 13 July 2012 amending various provisions of the Decree of 27 March 2009 on the radio and television (Decreet van 13 juli 2012 houdende wijziging van diverse bepalingen van het decreet van 27 maart 2009 betreffende radio-omroep en televisie).

Council of the European Union (2012). 3196th Council meeting Transport, Telecommunications and Energy. Press release, PRES/12/447. Luxembourg, 29 October.

Croatia (2011). Plan for Deinstitutionalisation and Transformation of Social Welfare and Other Legal Entities Providing Social Care Services in the Republic of Croatia 2011 – 2016 (2018) (Plan deinstitucionalizacije i transformacije domova socijalne skrbi i drugih pravnih osoba 2011 – 2016 (2018)).

Cyprus (2013). Ministry of Labour and Social Insurance, Department for Social Inclusion of Persons with Disabilities, National Disability Action Plan for the implementation of the UN Convention on the rights of persons with disabilities 2013-2015 (Εθνικό Σχέδιο Δράσης για την Αναπηρία. Για την εφαρμογή της Σύμβασης του ΟΗΕ για τα δικαιώματα των ατόμων με αναπηρίες), July 2013.

Denmark (2014). Act no. 517 of 26 May 2014 amending the Act on the Danish Board of Language (Lov om ændring af lov om Dansk Sprogævn, lov nr. 517 af 26. May 2014).

Estonia (2011). Language Act (Keeleseadus).

European Commission (2010). European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final. Brussels, 15 November 2010.

European Commission (2014). Report on the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union, SWD(2014) 182 final. Brussels, 5 June 2014.

European Council (2007). Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights. Brussels, 15 February 2007.

European Council (2013). Council Decision No 252/2013/EU of 11 March 2013 establishing a Multiannual Framework for 2013-2017 for the European Union Agency for Fundamental Rights. Brussels, 11 March 2013.

European Union Agency for Fundamental Rights (FRA) (2010). The right to political participation of persons with mental health problems and persons with intellectual disabilities. Luxembourg: Publications Office of the European Union (Publications Office).

FRA (2011). The legal protection of persons with mental health problems under non-discrimination law: Understanding disability as defined by law and the duty to provide reasonable accommodation in European Union Member States. Luxembourg: Publications Office.

FRA (2012a). Access to justice in cases of discrimination in the EU: steps to further equality. Luxembourg: Publications Office.

FRA (2012b). Choice and control: the right to independent living. Luxembourg: Publications Office.

FRA (2012c). Involuntary placement and involuntary treatment of persons with mental health problems. Luxembourg: Publications Office.

FRA (2013a). Inequalities and multiple discrimination in access to and quality of healthcare. Luxembourg: Publications Office.

FRA (2013b). Legal capacity of persons with intellectual disabilities and persons with mental health problems. Luxembourg: Publications Office.

FRA (2014). The right to political participation for persons with disabilities: human rights indicators. Luxembourg: Publications Office.

FRA (2015a). Fundamental rights: challenges and achievements in 2014 – Annual report. Luxembourg: Publications Office.

FRA (2015b). Implementing the UN CRPD: An overview of legal reforms in EU Member States. Available at: <http://fra.europa.eu/en/publication/2015/implementing-un-crpd-overview-legal-reforms-eu-member-states> (Accessed on 9 October 2015).

FRA (2015 forthcoming). Violence against children with disabilities: legislation, policies and programmes in the European Union. Luxembourg: Publications Office.

Greece, Ministry of Justice, Transparency and Human Rights (2014). National plan for human rights (Εθνικό Σχέδιο Δράσης για τα Ανθρώπινα Δικαιώματα).

Italy (2013). Decree of the President of the Republic 4 October 2013, Adoption of the biannual action plan for the promotion of the rights and

the integration of people with disabilities (Decreto del Presidente della Repubblica 4 ottobre 2013, Adozione del programma di azione biennale per la promozione dei diritti e l'integrazione delle persone con disabilità).

Ireland (2012). Broadcasting Authority of Ireland, BAI Access Rules 2012, Dublin: BAI, [12]. Available at: www.bai.ie/?page_id=2419 (Accessed on 6 August 2015).

Latvia (2014). Decree on the Implementation plan 2014 of the Guidelines for the implementation of the United Nations Convention on the Rights of Persons with Disabilities 2014-2020 (Rīkojums 'Par Apvienoto Nāciju Organizācijas Konvencijas par personu ar invaliditāti tiesībām īstenošanas pamatnostādņu 2014.-2020.gadam īstenošanas plānu 2014.gadam'), 3 September 2014.

Lithuania (2014). Action Plan for 2014-2020 on transformation from institutional care to care in the family and the community for persons with disability and children without care of parents (Lietuvos Respublikos socialinės apsaugos ir darbo ministro įsakymas dėl perėjimo nuo institucinės globos prie šeimoje ir bendruomenėje teikiamų paslaugų neįgaliesiems ir likusiems be tėvų globos vaikams 2014-2020 metų veiksmų plano patvirtinimo), 2014 m. vasario 14 d. Nr. A1-83, Register of Legal Acts, 17-02-2014, No. 2014-01624.

Measuring Progress of eAccessibility in Europe – MeAC. (2008). Available at: <http://www.eaccessibility-progress.eu/> (Accessed on 6 August 2015).

Narodowy Bank Polski. (2014). Informacje w języku migowym. Available at: <http://nbpniewykluca.pl/sluch> (Accessed on 6 August 2015).

Poland (2013). National Action Plan for Equal Treatment 2013–2016 (Krajowy Program Działań na Rzecz Równego Traktowania na lata 2013–2016), 10 December 2013.

Spain (2011). Royal Decree 422/2011 of 25 March on the Regulation of the basic conditions for the participation of persons with disabilities in the political life and in electoral procedures (Real Decreto 422/2011, de 25 de marzo, por el que se aprueba el Reglamento sobre las condiciones básicas para la participación de las personas con discapacidad en la vida política y en los procesos electorales).

Spain (2013). Act No. 8/2013, on Urban Restoration, Regeneration and Renovation (Ley 9/2013, de 26 de junio, de rehabilitación, regeneración y renovación urbanas), BOE No. 153, 26 June 2013.

Sweden (2009). Language Act (Språklag).

Sweden (2014). Law amending the Discrimination Act (Lag om ändring i diskrimineringslagen).

United Nations (UN) Committee on the Rights of Persons with Disabilities (2011). Concluding observations of the Committee on the Rights of Persons with Disabilities of Spain. CRPD/C/ESP/CO/1.

UN Committee on the Rights of Persons with Disabilities (2012). Concluding observations on the initial report of Hungary. CRPD/C/HUN/CO/1.

UN Committee on the Rights of Persons with Disabilities (2013). Concluding observations on the initial report of Austria. CRPD/C/AUT/CO/1.

UN Committee on the Rights of Persons with Disabilities (2014). General comment No. 2: Accessibility. CRPD/C/GC/2.

Wheatley, M. & Pabsch, A. (2012). Sign Language Legislation in the European Union - Edition II. Brussels: EUD.

List of further reading

All publications mentioned below are available at <http://fra.europa.eu/en/publications-and-resources>.

European Union Agency for Fundamental Rights (FRA) (2010). The right to political participation of persons with mental health problems and persons with intellectual disabilities. Luxembourg: Publications Office of the European Union (Publications Office).

FRA (2011). The legal protection of persons with mental health problems under non-discrimination law: Understanding disability as defined by law and the duty to provide reasonable accommodation in European Union Member States. Luxembourg: Publications Office.

FRA (2012). Fundamental rights: challenges and achievements in 2011 – Annual report. Luxembourg: Publications Office.

FRA (2012). Choice and control: the right to independent living. Luxembourg: Publications Office.

FRA (2012). Involuntary placement and involuntary treatment of persons with mental health problems. Luxembourg: Publications Office.

FRA (2012). Access to justice in cases of discrimination in the EU: steps to further equality. Luxembourg: Publications Office.

FRA (2013). Fundamental rights: challenges and achievements in 2012 – Annual report. Luxembourg: Publications Office.

FRA (2013). Inequalities and multiple discrimination in access to and quality of healthcare. Luxembourg: Publications Office.

FRA (2013). Legal capacity of persons with intellectual disabilities and persons with mental health problems. Luxembourg: Publications Office.

FRA (2014). Fundamental rights: challenges and achievements in 2013 – Annual report. Luxembourg: Publications Office.

FRA (2014). The right to political participation for persons with disabilities: human rights indicators. Luxembourg: Publications Office.

FRA (2015). Fundamental rights: challenges and achievements in 2014 – Annual report. Luxembourg: Publications Office.

FRA (2015). Equal protection for all victims of hate crime: the case of people with disabilities. Luxembourg: Publications Office.

FRA (2015). Implementing the UN CRPD: An overview of legal reforms in EU Member States. Available at: <http://fra.europa.eu/en/publication/2015/implementing-un-crpd-overview-legal-reforms-eu-member-states> (Accessed on 9 October 2015).

FRA (2015 forthcoming). Violence against children with disabilities: legislation, policies and programmes in the European Union. Luxembourg: Publications Office.

Biography

Constantinos Manolopoulos is Director, a.i. of FRA. FRA provides independent, evidence-based assistance and expertise on fundamental rights to EU institutions and its Member States. It is an independent EU body, funded by the EU budget. Following the decision of the Council of the EU in 2012, FRA has been a member of the EU Framework to promote, protect and monitor the CRPD established under Article 33(2) of the CRPD.

4. European level

e. Civil Society involvement in the CRPD Committee's review process and the Alternative Report

Yannis Vardakastanis, President, the European Disability Forum (EDF)

Introduction

The European Union (EU) acceded to the UN Convention on the Rights of Persons with Disabilities (CRPD) in December 2010, making it the first human rights treaty to ever have been ratified by a regional organisation. 25 of the 28 EU Member States have also ratified the CRPD (the remaining 3 promise to do so: Finland, the Netherlands and Ireland). By concluding the CRPD, the EU and its Member States are committed to ensure and promote the full realization of all human rights for all persons with disabilities through the adoption of new legislation, policies and programmes and the review of existing measures.

At the international level, the respect of the CRPD rights is monitored by the UN Committee on the Rights of Persons with Disabilities (CRPD Committee)⁶⁷. It is a body of eighteen independent experts who have been nominated by the countries that have ratified the Convention. The Committee members are elected for the period of either two or four years, and serve on the Committee in their individual capacities.

The principal task of the CRPD Committee is the review of the progress in implementation of the CRPD. State Parties are obliged to submit an initial report to the Committee on measures taken to implement the Convention, two years after its entry into force. Thereafter, periodic reports must be submitted every four years. On the basis of the State reports, complemented with information from other sources, including organisations of disabled people (DPOs), the Committee assesses the country's progress, and issues concluding observations to the State Party. These 'Concluding Observations' can be understood as recommendations.

After the EU prepared and submitted its initial report to the CRPD Committee in June 2014, the Committee reviewed the report and the work the EU has done for persons with disabilities in 2015. In April 2015, the Committee had a first internal discussion on the EU report and prepared a list of questions to send to the EU. These questions indicated issues the

⁶⁷ For more information on the CRPD Committee, see: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

Committee would require further clarification on - called the 'List of Issues'. After that, the EU responded to this List of Issues, with a new document providing supplementary information on the EU's actions.⁶⁸ In August 2015, the CRPD Committee met with the EU and thoroughly discussed the report and the answers on the list of issues during the Constructive Dialogue. As a result, the CRPD Committee gave its view on how the EU has implemented the Convention and made recommendations for improvement in its Concluding Observations.

The European Disability Forum (EDF), as a European umbrella organisation representing the rights of 80 million persons with disabilities in Europe, actively participated in this review process before the Committee. EDF is a unique platform organisation including a wide range of members - National Councils of Persons with Disabilities and European-wide DPOs, and a range of European, international and national associate members. EDF's mission is to ensure persons with disabilities have full access to fundamental and human rights through their active involvement in policy development, implementation and monitoring in Europe. In this sense, the review process was an important process for EDF and its members during the past year.

EDF is also a member of the EU's Independent Monitoring Framework (each State Party is required to establish such a mechanism under Article 33(2)). In May 2013, EDF was nominated as Chair of the Framework for a period of 2 years. EDF was also involved in the EU review process in Geneva, as a member of the Framework.

EDF's Alternative Report on the implementation of the CRPD in the EU

DPOs have the opportunity to participate in the reporting process before the CRPD Committee. At the same time as State Parties prepare their report to the Committee, DPOs can also prepare an Alternative Report, presenting the situation of persons with disabilities and covering gaps, or providing supplementary information to the State parties' report. In March 2015, EDF submitted its alternative report to the Committee.

The EDF Alternative Report gives the view of 80 million Europeans with disabilities on the enjoyment of their political, civil, economic, social and cultural rights. The purpose of EDF's Alternative Report is to inform the Committee about how the CRPD has been implemented by the EU and its institutions, agencies and bodies. The report is based on an analysis of the gaps in the EU report and seeks to complement it where relevant with information received by EDF members and other stakeholders.

68 For more information, see: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fQ%2f1%2fAdd.1&Lang=en

While the EU report describes action which the EU has undertaken, EDF's report highlights what DPOs in Europe see as the full responsibility and the full potential of EU action, if the CRPD was to be fully implemented. EDF's members explained the gaps in implementation and enforcement of existing directives and policies, and also highlighted a range of policy areas where actions have been promised but not delivered.

EDF's Alternative Report is based on a broad consultation of its members, civil society partners and other stakeholders. Giving a clear view on the situation of persons with disabilities all over Europe would not have been possible without their contribution and expertise. The report has been written by the EDF secretariat on the basis of input received from its members and other civil society organisations through a questionnaire sent out in May 2013, contributions received on specific articles in May 2014 and during hearings organised by EDF and the European Economic and Social Committee (EESC) in the course of 2013 and 2014. Consultations for feedback on the draft versions of the report took place between July and November 2014. These consultations closely involved the EDF Executive Committee, the Board of Directors, the larger EDF membership and other civil society organisations.

The report is divided into two parts: the first part examines the implementation of all the provisions of the CRPD in its policy work and the second part looks at the internal implementation of the Convention by the EU as a public administration. For each CRPD provision, the report lists the main concerns and provides recommendations for improving the implementation within the EU.

The report highlights that the overall purpose of the CRPD - to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities - has not been realised today in the EU. Freedom of movement, as one of the key principles and rights of all EU citizens, is not being met for persons with disabilities or their families in the EU. Persons with disabilities are still discriminated against in many areas of life, and, since the financial and economic crisis, are experiencing increased poverty and social exclusion. In the report, EDF highlighted that it expects the EU to show the best possible example of implementation of the CRPD and calls on the EU to fully and actively examine which actions it should take to implement the CRPD, with the meaningful and close involvement of persons with disabilities and their representative organisations.

The Committee also received substantial amounts of additional documentation from representative DPOs, other civil society organisations, and national human rights institutions, which included additional information on the rights of persons with disabilities in the EU and globally.

These alternative reports and alternative responses to the list of issues of the EU also made specific suggestions for recommendations to the EU.

EDF and members' participation in the EU review process before the CRPD Committee

As highlighted earlier, the review process of the EU before the CRPD Committee took place in two sessions, first in April 2015 with the adoption of the List of Issues, and then in August 2015 during the Constructive Dialogue. EDF and its members were actively involved with the CRPD Committee during this process and participated in the Committee's sessions in April and August 2015.

EDF and its members organised three side events to brief the Committee on their main priorities and recommendations. One side event took place in April 2015 and informed the Committee about its views on the most important questions to ask in the List of Issues in relation to the EU report. Before the Constructive Dialogue in August 2015, EDF and its members organised two additional side events during which they had the opportunity to meet the Committee and present their main concerns and demands, including a specific event focussed on women and girls with disabilities in the EU.

During this process, the EDF Secretariat coordinated the work and the participation of its European member organisations, including the European Union of the Deaf (EUD) in the review process of the EU before the Committee. Throughout the process, EUD provided ongoing input on the perspectives of deaf people, and in particular on the role of the EU in promoting sign languages. Together with its members, EDF developed a strategy on advocacy and communication to promote its alternative report. This strategy included joint analysis, actions and recommendations on promotion and communication of EDF's recommendations to the Committee. Many EDF members issued their own analysis and reports, based on their members' perspectives and expertise; therefore the Committee received reports from EDF members bringing specific information on the rights of persons with psychosocial and intellectual disabilities, adults and children with autism, and deaf and hard of hearing people.

The Constructive Dialogue took place publicly on 27 and 28 August 2015 in Geneva, and the entire six-hour dialogue with the EU was live streamed, with sign language translation and captioning. The Constructive Dialogue was an historic moment for EDF; for 18 years, since its establishment, EDF has contributed to the CRPD negotiations, the signing and conclusion by the EU and, more recently, the EU review process. The Constructive Dialogue marked a moment to reflect, and hear the EU explain how far it

has come, and to have the CRPD Committee outline how far there is to go.

The CRPD is a critically important framework for the human rights of persons with disabilities. It requires States Parties, including the EU, to meaningfully involve organisations of persons with disabilities in all policy and decision making processes which concern them. EDF confirms that the review process of the EU in Geneva fully embraced this requirement.

The Concluding Observations

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. A human rights treaty body has never given recommendations to the EU. This is a real occasion for celebration - the EU has restated its commitment to human rights and the rights of persons with disabilities. 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.

In September 2015, the CRPD Committee published its Concluding Observations and recommendations⁶⁹ on how the EU can promote and protect the rights of persons with disabilities in Europe, in areas such as: freedom of movement, non-discrimination, independent living, education, employment, legal capacity, access to justice, liberty and security, health, participation in elections, etc. The Committee also recommended the EU adopts EU policy on humanitarian aid and international cooperation.

The Concluding Observations to the EU are comprehensive and list important recommendations that the EU has to implement in the coming 4 years. The Concluding Observations give clear guidelines in its review on the implementation of the CRPD's Article 3 (General principles) and Article 4 (General obligations):

- To conduct a cross cutting comprehensive review of legislation to ensure full harmonisation with the CRPD and involve DPOs and national human rights institutes in this process – this means that the EU should modify or abolish all existing instruments that are contradictory to the Convention.
- The impact assessment guidelines should be reviewed and modified, in order to include a more comprehensive list of questions (currently, there is one question) to better assess compliance with the CRPD – this means that in the Better

69 For more information, see: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1&Lang=en

Regulation guidelines and toolbox, the EU should include a comprehensive list of questions to adequately assess whether proposed legislation and policies are compliant with the CRPD.

- To adopt a comprehensive strategy to implement the CRPD across all EU institutions and Member States with a budget, timeframe and monitoring mechanism.
- To undertake a mid-term review of the European Disability Strategy 2010-2020, making a link with the Concluding Observations, and closely consult with DPOs in this exercise.
- To set up a structured dialogue for persons with disabilities and their representative organisations in all EU decision making processes, with an independent budget and sufficient funding for consultation with and participation of persons with disabilities.

The CRPD Committee further recommends that the EU designates focal points in all EU institutions, bodies and agencies, and an inter-institutional coordination mechanism for the implementation of the Convention Article 33(1) is established.

The Concluding Observations also call on the EU to adopt equal treatment legislation, extending protection against discrimination of persons with disabilities, including prohibiting multiple and intersectional discrimination in all areas of its competence. This means that the EU should prohibit discrimination based on disability and provide for the duty to provide reasonable accommodation in the areas of social protection, health care, (re)habilitation, education and the provision of goods and services, such as housing, transport and insurance, in line with Article 5 of the CRPD (Equality and non-discrimination).

The Concluding Observations call on the EU to mainstream women and children with disabilities' rights and perspectives in its upcoming Gender Equality Strategy, policy on work-life balance, and the upcoming EU Agenda on the rights of the child, and by ratifying the Council of Europe's Istanbul Convention, as stated in the CRPD, in Article 6 (Women with disabilities) and Article 7 (Children with disabilities).

The Concluding Observations call on the EU to run a campaign to raise awareness of the CRPD and to combat prejudice against persons with disabilities. All materials related to training and capacity building, awareness raising, public statements, amongst others, should be made accessible for all persons with disabilities, especially persons with psychosocial disabilities, intellectual disabilities and older persons with disabilities, as required by Article 8 of the CRPD.

The Concluding Observations recommend that the EU ensures that all persons with disabilities deprived of their legal capacity can exercise all

rights enshrined in EU Treaties and EU legislation, such as on access to justice, to goods and services, including banking and employment, and to health care, as well as consumer and voting rights. The EU should also promote research, data collection and exchange of good practices on supported decision making, in consultation with representative organisations of persons with disabilities, as required by the CRPD; Article 12 (Equal recognition before the law). With regard to voting rights, the EU should provide, in cooperation with the Member States and DPOs, accessible communication and facilities, in line with Article 29 (Participation in political and public life).

The EU has to take action to guarantee access to justice, prohibit involuntary detention and treatment, including forced sterilisation and abortion, and include the disability perspective in EU policy on violence, abuse and exploitation (Articles 13-17 of the CRPD). This means that in all EU legislation, policy, research and funding programmes on justice, health, violence, abuse and trafficking, the perspective and needs of persons with disabilities need to be taken into account.

The EU has to immediately ensure the freedom of movement of persons with disabilities and their families, including the portability of social security benefits for workers with disabilities, and for short-term stays in other Member States for students or interns (Article 18), as well as better enforcement of passengers' rights legislation, including by guaranteeing that personal assistants can travel for free on all transport modes if they accompany a person with a disability (Article 20). The EU is asked to evaluate its cross-border health care directive; particularly the impact it has on persons with disabilities' access to health care outside of their home country (Article 25).

The CRPD Committee recommends that the EU develops an approach to guide Member States' efforts of deinstitutionalisation and to strengthen the monitoring of the use of the European Structural & Investment Funds with the meaningful engagement of representative organisations of persons with disabilities. The funds should be used strictly for the development of support services for persons with disabilities in local communities and not for the re-development or expansion of institutions. The EU should suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached (Article 19).

The Committee recommends that the EU takes measures and enforces the implementation of its legislation on access to information and communication to facilitate access in accessible languages, and to promote the official recognition of sign language and braille (Article 21).

The Committee referred to the high unemployment rate of persons with disabilities and recommended that the EU increases the employment rate in the open labour market, including by providing training on reasonable accommodation and accessibility in the context of employment (Article 27).

The EU should prevent further adverse and retrogressive effects of austerity measures on the adequate standard of living of persons with disabilities, including by the provision of a minimum social protection floor (Article 28).

The Committee recommends that the EU adopts an EU disability-inclusive policy on humanitarian aid and international cooperation (Articles 11 and 32).

In relation to the EU public administration, the Committee recommends that the EU guarantees access for all children with disabilities to inclusive, quality education in European schools, and takes policy measures to facilitate access of inclusive quality education for all students with disabilities in EU Member States and to apply a human rights based approach to disability in EU health care coverage.

Throughout the Concluding Observations, the CRPD Committee calls for the need to mainstream the rights of persons with autism, intellectual and psychosocial disabilities, blind, deaf and deaf-blind persons in the EU's work on the CRPD, both within its public administrations and throughout its laws and policies.

The Committee requires the EU to provide feedback within one year on three areas:

- Progress in its independent monitoring mechanism – this means that the EU should ensure the EU monitoring framework's independence and compliance with the Paris Principles, by removing the European Commission, and providing adequate resources for the performance of its functions.
- Adoption of the long awaited European Accessibility Act – this means that the EU should adopt a European Accessibility Act that is aligned with the CRPD, and ensure the participation of representative organisations of persons with disabilities in the process of adoption.
- Reviewing its declaration of competences – this means that the EU should complete and update its list of policy areas to which the CRPD applies, including all instruments which are recently adopted and which touch upon the rights of persons with disabilities. It is the view of the EDF that this review of the declaration of competences should be based on the legislative

review that the Committee asks for in Paragraph 9 of the Concluding Observations. The Committee notes that the review of the EU's competences should take place on a regular basis.

EDF is broadly positive about the EU review process undertaken by the Committee, and the final result – the Concluding Observations. Of course, there are areas in which EDF would prefer to see stronger and more specific language, to make sure that there is little room for interpretation in the next steps.

One aspect of implementation of the CRPD which the Concluding Observations tackled less specifically than we would have liked is Article 33(1), regarding the focal point. The Commission is the focal point for the EU, and the informal arrangement is that this focal point is in Directorate-General (DG) Employment, Social Affairs and Inclusion. The European Commission handles human rights and discrimination issues in DG Justice and Consumers, and the view of EDF is that the focal point for the CRPD should be in DG Justice and Consumers. A resolution⁷⁰ of EDF General Assembly was presented to the President of the European Commission in this regard. EDF is disappointed that the CRPD Committee failed to recommend the same to the EU, given that it also reflects the position of the UN Office of the High Commissioner for Human Rights (OHCHR), in relation to the place of the CRPD focal point for State parties in general. However, the Concluding Observations do request that a set of focal points is established across all EU institutions, which will mean that DG Justice and Consumers and all other DGs in the European Commission; as well as the European Parliament and important Council Working Groups; will need to establish a focal point. We hope that these focal points will come together to create a robust inter-institutional coordination mechanism, as required by the CRPD. EDF is fully in support of this recommendation and calls for DPOs to be included in this mechanism.

70 For more information, see: http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=34304

Conclusion

The CRPD requires a comprehensive approach to the implementation of the rights of persons with disabilities for every State Party. It obliges State Parties to consider the inclusion of and accessibility for all persons with disabilities in all areas of policy. It creates, for the first time, the obligation to engage persons with disabilities meaningfully in all policy matters. The EU's Concluding Observations give a strong platform for action, and will require a new approach to the CRPD by the EU and readjustments in the European Disability Strategy. This involves responsibilities for all EU institutions, and also for DPOs. EDF is committed to collaborating with our members and European institutions to ensure that measurable progress is made in the coming 4 years to accomplish the full implementation of the CRPD in the EU.

“This is a historic moment for us. People with disabilities across the EU have been hit hard by austerity, and face increasing poverty and marginalisation. Today, the CRPD Committee has recognised this, and has provided a powerful and comprehensive set of recommendations to the EU. This gives a strong mandate to the EU, including all its institutions and agencies to fully address the inclusion of persons with disabilities in all of their work. The EU has been a world leader in committing as a regional body to this human rights Convention. It can also be a leader in the implementation of the CRPD. We, as the EDF, will continue to work hard with our members and allies to promote these recommendations so that 80 million Europeans with disabilities will feel the benefit of the CRPD directly in their lives”, says the EDF's President, Yannis Vardakastanis.

