

The answers of European citizens with intellectual disabilities and their families to the List of Issues in relation to the implementation of the UN CRPD in the European Union

1. Participation of persons with disabilities and their representative organisations (Article 4(3)) (Question 7, List of Issues)

The European Commission (hereinafter: the EC) outlines a number of events (Work Forum, Disability High Level Group, European Day of Persons with Disabilities Conference) as a form of active involvement of persons with disabilities. Inclusion Europe would like to highlight that these events are highly inaccessible for persons with intellectual disabilities as the program is not available in plain/easy-to-read language and self-advocates cannot participate in the debates in a meaningful way. In addition, while these events are important platforms of exchanging experiences on the implementation of the CRPD at the national level, they do not fulfil the requirement of Article 4(3) CRPD on the active involvement of persons with disabilities in the development and implementation of all legislation and policies and in decision-making processes concerning issues relating to persons with disabilities at the EU level. Persons with disabilities are currently not involved in the development and implementation of EU policies in a meaningful way.

We call for

- A strategy focusing on creating accessible and meaningful consultation processes at the EU level for persons with intellectual disabilities from the very early stages of policy-making processes.
- The commitment of the European Institutions to produce documents in plain or easy-to-read version that will allow persons with intellectual disabilities to understand and engage in the development and implementation of EU policies concerning issues relating to their lives.

2. Accessibility (Article 9) (Question 13, List of Issues)

When answering question 13, the EU only mentioned measures (Article 7 of the Audiovisual Media Services Directive) that would encourage accessibility services for persons with visual and hearing impairments to improve their access to information and communication. At the same time, persons with intellectual disabilities face significant challenges in accessing public goods and services as well as information in the EU. The

Inclusion Europe

The European Association of Societies of
Persons with Intellectual Disabilities and their Families



Inclusion Europe

lack of easy-to-read information and usability standards for persons with intellectual disabilities presents one of the greatest barriers to the full participation of persons with intellectual disabilities as European citizens. We are very concerned that the scope of the future Accessibility Act will be unable to cover the accessibility needs of all persons with disabilities.

We call for

- The EU to adopt the European Accessibility Act in the near future including provisions on easy-to-read information and standards for persons with intellectual disabilities to access public goods and services across the EU.
- The EU to improve the accessibility of its own work for persons with intellectual disabilities and to take a broad scope in the final text of the future Directive on accessibility of public sector bodies' websites including specific provisions on easy-to-read.
- The EU to mainstream the use of plain language as part of universal design in the development and implementation of any EU legislation or policies.

3. Article 19: Living independently and being included in the community (Question 22 and 23)

Thousands of persons with intellectual disabilities are still living in institutions all over Europe where their human rights are at serious risk to be violated. The EC is referring in its answer to the Monitoring Committees, which established in the Member States as a means of involving persons with disabilities in the implementation and monitoring the use of EU funds allocated to deinstitutionalisation. However, persons with intellectual disabilities who live in institutions are not involved in the planning, implementation and monitoring of the deinstitutionalisation process and their rights continue to be violated even after they move out of the institutions. The monitoring committees provide no guarantee that the EU funds allocated to deinstitutionalisation are spent to actually support choices of persons with disabilities, to live independently where and with whom they want, while reinforcing their control over their lives in the community. The EU must use its existing mandate and immediately suspend or withdraw payments if the Member States' operational programmes do not comply with the CRPD and relevant EU law in a more rigorous way, as is the case with the implementation of EU funds in some other programmes.

Furthermore, persons with intellectual disabilities and their families should be involved in creating inclusive social support services that accommodate persons with and without disabilities, and in the development of person-centred planning, direct payment, or personal

Inclusion Europe

The European Association of Societies of
Persons with Intellectual Disabilities and their Families



Inclusion Europe

assistant network to ensure that institutional patterns will not be reproduced in smaller living communities.

We call for:

- The EU to guarantee that EU money will only be spent to ensure the independent living of persons with disabilities in the community, including children with disabilities, by effectively monitoring and sanctioning inappropriate spending.
- The EU to finance an external audit of all its funding in the past three years to identify where it has been used to support segregated institutionalised services or providers of segregated institutional services and sanction any use of funding not in accordance with the CRPD standards.

4. Participation in political life (Article 29) (Question 35, List of Issues)

The European Commission, in its answer on question 35, claims that most competences on the area of political participation remain with the Member States and that the EU has raised awareness on the equal right of persons with disabilities to vote and stand as a candidate for elections at EU level.

The EU Agency for Fundamental Rights report shows that in many jurisdictions a person whose legal capacity is deprived or restricted is also deprived of the right to vote and to stand for election at European, national or municipal level.¹ Furthermore, in some jurisdictions people under guardianship are also deprived of joining non-governmental associations, or political parties. The EU did not undertake any measures to ensure that citizens with disabilities can enjoy their right to vote and stand for elections at the European parliamentary level. Furthermore, the elections to the European Parliament are largely inaccessible for persons with disabilities. This results in the situation where thousands of EU citizens cannot practice their rights on an equal basis with others.