Biography

Yannis Vardakastanis was born in Zakynthos, Greece, in 1957. In 1989, he graduated in Political Sciences from the University of California in Berkeley. He has extensive experience in the field of disability, working as: Special Advisor for the education of students with disabilities to the Minister of Education (1982-84); Special Advisor to the President of the Greek Manpower Employment Organisation and Delegate at the Greek Ministry of Labour on disability issues (1985-89) and Managing Director of the National Institute for the Protection of Deaf and Hard of Hearing People (1986-89).

From 1983 to 1992, Vardakastanis was Vice-President and then President of the Panhellenic Association of the Blind and since 1989 he has been actively involved in the National Confederation of Disabled People in Greece (NCDP), where he has been President since 1993.

Since 1999, Vardakastanis has been President of the EDF, also chairing different commissions and committees in several European and international disability NGOs. From 2002 to 2007, he has been actively involved as EDF representative in the negotiations on the UN Convention on the Right of Persons with Disabilities. Since 2007, he has been the EDF representative in the International Disability Alliance (IDA) and from July 2012 to 2014, he was its Chair; now he is the Treasurer.

4. European Level

f. The added value of being involved in the CRPD process

Petra Söderqvist, Policy Officer, the European Union of the Deaf (EUD)

Introduction

The United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) is a very unique Convention in many ways; it is the first and only UN Convention signed by the EU and the EU is the only regional body globally to have ratified a UN Convention. (European Parliament 2015, United Nations 2015b)

When the EU ratified the CRPD in 2010 (United Nations 2015a), the role and involvement of stakeholders, such as the European Union of the Deaf (EUD), who work with and monitor the CRPD's implementation at European level changed. Not only does EUD train and support its national member associations during the process that eventually sees their State Parties appearing before the CRPD Committee for Constructive Dialogue sessions, but EUD shoulders that very same responsibility at the EU level.

This chapter explores how EUD, as the only European Non-Governmental Organisation (ENGO) who represents 31 National Associations of the Deaf (NADs), including all 28 EU Member States and Iceland, Norway and Switzerland, is working with the implementation and monitoring of the CRPD.

Following the implementation of the CRPD at EU level

Every year since 2010 the European Commission has organised a Work Forum in Brussels, highlighting a specific theme associated to the CRPD. These annual meetings provide an ideal platform for experts of the CRPD to provide thought provoking interventions, who sit alongside other relevant invited stakeholders, such as civil society organisations who share examples of good practice from all around the EU. EUD participates in all the Work Forum meetings and whenever the theme or article of the meeting is highly relevant to deaf citizens, EUD will attend armed with useful information to contribute to the discussions in regard to the implementation of the CRPD.

Another important event with a strong affiliation to the CRPD is the European Day of Persons with Disabilities (EDPD), which is celebrated on 3 December every year. The European Commission organise an annual

conference in Brussels on or around this date to highlight the rights of and to celebrate persons with disabilities. Civil society stakeholders, such as Disabled People's Organisations (DPOs), are invited to take part and EUD has attended this conference without fail since 1993.

These conferences are two examples of events that regularly take place, where it is vital for civil society organisations, such as EUD, to participate as fully as possible to provide insight into the work and progress of the rights of persons with disabilities at EU and national levels. These meetings allow for the most up to date details to be presented, relevant to how the implementation of the CRPD is tracking, at both EU and national levels. It is a priority for EUD to attend these events, to not just glean valuable information, but they also allow for questions and comments to be asked and networking to occur. These meetings allow for face-to-face discussions between decision makers and representatives of DPOs specifically concerning upcoming policy. EUD is well placed to share important and tailored information concerning progress and success, as well as challenges and barriers, faced by deaf people around Europe. These positions are formed by communication channels that begin with and are fundamentally led by NADs who escalate these matters to the EUD staff and board. These events are ideal circumstances to communicate with the right people and in a very accessible way. The information shared at these events are also communicated by EUD to its members, from live reporting via social media channels, to summary videos in International Sign at the conclusion of each conference day. If further detail is required for members, then EUD can arrange specific presentations and workshops.

The EDPD conference is often web streamed with International Sign interpreting, allowing for more people to follow the event. In terms of accessibility in general, the European Commission has been awarding the Access City Awards⁷¹ to an EU city every year since 2011.

“The Access City Award recognises and celebrates a city's willingness, capability and efforts to ensure accessibility in order to:

- guarantee equal access to fundamental rights;
- improve the quality of life of its population and ensure that everybody, regardless of age, mobility, or ability – has equal access to all the resources and pleasures cities have to offer.”

(European Commission 2015)

This award presents good examples of accessible cities around the EU. EUD promotes this award through own channels to highlight the importance

71 For more information, see: <http://ec.europa.eu/social/main.jsp?catId=1141>

of including accessibility for deaf persons in the concept of an 'accessible city', such as providing information in sign language in all areas of society.

It is important to keep in mind that the European Commission is not the only institution in the EU, it is also relevant to monitor the political discussions and decision making of the European Parliament and the Council of the European Union. Even if the European Commission is appointed the focal point at EU level, the other two institutions are crucial legislative powers in the decision making process. Hence, for legislation it is essential to monitor the discussion of the Parliament and the Council, which is a large part of EUD's work as well.

Monitoring the CRPD at EU level

As described in Article 33(3), civil society organisations such as DPOs shall be involved in the monitoring process. At EU level, EUD constitutes the organisation representing deaf people. Reaching almost one million deaf sign language users through our member NADs, EUD has an extensive network to collect and to disseminate information. Consequently EUD is a great source and hub of valuable information and real examples when contributing to the essential part of the monitoring process of the CRPD – writing the Alternative Report⁷² to the Committee on the Rights of Persons with Disabilities (CRPD Committee).

Involvement in the Alternative Report

In 1996, the umbrella organisation on disability – the European Disability Forum (EDF) – was founded and EUD was one of the founding organisations (European Disability Forum 2015a). The previous EUD Executive Director Johan Wesemann, was appointed to be the first EDF President. EUD values the membership and the high level of cooperation with EDF greatly. One concrete example of this collaboration is the Alternative Report to the CRPD Committee for the EU. The Alternative Report was submitted to the CRPD Committee in March 2015, where EUD was one of the contributing organisations. (European Disability Forum 2015b)

By contributing to the EDF Alternative Report, EUD joined forces with other organisations to become stronger together. It was appreciated by the CRPD Committee, as it streamlined their work in the review of the EU, when DPOs have one report describing the reality for persons with disabilities with one common voice. EUD thus contributed to the Alternative Report by giving our view and examples of the articles that are of particular importance and shows a connection to deaf persons rights.

⁷² The Alternative Report is by some also referred to as the Parallel Report or the Shadow Report.

Articles of particular importance

Overall, EUD's core values in relation to the CRPD are the issues of legal recognition of sign language, access to sign language interpreting, accessible information and communication and equal right to freedom of movement. These core values can then be easily tied to different articles as they describe different situations.

There are articles in the CRPD that are of greater importance to EUD than others, as they focus specifically on rights for deaf persons. In some articles, there is very clear wording describing the rights for deaf persons, such as 'sign language' or 'sign language interpreter', whilst in other articles these words might not be included but the articles' texts still has implications for deaf rights.

Articles that clearly mentions deaf persons and sign language are:

- Article 2, Definitions, sign language is included in the definition of language.
- Article 9, Accessibility, professional sign language interpreters is mentioned.
- Article 21, Freedom of expression and opinion, and access to information, say that State Parties should accept, recognise, promote and facilitate the use of sign language.
- Article 24, Education, mentions both learning of sign language, promotion of the deaf community, that deaf children are educated in the most appropriate language (which include sign language according to Article 2) and that teachers should be qualified in sign language.
- Article 30, Participation in cultural life, recreation, leisure and sport, mentions sign language and deaf culture as examples of how recognition and support to the individual's cultural and linguistic identity should be provided for.

At the same time, there are examples of other articles of importance, but the text describes more implications and thus need clear explanation of the meaning of it for deaf persons:

- Article 11, Situations of risk and humanitarian emergencies, describes that all necessary measures to ensure the protection and safety in situations of risk. This includes accessible alarm systems, means of communications (i.e. 112 services) and accessible information for deaf persons. There are many details to this topic to ensure full accessibility in practice for deaf persons although it is not specified in the text of the Article.
- Article 18, Liberty of movement and nationality, is a broad topic meaning a person should have the right to choose their residence on an equal basis with other. This is linked to education and

employment and one of the fundamental principles of the EU – freedom of movement. For a deaf person, the right to interpreting and accessible information even in the national sign language of the ‘new’ country is not provided for in most cases in the EU.

- Article 27, Work and employment, mentions reasonable accommodation in the work place, which for deaf means access to and the right to sign language interpreting.
- Article 31, Statistics and data collection. Even if the article explains that the results should be provided for in accessible format it does not mention accessible data collection. Phone interviews are common when collecting data but this excludes deaf persons and is thus not fully accessible.

These articles do not only have particular relevance for deaf rights, but it is worth highlighting the role of EU competence, which is why they are of focus for EUD’s work when monitoring the implementation of the CRPD at EU level.

Sometimes one article intersects with other articles. For example accessible information and communication (Article 21) can be linked to all articles of importance. If it were obvious that sign language interpreting would be available for all deaf people, that would include education (Article 24), employment (Article 27), political participation (Article 29), health (Article 25), justice (Article 13), emergency situations (Article 11), and leisure activities (Article 30) for example. To take it one step further, in order to provide for and have a supply of professional sign language interpreters, legal recognition of sign language is required in the first instance.

This is linked to a significant EUD campaign – The 2010 Brussels Declaration on Sign Languages in the European Union – on the legal recognition of the national sign languages in the EU. This campaign called upon the EU and its Member States to recognise all national sign languages on equal basis as the official spoken languages of the EU. Doing so would mean public services would be fully accessible and there would be the right to sign language interpreting for deaf people. The campaign was conducted and signed by Member of the European Parliament *Ádám Kósa*, the President of EUD, representatives of all EUD member NADs, the President of the European Forum of Sign Language Interpreters (EFSLI), the President of the World Federation of the Deaf (WFD) and the President of the World Association of Sign Language Interpreters (WASLI) in November 2010. (European Union of the Deaf 2010)

Since EUD was founded in 1985, the legal recognition of sign languages has been one of its core goals and remains so as this has not yet been

accomplished in all EU Member States.⁷³ In addition to contributing to the EDF Alternative Report, EUD also make its own written reply to the CRPD Committee on the important issue of legal recognition of sign language. This is linked to the Convention's Article 21, Freedom of expression and opinion, and access to information, which is one of the more important articles for EUD as it has a strong link to EUD's core values.

The CRPD Committee sessions in Geneva

In August 2015, the EU had its review in the 14th CRPD session in Geneva, Switzerland. By being present, EUD showed the European Commission and the CRPD Committee that this is a priority and EUD is committed to the work of ensuring a complete implementation of the CRPD. It was important to show to the CRPD Committee the great cooperation we have, with all NGOs involved in the EDF Alternative Report. Also, it is important for EUD to set an example and show a strong visual presence, by having deaf persons present which includes the need for sign language interpreters. Another added value was also to continue building contacts and networks with the CRPD Committee and other stakeholders.

During this session, EDF organised a side event where the CRPD Committee was invited to attend. It was here that EDF and its members, including EUD, presented a key list of issues in the Alternative Report. EUD presented the key issues that were of most importance to us, for example the legal recognition of sign language and equality in terms of freedom of movement.

EUD reported with videos in International Sign before, during and after the review; describing the context of the review in the CRPD monitoring process, summarising the discussion during the review, and the possible implications of the outcome of the review.⁷⁴

For participating organisations with deaf delegates attending constructive dialogue sessions, sign language interpretation in their national sign language is not provided for by the UN, unless the spoken language in the particular country up for review is one of the official languages of the UN (i.e. Arabic, Chinese, English, French, Russian or Spanish). But one positive aspect is that the public sessions are web streamed and interpretation is provided in International Sign for the viewers following the sessions online. EUD made sure it engaged its own interpreting service, to ensure full accessibility at the side events and for networking during breaks, as

73 For more information on the legal status of sign languages, see Wheatley & Pabsch (2012).

74 For more information on these videos, see: <http://www.eud.eu/videos.php?action=archive&private=0>

this is unfortunately not provided for by the UN or the EU at this stage.

The Concluding Observations to the EU

In September 2015, the CRPD Committee announced its recommendations to the EU in the Concluding Observations. One important recommendation is Article 21, Freedom of expression and opinion, and access to information. The CRPD Committee write that they are concerned that in the EU persons with disabilities:

“[C]annot always access information and communication in accessible formats and technologies appropriate to different kinds of disabilities, including in sign languages”. (Committee on the Rights of Persons with Disabilities 2015)

The CRPD Committee thus recommends the EU to:

“[T]ake measures and enforce the implementation of its legislation on access to information and communication to facilitate access in accessible languages, formats and technologies appropriate to different kinds of disabilities, including in sign languages [...] and to promote official recognition of sign language”. (Ibid)

The EU are now recommended to work on this until their next report to the CRPD Committee, in 2019. (Ibid) EUD are pleased with this recommendation and are excited about the future positive developments we expect will take place in the coming years. EUD is also looking forward to continue the good cooperation it has already established with the European Commission and other EU stakeholders.

EUD's work and support to its member NADs

The review process

Aside from monitoring the implementation of the CRPD at EU level, EUD also provides support to its members, i.e. NADs⁷⁵, by following the CRPD cycle for all 28 EU Member States. Even if not all EU Member States have ratified the Convention, all Member States have signed the Convention, making it relevant to follow the political discussion and the context surrounding the CRPD in all EU Member States.⁷⁶ This support includes

75 For full list of EUD members, see: http://eud.eu/EUD_Members-i-673.html

76 The three EU Member States who have still not ratified the CRPD are Finland, Ireland and the Netherlands. However, since they have signed it and thus aim to ratify it

following the schedule of the CRPD sessions in Geneva and keeping good cooperation with the NADs. It is important to follow which EU Member State is set to send in their country report and when they will be up for review in Geneva as it is essential for the NAD to be up to date and be involved in the alternative reporting process. This work is conducted in close cooperation with the WFD as the CRPD is a core issue of work for WFD as well.

Trainings and workshops

EUD also provide workshops and trainings for its NAD members. This usually takes place in the specific country, either if EUD is invited from the NAD to hold a workshop or in conjunction with an occasion when EUD is present in the country due to another event.

The aspiration of these workshops is to engage members of the NAD and the local community, to not only learn more about human rights for persons with disabilities, but also to get involved and see the added value for themselves and their community.

The added value of these occasions is to bring people together, to assemble the members of the NAD and perhaps be the starting point for a more in-depth discussion and strategy as to how the NAD can start or continue their work, following the implementation of the CRPD in their country and lobbying their own government to assure deaf rights are included and followed.

Meeting people also allows for direct communication with questions and answers from members of the deaf community in a country. The communication and exchange of knowledge and experience thus works both ways. For EUD, these moments means attaining real stories from people as to how the situation looks like for them, what successes have been achieved and what challenges and obstacles they are still facing. This is a good way of collecting concrete examples to back up comments when replying to policy consultations or when raising an issue in a discussion or meeting with a decision maker. It is also a way to oversee the general structural barriers or shared challenges between different NADs and to thus facilitate cooperation between NADs. This is useful information that EUD share when the European Commission asks for consultation and information on certain topics.

EUD also emphasises the importance of being active in the process and

eventually, it is of importance to follow the political discussions and progress on this topic. For more information, see: European Disability Forum (2013), FRA (2015), United Nations (2015a).

cooperating with others. One cannot expect deaf rights to be included and followed in the best possible way if representatives of deaf rights are not included in the process, also linking to the slogan 'Nothing about us without us'. Considering as EUD has been cooperating with EDF, as well as its other members, EUD therefore show how one is stronger together. By cooperating with other DPOs and preferably the national umbrella DPO of a country, one can reach more success than if everyone fights for their own rights individually in a silo.

These trainings and workshops provide the participants with information on: the CRPD and its relevance for deaf persons, which articles are more important, a national and European context, the CRPD cycle, what the ratification of the Convention means in practice, who is involved, what the time line looks like, why and how the NAD can get involved to assure a deaf perspective is included in the implementation and monitoring of the CRPD. Seeing as the EU have ratified the Convention, EUD's role is the same as the NAD's role at national level, meaning EUD do not only support the NAD in their work but also have own experience to share with them.

The EUD publication series

This publication is a part of the EUD publication series on the CRPD. The purpose of this publication series is not only to provide good examples and inspire decision makers at European and national level, but one motivation for EUD is also to provide our members with tools and examples they can use in their work. EUD is also pleased to have had the support and cooperation of the European Commission Unit for Persons with Disabilities in all editions of the series.

Bibliography

Committee on the Rights of Persons with Disabilities (2015). Concluding observations on the initial report of the European Union. CRPD/C/EU/CO/1.

European Commission (2015). Access City Award. Available at: <http://ec.europa.eu/social/main.jsp?catId=1141> (Accessed on 28 October 2015).

European Disability Forum (2013). UN Convention on the Rights of Persons with Disabilities: It's time for Ireland! Dublin, 24 February 2013. Available at: http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=31970 (Accessed on 25 October 2015).

European Disability Forum (2015a). About us. Available at: http://www.edf-feph.org/Page_Generale.asp?DocID=8860&langue=EN&namePage=about (Accessed on 28 October 2015).

European Disability Forum (2015b). EDF launches its Alternative Report on the Rights of Persons with Disabilities. Available at: http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=34249 (Accessed on 23 October 2015).

European Parliament (2015). Motion for a resolution. European Parliament resolution on the List of Issues adopted by the United Nations Committee on the Rights of Persons with Disabilities in relation to the initial report of the European Union. 2015/2684(RSP). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B8-2015-0460&langue=EN> (Accessed on 26 October 2015).

European Union of the Deaf (2010). 2010 Brussels Declaration on Sign Languages in the European Union. Available at: http://www.eud.eu/Brussels_Declaration-i-305.html (Accessed on 28 October 2015).

FRA (2015). Convention on the Rights of Persons with Disabilities. Available at: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/int-obligations/crpd> (Accessed on 25 October 2015).

Wheatley, M. & Pabsch, A. (2012). Sign Language Legislation in the European Union -- Edition II. Brussels: EUD.

United Nations (2015a). Convention and Optional Protocol Signatures and Ratifications. Available at: <http://www.un.org/disabilities/countries.asp?id=166> (Accessed on 25 October 2015).

United Nations (2015b). United Nations Convention on the Rights of Persons with Disabilities (CRPD). Available at: http://www.un.org/disabilities/documents/COP/cosp8_infographic.pdf (Accessed on 26 October 2015).

Biography

Petra Söderqvist has been working as the Policy Officer at EUD since 2014. She is the co-editor of the book on Article 27, Work and Employment, and the editor of the book on Article 33, National implementation and monitoring, in the EUD publication series on the implementation of the CRPD. Söderqvist previously worked as an Advisor in European Affairs at a Swedish regional representation office in Brussels. During 2012, she was a Blue Book Trainee at the European Commission, Directorate General (DG) Development and Cooperation – EuropeAid (DEVCO). She has a bachelor's degree in Political Science and a master's degree in International Administration and Global Governance from the University of Gothenburg in Sweden.

5. National level

a. Belgium

i. The implementation of the CRPD in a federal state

Greet van Gool, Policy Officer, Federal Public Service Social Security

Introduction

The United Nations (UN) Convention on the Rights of Persons with disabilities (CRPD) is an important convention for Belgium. Belgium actively participated in the negotiations and fully recognizes the rights of persons with disabilities and the obligation of all stakeholders to reduce and eliminate barriers that hinder persons with disabilities' full participation in society.

Belgium signed both the CRPD and the Optional Protocol at the first day that it was open for signature (30 March 2007) and ratified the CRPD on 2 July 2009. This was a relatively short time, given the fact that Belgium is a federal state consisting of different regions and communities⁷⁷ and that each of them had to agree, which highlights the importance that Belgium attaches to the CRPD. The CRPD came into force in Belgium on 1 August 2009.

Article 33 – General principles

The CRPD is the first international human rights treaty that provides for the creation of national mechanisms for its implementation and monitoring: Article 33. This Article provides structures to ensure that the various provisions and obligations of the CPRD are implemented. This is very important because often there is a gap between the international human rights standards which exist on paper and the consequences of those rights on the lives of people at a national level. There are different reasons for this. Usually, policies and programs are developed and implemented by individual ministries and departments, without coordination and

⁷⁷ Besides the federal entity, there are seven independent entities: Flanders (a merge between the Flemish Region, the Flemish Community and the Flemish Community Commission (carrying out Flemish Community responsibilities in Brussels)), the Walloon Region, the French Community, the Brussels-Capital Region, the German-speaking Community, the French Community Commission (carrying out French Community responsibilities in Brussels) and the Common Community Commission (carrying out common Flemish and French Community responsibilities in Brussels).

communication across government. Civil society is mostly not sufficiently involved in the development and implementation of policies and programs. With regard to persons with disabilities, there are additional factors: until the CRPD, there was a lack of international recognition of disability as a matter of human rights; there is often only a low level of knowledge about disability and no mainstream policy. All of these elements make it difficult to implement human rights treaties. Article 33 of the CRPD seeks to overcome these obstacles, since it provides for mechanisms to ensure the implementation and monitoring of the CRPD.

Article 33 provides for a three-pillar structure:

- Article 33(1) encourages states to conduct a “holistic” policy on disability, rather than a policy within separate ministries or services. It requires that states designate at least one focal point in the government for questions relating to the implementation of the CRPD and that they ensure effective coordination between the different sectors and levels of government. It obliges states to give due consideration to the establishment or designation of a coordination mechanism, which is responsible for the coordination between the various government agencies.
- Article 33(2) requires that states designate or establish a framework comprising one or more independent mechanisms to promote the rights of persons with disabilities and to protect and monitor the implementation of the CRPD. The framework must be at least a solid, adequately trained body that is completely independent of the government and meets the Paris Principles.
- Article 33(3) provides that states must ensure that civil society, in particular persons with disabilities and their representative organisations, be involved and participate fully in monitoring the implementation of the CRPD. Participation of civil society is, after all, one of the main principles of the CRPD.

Article 33 CRPD – Implementation in Belgium

Belgium has a specific state structure. Since 1993, it has been a federal state with communities and regions. Policy concerning persons with disabilities therefore falls within different entities:

- Regions are competent for matters related to territory, such as economics, public works and housing;
- Communities are competent for personal matters, language and culture, such as education, health care and culture;
- The federal authority has residual powers.

Focal points

The national focal point for matters relating to the implementation of the CRPD in Belgium is the Directorate-General for Strategy and Research of the Federal Public Service Social Security. Contact people for the implementation of the CRPD have also been appointed in each of the federal administrations and in the private offices of the ministers.

The seven independent entities (regions and communities) have designated their own focal points:

- Flanders: Equal Opportunities Unit
- Walloon Region: *Agence wallonne pour l'intégration des personnes handicapées*
- French Community: *Wallonie Bruxelles International* of the World Multilateral Service
- Brussels-Capital Region: Directorate-General for External Relations of the Ministry of the Brussels-Capital Region
- German-speaking Community: *Dienststelle für Personen mit Behinderung* of the Office for Persons with Disabilities
- French Community Commission: *PHARE Service*
- Common Community Commission: public administration

Coordination mechanism

The Directorate-General for Strategy and Research of the Federal Public Service Social Security is also the coordination mechanism for matters relating to the implementation of the CRPD in Belgium. In this capacity, the Directorate-General for Strategy and Research of the Federal Public Service Social Security liaises with the focal points of the regions and communities for all matters relating to the implementation of the CRPD. It coordinates all matters relating to the reporting obligations of Belgium, exchanges information and shares best practices with the focal points.

In this way, there is a permanent structure for coordination and consultation to ensure cross-cutting aspects of the CRPD. Moreover, there are also “ministerial conferences”, which are composed of members of the federal government and the governments of the communities and/or regions. They have no power to make binding decisions, but they are the most appropriate instrument for a flexible and efficient cooperation between the authorities, while respecting the autonomy of each.

Independent mechanism

The independent mechanism to promote, protect and monitor the implementation of the CRPD, designated by the Belgian authorities, is the Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination. This designation is part of a broader cooperation agreement between the federal government and the governments of the regions and communities of 12 June 2013.

From July 2011 to March 2014, the predecessor of the Belgian Interfederal Centre for Equal Opportunities, formerly called the Centre for Equal Opportunities and Opposition to Racism, was designated as the independent monitoring mechanism through one-to-one agreements between the authorities at federal, regional and community level on one hand and the Centre on the other hand. The Centre was recognized as a National Human Rights Institute (NHRI) with a B-status⁷⁸.

The Interfederal Centre acts as an equality body, competent in all discrimination grounds except for gender, gender identity and gender expression and language. In the cooperation agreement, mention is explicitly made of the Paris Principles on independence and effectiveness of NHRIs. The Centre has the legal competency to handle individual complaints and to start legal proceedings. It also has the legal mission to issue recommendations to the authorities to improve regulations and policies, and to publish independent reports.

The Interfederal Centre has created the Unit for Disability / UN Convention, a permanent expertise and administrative cell to promote, protect and monitor the implementation of the CRPD. It works in close cooperation with the other branches of the Centre and is in permanent contact with public authorities, national institutions, Disabled People's Organisations (DPOs), Non-Governmental Organisations (NGOs), independent mechanisms abroad and international organisations.

Civil society is involved through the Disability Commission, a non-permanent body composed of 23 members chosen for their knowledge, experience and interest in the disability sector. Members emanate from: DPOs (10), universities (6) and social partners (7). The Disability Commission approves the annual and triennial strategic plans of the independent mechanism and follows its daily activities.

78 For more information, see Chapter 5.a.ii. by The Belgian Interfederal Centre for Equal Opportunities.

Civil society

At national level, the Belgian Disability Forum (BDF) and the National High Council for persons with disabilities (NHC) monitor the work on the implementation of the CRPD. The BDF expressed opinions during the implementation of the ratification process and will follow the application of the CRPD.

The BDF is a non-profit organisation comprising of 18 associations of persons with disabilities. It aims to inform its members regarding the repercussions of supranational regulation on the rights of disabled persons. It also endeavours to make the political, economic and social Belgian actors aware of the need to incorporate the needs of disabled persons into their discussion and decision process. The BDF officially represents Belgium within the European Disability Forum (EDF).

The NHC is in charge of examining all problems relating to disabled persons that fall within federal competence. The NHC is entitled, through its own initiative or at the request of the relevant Ministers, to deliver opinions or to make proposals on these subjects, *inter alia* for rationalization and of the coordination of the legal and regulatory provisions. The NHC is composed of 20 members, specially qualified through their participation in activities of organisations of persons with disabilities or through social or scientific activities.

At regional and community level, persons with disabilities and the organisations/associations representing them are also involved in the decision-making processes. The different advisory councils/bodies advise their respective governments and parliaments, provide expert opinions and make recommendations on disability issues.

Policy for persons with disabilities – National level

Governments on both federal and regional levels work on a mainstreaming policy for the inclusion of persons with disabilities. At federal level, “Handistreaming” is the basic principle for the implementation of the CRPD. This means that in all policy domains, the “disability dimension” is taken into account. In order to implement this awareness-raising process at administrative and political level, in all federal government departments and agencies (Federal Public Services, Federal Public Programming Services, scientific institutions and semi-governmental institutions) “disability contact points” have been designated, to assume the tasks mentioned in Article 33(1) of the CRPD. Moreover, all of the policy units of the Ministers and Secretaries of State have a designated contact person; this disability policy officer has to make sure that the disability dimension is taken into account when policy measures are developed and implemented.

A federal strategy will be launched to implement the CRPD at federal level. This action plan aims:

- On one hand, to implement the commitment of all federal Ministers and Secretaries of State to take due account of the disability dimension in the design and implementation of their policies;
- On the other hand, to implement the obligations of the CRPD to improve the situation of persons with disabilities and ensure their full participation in society through concrete, specific measures and initiatives that can be taken in various policies; each Minister and Secretary of State commits to implementing the obligations of the CRPD and the recommendations of the CRPD Committee.

And what about people with hearing impairments?

Most of the policies for people with hearing impairments (recognition of sign language, participation in culture, sports, education, employment etc.) fall under the competence of the regions and communities.

At federal level, some measures are taken to improve the situation of people with hearing impairments:

- The possibility of contacting emergency services through SMS: BE-Alert⁷⁹ is a new alerting tool aimed at enabling populations who are directly involved in emergencies to be warned faster, more clearly and with as much information as possible.
- The possibility of contacting sign language interpreters in hospitals via videoconferencing⁸⁰: when a deaf or hard of hearing person is in hospital, they are sometimes confronted with a language and cultural barrier; in most hospitals, there is no one present who can use sign language; this can cause problems when patients and medical staff do not understand each other. The FPS Public Health has therefore launched a remote interpretation system for hearing-impaired patients. Through a videoconferencing system, medical staff and patients can make contact with a sign language interpreter. This system is completely free for the patient, and is, of course, confidential.

79 For more information, see: <https://www.be-alert.be>

80 For more information, see: http://www.health.belgium.be/eportal/Myhealth/PatientrightsandInterculturalm/deaf_interpreter/index.htm?fodnlang=nl#.VfqwIU9O7IU

Reporting to the UN

Similar to other human rights treaties, state parties to the CRPD have reporting obligations:

- A first comprehensive report has to be submitted to the CRPD Committee on the Rights of Persons with Disabilities within two years after ratifying the CRPD; this report should explain the measures taken to meet the obligations of the CRPD and the progress made since the ratification.
- Afterwards, and at least once every four years, a follow-up report has to be submitted; this report should focus particularly on the implementation of the recommendations of the CRPD Committee and on major developments that have occurred since the previous report.

Making the report

The Belgian report was submitted in July 2011; two years after the ratification, and thus just in time. The report contained, article by article, a summary of the measures taken by Belgium to implement the provisions of the CRPD. This was not an easy task, given the complex state structure of Belgium and the fact that sometimes only the federal state is responsible for a particular subject; or sometimes only the regions and communities, or sometimes both the federal government and the regions and communities. All of this needed to be highlighted in a limited page frame of 60 pages; understandably, the preparation of the report was a delicate balancing act.

A special coordination process had to be established and civil society had to be consulted. Several parallel reports were submitted, by civil society and by the independent mechanism. These alternative reports are very important: they not only provide a critical look at how various articles of the CRPD are implemented in Belgium, but they also indicate how various principles should be applied. These reports constitute an important indicator of the degree of implementation for the UN Committee, and are an important source of information.

A number of lessons for the future can be drawn from the first reporting exercise. It is essential to start drafting the report in good time. Also, given the great importance that the CRPD attaches to the involvement of civil society, it is necessary to ensure that they are involved from the very beginning of the process and that they receive the opportunities and tools to actually do this. It is also important to ensure the report is widely disseminated and made accessible (via sign language, Braille and “easy read” versions).

The examination of the Belgian report

The UN Committee only started examining the Belgian report in 2014, more than two years after its submission. This is unfortunate, because the momentum that was initiated in the drafting of the report was somehow lost. A lot of information in it was no longer valid and the timing for the next report was brought into jeopardy, especially knowing that it should address the recommendations made by the UN Committee.

List of Issues

In April 2014, Belgium received a “List of Issues”; a list of questions prepared by the members of the CRPD Committee, based on a first reading of the report and the shadow reports. A delegation of civil society and the independent mechanism was received and heard by the members of the CRPD Committee, prior to the drafting of this questionnaire. Here also, the FPS Social Security acted as a coordinator, in collaboration with the Ministry of Foreign Affairs. Several questions originated in the critical remarks from civil society and the independent mechanism; a thorough reading of these comments therefore helped to better position the questions of the CRPD Committee and to answer them properly. Many questions also had been raised during the examination of other national reports under other human rights treaties, such as the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, etc. The answers to these questions also were a useful source of information.

Constructive dialogue

The actual discussion on the report, the so-called constructive dialogue, took place on 18 and 19 September 2014. The UN Committee was grateful for the high level of the Belgian delegation, which was quite extensive: the different focal points and the coordination mechanism took part, as well as experts in the CRPD’s various policy areas, such as education, justice etc. A representative of the European Commission was also part of the Belgian delegation, as an observer. Civil society and the independent mechanism were not part of the delegation, because of the different role they have, but they were present and their participation was partly facilitated and funded by the Belgian authorities.

The constructive dialogue took two half days. After the introduction by the Chairman of the CRPD Committee and the opening statements of Belgium, it was up to the rapporteur. After that, the members of the CRPD Committee asked questions, each time for a series of ten articles of the CRPD, which the Belgian delegation then answered. A number of questions referred to the List of Issues, but there were also a lot of new

questions and comments - some inspired by recent press articles. Needless to say, it was almost impossible to respond in detail to the many questions, given the short time available. The members of the CRPD Committee expressed major concerns and commitment, and a great deal of expertise. Fortunately, the Belgian delegation also had a lot of expertise and know how.

The final observations of the CRPD Committee

The CRPD Committee noted several positive aspects, such as the fact that important laws that improve the lives of persons with disabilities were approved in 2013 and 2014; and that a network of “focal points” at federal level was established to look at the implementation of the principle of “handistreaming”. Of course, the CRPD Committee also expressed some concerns and gave a number of recommendations. Most of these were already addressed in the List of Issues and some were also made for other state parties.

A short summary of the concerns and recommendations:

- The CRPD Committee is clearly concerned about the fact that the “paradigm shift” has not yet been sufficiently applied by the different Belgian authorities and that various policies still depart from the medical model. The CRPD Committee therefore recommends that awareness is raised about the content of the CRPD, by providing accessible information and organising an awareness campaign on the rights of persons with disabilities, to give a positive image of persons with disabilities and their contribution to society. Special attention from written and audiovisual media is required for this purpose.
- Both in the List of Issues and during the constructive dialogue, much attention was given to the new capacity scheme for persons with disabilities and to the issue of internment; this concern was also reflected in the observations and recommendations of the CRPD Committee. Belgium has already received several recommendations (in the context of other human rights treaties) on the issue of internment.
- The CRPD Committee was also very critical with respect to the organisation of care, education and employment of persons with disabilities: children are still too often in specialised schools and inclusive education is not sufficiently guaranteed. The CRPD Committee also recommended that work be done for de-institutionalisation policies and to ensure that persons with disabilities can live as independently as possible. Regarding employment, persons with disabilities are not represented enough in the common labour market. Historically, Belgium has indeed invested a lot in a well-developed care, and care of children and

adults with disabilities in separate circuits. However, today, the regions and communities apply the basic idea of the CRPD more and more and put great emphasis on inclusive education, plus the right to live independently and to work in the regular circuit. There is still a long way to go, but it is regrettable that the CRPD Committee has focused primarily on existing situations and paid little attention to new developments and trends.

Follow up

Since Belgium attaches a lot of importance to the rights of persons with disabilities, it takes these comments and recommendations very seriously. They are indeed incentives to achieve better inclusion of persons with disabilities. The different governments will therefore see how to implement these recommendations; again, this is being coordinated by the FPS Social Security and the Ministry of Foreign Affairs.

The CRPD Committee asked Belgium to submit its second and third Belgian report together, by 2 August 2019 at the latest.

Finally, what about the EU review?

The EU was the first regional organisation to ratify a human rights treaty of the UN, thus setting a positive precedent in public international law. Belgium is particularly proud of having obtained this ratification during the period in which it assured the Presidency of the Council of the European Union, during the second half of 2010.

The report of the EU was examined by the CRPD Committee in August 2015. It was thrilling to be able to participate, as an observer, in the constructive dialogue between the members of the CRPD Committee and the EU.

The members of the CRPD Committee underlined the historic character of the meeting and expressed their high opinion of the EU. They showed a high level of experience, not only in disability matters but also in EU policies and structures, which are indeed very complex. They also expressed their concern about the effect of austerity measures in the EU, which greatly affect persons with disabilities, for instance in relation to employment, social benefits and social services and support.

The recommendations fall into two sectors: recommendations regarding the work of the EU as a Union, and recommendations concerning the EU's institutions.

Accessibility is very important for the CRPD Committee and therefore, a

lot of questions – and recommendations – relate to this matter, including:

- The full accessibility of the emergency number 112 and of disaster risk reduction programs and policies.
- Access to information and communication in accessible formats and technologies, such as sign languages; this also applies to European institutions.
- The prompt adoption of the European Accessibility Act.
- The need for reasonable accommodation, e.g., for students and also in European schools.

Biography

Greet van Gool has worked at the Federal Public Service Social Security since September 2011, where she is responsible for the coordinating mechanism under Article 33 CRPD. She has a degree in law (University of Antwerp, 1985) and started her career as a public servant, specialising in pension matters. As Commissioner of the Government for Social Affairs, from 2001 – 2003, she was competent in federal policy for persons with disabilities; she carried on following these matters in her later career, in federal parliament (2003 – 2007) and in different ministerial cabinets.

5. National level

a. Belgium

ii. The responsibility of a monitoring mechanism

Véronique Ghesquière, Head of Service Handicap/ Convention ONU, the Belgian Interfederal Centre for Equal Opportunities

Who we are

The Interfederal Centre for Equal Opportunities and Opposition to Racism (referred to hereinafter as: the Centre) is an interfederal public service which is completely independent in the fulfilment of its statutory tasks. It was created by the law of 15 February 1993.

The statutory tasks of the Centre are as follows:

“The Centre’s task is to promote equal opportunities and combat all forms of discrimination, exclusion, restriction or preferential treatment based on: nationality, a so-called race, skin colour, descent, national or ethnic origin, sexual orientation, civil status, birth, wealth, age, religious or philosophical beliefs, current or future state of health, disability, political beliefs, physical or genetic characteristic or social background”. (Belgisch Staatsblad 2014, Art. 3 §1a)

Since 2003, the year in which the first anti-discrimination legislation was passed in Belgium prohibiting discrimination based on racial and non-racial criteria, the Centre has been responsible for dealing with discrimination in particular on the basis of disability.

The Centre was re-accredited as a National Human Rights Institution (status B)⁸¹ for Belgium by the United Nations Accreditation Sub-committee at its session in March 2010. The Centre is also the equality body that has been put in place in accordance with Directive 2000/43 of the European

81 In accordance with the Paris Principles (independence principles) and the ICC (the international coordinating committee of national institutions for the promotion and protection of human rights) Statute, the following classifications for accreditation are used by ICC: A Compliance with the Paris Principles; B Not fully in compliance with the Paris Principles; C Non-compliance with the Paris Principles.

Union (the Racial Equality Directive)⁸².

Moreover, on 12 July 2011, the Centre was designated by the Federal Government and the federated entities as the independent mechanism for promoting, protecting and monitoring the implementation of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) in Article 33, Paragraph 2.

When the Centre became the independent mechanism, it created a Steering Committee which is involved in monitoring the implementation of the CRPD. Since late 2011, this Committee has been operating with 23 members who come from civil society, including persons with disabilities and organisations representing them, social partners and academics.

As a reminder, the context in which the Centre is evolving is a Federal state with three Regions (Flanders, Wallonia and Brussels) and three Communities (Flemish, French-speaking and German-speaking). The Centre, previously federal and interfederal since 2014, may act and is competent in all the federated entities. The members of its Board of Governors have been appointed by Parliament, rather than the Government, since 2014; providing a further guarantee of its independent status.

The way we work and what we do

Working within the context of anti-discrimination legislation and the CRPD, the Centre:

- Encourages the development of structural policies to combat discrimination on the grounds of disability;
- Promotes the inclusion of persons with disabilities in all sectors of society.

As an independent body monitoring the implementation of the CRPD in Belgium, the Centre carries out the following tasks:

- Protection: It ensures that the rights of persons with disabilities are effectively protected by prevailing Belgian legislation and policies, and handles individual complaints;
- Promotion: Working with all the authorities and associations which are active on the ground, the Centre promotes the CRPD among persons with disabilities and all the stakeholders in society;
- Monitoring implementation of the Convention: The Centre ensures that both current and projected legislation and

⁸² For more information see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

policies are in conformity with the CRPD, and that they are implemented effectively; it also issues opinions and recommendations to that effect.

Handling individual complaints

Since 2003, disability has been the most important legally protected non-racial motivation which is mentioned in complaints filed with the Centre. In 2014, these complaints accounted for 20% of the individual cases followed up by the Centre (372 out of 1843 new cases opened).⁸³ This is, again, a 25% increase. These cases mainly relate to situations involving physical disabilities (43% of disability cases), followed by sensory disabilities (22%), and then by mental and psychological disabilities (15%).

The goods and services sector presents the most problems (32%) but employment (18%) and increasingly education (22%) are significant too.

The figures relating to deaf people are slightly different. During the past two years, deaf people have accounted for 9% of disability cases. More than a third of these complaints relate to the refusal or absence of sign language interpretation in various situations. It is important to note that there is a shortage of interpreters in Belgium; particularly in the French-speaking part of the country. Reimbursement of interpreting costs also raises a number of problems (see also the section *Monitoring and recommendations*).

When analysing the cases involving deaf people for 2013 and 2014, we observed that the proportion of cases involving employment was higher (34%) than for other disability-related cases. These cases often relate to (presumed) direct discrimination at the point of recruitment. For example, a deaf person is not given a job interview once the recruiter finds out that he or she is deaf, or deaf candidates are rejected on safety grounds or because they are considered unsuitable for the job. Such refusals take place without an in-depth assessment of the context, or without knowledge of the situation in regard to the disability and of the adaptations that could be made; for example, in the case of a potential nursery nurse. Deaf people also encounter problems in their educational careers because interpreting into sign language is non-existent, or the reimbursement provided for it is very low, and/or because there is no policy on adaptation of educational courses.

Cases in the goods and services sector often involve communication problems in relation to general services; particularly in the telecommunications sector, where deaf people are invited repetitively to

83 Annual report 2014: <http://www.diversite.be/rapport-annuel-2014-une-annee-charniere-qui-ouvre-plusieurs-portes>

call a telephone number. Discrimination also occurs in other areas, such as leisure and transportation. In 2011, the Centre had already been involved in a legal dispute with a travel agency which had refused a deaf person because it was afraid of communication problems with the other travellers and the local population. The judge recognised that this was discrimination and the victim received compensation.

Finally, in the education sector, the complaints mainly concern a lack of educational support and interpreting into sign language. In 2011, legal proceedings were brought up by the parents of deaf children in the Flemish community because too few lessons were being translated into sign language. The Court of Appeal in Ghent found that this did constitute discrimination and that the Flemish community had an obligation to provide this support during at least 70% of teaching time.

Fortunately, the Centre does negotiate some solutions without having to bring legal proceedings. For example, the Centre persuaded one municipality to improve and extend the range of summer sports and adventure camps for deaf children. A museum that was refusing free entry to interpreters working for deaf people also changed its decision following an intervention by the Centre.

Information, awareness-raising and training

Since 2003, the Centre has built a collaboration network including associations of persons with disabilities, who represent both a source of expertise and a link to pass on concerns that arise on the ground. The Centre handles complaints sent in by the associations, supports recommendations drafted jointly with them and offers them opportunities for awareness-raising and training in anti-discrimination legislation and the CRPD. In 2008, a sign language translation of the Belgian anti-discrimination law was jointly prepared with the two main Associations of the Deaf in Belgium⁸⁴. In 2014, the Centre organised a training day for all of the directors of the umbrella body for deaf people's associations in French-speaking Belgium. A number of conferences have also been organised for their members in various parts of the country and the Centre participated in World Deaf Day.

More recently the Centre has published an information and awareness brochure on reasonable accommodations at school, providing a large number of concrete examples. This document has had a real impact in terms of empowerment: it seems to have helped persons with disabilities

⁸⁴ Federatie van Vlaamse Doven Organisaties (Fevlado) and Fédération Francophone des Sourds de Belgique (FFSB). For more information, see: <http://www.fevlado.be> and <http://www.ffsb.be>

and their families to become more aware of their rights and how to claim these rights. This is shown in particular by the spectacular increase in the number of complaints filed with the Centre. The Centre is currently working on a new information and awareness tool on reasonable accommodations at work. Work on preparing this tool is being done jointly with all the stakeholders involved: employers, trade unions, institutions and associations for persons with disabilities, including associations representing deaf people etc.

Throughout the year, the Centre works alongside the various stakeholders in society to inform them and increase their awareness of the rights of persons with disabilities. It calls on decision makers to consult with persons with disabilities and the organisations that represent them in all matters that affect them.

Monitoring and recommendations

In November 2013, the Centre commissioned a civil society consultation involving a consortium of universities, addressing seven major themes⁸⁵ connected to the rights of persons with disabilities. Until March 2014, focus groups with eight to ten members met together with researchers all over Belgium. The following were involved: (associations of) persons with disabilities, advisory committees, parents of children with disabilities, representatives from the education sector and academia, trade unions, professional associations and specialist services. The results of this consultation have generated data for the purpose of monitoring and defining the strategic approaches adopted by the Centre as an independent mechanism.

This type of consultation is one way of gathering information on the needs of persons with disabilities and the obstacles that they encounter. Working alongside them, recommendations are then developed on this basis to allow them to exercise their fundamental rights more effectively in every area of their lives.

The complaints filed with the Centre are also a source of information on the obstacles being encountered by persons with disabilities. The many formal and informal contacts that we have with persons with disabilities, their organisations and all governmental and non-governmental bodies that have a stake in this area due to their private or professional situations, all contribute towards the process of information gathering and data collection to allow the Centre to monitor the implementation of the CRPD

⁸⁵ The 7 themes are: equality and non-discrimination, accessibility (from public transport and public services to communication services); legal capacity (the ability to exercise rights), safety and freedom, independent living, education and work.

in Belgium. The Centre organises or plays a part in a large number of working groups in every sector of society, in addition to the work carried out by its Steering Committee.

The process of reporting to the CRPD Committee on the rights of persons with disabilities

In 2014, the Centre was very closely involved in the reporting and examination process before the CRPD Committee in Geneva. The Centre drafted a parallel report⁸⁶ alongside the report from the Belgian Government, and on two occasions, appeared before the CRPD Committee's experts in Geneva to draw their attention to various aspects of Belgian policies and legislation which do not comply with the provisions of the CRPD.

In its report, the Centre issued not only observations, but also recommendations on ways of improving the various points requiring attention, particularly in regard to the situation for deaf people in Belgium. For example, the Centre demanded the start up of the project around contacting the emergency services by SMS, which is currently being implemented by the authorities. The Centre also demanded alternative methods of communication for deaf citizens who find themselves in a crisis or disaster situation (related to Article 11 of the Convention, "Situations of risk and humanitarian emergencies").

With regard to Article 13 (Access to justice), the Centre denounced the shortage and poor remuneration of sworn sign language interpreters, which represents a real hindrance to access to justice.

With regard to Article 21 (Freedom of expression and opinion, and access to information), the Centre pointed out that the interpreting time that is reimbursed is not sufficient to guarantee better access to public and private services or promote the inclusion of deaf people. It encouraged the authorities to develop projects in the area of remote interpreting.

The problems of insufficient interpreting time and of financing were also highlighted in regard to education (Article 24). This recommendation was included in the final observations⁸⁷ of the CRPD Committee, submitted to

86 For more information, see: <http://www.diversitybelgium.be/parallel-report-united-nations-convention-rights-persons-disabilities>

87 "It recommends that the State party ensure that children with disabilities receive the educational support they need, in particular through the provision of accessible school environments, reasonable accommodation, individual learning plans, assistive technology in classrooms, and accessible and adapted materials and curricula, and guarantee that all teachers, including teachers with disabilities, receive comprehensive training on the use of Braille and sign language with a view to improving the education of all children with disabilities, including boys and girls who are blind, deaf-

Belgium after its examination in September 2014.

What happens next?

The Centre, like all organisations that represent persons with disabilities, has to ensure that the final comments from the CRPD Committee are followed up. This means that it must make sure that the authorities are aware of the recommendations, take them seriously and introduce policy initiatives that go in the right direction.

Faced with the enormity of this task, the Centre has to work with the organisations to establish priority areas for its work and is currently developing its strategic plan for the future. It has already been made clear that the Centre is not taking a passive stance, and a large number of activities are already underway in various areas.

For example, the Centre is currently working on an important update of its recommendations on the problem of financing interpreting time in high-priority sectors such as education, health, police and the justice system. At the same time, progress is also being made in a number of projects or policies which are being introduced within the various communities in Belgium. In the French community where there was a shortage, a new training course has been set up for future interpreters. Remote interpreting projects are being introduced here and there on a more structured basis and we are hoping that the available interpreters will be reorganised so that they can work in a more efficient way.

Towards a more inclusive society

Clearly the Centre's work involves ongoing interactions, both with the authorities and other decision-makers and with persons with disabilities and their representatives.

Belgian society has historically been organised along segregated lines; particularly in the area of education, but also in employment, leisure, and to some extent even, in where people live. The Centre has clearly positioned itself in favour of reversing this trend and building a more inclusive society.

This segregation is not solely the result of political decisions. The Centre regrets, for example, that a new type of special education has just been

blind, deaf or hard of hearing." See: Concluding Observations Belgium Article 24 §37.
Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBEL%2fCO%2f1&Lang=en

created within the Flemish Community for students with autism.⁸⁸ It is true that a segregation-based response of this kind has the underlying effect of discriminating against persons with disabilities and excluding them from “ordinary” networks. This new type 9 has no doubt been created in response to requests from families because their children had been excluded from all institutions, including even specialist schools.

Segregation, however, can also result from excessive protection of persons with disabilities, even when this is done out of an appropriate concern to meet their needs in the best possible way. If this is done, however, there will be a price to be paid: persons with disabilities will no longer live within society or will end up having a reduced or non-existent participation in social life. There is a risk of abandoning the idea that it is possible for people to live together and meet the needs of all.

The CRPD is based entirely on the model of an inclusive society and it prohibits all discrimination against persons with disabilities. States like Belgium which have ratified it should therefore be committed to including persons with disabilities and showing that it is possible to simultaneously guarantee both their autonomy and their protection.

⁸⁸ There were already 8 types of specialist education in existence, based on the classification of disabilities, with type 7 being intended for students who are deaf or have hearing impairments.

Bibliography

Belgisch Staatsblad (2014). Ed. 2 – Montieur Belge. Available at: http://www.diversite.be/sites/default/files/documents/article/samenwerkingsakkoord_belgisch_staatsblad_0.pdf (Accessed on 19 October 2015).

Biography

Véronique Ghesquière has a Masters in Psychological and Educational Sciences from the Université libre de Bruxelles. She worked at the Fondation Travail et Santé (Brussels) for ten years and acted as its Director for three. This organisation offered professional guidance for disabled persons. She joined the Centre for equal opportunities and opposition to racism in 2003, where she handled individual complaints from victims of discrimination based on disability. In 2013, she became head of the Service Disability/CRPD, which is notably in charge of promoting, protecting and monitoring the implementation of the CRPD in Belgium.

5. National level

b. Belgium

iii. Cooperation between two deaf associations

Filip Verstraete, Director⁸⁹, the Belgian Flemish Federation of the Deaf (Federatie van Vlaamse DovenOrganisaties, Fevlado) and Frédéric Bouquelloen, President, the Belgian French Federation of the Deaf (Federation Francophone Des Sourds de Belgique, FFSB)

The federal division in Belgium and two deaf federations

In Belgium, there are four linguistic regions; French (Wallonia), Flemish (Flanders), German (Eastern Townships) and the French bilingual region-Flemish (Brussels). Owing to cultural and economic differences from one particular region, in 1970 Belgium became in Federal State with three regions: the Walloon Region, Flemish Region and Brussels-Capital.

Due to this development and the linguistic division, the National Federation of the Deaf of Belgium was separated into two Federations. The Belgian Flemish Federation of the Deaf (*Federatie van Vlaamse DovenOrganisaties, Fevlado*) and the Belgian French Federation of the Deaf (*Federation Francophone Des Sourds de Belgique, FFSB*), were both established in 1977.

Today, Fevlado has around 2,000 members from the Flemish region and its mission is to improve equality, emancipation and development of deaf people and their language, Flemish Sign Language (*Vlaamse Gebarentaal, VGT*) in society. The organisation works with defending the identity, rights and welfare of deaf people in all aspects of life. Fevlado is actively working to: influence policy and awareness raising in society, offering and/or supporting education with regard to the linguistic and socio-cultural aspects to deaf people and their community.

FFSB is made up and represents up to 27 affiliated associations for the deaf located in Wallonia and Brussels. FFSB is recognized as a representative association of disabled persons by the Walloon Public Service. Through actions with political and public powers, FFSB aims to enhance deaf citizens

⁸⁹ During the process of writing this chapter the role of Filip Verstraete changed. Until September 2015, Verstraete was the President of Fevlado. Since September 2015, he is the Director of Fevlado.

participation and defend their rights to information and socio-professional integration. Furthermore FFSB work with its members to address relevant topics such as culture, sports, social, childcare etc. FFSB regularly meet with its member associations as this assures important communication and information exchange to and from its members. It is also from these meetings that FFSB can collect real examples, of challenges and barriers deaf people face, to be used in their lobby work. FFSB also organises sporadic workshops for the deaf community to increase information and awareness of citizens' rights.

Primarily, FFSB and Fevlado work independently of one another when advocating their respective governments. However, there are occasions when the two organisations cooperate, if there are shared matters affecting deaf communities nationally.

The UN Convention and the review sessions

On 2 July 2009, Belgium ratified the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), which was a major event for the Belgian disability movement.

In February 2014, as a part of the implementation and monitoring of Article 33(3), the Belgian Disability Forum (BDF) submitted its Parallel Report to the Flemish and Federal Parliament and also to the CRPD Committee.

Fevlado contributed to the Parallel Report through meetings and/or via email, as well as to the Parallel Report of the organisation GRIP (Equal Rights for Every Person with a Disability). FFSB has a representative in the BDF Board and thus also contributed to the work of the Parallel Report. Issues of particular significance for deaf persons highlighted in the report was accessible and inclusive education and the right to sign language interpreter.

In April 2014, the CRPD Committee gathered in Geneva for the pre-session for the review of Belgium. During this meeting BDF, GRIP, the Interfederal Centre for Equal Opportunities each presented their Parallel Reports during a side-event. In September 2014, the CRPD review of Belgium took place in Geneva. Due to the importance of these two sessions, both Fevlado and FFSB wanted to be present. However, Fevlado and FFSB felt there was lack of information as to if and who would provide for sign language interpreting. The rules of the UN say that they provide sign language interpreting in International Sign (for the web streaming of the event) and in the different national sign languages of countries that have one of the six official languages of the UN as a spoken language, i.e. Arabic, Chinese, English, French, Russian and Spanish. Seen as Belgium has French as one of its official spoken languages, the UN provided for

sign language interpreting in Belgium French Sign Language (*Langue des Signes de Belgique Francophone, LSF*) for the public sessions but not for side-events or for networking breaks. Thus, FFSB was present for both sessions in Geneva, but these were not fully accessible still. Fevlado manage to find an urgent solution for an interpreter for the April session, but this was not a sustainable solution and it limited the accessibility and the information given. Fevlado was in contact with their government to ask for funding for interpreting in Flemish Sign Language, but this was unsuccessful and thus it was not possible for Fevlado to be present for the review session in September.

Although it is great that the UN provides for interpretation in many different national sign languages, Fevlado would hope that these sessions when it is regarding the own country and reality, would be accessible for all, either it be provided for by the UN or the country government.

For FFSB, who was present in Geneva, it was of great benefit. Firstly, it was of great value to FFSB to participate and learn how the procedure and review of the CRPD take place and to attend the session when the Belgium Government had to present and explain their work with implementing the Convention. Secondly, as FFSB perceived the government to present a more positive and optimistic view of the developments in Belgium, FFSB also saw it as a great opportunity to meet and explain our view and reality regarding the situation for deaf persons to the CRPD Committee. FFSB especially highlighted the situation regarding bilingual education and the importance of including sign language.

In the review, when the CRPD Committee compared the government report and the different Parallel Reports, one issue that caught the attention of the Committee and raised discussion was the means of communication, for deaf persons in the different aspects of life.

Even if it is difficult to see quick results after the sessions in Geneva, one has to look at the long-term goals and hope that improvements are being made and that the Belgium government will work more to assure the implementation of the CRPD in a good way prior to its next report and review.

Fevlado and FFSB see a great advantage of being a member of BDF and cooperating with them. It is essential that the deaf perspective be represented at all times, from meetings to reports for example. The more active Fevlado and FFSB have become, the better the outcome has been and more visibility for deafness. BDF thus allows Fevlado and FFSB to be a part of and be in contact with decision makers, which is crucial to achieve change.

In April 2014, the European Union of the Deaf (EUD) provided FFSB with training on the CRPD in the form of a workshop. This training was very rewarding and useful for us as it gave us deeper knowledge and understanding of the CRPD, its process and how and why to be involved. This was a good first step, but more training is needed for people who were not present at the time, and also to follow up and use the information learned in a more strategic way in the future.

Fevlado and FFSB are working actively with the CRPD and its meaning in their organisations. Fevlado have made a translations and videos explaining the Convention into Flemish Sign Language⁹⁰. FFSB are active in different projects and working groups revolved around issues such as accessibility in society, transport and culture. One example is the project “Access i”⁹¹, presenting a map accessibility of buildings or events, where FFSB is represented in the Board of Directors.

90 For more information, see: <http://www.fevlado.be/fevlado-vzw/nieuws-prikbord/actualiteit/?d=539>

91 For more information, see: <http://www.access-i.be>

Biography

Filip Verstraete is the former President of Fevlado, and since September 2015 he is the Director of Fevlado. Verstraete is also a member of the National High Council for Persons with Disabilities (The federal government) and is involved as an expert in working groups for technology and accessibility for the World Federation of the Deaf (WFD) and EUD. He is a strong advocate for the legal recognition of Flemish Sign Language and is currently holding the position as Vice-President of the Advisory Board on Flemish Sign Language.

Frédéric Bouquelloen is the President of FFSB since May 2012. Bouquelloen's ambition for FFSB is to further develop and strengthen the organisation. He is a strong advocate for human rights for persons with disabilities. He has a background in computer engineering.

5. National level

b. Czech Republic

i. National implementation of the CRPD

Šárka Prokopiusová, President, the Czech Republic Union of the Deaf and Hard of Hearing

Focal points and coordination mechanisms for implementing - Article 33(1)

The Czech Republic ratified the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) in September 2009. The CRPD came into force on 12 February 2010, which is when the relevant bodies started working with it and the Ministry of Labour and Social Affairs was appointed as the national focal point for issues relating to its implementation.

National strategies to implement the CRPD

A National Plan for Promoting Equal Opportunities for Persons with Disabilities 2010-2014 was approved by a Resolution of the Government of the Czech Republic; No 253, of 29 March 2010. The basic format of the Plan, its content and structure, draw on the general principles on which the CRPD is based. In the development of the document, only the Articles of the Convention which were most important and relevant for the next five years, in terms of promoting an equal and non-discriminatory environment for persons with disabilities, were selected. (Government Board for People with Disabilities 2010)

The National Plan was divided into separate chapters corresponding to the individual Articles of the CRPD. Each chapter contained a quotation of the relevant Article of the Convention, a brief explanation of the field in question and the desired target situation, and clearly formulated measures specifying the competent department and the proposed deadline for fulfilment.

In June 2014, the Government Board for People with Disabilities established a working group for drafting a new National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015-2020. The new National Plan was approved by a Resolution of the Government of the Czech Republic; No 385, of 25 May 2015. (The Office of the Government of the Czech Republic 2015)

Monitoring of the CRPD

Promoting, protecting and monitoring - Article 33(2)

In the Czech Republic, the Ministry of Labour and Social Affairs is the focal point, as it is responsible for its implementation being pursuant to legal regulations. Based on the current practice and experiences of other State Parties to the CRPD, the establishment of another focal point is not being considered at present.

The working group to draft a monitoring mechanism in the Czech Republic was set up in the second half of 2011. The working group consisted of representatives of the Ministry of Labour and Social Affairs, the Secretariat of the Government Board for People with Disabilities and the Czech National Disability Council. Later, in March 2013, it expanded to include representatives of the League of Human Rights and people representing the “basic” kinds of disabilities (parents of children with disabilities and people with visual impairments, physical disabilities, hearing impairments, mental illnesses, intellectual disabilities and/or chronic illnesses). Persons with hearing impairment in this working group were represented by the President or the Vice President of the Union of the Deaf and Hard of Hearing in the Czech Republic. During the working group meetings, the needs of all participants with different kinds of impairments were met. Sign language interpreting or speech to text transcription was always provided for people with a hearing impairment, according to their preferences.

The working group usually met once per month, trying to find consensus on the composition, scope of powers and method of establishing a monitoring mechanism. The result was a clear demand for an independent monitoring mechanism by the law, in accordance with the Paris Principles. The institution which meets the most requirements of the Paris Principles in the legal framework of the Czech Republic is the Ombudsman.

The current draft of an amendment to the Act on the Ombudsman has been prepared, to extend its responsibility in accordance with Article 33(2) on monitoring mechanisms.⁹² This happened following significant pressure from disabled people’s organisations (DPOs) and human rights NGOs. According to the Act, the Ombudsman shall establish an advisory board for monitoring the CRPD; composed of persons with disabilities and those defending their interests. For the purpose of monitoring the CRPD, the Ombudsman shall systematically deal with the rights of persons with disabilities under it and propose measures to protect them; conduct research; publish reports and make recommendations on issues relating to

92 At the time of writing this article, this draft has not been published.

the fulfilment of the rights of persons with disabilities; contribute to raising awareness of the public regarding the rights of persons with disabilities and ensure the exchange of available information with the relevant foreign and international bodies.

However, the paragraphs related to the CRPD monitoring mechanism were removed from the amended bill, because it was impossible to find a compromise related to the budget and the personnel to be financed for the additional activities which the Ombudsman would be mandated to undertake as stated in Article 33(2). There is no official statement yet about a compromise agreement. In addition, there remains the technical question of including these paragraphs back into the amended Act of the Ombudsman, which is already in the legislative process in the lower Chamber of the Parliament. If necessary, the Office of the Ombudsman and DPOs will seek support in Parliament to ensure that this will happen.

If no agreement is reached, the working group whose purpose is to create a monitoring mechanism will have to start meeting again and will probably have to reopen the discussion from the beginning. This could reduce the likelihood of the successful establishment on an independent monitoring mechanism.

The involvement of civil society in the monitoring process

The involvement of civil society is guaranteed by the Government Board for People with Disabilities and other formal and informal mechanisms of cooperation; e.g. with the Czech National Disability Council. The Board cooperates with the public administration authorities as well as with the non-governmental sphere. It consists of Government representatives and ministries, as well as representatives of associations of people with disabilities and their employers. I, as the President of the Union of the Deaf and Hard of Hearing, am also a member of this Board. Therefore, it is ensured that the issues of deaf and hard of hearing people are also directly addressed during Governmental negotiations.

At the 17th session of the implementation of the CRPD in Geneva, in March and April 2015, the Czech Republic was one of the countries on the agenda up for review.

The National Council, in cooperation with the International Disability Alliance (IDA), sends representatives of persons with disabilities to this session to represent persons with disabilities from the Czech Republic, including me, as the President of the Union of the Deaf and Hard of Hearing in the Czech Republic.

The participation of a representative with a hearing impairment was

very important, because the Government report contained inaccuracies, for example about the field of interpreting. This resulted in two recommendations from the CRPD Committee (no. 41 and no. 42); that the state must provide enough money so that sign language interpreting will be commonly available as needed, and ensure there are opportunities for parents of deaf children to learn sign language for free. This law has existed since 1998, but has not been practically implemented, because there is not enough money and it is not clear who has the responsibility for paying for these classes. The other recommendation was that the state must ensure the education of sign language interpreters, because there is currently no university degree relating to this profession. (UN Committee on the Rights of Persons with Disabilities 2013)

The group of representatives of persons with disabilities was small (5 people), meaning that as well as representing people with hearing impairments before the CRPD Committee, I also discussed disability rights from a broader perspective and, of course, explained the links between people with hearing impairments to, for example, Article 6 (Women with disabilities), Article 9 (Accessibility), Article 21 (Freedom of expression and opinion and access to information), Article 24 (Education) and Article 25 (Health).

As far as awareness-raising activities are concerned, several conferences, debates, workshops, seminars etc. have been organised in order to mainstream disability issues and to foster the active participation of persons with disabilities in public life. These activities are always accessible to people with hearing impairments, with interpretation and/or speech-to-text being provided. This is organised by the Government Committee for Persons with Disabilities and the Ministry of Labour.

Bibliography

Government Board for People with Disabilities (2010). National Plan on Promoting Equal Opportunities for Persons with Disabilities 2010-2014. 253/2010. Available at: <http://icv.vlada.cz/assets/vydavatelstvi/vydane-publikace/National-plan-for-the-creation-of-equal-opportunities-for-persons-with-disabilities-2010-2014.pdf> (Accessed on 25 September 2015).

The Office of the Government of the Czech Republic (2015). National Reform Programme of the Czech Republic. Available at: http://www.vlada.cz/assets/evropske-zalezitosti/aktualne/NPR-2015_EN.pdf (Accessed on 25 September 2015).

UN Committee on the Rights of Persons with Disabilities (2013). Concluding observations on the initial report of the Czech Republic. CRPD/C/CZE/CO/1. Available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=CZE&Lang=EN (Accessed on 25 September 2015).

Biography

Sárka Prokopiusová attended an elementary school for the hearing, a high school for the hard of hearing and then a University for the hearing, majoring in special education and education of deaf children. Prokopiusová then worked for 12 years in pre-school education for deaf children with multiple disabilities, including, for example, Deafblind children. In 2011, Prokopiusová started working as the Executive Director of the Union of the Deaf and Hard of Hearing in the Czech Republic. In November 2012, Prokopiusová was elected its President, for the period ending November 2016.

5. National level

c. Denmark

i. The Danish state's Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD)

Christina Kristholm Jørgensen, Head of Section, Ministry of Social Affairs and the Interior, Office for People with Disabilities

Abstract

With the main focus being Article 33 of the UN Convention on the Rights of Persons with Disabilities (CRPD), this paper describes the Danish implementation of the CRPD and what measures the Danish state has taken in order to embody its principles. Furthermore, it will describe the organs monitoring the implementation of the Convention in Denmark and give some concrete examples of supportive policy making on a national and local level. Finally, this paper briefly depicts the Danish implementation of the CRPD with regards to deaf people, including sign language users and hard of hearing people.

Denmark's ratification of the CRPD and the national and local embodiment of its Articles and general principles

Denmark ratified the CRPD, which represents an important framework for disability policy in Denmark, in 2009. The CRPD is not only part of the Government's framework, but is also important for the work at local government level.

The ratification hence affects all national legislation and policies in Denmark. Every ministry must, when drawing up new legislation, consider if a proposed piece of legislation in their area is in accordance with existing human rights conventions, including the CRPD. This is also referred to as 'sector accountability' which is one of the main principles in the Danish disability policy⁹³.

On 13 May 2014, Danish Parliament adopted a resolution regarding Denmark's accession to the Optional Protocol of the CRPD. The Protocol has been signed by Denmark and the instrument of ratification has been

⁹³ The principle of sector accountability will be unfolded later in this article on the fundamental principles of the Danish disability policy.

deposited, and the Protocol has entered into force, pursuant to Article 13(2), Access to justice.⁹⁴ By signing the Protocol, the government has sent a strong signal about our commitment to the CRPD.

The responsibilities and work of the municipalities and regions

In Denmark, there are 98 municipalities (local governments) and 5 regions. The municipalities and the regions are responsible for social and health services to the citizens. For instance, the municipalities are responsible for offering services to persons with disabilities, including compensatory services. Such services may include, for example, advisory and counselling services, support with necessary extra costs, personal help and care services, citizen-controlled personal assistance (BPA), substitute or respite services, attendance, aids and consumer durables, support granted to the purchase of a car, adaptations to the home, residential accommodation, etc. The regions are, on the other hand, responsible for overall health care in Denmark and offer both treatment and rehabilitation programmes to children, youngsters and adults. In terms of disability responsibilities, the regions are especially responsible for acquired brain injuries, development disturbances, mental illnesses and communicative disabilities such as blindness and deafness.

The implementation of the Danish disability policy at a local level is supported by state agencies that collect and disseminate knowledge. The state agencies also support local authorities in implementing legislation in different areas.

Over the past few years, the Danish government has increased its focus on implementation at a local level, to ensure that citizens receive the services they are entitled to by law. One example of this is the new establishment of a national Task Force to support the municipalities in implementing the social legislation concerning disability. The objective is to strengthen the quality of the local authority casework in order to ensure that the right decisions are made to a greater degree. The task force offers assistance to the local authorities in managing their initiatives for people with disabilities. These services are tailored to the individual authority needs and may vary from assistance to handling specific cases to more elaborate development programs. (Socialstyrelsen 2015b)

94 Article 13(2) of the Protocol says: "For each State or regional integration organization ratifying, formally confirming or acceding to the present Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument." For more information, see: <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

In addition, The National Social Appeals Board (*Ankestyrelsen*) aims to improve implementation by improving the legibility of appeal decisions directed to municipalities and citizens⁹⁵. (The National Social Appeals Board 2015)

The fundamental principles of the Danish disability policy

The CRPD requires disability policy to be aimed not only at compensating individual persons with disabilities, but also at removing barriers in the surrounding society, in order to enable persons with disabilities to participate actively in community life on an equal footing with others. The definition of disability in Article 1, Purpose⁹⁶, in the Convention is integrated in the Danish disability policy. (Ministry of Social Affairs and the Interior 2015).

There is no official definition of disability in Denmark. Nevertheless, the general definition of disability is expressed through the recognition of a person's reduced physical and/or mental function and the person's need for compensation measures in order to access the surrounding society.

The Danish disability policy has furthermore, since the beginning of the 1980s, been based on four principles; the principle of equal opportunities, the principle of solidarity, the principle of compensation and the principle of sector accountability. These principles are in accordance with the CRPD. (The Danish Disability Council 2005).

The principle of equal opportunities

The UN Standard Rules on equal opportunities for and equal treatment of persons with disabilities were adopted as a parliamentary decision in 1993. With this decision, the Danish parliament collectively made a strong appeal to all governmental and municipal agencies, plus private corporations with or without public support, to:

- 1) Abide by the principles of equal opportunities and equal treatment of people regardless of disability, and
- 2) Consider and create opportunities for appropriate solutions for persons with disabilities, and meeting of their needs, in

95 The National Social Appeals Board was set up in 1973 as a government agency under the Ministry of Welfare. The Board is an administrative authority with judicial powers. It is an independent body, and thus not constrained by instructions or opinions from authorities or other bodies on individual case handling and decision making.

96 The CRPD, Article 1(2): "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

connection to preparation of decision making in every case when this kind of consideration is just slightly relevant.

Since then, the principle of equal opportunities and equal treatment of persons with disabilities has remained a pivotal element of the Danish disability policy, with the overall objective of creating a society for all and embracing everyone.

The principle of solidarity

The Danish Welfare State is based on the principle of solidarity and a high degree of redistribution. This means, *inter alia*, that the services offered to persons with disabilities are fully tax financed. This principle is based on the idea that everybody shares the responsibility of ensuring that persons with disabilities have access to the necessary services. The principle of solidarity is a key element in Denmark's disability policy.

The principle of compensation

The principle of compensation implies that a person with reduced functional capacity will, to the widest possible extent, be compensated for the consequences of the reduced capacity. Such compensation may be obtained by making parts of society accessible for people with reduced functional capacities. Another option is to offer individual services specifically targeted to the needs of the individual person with disabilities.

The compensation can hence both be economic and social in nature. It relies on a general principle of equality, although this does not mean that everyone is identical. Therefore, a person must always be compensated in accordance with his or her individual needs after a concrete and individual assessment of them.

The principle of sector accountability

The principle of sector accountability is another key element of the Danish disability policy. Sector accountability implies that the public authority responsible for an activity, a service or a product is also responsible for making it accessible to persons with reduced functional capacity. This way, activities targeted at persons with disabilities are no longer primarily a task for the social sector, but the responsibility of all relevant sectors in Danish society; for example, housing, transportation, the labour market, training and education and the health sector.

For example, the responsibility for the laws about social services for people with disabilities is placed with the Ministry of Social Affairs and the Interior, whereas the responsibility of Danish Sign Language is delegated

to the Ministry of Culture Denmark.

The Inter-ministerial Committee of Civil Servants on Disability Matters

The Inter-ministerial Committee of Civil Servants on Disability Matters (the Ministries' Disability Committee) was set up in 1999 by the Government; at the time, to work on the barriers to persons with disabilities' participation in society. The Committee still works towards this ideal and has an overall objective to help create a coherent disability policy effort in line with government goals and visions, including the coherence of government initiatives.

The Committee also acts as a forum for dealing with cross-cutting challenges, network building and knowledge sharing on current disability policy issues, including the continued implementation of the CRPD. The Committee has been given the task to report back to Danish Parliament on an ongoing basis about initiatives taken to further the implementation of the CRPD. This will cover all governmental areas of responsibility as well as any cross-sectorial initiatives taken.

Finally, the Committee provides a forum for dialogue with stakeholders and actors in civil society around current disability policy issues. In order to contribute with new perspectives on its work and provide inspiration for thematic discussions, the Committee may invite external stakeholders, including consumer organisations in the disability sector, to make presentations on relevant thematic priorities. The Committee may also choose relevant professional visits in Denmark, to inspire the interdisciplinary work.

The Committee's tasks are:

- To support a coherent disability policy which is based on sector accountability but also supports the coordination, coherence and cooperation between sectors.
- To facilitate cross-cutting interventions in different sectors and at different levels of implementation of the CRPD (cf. Article 33(1)) in the central administration.
- To share knowledge on specific tasks in order to create joint management of cross-cutting issues, including non-discrimination.
- To cooperate with stakeholders and civil society concerning disability policy initiatives.
- To create contacts across ministries to help to solve tasks for the government on disability matters.

The Ministries' Disability Committee hence plays an important role in securing a coherent disability policy effort in line with government goals

and visions. As mentioned, the sector accountability means that the public sector providing services or a product is responsible for ensuring that the service is accessible to people with disabilities. Because of that, all ministries are part of the Committee. As the coordinating ministry on disability matters, the Ministry of Social Affairs and the Interior acts as Chairman of the Committee.

The task of monitoring the Danish implementation of the CRPD and the involvement of civil society

In accordance with Article 33 in the CRPD, Danish Parliament has appointed The Danish Institute for Human Rights as the independent body for monitoring the implementation of the CRPD in Denmark. Thereby, the Institute is to promote, protect and monitor the execution of the CRPD in Denmark; it is also consulted when new legislation is being drafted, in order to make sure that it complies with Denmark's human rights obligations. (Folketinget 2010, The Danish Institute for Human Rights 2015, The Danish Disability Council 2015)

In addition, Danish Parliament set up The Danish Disability Council in 1980, which consists of an equal number of user representatives and authority representatives. It has a dual role in advising public authorities, including Danish Parliament, and monitoring the application of regulations, legislation and practice on matters related to disability.

Finally, Danish Parliament has elected an Ombudsman to control the state and municipal authorities and other government authorities. The Ombudsman can investigate complaints against government authorities' decisions and their treatment of citizens of all ages and cases in all areas – including disability. The Ombudsman may also take up cases on its own initiative and carry out investigations into the case work of authorities.

The Danish Disability Council's part in monitoring the Danish state

The CRPD imposes requirements for the involvement of civil society; people with disabilities and the organisations that represent them; to fully participate in the process of monitoring the implementation of the CRPD. This process, amongst others, takes place through the Danish Disability Council, where the Disabled People's Organisations Denmark (DPOD) is represented by five members.

With regard to the CRPD, the Council is to assess the societal development in Denmark and take a more specific focus on selected aspects of it. The central tasks for the Council are inclusion, accessibility and the combatting of prejudice against people with disabilities.

In order to secure coordination in the CRPD work, there are also two observers in the Council. One of the observers is from the Danish Institute for Human Rights; their task is to coordinate the Council's work in relation to the Institute's monitoring function. The other observer is from the Danish Ministry of Social Affairs and the Interior, which is the coordinating Ministry in Denmark in the policy area of disability.

The Danish implementation from a deaf perspective

Due to the principle of sector accountability, the responsibility for legislation and services to people who are deaf, hearing impaired or sign language users is placed under different ministries in Denmark.

The responsibility for interpretation and social services is placed with the Ministry of Social Affairs and the Interior. The legislation on interpretation gives people who are hearing impaired or deaf the right to unlimited interpretation in certain social activities⁹⁷ that help their inclusion in society, amongst other things. Moreover, The National Board of Social Services (*Socialstyrelsen*)⁹⁸, which is tied to the Ministry of Social Affairs and the Interior, is continuously working on different programs and evaluations for people who are deaf or have a hearing impairment. The Board is, for example, working on creating knowledge about the concrete challenges that both children and students face in the educational system. It makes guides and tools to help parents, children, students, interpreters and educational institutions to handle these challenges and improve the inclusion of people who are deaf or hearing impaired. (Socialstyrelsen 2015a)

97 These activities are regulated by the Act on Sign Language Interpretation to Deaf and Hearing Impaired Persons cf. Consolidated Act no. 927 of 3 July 2013 (*Bekendtgørelse om aktiviteter med tidsbegrænset tolkning til personer med hørehandicap*). The activities for which the person with hearing impairment can receive unlimited interpretation are different in nature and vary, from legal cases to religious gatherings and acts, such as baptisms and weddings, consultations with general practitioners and specialised doctors, information prior to attending study programs, voluntary work and work in political organisations, etc.

98 The Board aims to actively contribute to knowledge based Social Policy, which furthers effective social initiatives for the benefit of citizens. The goal is to make social knowledge work. The National Board of Social Services aims to promote new development and initiatives in social services while also supporting and counseling local authorities in providing services to citizens, i.e. children, young people, socially marginalized groups, elderly and disabled people.

The responsibility of sign language is placed with the Ministry of Culture Denmark. It should be noted that on 13 May 2014, Danish parliament passed a law which established a Danish Sign Language Council (*Dansk Tegnsprogsråd*)⁹⁹. The Council's task is to develop principles and guidelines concerning documentation of Danish Sign Language, and to provide advice and information on it. (Dansk Sprognævn 2015)

The Danish state, in cooperation with different authorities and actors, is hereby working towards better accessibility, communication, information, involvement and participation on different levels for the people in Denmark who are deaf, hearing impaired or sign language users, in line with the principles of the CRPD.

Review session in Geneva

The Committee welcomed the initial report on Denmark, comprising of information on Denmark and the self-governed territories within the Kingdom, namely the Faroe Islands and Greenland. The Committee praised Denmark for having an open and constructive dialogue during the examination in Geneva and for showing up well-prepared. Moreover, Denmark was praised for ensuring help and support for people with disabilities through legislation and political initiatives, and for its accession to the Optional Protocol to the CRPD. Hence, Denmark has strongly signaled that the state is taking its responsibilities under the CRPD seriously.

The Committee commended Denmark on its efforts to review and amend its legislation; in particular, its adaptation of the Consolidation Act on Social Services No. 1093 of 5 September 2013, Consolidation Act No. 727 of 2009 to Compensate Disabled Persons in Employment, and Act No. 31 of 2005 on the Prohibition of Discrimination in the Labour Market, as well as the amendment to the Upper Secondary School Act, designed to integrate persons with autism, in 2013. (Committee on the Rights of Persons with Disabilities 2014).

The Committee also commended Denmark on a number of achievements. It welcomed the fact that Danish Sign Language has been recognised as an official language. The Committee also noted that Denmark has established a coordination body, the Inter-ministerial Committee of Civil Servants on Disability Matters, which is commissioned to implement the CRPD within the sectoral fields under the coordinating authority of the Ministry of Social Affairs and the Interior.

99 For more information, see: <http://www.dsn.dk/om-os/about-the-danish-language-council#funktioner>

Denmark, Greenland and Faroe Islands have collectively received 30 recommendations from the Committee. The recommendations are different in nature and spread out over various public sectors, and hence fall under the principle of sector accountability. Some of the recommendations are thus very clearly identified and specific – for instance, the recommendation on establishing a council to support the use of Braille – whereas others are more general and principled, such as the recommendation to adopt new comprehensive cross-sectoral anti-discrimination legislation.

The relevant ministries will go through the recommendations in their respective areas and adopt a position regarding how they will continue the work with the recommendations. The recommendations will moreover be discussed in the Inter-ministerial Committee of Civil Servants on Disability Matters. Along these lines, the respective ministries will enter into a dialogue with disability organisations and the Institute for Human Rights, with regards to the future work with the recommendations.

The follow up on the Review Session in Geneva is an ongoing process which will continue until Denmark reports back to the Committee in 2019. The report will thus entail answers to and the status of the Committee's recommendations.

Bibliography

Committee on the Rights of Persons with Disabilities (2014). Concluding observations of the Committee on Denmark. CRPD/C/DNK/CO/1.

Dansk Sprognævn (2015). About the Danish Sign Language Council. Available at: <http://www.dsn.dk/om-os/about-the-danish-language-council> (Accessed on 21 October 2015).

Folketinget (2010). Folketingsbeslutning om fremme, beskytte og overvågning af gennemførelsen af FN's konvention om rettigheder for personer med handicap. B 15, 17 december 2010. Available at: http://www.ft.dk/RIPdf/samling/20101/beslutningsforslag/B15/20101_B15_som_vedtaget.pdf (Accessed on 21 October 2015).

Ministry of Social Affairs and the Interior (2015). Rammer og principper for dansk handicappolitik. Available at: <http://sim.dk/arbejdsomraader/handicap/handicappolitik.aspx> (Accessed on 22 October 2015).

Socialstyrelsen (2015a). About The National Board of Social Services. Available at: <http://socialstyrelsen.dk/om-os/about-the-national-board-of-social-services> (Accessed on 21 October 2015).

Socialstyrelsen (2015b). Task force på handicapområdet. Available at: <http://socialstyrelsen.dk/tvaergaende-omrader/sagsbehandling/task-force-pa-handicapområdet> (Accessed on 21 October 2015).

The Danish Disability Council (2005). Dansk Handicappolitiks Grundprincipper. Available at: <http://www.dch.dk/publ/grundprincipper/> (Accessed on 22 October 2015).

The Danish Disability Council (2015). Rådet og konventionen. Available at: <http://www.dch.dk/content/r%C3%A5det-og-konventionen> (Accessed on 21 October 2015).

The Danish Institute for Human Rights (2015). Handicapkonventionen. Available at: <http://menneskeret.dk/handicap> (Accessed on 21 October 2015).

The National Social Appeals Board (2015). Om Ankestyrelsen. Available at: <https://ast.dk/om-ankestyrelsen/> (Accessed on 21 October 2015).

Biography

Danish Government Official, Christina Kristholm Jørgensen, the author of this paper, on behalf The Office for People with Disabilities in the Ministry of Social Affairs and the Interior. Kristholm Jørgensen has a Master's Degree in Political Communication and Management from Copenhagen Business School. Prior to her position at the Ministry, she worked in Danish Parliament. Her responsibilities in the Office for People with Disabilities include international disability matters.

The Office is coordinating the general disability policy in Denmark, but due to the principle of sector accountability, the Ministry of Social Affairs and the Interior is not responsible for implementing the CRPD in areas other than its own. The Office for People with Disabilities coordinates all efforts by being responsible for, and facilitating, the Inter-ministerial Committee of Civil Servants on Disability Matters.

5. National level

c. Denmark

ii. Trying to make changes for persons with disabilities

Signe Stensgaard, Special Adviser, the Danish Institute for Human Rights

Introduction

Denmark ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) on 24 July 2009; this entered into force on 23 August 2009. After a political process, Denmark also ratified the Optional Protocol to the CRPD on 13 May 2014, thus recognising that, from 23 September 2014, people in Denmark are able to complain to the Committee on the Rights of Persons with Disabilities if they think their rights under the CRPD have been violated.

This paper aims firstly to introduce the implementation of Article 33 of the CRPD in Denmark. Secondly, it will give an overview of which strategic priorities the Danish Institute for Human Rights has made as an independent monitoring mechanism and which initiatives have followed. The main focus will be on the Institute's work regarding children with hearing loss and deaf children. Thirdly, some reflections on lessons learned when trying to make changes for persons with disabilities in Denmark will be presented.

National structures for the implementation and monitoring of the CRPD

Article 33 requires that State Parties designate focal points and, if necessary, coordination mechanisms; designate or establish independent mechanisms; and guarantee the participation of civil society.

A Parliamentary decision on the ratification of the CRPD in 2009 appointed the *focal point* in Denmark.¹⁰⁰ According to the Parliamentary decision, the Ministry for Social Affairs¹⁰¹ was given the role as focal point, in conjunction

100 B194 Forslag til Folketingsbeslutning vedrørende Danmarks Ratifikation af FN's Handicapkonvention af 13. december 2006 om Rettigheder for Personer med Handicap. For a more detailed description of the implementation of Article 33 in Denmark, see Liisberg 2013.

101 After the election in June 2015, The Ministry for Social Affairs was renamed the Ministry of Children, Gender Equality, Integration and Social Affairs. For the sake of simplicity, it will be referred to as the Ministry of Social Affairs throughout this article.

with all other ministries concerned. One of the Ministry's main activities during the first years was the writing of Denmark's initial report to the CRPD Committee and initiating work on a national action plan. Both the initial report and the action plan have been launched (United Nations 2013 and Regeringen 2013). The following-up on the CRPD Committee's Concluding Observations (United Nations 2014) and the full realisation of the action plan have yet to be seen.

The initial report submitted to the CRPD Committee clarifies that the Intra-Ministerial Committee of Civil Servants on Disability Matters, chaired by the Ministry of Social Affairs, handles the *coordination mechanism* within the Government, as provided in Article 33(1) (United Nations 2013:45). The Committee is tasked with the central administration's coordination function to facilitate intra-ministerial activities in different sectors and at different levels aimed at implementing the CRPD.

The designation or establishment of *independent mechanisms* was followed by an examination of the different options for a framework under Article 33(2) by a consultancy company for the Ministry of Social Affairs. On this basis, the Ministry of Social Affairs formulated a proposal for a Parliamentary decision on the promotion, protection and monitoring of the implementation of the CRPD adopted on 17 December 2010. (Folketinget 2010)

The Parliamentary decision appoints The Danish Institute for Human Rights with the task to promote, protect and monitor the implementation of the CRPD. The Danish Institute for Human Rights is a national human rights institution and has been accredited with A-Status under the Paris Principles since 2001. To comply with the Paris Principles, amongst other things, the Institute shall be vested with competence to protect and promote human rights, given as broad a mandate as possible and guaranteed independency.¹⁰²

The Parliamentary decision explains the tasks of the Institute as including the following: *promotion* in the form of information and education about human rights, *protection* in the form of general advice to persons who feel that they have been victims of discrimination and *monitoring* in the form of examinations of legal practice in different areas of law and policy.

The Parliamentary decision on the promotion, protection and monitoring of the implementation of the CRPD provides in its explanatory notes that:
“[t]he Danish Institute for Human Rights, the

102 Read more about National Human Rights Institution and the Paris Principle online at the Danish Institute for Human Rights' website: <http://www.humanrights.dk/about-us/national-human-rights-institutions>

Danish Disability Council and the Parliamentary Ombudsman together constitute the framework for promotion, protection and monitoring of the CRPD in accordance with the obligations under Article 33(2)".¹⁰³ (Folketinget 2010)

Whereas the Danish Institute for Human Rights, simplistically speaking, mainly focuses on monitoring tasks, the Disability Council focuses on promotional activities and does not undertake bigger monitoring tasks. The Parliamentary Ombudsman has a stronger focus on individual decisions, although he may also do surveys of administrative practice and inspections. This said, it is clear that the manner in which the Danish Institute for Human Rights, the Disability Council and the Parliamentary Ombudsman undertake their work under Article 33(2) is mostly complimentary. In order to promote some synergy between the activities the institutions hold bi-annual meetings.

It follows from Article 33(3) that persons with disabilities and their organisations shall be involved and participate fully in the monitoring of the CRPD. For many years, persons with disabilities have been highly organised in Denmark. Just to give one example, Disabled People's Organisations Denmark has more than 320,000 individual members, which is a lot, considering how Denmark's population is around 5,600,000. This and other disability organisations have relatively good access to both Parliament and the Government (Bengtsson, Bonfils & Olsen 2008). The strong organisations of persons with disabilities in Denmark have made it relatively easy for the framework under Article 33 to ensure the active participation of persons with disabilities and their organisations.

To sum up, the independent mechanism and framework required under Article 33(2) of the CRPD to promote, protect and monitor are in place in Denmark. In addition, structures are in place to ensure the involvement of disability organisations in the implementation of the CRPD. With the structures required under Article 33 CRPD more or less in place, the question is what the Institute should prioritise.

Strategic priorities

At a strategic level, the Institute currently focuses on knowledge based equal treatment initiatives with transformational power.¹⁰⁴ This implies that the Institute must analyse and identify structural challenges and propose

103 Author's translation.

104 For a more thorough description of the Institute's strategic priorities in the field of equal treatment, visit: http://www.humanrights.dk/files/media/dokumenter/udgivelser/substrategies/equal_treatment_uk.pdf

concrete solutions. It must challenge basic assumptions and contribute to innovative thinking and problem solving. This effort requires a close and ongoing dialogue with civil society and other key actors, in the area of equal treatment and authorities in the state, regions and municipalities, who are responsible for the practical implantation of equality practices.

Shortly, the Institute is determined to produce essential knowledge with transformational power with a strong focus on dialogue. The question is: what does it mean to produce essential knowledge with transformational power with regard to the Institute's mandate under the CRPD?

Initiatives

As a starting point, the Institute decided to create an overview of the CRPD and the interpretation of it in a Danish context, and to inform the people of Denmark about the CRPD. Therefore, the Institute created the www.handicapkonvention.dk¹⁰⁵ website, presenting and interpreting all of the articles of the CRPD, and launched a newsletter¹⁰⁶ about the work of the Institute and the implementation of the CRPD nationally and internationally. The most important elements of the website are also available in accessible format in Danish Sign Language.

With this baseline in hand, the Institute made a list of the ten main challenges Denmark is facing in the implementation of the CRPD.¹⁰⁷ Based on our knowledge and dialogue with several disability organisations, the Institute selected the challenges listed below. The challenges were selected either because lack of implementation is of great significance for a great number of persons with disabilities, or because they affect individuals with disabilities very intensely.

- Legal protection (Article 5 and the Optional Protocol)
- Prejudice (Article 8)
- Accessibility (Article 9)
- Self-determination (Article 12)
- Mental health (Articles 13 and 17)
- Institutionalisation (Article 19)
- Education (Article 24)
- Health (Article 25)
- Labour market (Article 27)
- Political participation (Article 29)

The list has been a benchmark in the Institute's forward priorities; we

105 Find a short English version of the website at: www.humanrights.dk

106 Subscribe to the newsletter by sending an email to handicap@humanrights.dk

107 Read more about these challenges at: <http://www.humanrights.dk/activities/our-work-denmark/disability/10-greatest-challenges>

have had and still have a strong focus on all ten challenges. This especially applies to legal protection, mental health, institutionalisation and political participation, which are areas that not many others, apart from the Institute, focus on in the implementation of human rights for persons with disabilities.

Nevertheless, creating the list was not an easy task. One of the main reasons for this was the lack of statistical indicators about the lives of persons with disabilities; Denmark has no clear statistical overview of how the lives of persons with disabilities have evolved over time in different areas. Thus, the Concluding Observations from the CRPD Committee recommend that Denmark systematise the collection, analysis and dissemination of data, disaggregated by disability (United Nations 2014:9).

The lack of statistical indicators is the main reasons why the Institute launched the 'gold indicators' in 2014.¹⁰⁸ The aim has been to develop global indicators in compliance with the CRPD by establishing international benchmarks for the ten most important rights areas covered by the CRPD. The indicators have been chosen on the basis of a dialogue in a Danish steering group of approximately 30 representatives of state authorities and disability organisations. The steps ahead of us are to get the statistical baseline of all of the indicators and to promote the indicators more internationally.

The activities described above; the website, newsletter, the top ten list of challenges and the gold indicators; are all long-term activities with a broad focus. In addition, the Institute initiates more short-term activities with a more delimited focus, such as the activity focusing on children with hearing loss and deaf children.

Children with hearing loss and deaf children

Recent decades have been characterised by significant changes in the living conditions of children with hearing loss in Denmark. Taking human rights as the point of departure, the Institute has analysed whether and how human rights obligations are translated into Danish legislation, and the practical applications which result from this legislation. (Stensgaard 2015)

The Institute's study shows that there are a number of barriers facing children with hearing loss. Firstly, there may be barriers when choosing the language. For most parents of children with hearing loss, it is not problematic to choose which language they want their child to learn. They

¹⁰⁸ Read more about the gold indicators online: <http://www.humanrights.dk/activities/our-work-denmark/disability/gold-indicators-crpd>

want their child to learn their own native language; for most, this will be a spoken language, while a smaller proportion will want their children to learn sign language. Parents who want their child to learn sign language can face difficulties because they choose differently from the majority of parents. This can put children in a situation where respect for their development, which is their right, may be in jeopardy; just as their right to preserve their identity is put to the test.

Secondly, there may be barriers as to how the child learns the chosen language. The current methods used for language acquisition keep spoken and signed languages separated. It is the Institute's opinion that a more holistic view of the child and their language acquisition would be desirable.

Thirdly, there may be barriers to obtaining the kind of support that families need and which the municipalities are obliged to provide. It is the Institute's assessment that the municipal practices need to become more proactive and better at initiating support more rapidly if they are to help parents ensure their children's best interests to a greater degree than presently.

A list of recommendations follows the analysis summarised above. Amongst other things, the Institute recommends that:

- Family members of children with hearing loss should be able to obtain support in learning sign language;
- A plan of action should be formulated regarding how schools can be made accessible to pupils with hearing loss;
- The Danish Ministry of Education should formulate an action plan to ensure that there will always be schoolteachers who are sufficiently skilled in sign language.

Lessons learned: How to make changes

The analysis and recommendations described above only give a brief insight into the case of children with hearing loss in Denmark and the Institute's work in this field. The bigger issue is how to change the condition; how can we make the Institute's recommendations reality?

Peter Scharff Smith, a senior researcher at the Institute who has been working in prison research for several years, has described a concise model for research and reform, inspired by theories as 'theories of change', 'logical frameworks', 'human rights based approaches' and others (Smith 2015). Most of the Institute's initiatives in relation to the CRPD can be seen in this framework, amongst other aspects of the Institute's focus on children with hearing loss.

1. *Identify a problem.* As a starting point, this will be one of the challenges from our list of ten main challenges facing Denmark. It can also be a 'new' problem that has arisen due to development or because of new insights.
2. *Bring together the relevant actors dealing with, experiencing, or influencing the human rights problem in question.* Before digging too deep into any problem, we should at least enter into a dialogue with the relevant disability organisations, state representatives and researchers.
3. *Conduct multidisciplinary research.* From a starting point, the people working in disability at the Institute have different academic backgrounds and skills, such as insight into law, communication and social sciences. When necessary and possible, the Institute hires consultants with different academic backgrounds for specific initiatives.
4. *Throughout the research process, a dialogue is, to the extent possible, maintained with all relevant actors.* The changes recommended will not be made by the Institute but by others such as politicians or people in daily contact with persons with disabilities. This is why it is very important that the Institute prepares the ground for these changes to be made. Amongst other things, this is done through an ongoing dialogue with the gatekeepers of the changes.
5. *Recommendations and preferred outcome are identified.* In the cases where this model really works, the Institute has a very strong platform for approaching politicians and other decision makers with whom we have had a dialogue since the beginning.
6. *A useful advocacy, dissemination and implementation strategy for convincing, utilizing, overcoming, or cooperating with other powers (states, DPOs, media, institutions etc.) is decided upon in order to actually produce their preferred outcome.* When recommendations and preferred outcome are identified, it is important not to expect changes to happen right away. Instead, one needs to keep following up; the possibility to change things might appear when one least expects it.

As also pointed out by Smith, a key issue throughout the process described above is dialogue. A lot of our time is spent on meetings with 'gatekeepers'. Even though it is time consuming, dialogue might be the fastest - and sometimes the only - way to make real changes. So, if only one lesson is to be learnt from our work, it must be to identify the relevant gatekeepers and start the dialogue.

Bibliography

Bengtsson, S., Bonfils, I. S. & Olsen, Leif (Eds.) (2008). Handicap og ligebehandling i praksis. SFI – Det Nationale Forskningscenter for Velfærd, København.

Folketinget (2010). B 15 Forslag til folketingsbeslutning om fremme, beskyttelse og overvågning af gennemførelsen af FN's konvention om rettigheder for personer med handicap. 2010-11 (1. samling). Available at: http://www.ft.dk/RIPdf/samling/20101/beslutningsforslag/B15/20101_B15_som_fremsat.pdf (Accessed on 20 October 2015).

Liisberg, M. V. (2013). Implementation of Article 33 CRPD in Denmark: The Sails Are up, but Where is the Wind? In: G de Beco (Eds.). Article 33 of the UN Convention on the Rights of Persons with Disabilities. National Structures for the Implementation and Monitoring of the Convention. Leiden: Martinus Nijhoff Publishers, pp. 69-96.

Regeringen (2013). Handicappolitisk handlingsplan. Et samfund for alle. København.

Smith, P. S. (2015). Reform and Research: Re-connecting Prison and Society in the 21st Century. In: International Journal for Crime, Justice and Social Democracy, 13:2, pp 33-49.

Stensgaard, S. (2015). Børn med høretab og døve børn. Anbefalinger til Danmarks efterlevelse af menneskeretlige forpligtelser. Institut for Menneskerettigheder. København.

United Nations (2013). Committee on the Rights of Persons with Disabilities. Consideration of reports submitted by States parties under article 35 of the Convention Initial reports of States parties. Denmark. Geneva.

United Nations (2014). Committee on the Rights of Persons with Disabilities. Convention on the Rights of Persons with Disabilities. Concluding observations on the initial report of Denmark. Geneva.

Biography

Signe Stensgaard, Special Adviser at the Danish Institute for Human Rights, has been working within the field of disability and human rights since the Institute was given the mandate to protect, promote and monitor the implementation of the Convention on Rights of Persons with Disabilities in 2011. She has been the main person responsible for the Institute's focus on persons with hearing loss and deaf people.

5. National level

c. Denmark

iii. Getting involved in the CRPD parallel reporting process

Kasper Bergmann, Former Executive Director, the Danish Deaf Association (Danske Døves Landsforbund, DDL)

Introduction

The Convention on the Rights of Persons with Disabilities (CRPD) Committee reviewed Denmark in September 2015 and made the following observations and recommendations regarding deaf people:

“44. The Committee is concerned that certain groups of deaf persons, in particular children born deaf who have been implanted with cochlear implants, are reportedly prevented from learning and communicating in Danish Sign Language. The Committee is also concerned that the recent amendment to the Danish Language Council Act does not promote Danish Sign Language through research or training.

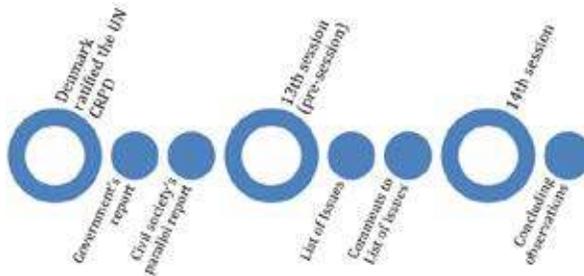
45. The Committee recommends that the State party recognize the right of all deaf persons and born deaf persons to have the possibility to learn and communicate in Danish Sign Language, regardless of medical treatments undergone; take effective measures to promote Danish Sign Language as a communication method, without necessarily resorting to speech therapy; carry out research into Danish Sign Language, including the development of a Danish Sign Language dictionary; and promote the use of Danish Sign Language in all areas of deaf persons’ lives to ensure their participation in particular in employment, education and cultural life.”

(Committee on the Rights of Persons with Disabilities 2014b)

This was the first time that the CRPD Committee had made a very clear statement on the rights of deaf children to learn and communicate in sign language and emphasised that cochlear implants (CI) cannot deprive deaf

children of their right to sign language. These recommendations are not for Denmark only; other National Associations of the Deaf can refer to them when discussing the sign language rights of deaf children in their own countries, with their own governments. This paper outlines the process the Danish Deaf Association (Danske Døves Landsforbund, DDL) followed in reaching this crucial and acclaimed achievement for deaf people all over the world.

Figure 1: The Process



This figure demonstrates the course of the CRPD cycle.

The state of Denmark signed the CRPD on 30 March 2007 and ratified it on 24 July 2009. According to Article 35 of the CRPD, “Reports by State Parties”¹⁰⁹, the Danish government had to submit its initial report within two years after ratification, thus it was submitted on 24 August 2011. As with many other countries’ reports, Danish civil society organisations found the report too positive, neglecting pressing issues regarding the rights of persons with disabilities as provided in the Convention. Since this situation was expected when the Convention was drafted, Article 35 also gives civil society an opportunity to submit its concerns and grievances to the CRPD Committee through a parallel report.

The civil society report

The Disabled Peoples’ Organisations – Denmark (DPOD), an umbrella organisation with 33 member organisations, including the DDL, led the process of creating the civil society report, also called the parallel report¹¹⁰. The aim was to submit one report covering the views and concerns of all organisations of persons with disabilities in Denmark; we considered that there would be a greater political impact if we were able to cooperate and stand behind one united parallel report, than if there were several separate

109 For more information, see: <http://www.un.org/disabilities/default.asp?id=295>

110 Parallel report is the term used in this paper. Others might use the terms Alternative Report or Shadow Report.

parallel reports. The work commenced as soon as the Danish Government's report was published; their report was the base for our work to give our alternative – and, in our view, more true – view on the situation regarding persons with disabilities' rights and participation in Danish society.

DDL was among one of the most active organisations in this work, submitting many issues and concerns to DPOD, which made a draft of our parallel report. DPOD organised a few meetings to discuss the different versions of the draft, trying to reduce the number of issues and pages. The principles were, amongst others, that the issues raised must be documented either by newspaper articles, public decisions made by the Government, the legal framework, etc. Nonetheless, it was also a question of prioritising the issues. DDL was also active in this regard, giving comments and feedback on the drafts, both at the meetings, and between meetings, via email. The final parallel report mentioned eight issues directly related to deaf people, which was a satisfactory outcome for DDL. Several of the other issues were cross-cutting, involving all kind of disabilities; e.g. the lack of anti-discrimination acts in Danish legislation, apart from the area of employment, protecting persons with disabilities from discrimination.

The parallel report was submitted to the CRPD Committee in January 2014, and was translated to English and Spanish.

The 13th session (pre-session)

The submission of the parallel report was followed up by a pre-session in Geneva, Switzerland, with a few members of the CRPD Committee and the rapporteur on Denmark, Mr. Martin Babu, in April 2014. DPOD had an official delegation consisting of 8 persons representing the 33 different member organisations. DDL nominated its Executive Director, Mr. Kasper Bergmann, as one of the representatives in the delegation, and as a recognition of and tribute to the strong involvement of DDL in the process, he was selected for the official delegation by DPOD.

The situation in Denmark for deaf children with CIs was and is very disturbing. Deaf children with CIs were and are deprived from learning and communicating in Danish Sign Language, as they are not recognised as being deaf by the Government. Thus, the CRPD does not apply to them, according to the Government. We feel the Government is unfortunately heavily influenced by the medical view and way of thinking, which is manifested in an official guideline for deaf children with CI, directly discouraging them from learning and communicating in Danish Sign Language. DDL deemed this grave violation of the rights of deaf children must be addressed very urgently before the CRPD Committee. Thus, DDL used the opportunity to also send its own representative to Geneva; its former Vice President, Ms. Helena Gade; to cooperate with Mr. Bergmann

and the delegation.

DDL also wished to put pressure on the Danish Government to fulfil its obligations in Article 21, Freedom of expression and opinion, and access to information¹¹¹, about recognising *and promoting* Danish Sign Language. At this time, Danish Parliament was in the process of passing a bill recognising Danish Sign Language, but the Government was strongly against the idea that the bill should also mention obligations to promote Danish Sign Language, despite the fact that it referenced Article 21 of the CRPD.

The delegates agreed that a wise strategy would be to emphasise a few issues from the parallel report as the most urgent ones to specifically draw the Committee's attention to. The issue about deaf children with CI and the Government's reluctance to promote Danish Sign Language were two of the highly prioritised issues. During the meeting with Mr. Babu and the pre-session before the Committee, Mr. Bergmann presented the two deaf issues, and a few others, and answered questions together with the other members of the delegation. It became apparent during these interactions that it was very beneficial to have a deaf person as a part of the official delegation; the rapporteur and the Committee seemed to be convinced that the claims about denying deaf children with CI access to Danish Sign Language were untrue; they found this hard to believe with regard to a "highly developed" country like Denmark. Without this opportunity to interact and talk directly with the members of the CRPD Committee elaborating the deaf issues, especially with Mr. Babu, it would have been hard for DDL to draw sufficient attention to the two deaf issues. DDL also benefited a lot from the advice given by EUD, WFD, and other National Associations of the Deaf, surrounding their experiences with the CRPD Committee and the related procedures.

List of Issues

The Committee compiled a List of Issues, which it asked the Danish Government to elaborate on. The List of Issues was a good indicator of the issues the Committee would pursue during the examination, thus it was much anticipated by the organisations. The List of Issues for Denmark was published in May 2014. (Committee on the Rights of Persons with Disabilities 2014c). While both highly prioritised deaf issues were a part of the 37 questions, a few of the delegation's other highly prioritised issues did not make it to the list. Nevertheless, the delegation was content with the Committee's priorities. For DDL it was a very satisfactory outcome of the efforts of Mr. Bergmann and Ms. Gade during the pre-session.

111 For more information, see: <http://www.un.org/disabilities/default.asp?id=281>

Since the delegation expected the Government's responses to the List of Issues to be evasive, it made its own responses to the questions, elaborating on the issues, providing facts and background information. Mr. Bergmann and Ms. Gade worked with DDL to provide responses to the two issues regarding deaf people. A joint response from the disability movement was submitted through DPOD, in July 2014¹¹².

The 14th Session

In September 2014, the Danish Government stood before the CRPD Committee, in order for its fulfilment of the obligations set by the CRPD to be examined. The examination lasted for two days, with three rounds of questions and answers.

The day before the examination, the Danish Government ratified the Optional Protocol at the UN Headquarters in New York, which we at DDL perceived as an obvious way for the Government to avoid criticism from the Committee. However, it was still a symbolic victory for the disability movement.

DPOD sent the same delegation to Geneva; DDL sent a representative as well. Before the examination, the official delegation had a meeting with the Committee, presenting our responses to the List of Issues and answering questions from the Committee.

The civil society organisations and other observers were not allowed to speak during the examination of the Danish Government. During the breaks, the delegates and representatives seized the opportunity to talk; informally with the members of the Committee, providing them with more information and encouraging them to ask the Government certain questions. The examination was a high point of the long process of compiling the parallel report, so it was very exciting and rewarding to observe the examination and see how our Government responded to – and, in our view, sometimes also evaded – the different questions asked. The Committee concluded the examination by complimenting the Danish Government on the fruitful, honest and open discussions – and complimented the united and clearly written parallel report from the civil society. The delegation had mixed feelings about the outcome of the examination, as some of us had hoped for stronger comments from the Committee regarding the situation in Denmark. However, one has to accept that this is probably how diplomacy works.

112 For more information, see: DPOD. Responses from the Danish Disability movement to List of Issues from the CRPD-Committee

Concluding Observations

While the examination was a high point, the Concluding Observations from the Committee was the outcome – a tangible product and tool for the continued dialogue between the civil society organisations and the Government. The Concluding Observations were published in October 2014, with 30 recommendations to the Danish Government. (Committee on the Rights of Persons with Disabilities 2014b) The delegation was satisfied with the recommendations, although a few of their other highly prioritised issues were not mentioned. DDL could not have asked for anything better; the recommendations regarding deaf children with CI and promoting the Danish Sign Language, as quoted in the introduction, were great achievements.

The next step is to continue the dialogue with the Danish Government about the recommendations from the Committee. It is in this regard that we will have a true picture of the Government's willingness to adapt to the recommendations to comply with the CRPD, in implementing the human rights of and providing the necessary services to deaf citizens in Denmark. DDL will do some of the advocacy work alone and some will be done jointly through DPOD, depending on common interests among the organisations.

Lessons learnt

As well as those from Denmark, there were also Deaf representatives from two other countries (Germany and Belgium) in Geneva during the pre-session in April 2014. Naturally, an exchange of knowledge and experiences of the process took place. It was quite interesting to learn that the involvement of different countries' deaf associations was so different; while DDL was fully involved in both compiling the parallel report and was represented by one of the official delegates, Belgium (Fevlado and FSSB) was involved in the parallel reporting, but not represented in the official delegation from Belgium, and Germany (DGB) seemed to not have been involved in the parallel reporting nor officially represented. The parallel report from Germany hardly mentioned deaf issues, and deaf issues were not mentioned at the meetings – the representative from the deaf association in Germany had a hard time drawing attention to deaf people's issues in Germany (BRK Allianz 2013). Deaf issues were mentioned in the parallel report from Belgium (GRIP 2011), but the deaf representative from Belgium just had an observing role in Geneva. Sign language is mentioned twice, albeit more vaguely, in the Concluding Observations for Belgium (Committee on the Rights of Persons with Disabilities 2014a). Sign language and deaf people are mentioned three times in the Concluding Observations for Germany, but vaguely and in very general terms as well (Committee on

the Rights of Persons with Disabilities 2015). This does not, unfortunately, mean that deaf people are better off in Belgium and Germany, but is a consequence of the lack of involvement from deaf associations, despite their efforts to get involved.

To sum up; in order to make a strong impact on the Committee's prioritising of issues in the Concluding Observations and accentuate the concerns and situation of deaf persons, it is imperative that deaf associations are involved in the whole process; both in compiling the parallel report and in being an official delegate in Geneva. If possible, the disability movement should strive to submit one united report and speak with one voice, taking all of the different disability groups' interests into account, including the voices of the deaf.

Bibliography

BRK Allianz (2013). First Civil Society Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities in Germany. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fNGO%2fDEU%2f16323&Lang=en (Accessed on 20 October 2015).

Committee on the Rights of Persons with Disabilities (2014a). Concluding observations of the Committee on Belgium. CRPD/C/BEL/CO/1.

Committee on the Rights of Persons with Disabilities (2014b). Concluding observations of the Committee on Denmark. CRPD/C/DNK/CO/1.

Committee on the Rights of Persons with Disabilities (2014c). List of Issues of the Committee on Denmark. CRPD/C/DNK/Q/1.

Committee on the Rights of Persons with Disabilities (2015). Concluding observations of the Committee on Germany. CRPD/C/DEU/CO/1.

DPOD (2013). Report to the UN Committee on the Rights of Persons with Disabilities. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fICO%2fDNK%2f16287&Lang=en (Accessed on 20 October 2015).

DPOD (2014). Responses from the Danish Disability movement to List of Issues from the CRPD Committee. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCSS%2fDNK%2f18208&Lang=en (Accessed on 20 October 2015).

GRIP (2011). Human Rights and Persons with Disabilities - Shadow Report Flanders (Belgium). Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fNGO%2fBEL%2f15475&Lang=en (Accessed on 20 October 2015).

Biography

Kasper Bergmann was Executive Director of the Danish Deaf Association; he is currently a Board member of the World Federation of the Deaf (WFD). He was a member of the official Danish DPO delegation to the CRPD Committee in Geneva and participated in the process of compiling the Danish DPO's parallel report. Furthermore, he is involved in the working group at the Danish Institute of Human Rights, developing a set of "golden indicators" for measuring the fulfilment of the CRPD, to be applied both in Denmark and internationally. Bergmann is a former project coordinator of the WFD Human Rights and Capacity Building project in West and Central Africa, involving 19 countries; he has worked in promoting human rights through projects in developing countries for more than 15 years, and has facilitated several workshops on human rights and the CRPD.

5. National level

d. Hungary

i. The implementation objectives of a non-profit, public benefit organisation: What does the CRPD mean to us?

Dóra Hangya, Head of labour market services and HR solutions, the Hungarian Association of the Deaf and Hard of Hearing

About us

The Hungarian Association of the Deaf and Hard of Hearing (SINOSZ) is a 107-year-old, non-profit, public benefit organisation supporting deaf and hard-of-hearing individuals by helping their social inclusion, contributing to their personal development and promoting opportunities for them to succeed and prosper.

We provide help for deaf and hard-of-hearing persons to allow them unhindered access to information, as well as to facilitate their employment and foster their ability to meet their own, individual goals and ambitions. We also provide for them a wide range of affordable travel and holiday opportunities with special offers and discounts. We organise cultural, sporting and recreational activities. We are committed to offering high-quality services including professional sign language interpreting services, legal aid, and last but not least, career advice and guidance. Furthermore, we also organise specialised workshops. Our KONTAKT Interpreting Services project was launched in spring 2014. This is a video-based interpreting system which enables deaf and hard-of-hearing persons to settle official and administrative affairs on their own, without the personal presence of a sign language interpreter, facilitating in this manner their social integration and improving their chances in the labour market.

Throughout the composition of this study, the number of registered members of SINOSZ was 14,272. However, our services are not available exclusively for our members; we ensure their accessibility to every deaf and hard-of-hearing person living in Hungary.

Approximately 40% of our members were of working age (between 30 and 54 years old). The number of 55 to 70 year olds also reached 40%. The younger generation, between the ages of 6 and 29, was present in 14%. 30% of our members were deaf and 70% were hard-of-hearing individuals.

In terms of educational attainment, the majority had completed primary and specialised vocational (secondary or technical) school-level education, and 7-8% held a higher education diploma. More of our members were women than men.

Statistics

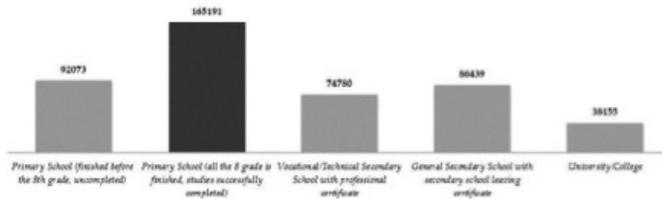
Today in Hungary, the community of sign language users represents the third largest linguistic minority¹¹³. The results of the Hungarian census released in 2011 reflect the latest statistical data concerning the number of deaf and hard-of-hearing persons living in Hungary. The disability-related questions are classified as sensitive data. According to the Act CXXXIX of 2009 on the population census taken in 2011, reporting any required information is mandatory. However, there are some exceptions: reporting data related to nationality, ethnic origin, mother tongue and disability is completely voluntary. (Population Census 2011b)

In the statistical survey released by the Hungarian Central Statistical Office, no distinction is made between *disadvantage owing to limited work capacity* and *disability*. In most cases, the majority of respondents living with limited work capacity claimed themselves to be disabled. The number of hearing impaired persons has seen a significant increase. While in 1990, up to 40,325 people stated they were hearing impaired, in 2001, this number had risen to 44,679. Via the population census released in 2011, even more; 63,014; were recorded. The initiative launched by SINOSZ to allow unhindered access to information can be presumed as one of the reasons for this increase. As part of this initiative, specific information materials and videos with subtitles and sign language interpretation were made for the target group. The primary objective was to allow deaf and hard-of-hearing individuals to participate in the population census as equal citizens. Concerning the hearing impaired persons' data, the population census conducted in 2011 involved another important change too: instead of using generic terms like "deaf", "deaf-mute", "mute", the numbers of "deaf" and "hard-of-hearing" persons were examined. (Population Census 2011a)

According to the population census taken in 2011, 20% of disabled persons could not finish their primary school studies, and 36% could. Furthermore, 22% of disabled persons obtained a general secondary school leaving certificate and 17% obtained a vocational one, which is a considerably low rate. The proportion of university graduates was only 11%.(ibid)

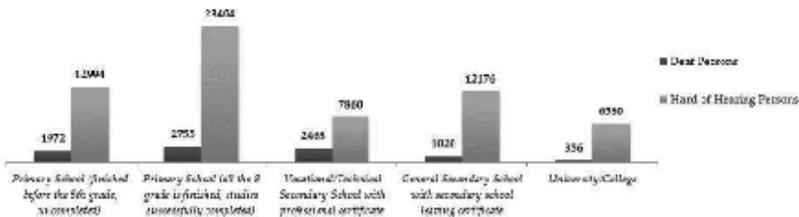
113 After German and Romani.

Figure 1



Division of the educational attainments of disabled persons, based on the data recorded by the population census released in 2011 (ibid).

Figure 2



Division of the educational attainments of deaf and hard-of-hearing persons, based on the data recorded by the population census released in 2011 (ibid).

In the second figure, it is clear that the number of deaf persons who have been awarded a higher, tertiary education qualification (i.e. degree or master's level) is remarkably low. In our opinion, the main reason for this is that Hungarian educational institutions do not adjust to meet the special needs of hearing impaired students and cannot find effective ways to overcome and eliminate barriers to/of communication.

The Hungarian Government expressed its consent to be bound by the UN Convention on the Rights of Persons with Disabilities (CRPD). According to the CRPD, Member States shall promote and support the linguistic identity of hearing impaired communities, facilitate the learning of sign language and provide access to education for the target group. Due to the highly effective professional PR and lobby activities led by the Hungarian Association of the Deaf and Hard of Hearing, the Act CXXV of 2009 on Hungarian Sign Language and the Use of Hungarian Sign Language came into force, which fostered a positive shift in perspective and behaviour. (The Equal Opportunities of Persons with Disabilities Non-Profit Ltd 2015)

The purpose of this Act is to recognise the cultural and community building power of sign language, laying down the linguistic rights of deaf and deafblind persons and ensuring their equal access to public services.

According to this Act, Hungarian Sign Language is an independent, natural language. A free sign language interpreting service is provided by the State of Hungary for 36,000 hours annually, with a maximum of 120 hours per person per year. In addition to this, based on Subsection (2) of Section 5 of this Act, the State provides free sign language interpreting services (Act CXXV of 2009):

- a) For up to 120 hours per academic year for persons with student status in grammar schools, vocational grammar schools or technical schools,
- b) For up to 60 hours per semester for persons with student status in higher education institutions and
- c) For up to 20% of the training hours for persons taking part in adult training with respect to each training course.

(Ibid)

The principal outputs and impacts of the ratification of the UNCRPD, with special regard to the actual situation of deaf and hard-of-hearing persons living in Hungary

In July 2007, Hungary was the second country in the world to ratify the CRPD and the first EU Member States to ratify the CRPD.¹¹⁴ The establishment and ratification of the CRPD greatly contributed to building bridges welcoming the fact that the mother tongue of the deaf community was yet to be recognised. The Act CXXV of 2009 on Hungarian Sign Language and the Use of Hungarian Sign Language was unanimously accepted on 19 November, 2009. According to this Act, the Republic of Hungary recognises Hungarian Sign Language as an independent, natural language and the sign language using community is defined and enshrined as a linguistic and cultural minority. Bilingual education shall be introduced in 2017; for our organisation, it is one of the most important milestones to be achieved. This step, and the fact that the Fundamental Law of Hungary, adopted in 2011, refers to Hungarian Sign Language as part of Hungarian culture, can be described as the zenith of the status planning of Hungarian Sign Language and practically as the glory of a century of struggle faced by the deaf community. (ibid)

We are particularly proud that since 2012, Dr. László Lovászy PhD has been the Hungarian member of the United Nations Committee on the Rights of Persons with Disabilities. The Committee was set up in 2007. The first Hungarian member of the Committee was György Könczei PhD and he was followed by Gábor Gombos. László Lovászy is the third Hungarian; the first hard of hearing and the youngest member ever to join the Committee.

¹¹⁴ In March 2007, Jamaica was the first country in the world to ratify the CRPD. For more information, see: <http://www.un.org/disabilities/countries.asp?id=166>

The CRPD presents a great possibility and is an asset to promoting and strengthening the advocacy work of the Hungarian Association of the Deaf and Hard of Hearing.

The CRPD is the first comprehensive international human rights treaty of the 21st century. The most important and most outstanding value of the CRPD can be described by the fact that the people concerned could contribute to its drawing-up, with very meaningful and active participation. The CRPD therefore puts persons with disabilities at the centre of decision making about their lives, reflecting the “nothing about us without us” philosophy of the disability movement. It is worth taking a look back to 1987, when experts at a global meeting recommended that the UN General Assembly should draft an international convention on the elimination of discrimination against persons with disabilities. The outcome of this meeting was very significant: the Standard Rules on the Equalization of Opportunities for Persons with Disabilities was adopted by the UN General Assembly in 1993. The rules serve as the first international instrument stating that the rights of persons living with disabilities are significantly affected by legal, political, physical environmental and social factors. Many of its fundamental principles contributed to the fulfilment of the Convention of 2006.

The CRPD specifies and lays down the most important and significant rights of deaf and hard-of-hearing persons; ensuring and recognising in particular the right to use sign languages; to have full access to quality education, facilitating and fostering the learning of sign language; and last but not least, the right to promote and maintain deaf culture awareness.

Among the Articles of the CRPD, the following are of particular importance to the Hungarian Association of the Deaf and Hard of Hearing:

- Article 4 (General obligations) - Promoting and accepting deaf culture;
- Article 9 (Accessibility) - Providing sign language interpreters to facilitate accessibility;
- Article 21 (Freedom of expression and opinion, and access to information) - Recognising and promoting the use of sign languages;
- Article 24 (Education) - Recognising the right of persons with disabilities to education;
- Article 30 (Participation in cultural life, recreation, leisure and sport) - Ensuring access to television programmes, films, theatre and other cultural activities, in accessible formats.

Since the CRPD was ratified by Hungary, our Association has made considerable efforts to inform deaf and hard-of-hearing persons of its

existence. Examples include, but are not limited to, the following:

- Organisation of two international conferences:
 - In September 2008 - International Conference on Recognizing the Right to Use Sign Languages,
 - In September 2009 - International Conference on Human Rights.

- Full adaptation of the CRPD for Hungarian Sign Language users:
 - In 2007, under the supervision of the Hungarian Ministry of Social Affairs and Labour, SINOSZ made the sign language adaptation of the CRPD.

- The publication entitled “I have the right to...” and the PR materials related to it can be described as the child and youth friendly version of the CRPD.

- The Hungarian publication, *Human rights. Yes!*
The reference book published by SINOSZ in 2009 provides a helpful and valuable insight into the purposes, application and implementation of the CRPD. *Human rights. Yes! The rights of the persons with disability - Reference book* is based on the publication of the Human Rights Resource Centre of the University of Minnesota issued in 2007. The high-standard Hungarian publication is extremely useful and very well prepared. From article to article, on a step-by-step basis over 373 pages, it provides comprehensive explanations with exercises to help the understanding and implementation of the CRPD. The purpose of this reference work is to serve as an essential resource for the training of human rights representatives and, amongst others, legislators. It also aims to foster the development of advocacy strategies.

The exercises and methods elaborated especially for teamwork mean a solid background to familiarise the target public with the CRPD and the contents of the materials concerning international human rights issues, in an active and collective way (i.e. through group activities). With the help of this work, in everyday life, participants will be able to foster and promote the implementation of the CRPD and the human rights of disabled persons.

- The promotion and provision of full access to television programs for deaf and hard-of-hearing persons:
 - SINOSZ has made tremendous efforts over the years to promote full access to television programs for deaf and hard-of-hearing persons. As stated in the Act CXXV of 2009 on Hungarian Sign Language and the Use of Hungarian Sign Language, and according to the Act CLXXXV of 2010 on Media

Services and Mass Communication (modified several times to be in accordance with the Sign Language Act), the daily total length of television programs broadcasted in a compulsory and accessible way for persons with disabilities shall be increased by two hours per year. Despite the already significant progress, the continuous monitoring and sanctioning of the unsatisfactory quality of access to television programs shall still be considered as indispensable. For the sake of this cause, SINOSZ takes all the necessary steps. Furthermore, we aim to extend the range of television companies obliged to provide full access to the programs broadcasted by them, enabling hearing impaired persons to obtain as much information as their able-bodied peers can and enjoy full access to this type of services. (Media Council of the National Media and Infocommunications Authority 2015)

- The Act CXXV of 2009 on Hungarian Sign Language and the Use of Hungarian Sign Language.
- Ministry of National Resources Decree 62/2011 (XI.10.) on the Operation of Sign Language Interpreting Services and Conditions Related to the Use of Sign Language Interpreting Services.
- Ministry of Justice and Law Enforcement Decree 42/2009 (IX.15.) on the Regulations of the Remuneration System of the Authority Mediators, Interpreters and Sign Language Interpreters and on the Modification of the Ministry of Justice and Law Enforcement Decree 14/2008 (VI.27.) on the Refunding System of the Witness Expenses.
- The Alternative Report of the CRPD¹¹⁵ prepared by the Hungarian Disability Caucus, published in August, 2010:
 - The Hungarian Disability Caucus prepared the parallel civil society report entitled “Disability rights or disabling rights?”, which was co-ordinated and published by SINOSZ. Hungary ratified the CRPD in 2007; this report was designed to assess the compliance of the Hungarian regulations and practice with the responsibilities of the Member States set forth under it. The writing of the shadow report enabled Hungarian disabled people’s organisations to develop their observations in close co-operation. The ultimate goal of this work, especially on behalf of the NGOs, was to establish a permanent dialogue with the government, to demonstrate their professionalism in a field where they have the most direct competence. One of

115 For more information, see: http://www.academia.edu/2451376/Disability_Rights_or_Disabling_Rights_-_Hungary_Alternative_Report_under_the_CRPD

the most outstanding results achieved due to the active role undertaken by SINOSZ was the fact that the organisation could delegate some of its members to Hungarian Parliament and European Parliament too. In consequence, its presence was strengthened among experts of the preparatory and decision-making committees.

- In co-operation with the Hungarian National Committee of UNICEF, we provided full access to the UN Convention on the Rights of the Child. We also have hearing impaired delegates in the coalition of civil society organisations with a focus on children’s rights.

What we see as NGOs and how Hungary implements the articles stated in the CRPD, with a particular focus on Article 33

Article 33 of the CRPD presents specific directives to be followed by the Member States on national implementation and monitoring. Paragraph 3 is of special importance to our organisation. According to it:

“Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.” (CRPD, Article 33(3))

In Hungary, the National Disability Council is designated by the government as the independent framework responsible for monitoring and promoting the CRPD. However it should not be functioning as a coordinating body, because this is in conflict with Article 33(2) of the CRPD and the Paris Principles establishing the minimum standards required for the independence and effective functioning of National Human Rights Institutions (NHRIs).

The National Disability Program 2015-2025 which is currently in force fundamentally defines the national disability policies. The resolution related to the new Program reflects especially on the CRPD ratified by the Act XCII of 2007 based on the Act XXVI of 1998 (Paragraph 2 of Section 26). It also reflects on the European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe based on COM (2010) 636 final. (The Hungarian Government 2015, ANED 2015, European Commission 2010)

The report on Hungary released in 2012 by the Committee on the Rights of Persons with Disabilities examined, amongst other things, the implementation of Article 33 of the CRPD. In spite of the efforts the State Party has made to put in place a monitoring mechanism for implementation of the CRPD, the Committee is concerned that the National Disability Council, which has been designated to function as an independent

monitoring mechanism, is not in compliance with the Principles relating to the Status of National Institutions (the Paris Principles) and, hence, not in line with Article 33(2) of the CRPD. Therefore, the Committee called upon the state party, Hungary, to set up an independent monitoring mechanism in accordance with the Paris Principles and Article 33(2), of the CRPD, and to ensure the full participation of civil society, especially organisations of persons with disabilities, in the monitoring process and framework. (UN Committee on the Rights of Persons with Disabilities 2012)

As a public benefit, non-governmental disability organisation, our main duties and missions are to protect the interests of the persons we represent and interpret their opinions in all areas of society.

The CRPD is the flagship of several positive changes related to the lives of many Hungarian deaf and hard-of-hearing persons. However, we still have a lot of steps to take to accomplish all of our goals, i.e. to acquaint the larger groups of society with the CRPD and to make the CRPD an even more determinant guideline on disability affairs.

Bibliography

ANED (2015). Hungary ANED Country report on the European Semester. Available at: <http://www.disability-europe.net/countries/hungary> (Accessed on 20 October 2015).

European Commission (2010). European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe. SEC/2010/1324 final. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1445341772076&uri=CELEX:52010SC1324> (Accessed on 20 October 2015).

Media Council of the National Media and Infocommunications Authority (2015). Act CLXXXV of 2010 on Media Services and Mass Media. Available at: http://hunmedialaw.org/dokumentum/153/Mttv_110803_EN_final.pdf (Accessed on 25 September 2015).

Population Census (2011a) Available at: http://www.ksh.hu/nepszamlalas/tablak_fogyatekossag (Accessed on 25 September 2015).

Population Census (2011b). Act CXXXIX of 2009 on the census of 2011. Available at: http://www.ksh.hu/nepszamlalas/legal_background_menu (Accessed on 25 September 2015).

The Equal Opportunities of Persons with Disabilities Non-Profit Ltd (FSZK) (2015). Act CXXV of 2009 on Hungarian Sign Language and the use of Hungarian Sign Language. Available at: http://www.fszk.hu/fszk/tudastar/jogszabaly/hazai/A_jelnyelvi_torveny_angolul.pdf (Accessed on 25 September 2015).

The Hungarian Government (2015). Decision 15/2015 (of 07.04) OGY of the National Assembly on the National Disability Program 2015-2025. Available at: http://www.kormany.hu/download/c/e4/60000/NDP_2015-2025.pdf (Accessed on 25 September 2015).

UN Committee on the Rights of Persons with Disabilities (2012). Concluding observations on the initial report of Hungary. CRPD/C/HUN/CO/1.

Biography

Dóra Hangya has worked at SINOSZ since 2010. She is the Head of labor market services and HR solutions. She graduated at the University of Szeged, where she obtained a Master's degree in Andragogy. Her research field was the social integration of people with disabilities in adult education and employment aspects. She is a teacher and education expert at the University of Szeged and a PhD student at Eötvös Lóránd University. Over the past five years, Hangya has participated in 13 domestic and 3 international professional conferences as a presenter and 15 of her studies have been published. She is a founding member of the Adult Education Research Group of the Institute of Adult Education, which has been operating since 2010 at the University of Szeged.

5. National level

e. Spain

i. Implementation and legislation

Patricia Mora Ruiz and Marta Muñoz Sigüenza, Legal Advisors, the Spanish National Confederation of Deaf People (Confederación Estatal de Personas Sordas, CNSE)

The passing of the United Nations (UN) Convention of the Rights of Persons with Disabilities (CRPD) on 13 December 2006 and the later ratification by the Spanish Kingdom with its Optional Protocol on 3 December 2007, which came into force on 3 May 2008 as prescribed in Spanish law, meant that the provisions of the CRPD became part of the domestic law system. Spain assumed the compliances of obligations in that international instrument, including the implementation and monitoring.

Indeed, Article 33 of the CRPD establishes follow-up mechanisms at a national level. Governmental national institutions and independent ones are to comply with these obligations.

So, the Spanish Government, in response to these mandates, following Article 33(1), enacted the Royal Decree 1468/2007 dated 2 November, amending the Royal Decree 1865/2004 on 6 September, which regulates the National Council on Disability, considering this Body as the official authoritative level to monitor the CRPD in Spain.

On the other hand, the estimates of Article 33(2) were complied with on 17 September 2009, when in accordance with the National Council on Disability, an independent private body of civil society was appointed to monitor the implementation in Spain. This appointment has fallen on the Spanish Committee of Representatives of Persons with Disabilities (CERMI) (CERMI 2015a).

Established in 1997, the CERMI is a non-profit nationwide association, like a unitary platform of civil society – disability social activism – with influence at a political level. It acts in defence of the rights and interests of women and men with disabilities, and their families. There are around four million people with disabilities in Spain; along with the members of their families, this comes to around twelve million citizens (CERMI 2015c).

Therefore, the CERMI is the platform for the representation, defence and action of citizens with disabilities and their families, officially appointed

by the State as an independent body of civil society to follow-up the implementation of the CRPD. This organisation is comprised of more than 7,000 associations and entities, including the Spanish National Confederation of Deaf People (*Confederación Estatal de Personas Sordas, CNSE*) as the representative entity of deaf people in Spain, and one of the CERMI's founders that holds one of the vice-presidencies.

As an independent body appointed by the Spanish State to follow-up the implementation of the CRPD, CERMI produces an Annual Report¹¹⁶ that describes the human rights situation of people with disabilities in Spain.

The inclusion of people with disabilities as fully-fledged citizens with equal opportunities, as the CRPD embodies, is a task to be carried out by the whole of society. Thus, the information in the Annual Report allows the judiciaries' agents in particular, and society in general, through claim and assertion, to be aware of these violated realities and to know the areas of application to be respected.

There are several sources of knowledge, but the main ones are: the consultations and complaints received by the CERMI as an independent body for the monitoring of the CRPD; the actions carried out as a result of the normal work of the entity; the consultations and complaints of people and members or collaborating entities; and news published in the media or social networks that originate from research by the CERMI; likewise, the activity of the different judiciaries' agents.

The structure of the report follows the order of the CRPD's Articles. References to all Articles are not included, only those that allow scope for the required considerations that can be taken as examples and indicators of the reality of the human rights of people with disabilities in Spain. Being an Annual Report, the human rights situations are fully detailed for each particular year.

The exam incorporates a summary of certain Articles followed by an analysis, including all or some of the following issues:

- Description of the situation of people with disabilities in this area.
- Violations or claims from individual cases received by the CERMI or by its member entities; or by actions carried out by CERMI, other judiciaries or entities.
- Improvements and good practices carried out by different judiciaries looking to comply with the rights and consolidate them.
- Improvements proposed, including the areas wherein progress is needed. Many of these are due to the CERMI's initiatives or some

116 For more information, see: <http://www.cermi.es/es-ES/ColeccionesCermi/ConvencionONU/Paginas/Inicio.aspx>

of its entities, especially in legislative matters.

The CERMI, along with the CNSE and the other member entities, is closely involved in the whole implementation process of the CRPD and significantly supports this important improvement in the field of human rights of people with disabilities, providing support mechanisms available to civil society and allowing the perfect conditions to reach this goal.

In the performance of its functions as an independent monitoring body, the CERMI has an appropriated infrastructure for the smooth conduct of its activities; in particular, about enough funds to guarantee the autonomy of the institution regarding the administration, and is not subject to any financial supervision that might compromise its independence.

For this purpose, a CERMI Support Committee has been set up pursuant to Royal Decree-Law 1276/2011, dated 16 September, of regulatory policies to the CRPD; the goal is to protect, promote and supervise the implementation of the Treaty in Spain establishing functions, work criteria and composition of the Support Committee (Boletín Oficial del Estado 2011).

Regarding the CNSE, it is a proactive entity that takes part in some forums and councils like the Plenary and the Permanent Commission of the National Council on Disability; an inter-ministerial consultative and advisory body through which the representative organisations of people with disabilities and their families participate in the planning, monitoring and evaluation of disability related policies.

The National Council on Disability has a disabled people's office to promote equal opportunities, non-discrimination and universal access for people with disabilities (Ministerio de Sanidad, Servicios Sociales e Igualdad 2015). It usually consults the CNSE about policies and regulations that seek to provide appropriate input for deaf people; likewise, other contributions through platforms such as POAS (Social Action Platform for NGOs), UNAF (National Union of Family Associations) and so many entities that form part of/work with bills and draft laws, draft bills, policy measures, public denouncements, etc.

Similarly, the CNSE is the entity responsible for the review of reports related to the Deaf community before their publication, and elaborates reports about the situation of deaf people according to compliance of the CRPD through realistic assumptions and statistics. These tasks are the result of working collaboratively with the associative disability movement, to enable the analysis of the actual situation of deaf people. (CERMI 2015b)

Regarding the implementation of the CRPD, the Royal Legislative Decree 1/2013 on 29 November, approved the Codified Text of the General Law on the rights of people with disabilities and social inclusion. This regulation is a codified text of laws prior to the CRPD that have been amended to adopt their content to this instrument. These are the derogated measures:

- Law 13/1982, on 7 April, of the social integration of people with disabilities.
- Law 51/2003, on 2 December, of equal opportunities, non-discrimination and universal access for people with disabilities.
- Law 49/2007, on 26 December, that establishes a system of violations and penalties in equal opportunities, non-discrimination and universal access for people with disabilities.

(Agencia Estatal Boletín Oficial del Estado 2013)

It is important to note that the Explanatory Memorandum of the Royal Decree, 1/2013 refers to Law 27/2007 on 23 October¹¹⁷, without derogating or absorbing it. This law recognizes Spanish Sign Languages and regulates the means of support for oral communication for deaf people, those with hearing impairments and deafblind people as a key element in the configuration of the legislative framework of rights for people with disabilities. It is a pioneering law in this framework as it was passed before the ratification of the CRPD in Spain, although the inclusive spirit of the instrument was already in.

The CNSE is now working with the Spanish Government through a work group established for the elaboration of a Regulation to develop Law 27/2007 to implement the rights of deaf and deafblind people in all areas of daily life as much as possible. Work is still being done to raise the status of Spanish Sign Language and Catalan Sign Language, so that they are equal to the rest of the languages recognized by the Constitution. In this way, CNSE's members are working in their regions on different regulations and public policies to improve the access and full inclusion of deaf people, likewise the linguistics policy to the standardization of the sign languages.

It is worth mentioning the Spanish Sign Language Standardization Center (CNLSE)¹¹⁸. This is a public body established by Law 27/2007 that belongs to the Royal Board on Disability and is managed by the deaf community through the Foundation CNSE. Its main goal is to work towards Spanish Sign Language standardization as a centre of reference to protect the correct use of Spanish Sign Language, and to contribute to guaranteeing the linguistic rights of the users of this language. (CNLSE 2015)

117 For more information, see: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2007-18476

118 For more information, see: <http://www.cnlse.es/en/cnlse>

The foundation of CNLSE was approved in 2010 and it was created in 2011. (Boletín Oficial Del Estado 2010) Since then, the centre has been developing significant work to support Spanish Sign Language, like the report to analyze its situation¹¹⁹, and taking part in different working groups like:

- The Working Committee for the professional profiles on Spanish Sign Language.¹²⁰
- The Working Committee for Interpreting.¹²¹
- The committee for the university education of interpreters of Spanish Sign Language and interpreter-guides for deafblind people.¹²²
- The group of experts to design the process of creating the Corpus Linguistics of Spanish Sign Language.
- Working groups on quality standards for the incorporation of Spanish Sign Language in television.

From the promulgation of the Catalan Sign Language Law passed by the Catalan Parliament on 26 May 2010, the Institut d'Estudis Catalans became an authority of this language as a result of the creation of the Consell Social d la Llengua de Signes Catalana as an advice body, with consultative and social participation in the linguistic policy of the Government in the scope related to Catalan Sign Language. The Federation of Deaf People of Catalunya (FESOCA), an entity of CNSE, is part of this Consell.

It is important to notice that, over the years of the implementation of the CRPD in Spain, the entities belonging to the associative disability movements have made considerable achievements. Thanks to their hard work and effort, the CRPD's principles have started to spread inside them and in Spanish society. Therefore, the CNSE, in its goal of the defence and empowerment of deaf people and their demand for the use of Spanish sign languages as a fundamental right, has achieved, amongst other things:

- Deaf women who use sign language have access to the domestic violence hotline 016. They can use it through the Svisual¹²³ platform.
- The right to information, interpreting and translation in the criminal trials of deaf people was recognised in the Organic Law

119 For more information, see: [http://www.sis.net/documentos/documentacion/INFLenguaSignos\(online\).pdf](http://www.sis.net/documentos/documentacion/INFLenguaSignos(online).pdf)

120 For more information, see: <http://cnlse.es/es/diffusion/news/nace-una-nueva-comisi%C3%B3n-de-trabajo-sobre-el-perfil-del-especialista-en-lengua-de>

121 For more information, see: <http://cnlse.es/es/diffusion/news/nace-una-nueva-comisi%C3%B3n-de-trabajo-sobre-interpretaci%C3%B3n>

122 For more information, see: <http://cnlse.es/es/diffusion/news/avanzan-los-trabajos-de-la-comisi%C3%B3n-para-la-formaci%C3%B3n-universitaria-de-int%C3%A9rpretes-de>

123 For more information, see: <http://www.svisual.org/>

5/2015, on 27 April, that modifies the Criminal Procedure Code and the Organic Law 6/1985, dated 1 July; enacted by the Judiciary to transpose Directive 2010/64/UE, on 20 October 2010, related to interpreting and translation in criminal trials; likewise to Directive 2012/13/UE, on 22 May 2012, related to the right to information in criminal trials (Agencia Estatal Boletín Oficial del Estado 2015).

In spite of these achievements and taking into account CERMI's 2014 report¹²⁴ on the human rights of persons with disabilities, there is still much to be done. Thus, the associative disability movements, led by CERMI and CNSE, will keep on working on the implementation and monitoring of the CRPD from its promulgation through all existing entities or in other ways; and steadily lobby and demand the full inclusion of people with disabilities in general and, in particular, of deaf people.

124 For more information, see: <http://www.cermi.es/es-ES/Biblioteca/Paginas/Inicio.aspx?TSMEIdPub=344>

Bibliography

Agencia Estatal Boletín Oficial del Estado (2013). Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social. Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-12632 (Accessed on 22 October 2015).

Agencia Estatal Boletín Oficial del Estado (2015). Ley Orgánica 5/2015, de 27 de abril, por la que se modifican la Ley de Enjuiciamiento Criminal y la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, para transponer la Directiva 2010/64/UE, de 20 de octubre de 2010, relativa al derecho a interpretación y a traducción en los procesos penales y la Directiva 2012/13/UE, de 22 de mayo de 2012, relativa al derecho a la información en los procesos penales. Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-4605 (Accessed on 1 October 2015).

Boletín Oficial del Estado (2010). Real Decreto 921/2010, de 16 de julio, por el que se modifica el Estatuto del Real Patronato sobre Discapacidad aprobado por el Real Decreto 946/2001, de 3 de agosto, para regular el Centro de Normalización Lingüística de la Lengua de Signos Española. Available at: <http://www.boe.es/boe/dias/2010/07/17/pdfs/BOE-A-2010-11428.pdf> (Accessed on 1 October 2015).

Boletín Oficial del Estado (2011). Real Decreto 1276/2011, de 16 de septiembre, de adaptación normativa a la Convención Internacional sobre los derechos de las personas con discapacidad. Available at: <http://www.boe.es/boe/dias/2011/09/17/pdfs/BOE-A-2011-14812.pdf> (Accessed on 29 September 2015).

CERMI(2015a). Convención Internacional sobre los Derechos de las Personas con Discapacidad. Available at: http://www.convenciondiscapacidad.es/Comite_new.html (Accessed on 29 September 2015).

CERMI (2015b). Colección Convención ONU. Available at: <http://www.cermi.es/es-ES/ColeccionesCermi/ConvencionONU/Paginas/Inicio.aspx> (Accessed on 1 October 2015).

CERMI (2015c). What is CERMI? Available at: <http://www.cermi.es/en-US/QueesCERMI/Pages/Inicio.aspx> (Accessed on 1 October 2015).

CNLSE (2015). Standardization of Spanish Sign Language area. Available at: <http://www.cnlse.es/en/default> (Accessed on 22 October 2015).

Ministerio de Sanidad, Servicios Sociales e Igualdad (2015). Consejo Nacional de la Discapacidad. Available at: <http://www.msssi.gob.es/ssi/discapacidad/informacion/consejoNacionalDisc.htm> (Accessed on 1 October 2015).

Biography

Patricia Mora Ruiz is currently working as a Legal Adviser at CNSE. She has a bachelor's degree in Law and Political Science from Carlos III University, in Madrid, Spain, and is a full member of the College of Lawyers of Madrid.

Marta Muñoz Sigüenza is currently working as a Legal Adviser at CNSE. She has a degree in Law from the University of Burgos in Spain.

5. National level

f. Sweden

i. Civil Society Participation

Csilla Gradwohl, Intern, Equally Unique

Lika Unika - Equally Unique is a Swedish Human Rights Federation focusing on the rights of persons with disabilities. The Federation was formed in 2009 and is comprised of six national disability associations – the Association of the Swedish Deafblind, the National Association for Disabled Children and Youths, the Swedish Association of Hard of Hearing People, the Swedish Neuro Association, the Swedish National Association of the Deaf, and the Swedish Association of the Visually Impaired – in order to advocate jointly from a human rights perspective. Together we represent about 80,000 members.

Persons with disabilities today face unacceptable discrimination in society, not least at the workplace. Students who are in need of special assistance at school often get the required measures too late, or not at all. This lack of accessibility excludes many of our members from important activities on a daily basis.

We advocate for the right to accessibility and participation in society for persons with disabilities. Equally Unique is involved in a range of consultations, reference groups and networks of ministries, agencies and organisations. Our vision is a society that respects everyone on equal terms and acts for everyone's right to participate on his or her own terms, regardless of having a disability or not.

A selection of United Nations (UN) Conventions, first and foremost the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) are the departing point of our work.

The general interest and knowledge about CRPD and its human rights based content is still low in all levels of society, including employers and employees, the private and public sectors, decision makers and society in general. Equally Unique advocates for the implementation of the international commitments under the CRPD. We believe that Sweden, like many other countries, needs a clearer human rights based perspective which places people in focus. In our view, everyone should have appropriate knowledge of the CRPD and the human rights perspective.

Our work with the parallel and alternative reporting

For two years now, one of Equally Unique's main objectives has been the establishment of an independent National Human Rights Institution (NHRI). Having ratified the CRPD, Sweden has committed itself, under Article 33, to set up such an institution based on the Paris Principles, in order to monitor the implementation of the Convention and scrutinize how human rights are respected in the country. Sweden has received recurring criticism from the monitoring bodies of the UN because of its lack of an independent human rights institution.

Importantly, Article 33 of the CRPD assumes that organisations representing persons with disabilities should be involved and participate fully in the national monitoring procedure of the CRPD.

The Swedish disability movement submitted its alternative report to the Committee on the Rights of Persons with Disabilities (CRPD Committee) following the first governmental report on the rights of persons with disabilities in 2011. A delegation of Equally Unique and the Swedish Disability Federation participated at the meeting of the CRPD Committee in Geneva in September 2013, and organised a seminar for Committee members on issues that we considered to be important during the review of the Swedish Government's report.

Both reports were considered by the CRPD Committee, which issued a list of 46 questions regarding what the Government intended to do in order to live up to the CRPD (List of Issues, September 2013).

Following the governmental response to the List of Issues, Equally Unique submitted a paper to the CRPD Committee containing our comments on the written replies by the Government to the List of Issues from 2013. We criticized the fact that the response of the Government consisted of an enumeration of policy decisions instead of presenting an analysis on how policy had influenced the social gaps in the country. Inter alia, we pointed at the labour market and the higher unemployment rate that applies to persons with disabilities. As a central issue, we questioned the Government about the establishment of an independent human rights institution. One of the priority comments of our contribution was related to Article 33. We drew attention to the fact that the CRPD entails an important paradigm shift in which the perception of persons with disabilities is moved from the viewpoint of healthcare and social services to a broader and deeper human rights perspective. Since the Government appointed the Ministry of Health and Social Affairs to fulfil the mandate arising from Article 33(1), we stated that a sustained paradigm shift from health care and social services to a rights perspective can only be achieved if the issues obtain a clear human rights focus and a transformation of responsibility and coordination into

a broader function. Furthermore, as the Government named the Equality Ombudsman as an “independent” organ in its reply to the List of Issues, we emphasised that the Equality Ombudsman is an authority that is directly subordinate to the Swedish Government and therefore cannot be said to have the independence required by the UN’s stated demand for such a mechanism. (Equally Unique 2014b)

Equally Unique formed a delegation with the Swedish Disability Federation and jointly represented the Swedish disability movement at the Government’s hearing on its disability policy, in front of the CRPD Committee in Geneva in March 2014. We held a seminar, together with the Swedish Disability Federation, to focus on the Discrimination Act, labour issues, accessibility, the paradigm shift “from patient to citizen”, and the establishment of an independent human rights institution. Our joint contribution then clearly appeared in the Committee’s questions to the Government during the hearing process.

In its concluding observations on the initial report of Sweden in May 2014, the CRPD Committee expressed concerns that Sweden had not yet introduced an independent mechanism based on the Paris Principles to monitor the implementation of the CRPD. The Committee was further concerned that the coordination responsibility lay with the Ministry of Health and Social Affairs instead of the ministry responsible for human rights.

Parallel and alternative reports to the UN are a useful complement to governmental reports. Equally Unique has submitted its own reports to various UN committees, and additionally, participated in joint reports together with other human rights organisations for more effective joint action.

Equally Unique contributed to the CRC List of Issues in relation to the fifth periodic report of Sweden in November 2014. (Equally Unique 2014a) We drew the CRC Committee’s attention to the recommendations in the CRPD Committee’s Concluding Observations to the Swedish Government, in April 2014. We emphasized the big differences amongst the Swedish municipalities and county councils in working with the CRPD, and how it affects children with disabilities when they receive supporting measures for their education, daily life, culture and leisure activities through municipalities and county councils. In our submission, we also advocated for the establishment of an independent NHRI that is necessary for the proper implementation of the various human rights conventions.

Furthermore, Equally Unique joined the Swedish CEDAW-Network, which consists of various human and women’s rights organisations, and together prepared a submission to the Committee on the Convention on

the Elimination of All forms of Discrimination against Women (CEDAW Committee), for the Committee's pre-session, in July 2015, on the List of Issues and questions with regard to the combined eighth and ninth periodic reports of Sweden. We made comments and suggested questions, inter alia, on the establishment of an independent national human rights organisation¹²⁵.

Similarly, Equally Unique joined the Swedish Foundation for Human Rights and submitted a report to the Committee on Economic, Social and Cultural Rights (CESCR Committee) regarding its work with the List of Issues. We made comments and suggested questions in connection with Articles 13 and 14 on the right to education.

In April 2015, we contributed with a submission to the CRPD Committee's day of general discussion on persons with disabilities' right to education, by describing the present challenges in Sweden concerning the implementation of Article 24 of the CRPD. The vision of Equally Unique is an equivalent education for all without discrimination, regardless of school type and the place of living. The Swedish school system and education can be considered as good in many ways, but it still cannot guarantee equal opportunities for all students today.

Our recommendations implied that early intervention and individual adaptations have to be realised upon starting school or during the application process, in order to ensure education for all on the basis of equal opportunities. We argued that all legislative and administrative practices supporting the exclusion of students from education in any way have to be amended. For this purpose, the possibility of denying children with disabilities for economic and organisational reasons (Swedish Education Act) has to be eliminated. Furthermore, we recommended that all students and teachers shall be more aware of the international conventions (CRC, CRPD) that affect them, and special teacher education has to be extended, for instance by training teachers who are qualified in sign language and /or Braille in the favour of inclusive education. We also draw attention to the large territorial differences, which arise from the municipal self-governance, and certainly apply to the field of education. We recommended that the obligation of all administrative levels and all schools to fulfil Article 24 of the CRPD shall be declared. (Equally Unique 2015)

125 For more information, see:

<http://tbinternet.ohchr.org/Treaties/CEDAW/SitePages/Home.aspx?RootFolder=%2FTreaties%2FCEDAW%2FShared%20Documents%2FSWE&FolderCTID=0x012000DD93400896704142AD4D9FB3367C6D08&View={7C84768F-057C-4294-8DFE-29C8D154EFF3}&InitialTabId=Ribbon%2EDocument&VisibilityContext=WSSTabPersistence>

Equally Unique contributed to the work of the UN Special Rapporteur on the rights of persons with disabilities, by answering a questionnaire¹²⁶ and providing information about the right of persons with disabilities to social protection, in May 2015. The questionnaire was presented to the UN General Assembly, in October 2015, bringing the voices of persons with disabilities to the highest international level.

Submissions, mentioned above, present an important tool in the work of the UN System.

Participation in the UPR process

In January 2015, Sweden was reviewed by the UN Human Rights Council (HRC) for its second Universal Periodic Review (UPR). Within the framework of the UPR, a recurring recommendation to Sweden was to establish an independent national human rights institution in accordance with the Paris Principles.

Civil society plays an important role in the UPR process. Equally Unique, together with 31 other Swedish organisations working in the field of human rights, contributed to the joint submission for Sweden's second Universal Periodic Review, which was presented and submitted by the United Nations Association of Sweden in 2014. We jointly urged the Government to establish an independent national human rights institution with a consultative and awareness-raising mandate for officials at state, county and local levels, to enhance compliance with Sweden's international human rights commitments, to support and promote consistency in the human rights work of municipalities, and in addition, to support and promote an intersectional understanding of human rights issues, and to counteract multiple discrimination. (FN-Förbundet 2014)

Furthermore, Equally Unique participated in a follow-up consultation with the Ministry for Foreign Affairs on Sweden's review by the Human Rights Council, where we were invited to give our comments (2015).

In June 2015, the Swedish Government replied to and accepted the recommendations set during the UPR review. In July 2015, the Government proposed to Parliament that an independent human rights institution shall be established under Parliament, to ensure its independence in accordance with the Paris Principles. The Government wishes to establish an institution with a broad mandate to promote and protect human rights in Sweden, and the proposal is expected to have broad parliamentary support (Regeringskansliet 2015).

¹²⁶ For more information, see:
<http://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/SocialProtection.aspx>

We believe that an independent institution for human rights would considerably strengthen the implementation of the rights under the UN Human Rights treaties. Since the UN's review has pointed to the need for strengthened implementation of UN conventions in the municipalities, a new institution can become an important engine in this work.

Cooperation with the Swedish Government

Equally Unique is involved in a range of consultations on the rights of persons with disabilities. Being part of the work of networks at a number of ministries, agencies and organisations is an important way to promote improvements in a number of fields, such as work, school and accessibility, in the light of the CRPD.

We are represented, inter alia, in the Government's Disability Delegation, which offers an opportunity to explain our views to the ministers in charge.

Decision makers must take into account the disability movement's organisations, and the responsible governmental organs whose strategies are based on the CRPD, and have to consult with us during the implementation of their mandates. However, in some cases, when we are not involved in a consultation process from the beginning, we cannot meaningfully influence the outcome of the relating mandates assigned by the Government. We keep on emphasising the importance of being involved in processes that affect us, from the beginning.

Cooperation with other human rights organisations

We are represented in various networks such as the Network of the United Nations Association of Sweden. Through networking, civil society had the opportunity to pose questions to the Ministry of Culture during a meeting concerning the Government's work with human rights. We expressed that civil society wants to play an important role in the development of an independent human rights institution. We emphasised our wish that the new institution be placed under Parliament and established in accordance with the Paris Principles. We also expressed our expectation of an action plan following the recommendations of the CRPD Committee. The organisations wish for a transparent governmental strategy.

When Equally Unique submitted its comments on the written replies by the Government of Sweden to the List of Issues, our organisation argued that persons with disabilities who come from minority groups are at risk of double discrimination, and this has so far not been given due importance. We emphasised that an investigation is needed to look at the situation for deaf and hard of hearing persons using Swedish Sign Language. They are also considered at risk of double discrimination, even if sign language

has the same legal status as for other minority languages. This work has been done in cooperation with our member organisation, the Swedish Association of the Deaf.

Bibliography

Equally Unique (2014a). Equally Unique's contribution to the CRC List of issues in relation to the fifth periodic report of Sweden. Available at: <http://www.likaunika.org/Filer/Equally%20Unique%20contribution%20List%20of%20Issues%20CRC%201%20Nov%20%202014.pdf> (Accessed on 20 October 2015).

Equally Unique (2014b). Submission and comments on the Written replies by the government of Sweden to the list of issues CRPD/C/SWE/E/Q1, from Swedish Equally Unique. Available at: <http://www.likaunika.org/Filer/Barn%20bilder/Submission%20for%2011%20th%20CRPD%20session%20Sweden%20from%20Equally%20Unique%202014.pdf> (Accessed on 20 October 2015).

Equally Unique (2015). Submission to the CRPD Committee's 13th Session. Day of General Discussion on the Right to Education for Persons with Disabilities (Article 24 CRPD). Available at: <http://www.likaunika.org/Filer/Equally%20Unique%20contribution%20General%20Day%20of%20Discussion%20art%2024%20March%202015.pdf> (Accessed on 20 October 2015).

FN-förbundet (2014). Joint submission for Sweden's second Universal Periodic Review in 2015. Available at: <http://www.fn.se/Global/Joint%20Submission%20UPR%202015.pdf> (Accessed on 20 October 2015).

Regeringskansliet (2015). Ny institution ska skydda de mänskliga rättigheterna, DN Debatt 4 juli 2015. Available at: <http://www.regeringen.se/debattartiklar/2015/07/ny-institution-ska-skydda-de-manskliga-rattigheterna/> (Accessed on 14 September 2015).

Biography

Csilla Gradwohl has been working for Equally Unique, The Swedish Federation of Human Rights for Persons with Disabilities as its intern since April 2015. She holds a law degree with doctoral studies in progress within law and health sciences. She has research experience within the field of human rights and the rights of persons with disabilities. In the framework of her doctoral studies, she analysed relevant Hungarian legal and policy instruments with a focus on housing services, in order to examine whether they can support people's right to live independently and be included in the community, in the light of the CRPD. Her work at Equally Unique includes contributions to parallel and alternative reports, submitted to various UN committees. She participates in the organisation's current activities, especially in work linked to various human rights conventions. Following her internship period, her goal is to continue working in the field of human rights and disability rights.

5. National level

f. Sweden

ii. The CRPD implementation movement

Hanna Sejlitz, President, the Swedish National Association of the Deaf (Sveriges Dövas Riksförbund, SDR)

Introduction

This chapter about Sweden will first explain how the Swedish National Association of the Deaf (*Sveriges Dövas Riksförbund*, SDR) works with the UN Convention on the Rights of Persons with Disabilities (CRPD) and its implementation in Sweden.

SDR was founded in 1922 and has 4,083 members (2014) with 35 local deaf clubs/associations and 6 connected associations. SDR is proud of being part of the first country in the world to recognize Swedish Sign Language as being the language of deaf people and the language to use in deaf education, in 1981. (SOU 1979, Sveriges Riksdag 1980, Sveriges Riksdag 1981) SDR is largely involved in several levels of political work, both locally through our local clubs, and regionally, via our regional federations. National political advocacy is carried by our national board members and employees.

Accessibility through sign language

SDR values the cooperation between work at a national level and the local clubs, especially in relation to the CRPD advocacy work. One important part of this is “Accessibility through sign language” (*Tillgänglighet genom teckenspråk, TGT*); a three year long project with a focus on educating deaf people about their human rights in our local clubs and deaf schools. (SDR 2015)

The project started with SDR’s project officers visiting local deaf clubs, where they met a large number of interested deaf people, and young deaf people in schools, to talk about the meaning of the CRPD and how they could use it in their daily lives. The visits also collected examples of discrimination against deaf people in several areas; foremost in employment and education. The project officers hired a lawyer with expertise in the CRPD and describing cases based on it. Then the cases,

along with juridical explanations, were filmed and made into short videos, aiming to circulate the examples and see how the linkage with the CRPD could be used at a local level. The database is also widely used by SDR in its national advocacy work. (Ibid)

SDR and CRPD advocacy work

We at SDR value our long history of close relations with Swedish stakeholders and believe it has led us to the unique position of cooperating closely with the Ministry of Health and Social Affairs through the Swedish Disability Delegation. Representatives from the Swedish Disability Rights Movement meet with representatives from several governmental representatives four times per year, and SDR has a place with this delegation through Equally Unique (*Lika Unika*).¹²⁷

Through Equally Unique SDR participated in the CRPD reporting process.¹²⁸ Equally Unique believes that the disability rights movement should show a united front in order to be a powerful tool in the implementation of the CRPD.

The reporting process

The six organisations within Equally Unique highlighted comments and recommendations to the List of Issues in June 2013. For example, they highlighted the problematic approach within Swedish discrimination legislation; at the time, this exempted inaccessibility as a form of discrimination. This was partly changed in January 2015, after insistent advocacy from the Swedish disability movement. Today, inaccessibility is included as a form of discrimination in the legislation, but it still contains many exceptions.

When Sweden ratified the CRPD in 2008, an ongoing inquiry was referred to; this was completed in June 2010 and the CRPD Committee recommended that lack of accessibility should be included in discrimination legislation, covering all areas of society. We have questioned why the government has not implemented the inquiry's proposal. This has linkages to SDR's work with the problem of sign language interpreters and the lack of protection

127 Equally Unique is a federation, working with human rights for persons with disabilities, of which SDR is one of six national member organisations. For more information on Equally Unique, see Chapter 5.f.i. and <http://www.likaunika.org>

128 Previously SDR participated through the Swedish Disability Federation, then we shifted membership to Equally Unique.

for deaf people when an event is not made accessible.

We emphasised the big differences within the CRPD-related work of the Swedish municipalities and county councils, and how this affects children with disabilities when they receive supporting measures for their education, daily life, culture and leisure activities through municipalities and county councils. For example, we questioned how Swedish school authorities reported that more than two-thirds of the schools that they examined in 2012 earned criticism for how they worked with special assistance for pupils in need of it. This means that many pupils with disabilities were not given equivalent conditions to other pupils. Many pupils and parents feel that they must fight for the support they are entitled to, or that it takes a long time to get it.

Also, far too many members of staff working in municipalities and schools do not have sufficient knowledge about disabilities and accessibility, including awareness about sign language and deaf culture. We have emphasised the importance of ensuring that school staff, teachers and principals should be educated on the topic of disability rights.

Equally Unique also discussed the fact that, according to statistics, unemployment is higher among persons with disabilities, particularly women, than in other groups. The majority of current employment measures for persons with disabilities are based on the “reduction in work capacity” concept. The high level of unemployment among persons with disabilities cannot be explained with regard to this concept; it is rather a matter of structural problems that exclude persons with disabilities from the labour market. Deaf people have to sign the “reduction in work capacity” paper from the Swedish Public Employment Service (*Arbetsförmedlingen*) in order to receive support for sign language interpretation in the work place.¹²⁹ (Statistics Sweden 2014, Statistics Sweden 2015, Myndigheten för delaktighet 2015, Arbetsförmedlingen 2015)

This discussion leads to our prioritised question on what the Swedish Government is doing to reduce unemployment among women and men with disabilities and to improve the situation in the labour market for those who do not have “a reduction in work capacity” but still find it difficult to

129 This paper is only linked to the regulations of the Swedish Public Employment Service. If other actors/organisations pay for interpretation then this paper is not applicable.

find work as a result of attitudes and prejudices.

SDR feels that the united front and broader recommendations made our contributions stronger; in many ways, the member organisations face similar kinds of discrimination to our deaf members. The support and exchange of experience we received with Equally Unique was valuable and the staff at Equally Unique made a great effort to collate our views, comments and recommendations in one common document.

The CRPD committee session in Geneva

SDR did not participate in the first round of dialogue in Geneva (with the Swedish Disability Rights movement at its 10th session in 2013), because we shifted our membership from the Swedish Disability Federation to Equally Unique. However, when the 11th session was approaching SDR and the Swedish Deaf Youth Association (SDUF) decided to send an ombudsman to Geneva to be part of the Equally Unique delegation.

The session took part between 31 March to 11 April 2014, and the Swedish Government sent a delegation with representatives from several different ministries. Since SDR was part of the Equally Unique delegation, we did not advocate for specific rights or views but instead maintained a broader united front. Nevertheless, this was an opportunity for SDR to do minor advocacy work on the lack of developments in sign language interpretation; for six years, the government had delayed a study on how to improve the sign language interpretation system. A question on this was asked by one of the committee members, but the government representative unfortunately only replied that the study was on going. Despite this response, the SDR representative felt that SDR's representation made sign language more visible in the session and pointed to sign language as an example when the Equally Unique delegation presented its alternative report. The session was accessible for our representative through sign language interpreters paid for by The National Interpreter Service (*Rikstolkjtjänst*), which is responsible for interpretation services for elected representatives of the deaf, hearing impaired and deaf-blind national organisations doing advocacy work at national and international level.

Equally Unique took a united front in trying to get a clear standpoint from the Swedish Government on the question of how a Human Rights Institute was going to be set up in Sweden, according to Article 33. When Sweden ratified the CRPD, ongoing inquiries into an independent Human Rights Institution, in accordance with the Paris Principles in Sweden, were referred to. The inquiries were completed in October 2010 and March 2011

and both recommended the establishment of an independent Human Rights Institution.

The disability rights movement delegation, with Equally Unique and The Swedish Disability Federation, received a positive response from the Swedish Government delegation that the request was being processed. Equally Unique believe that a Human Rights Institute will help Sweden make the paradigm shift from charity to human rights when it comes to people with disabilities.

During the discussions, the delegation from Equally Unique also made a contribution about Swedish national minorities in our List of Issues. The Committee's concluding observations indicated an important issue in terms of national minorities with disabilities; an area that appears to have significant knowledge gaps in Sweden.

Equally Unique's conclusion was that persons with disabilities who come from minority groups are at risk of double discrimination, which has not yet been given due importance. Discrimination against deaf people can be caused both by the lack of visual accessibility and the fact that deaf people are a linguistic and cultural minority. There is a support from the Swedish Government delegation for an investigation to look at the situation for deaf and hard of hearing persons using Swedish Sign Language; they are also considered to be at risk of double discrimination, even if sign language has the same legal status as other minority languages. (Equally Unique 2014:6-8) Afterwards, the SDR continued discussions with the Authority Discrimination Ombudsman, who stated that they intend to examine linguistic discrimination with regard to Swedish Sign Language.

Implementation after the 11th session

SDR and Equally Unique feel that the session has given us valuable tools to use. The Concluding Observations included recommendations for a Human Rights Institute and we look forward to the upcoming establishment of this. The positive aspects of the committee's recommendations included, for example, how the legislation problem regarding lack of accessibility needs to be prohibited. It is also positive that Sweden has brought a disability policy perspective into its international cooperative work. Through financial support from the Swedish state, SDR has been able to conduct a lot of collaborative projects with deaf people in developing countries; for example, to strengthen the status of sign language, to provide opportunities for deaf children to receive education and to make sign language interpretation available. This has affected many deaf associations

in developing countries throughout the ages. (Equally Unique 2014:2-4)

In SDR's view, it is unfortunate that the Committee mentioned the status of Swedish Sign Language as a positive step, despite how SDR mentioned the lack of implementation. The recommendations by the Committee also showed a strong mainstream education view when they commended Sweden for its inclusive education - 1.5% of children with disabilities are instructed outside of regular schools, based on their families' personal decisions¹³⁰. At the same time, the Committee was concerned about the lack of knowledge about different disabilities, reasonable accommodation in the education system and amongst decision-makers. They did not mention our concerns about the lack of accessibility and lack of access to sign language in mainstream schools. (UN Committee on the Rights of Persons with Disabilities 2014).

SDR and Equally Unique have agreed that our organisations need to develop an internal strategy for the time framework for the next reporting cycle, which is expected to be in January 2019. We also agree that the reports need to be translated to accessible formats, to make the tools accessible on different levels and in sign language.

SDR actually arranged a meeting, together with Equally Unique, during spring 2015 with Alice Bah Kuhnke, the Swedish Minister for Culture and Democracy at the Ministry of Culture, to follow up the government's actions for a Human Rights Institute. The outcome of the meeting was that the Ministry aims to establish the Institute during the current mandate period.

SDR looks forward to the upcoming implementation and strongly recommends that other deaf associations are fully involved in the implementation reporting processes, either as part of the national disability rights movement as we are, or independently as deaf organisations. The SDR feels that our political work will grant huge benefits in the longer term, due to our active involvement in the implementation and monitoring of the CRPD.

SDR also value our cooperation with the Nordic deaf associations within the Deaf Nordic Council (*Dövas Nordiska Råd*). In 2014, the countries began

130 Concerning the situation for hard of hearing and deaf children, a report from the Swedish Association of Hard of Hearing People (*Hörselskadades Riksförbund*) from 2007, shows that 84% of hard of hearing and deaf children attend mainstream schools. For more information see: <http://www.hrf.se/system/files/dokument/rapport07.pdf>

to take turns to arrange CRPD workshops, at least once each year, to inspire and update each other about our work to implement the CRPD. So far, two workshops have been conducted, with four participants from each Nordic country and invited guests. The first workshop was conducted in Denmark, where several speakers were invited. The next workshop was in Sweden, where we focused on Article 24 (Education). The discussions have focused on how we can work with the CRPD as a tool for dialogue and political advocacy. The next workshop is planned to be about Articles 9 (Accessibility) and 30 (Participation in cultural life, recreation, leisure and sport).

Bibliography

Arbetsförmedlingen (2015). Support for a personal assistant Available at: http://www.arbetsformedlingen.se/download/18.e9276f9141789c0603105c/1401114616676/bitrade_engelska.pdf (accessed on 28 September 2015).

Equally Unique (2014). Submission and comments on the Written replies by the government of Sweden to the list of issues CRPD/C/SWE/E/Q1, from Swedish Equally Unique. Available at: <http://www.likaunika.org/Filer/Barn%20bilder/Submission%20for%2011%20th%20CRPD%20session%20Sweden%20from%20Equally%20Unique%202014.pdf> (Accessed on 20 October 2015).

Myndigheten för delaktighet (2015). Samlad uppföljning av funktionshinderspolitiken. Hur är läget? Available at: <http://www.mfd.se/globalassets/dokument/publikationer/2015/a-2015-12-samlad-uppfoljning-av-funktionshinderspolitiken.pdf> (Accessed on 28 September 2015).

SDR (2015). Tillgänglighet genom teckenspråk, TGT. Available at: <http://tgt.sdr.org/> (Accessed on 28 September 2015).

SOU (1979). Huvudmannaskapet för specialskolan. Betänkande av integrationsberedningen. 1979:50. Jernström Offsettryck AB, Stockholm.

Sveriges Riksdag (1980). Regeringens proposition 1980/81:100. Available at: http://www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/med-forslag-till-statsbudget-f_G403100/ (Accessed on 21 October 2015).

Sveriges Riksdag (1981). Utbildningsutskottets betänkande 1980/81:25. Available at: http://www.riksdagen.se/sv/Dokument-Lagar/Utskottens-dokument/Betankanden/med-anledning-av-proposition-1_G401UbU25/ (Accessed on 21 October 2015).

Statistics Sweden (2014). På tal om kvinnor och män 2014. Available at: <http://jamstalld.se/forvarvsarbete/#forvarvsarbetande-och-arbetsmiljo-for-personer-med-funktionsnedsattning-och-ovriga-i-befolkningen-i-aldern-16-64-ar-2008-2011> (Accessed on 28 September 2015).

Statistics Sweden (2015). Situationen på arbetsmarknaden för personer med funktionsnedsättning 2014. Available at: http://www.scb.se/sv_/Hitta-statistik/Publiceringskalender/Visa-detaljerad-information/?publobjid=25684+ (Accessed on 28 September 2015).

UN Committee on the Rights of Persons with Disabilities (2014). Concluding observations on the initial report of Sweden. CRPD/C/SWE/CO/1. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fSWE%2fCO%2f1&Lang=en (Accessed on 21 October 2015).

Biography

Hanna Sejlitz has long-term experience of political work, within different organisations in different roles. Her commitment to standing up for human rights and working against discrimination started at an early age and is an important part of her work. Sejlitz is now the President of the SDR, elected for the period 2013-2017. She is the first woman to lead the SDR. Sejlitz works full time as President, with the main goal of strengthening the rights of deaf people and the status of sign language. This includes, for example, deaf people's right to use sign language, participation in society and the democratic process, equal education, equal employment opportunities and accessible health care.

6. Equality bodies: promoting, protecting and monitoring the implementation of the CRPD

Anne Gaspard, Executive Director, and Moana Genevey, Policy and Communications Assistant, Equinet – the European Network of Equality Bodies

Introduction

Following the adoption of three EU Directives between 2000 and 2006¹³¹, all Member States have been required to designate national bodies in charge of the promotion of equal treatment of all persons, without discrimination on the grounds of racial or ethnic origins and gender. Whilst equality bodies were already established in countries such as the Netherlands, the United Kingdom and Austria, “in most countries, such equality institutions did not exist prior to those EU law developments” (De Witte 2012:50). Today, each Member State has officially established and granted competence to one or more special public bodies mandated to provide independent assistance to victims of discrimination, conduct independent surveys, publish independent reports and make recommendations on any issue relating to discrimination on various grounds, including disability.

In 2007, Equinet, the European Network of Equality Bodies, was created as a primarily capacity-building platform at European level to support and enable the work of national equality bodies (NEBs) in EU member and candidate states, for these institutions to be independent and effective as valuable catalysts for more equal societies. Equinet currently brings together 45 member organisations from 33 countries; a diverse membership, including stand-alone equality bodies as well as Ombudspersons and National Human Rights Institutions (NHRIs). This network represents an authoritative voice on equality laws and policies in Europe, building on the vast experience and expertise of our member equality bodies.

EU legislation currently only provides comprehensive protection against discrimination on the grounds of gender and racial and ethnic origin. That is why Equinet and many other stakeholders, notably the UN Committee on the Rights of Persons with Disabilities, have been strongly advocating for the adoption of the

“proposed horizontal Equal Treatment Directive, extending protection from discrimination to persons with disabilities,

131 Directive 2000/43/EC on racial equality, Directive 2004/113/EC on equal treatment of goods and services and Directive 2006/54/EC on equal opportunities and equal treatment of employment and occupation.

including by the provision of reasonable accommodation, to all areas of competence.”

(UN Committee on the Rights of Persons with Disabilities 2015:3)

Even though current EU Equal Treatment Directives do not specifically require the setting up of equality bodies on the grounds of disability, more than 30 of our members cover this, in the field of employment and beyond. This provides a wealth of experience and expertise and it is thus not surprising that quite a few equality bodies have been mandated to promote, protect and monitor the implementation of the CRPD as Article 33(2) mechanisms.

The current European landscape on NEBs and the CRPD

At present, 15 of our members have been mandated under Article 33 of the CRPD. Some of them fulfil a joint function, as both equality bodies and NHRIs, such as the Danish Institute for Human Rights. Others, such as the Latvian Ombudsman and the Lithuanian Equal Opportunity Ombudsperson, have a joint mandate as Ombudspersons and equality bodies. Finally, Belgium and Northern Ireland designated stand-alone equality bodies as Article 33(2) mechanisms: the Interfederal Centre for Equal Opportunities and the Equality Commission for Northern Ireland, even though the latter is part of a wider framework at UK level, also including NHRIs as independent mechanisms. While this configuration shows the “great diversity in the solutions adopted to implement Article 33 (2) CRPD by EU member States Parties to CRPD” (UN OHCHR 2014:6), as “[N]o framework including one or more independent mechanism is identical from one State to another” (ibid), it also highlights the central role played by equality bodies when it comes to creating a national framework combatting discrimination and other human rights violations on the grounds of disability. They have become crucial actors of their national institutional architecture for promoting equality and the rights of persons with disabilities.

In that context, it is not a mere coincidence that over recent years, Equinet has welcomed three new member organisations exclusively dedicated to the protection of the rights of persons with disabilities. The first single-ground body focused on disability which became a member of Equinet was the Maltese National Commission for Persons with Disability (KNPD). Founded in 2000 after the adoption of the Equal Opportunities Act, the Commission was designated as an Article 33(2) mechanism in 2012, when Malta ratified the CRPD. Following this very Article, and in accordance with the Paris Principles, in 2013, the Commission embarked on the creation of a Disabled Persons Advisory Committee (DPAC), composed of 12 members including persons with disability, for reaching fairer and more independent decisions on matters related to the CRPD. This is

illustrative of a wider trend; the KNPD is only one example of a member organisation which reported that official designation as an independent mechanism under the CRPD induced changes in its structure, functioning and activities.

New activities and challenges identified by equality bodies as regards to Article 33(2)

Our members have reported that their new roles as Article 33(2) mechanisms have stimulated new initiatives on the ground of disability. Until recently, equality bodies mainly underlined an increase in monitoring and promotional activities specifically dedicated to the CRPD, while many of them are already implementing activities protecting the rights of persons with disabilities. For monitoring the effective implementation of the Convention, they are notably producing assessments of national legislation's compatibility with CRPD provisions; conducting surveys of the general public, people with disabilities and local governments to prepare monitoring documents on implementation of the CRPD; consulting people with disabilities on obstacles and opportunities in relation to the fundamental rights covered by the Convention; or developing indicators for CRPD implementation.

For promoting the implementation of the CRPD, equality bodies are training public officials on human rights principles, developing cooperation with Non-Governmental Organisations (NGOs) of people with disabilities, raising public awareness of the equality body's role under the Convention and engaging with public authorities on its correct implementation (Equinet 2014:11). Whilst this information confirms the active role played by equality bodies under Article 33(2) of the CRPD, it must be acknowledged that these new activities imply new challenges for our member organisations. They notably point out a lack of additional resources to accompany these responsibilities, difficulties in some states due to the failure to incorporate the Convention into domestic law and a general lack of understanding of the CRPD and its requirements among public officials. These challenges suggest that there is room for improvement regarding the national implementation of the CRPD and equality bodies can play a central role in stimulating these changes. Equinet is committed to assisting equality bodies strategically focusing on this important field of work.

Equinet's role at EU level

One of the main strategic objectives of Equinet is to underline the importance of developing clear European-level standards for equality bodies, including guarantees for their *de jure* and *de facto* independence. This is a key requirement for realising the potential of equality bodies and

it should include that, without interference from any quarter, they can, within their legal mandate:

- Identify their own priorities and implement their powers, as they deem most appropriate.
- Select the issues they deal with and take positions on these issues as they see fit.
- Choose how they wish to manage and deploy their human and financial resources.

(Equinet 2014:23)

Valuing, protecting and pursuing the complete independence of equality bodies ensures that they can be relevant actors and it is a clear requirement under Article 33(2) of the CRPD as it specifically refers to the UN Paris Principles (UN OHCHR 2014:6).

Furthermore, during the review of the European Disability Strategy 2010-2020, Equinet published a perspective addressing the challenges and shortcomings identified by equality bodies regarding the strategy. We notably recommended that the CRPD should certainly become a more essential concern in the renewed strategy, given the EU ratification of the Convention. We insisted that the strategy “should be concerned with the effective implementation of the Convention at European and Member State level and include adequate monitoring and support activities to this end” (Equinet 2014:23).

In summary, because of their unique nature and privileged expertise, equality bodies are playing a growing role in insuring the effective implementation of the CRPD in Europe. These new functions imply new responsibilities, but also bring new challenges to the work of NEBs, which must be adequately addressed for equality bodies to be relevant Article 33(2) mechanisms. Equinet works towards the achievement of this goal by supporting the adoption of appropriate legislation and policies at EU level, and by guaranteeing the complete independence of equality bodies.

Bibliography

De Witte, B. (2012). New Institutions for Promoting Equality in Europe: Legal Transfers, National Bricolage and European Governance. In: *American Journal of Comparative Law*, 60, pp 49-74.

Equinet (2011). Equality Bodies: Current Challenges. Brussels: Equinet. Available at: <http://www.equineteurope.org/Equinet-perspective-on-Equality> (Accessed on 20 October 2015).

Equinet (2014). Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020. Brussels: Equinet. Available at: <http://www.equineteurope.org/Realising-Rights-Equality-Bodies> (Accessed on 20 October 2015).

UN Committee on the Rights of Persons with Disabilities (2015). Concluding Observations on the Initial Report of the European Union.

UN OHCHR Europe Regional Office (2014). Study on the Implementation of Article 33 of the UN Convention on the Rights of Persons with Disabilities. Available at: http://europe.ohchr.org/Documents/Publications/Art_33_CRPD_study.pdf (Accessed on 20 October 2015).

Biography

Anne Gaspard is the Executive Director of Equinet – European Network of Equality Bodies since the establishment of the Equinet Secretariat in 2008. Gaspard had been active and involved in the field of equality and non-discrimination at a European level since the start of her professional career, following her graduation in European studies and political science from University College London and Berlin Humboldt University. Starting with the campaign of the European Year against Racism in 1997 for the European Parliament and a subsequent stage experience within the European Commission against Racism and Intolerance (ECRI) at the Council of Europe, Gaspard then joined and managed the UK-based secretariat of the European Monitoring Centre on Racism and Xenophobia (EUMC) to support its Chair from 1998 to 2000. Gaspard was then responsible for the implementation of various European anti-discrimination and equality projects for a European diversity management consultancy leading the European office of Focus Consultancy in Brussels for seven years, until taking up the position of Executive Director of Equinet Secretariat in February 2008.

During Autumn 2015, Moana Genevey is working as a Policy and Communications Assistant at Equinet. Earlier in 2015, she graduated from the European Inter-University Centre for Human Rights and Democratisation, in Venice. She holds two Masters degrees in Human Rights and in European Studies, and orients her career towards the overall protection and promotion of equality and non-discrimination in Europe. As her Master's thesis on political hate speech following terrorist attacks has been awarded and awaits publication, she is seeking to focus her work on applied research and policy and legal analysis. Before joining Equinet, she has previously worked in NGOs specifically tackling issues of racism at the national level, in Belfast (at the Northern Ireland Council for Ethnic Minorities) and at the European level, in Brussels (at the European Network Against Racism).

The series

The EU's ratification of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) in 2010 means that there is now an obligation to implement the enshrined rights in a timely manner. The legal implications of the CRPD have been widely discussed at institutional level. As a result, it has become increasingly evident that this is a new and complex area where international, European and national orders of law overlap.

This publication aims to contribute to, and provide possible interpretations of, the implementation of the CRPD with regards to deaf citizens, including sign language users and hard of hearing people. Each contribution in the series will explore a specific CRPD article, from both an academic and best practice perspective, and at all levels, from European to regional.

Article 33: National implementation and monitoring

This third book in the series focuses in particular on Article 33 of the CRPD. National implementation and monitoring is analysed and good examples are presented from the different stakeholders involved in the process; from the view of the decision makers, to the independent monitoring organisations and civil society organisations (Disabled People's Organisations, DPOs), both at European and national level.

The diverse chapters represent a range of disciplines and professionals. Their backgrounds span from political and institutional stakeholders and representatives, to academic scholars and NGO representatives. In particular, the authors explore how the rights enshrined in Article 33 are applicable to deaf and hard of hearing citizens, and how they are involved in the process of assuring that the CRPD is implemented in the best way possible.



European Union of the Deaf
www.eud.eu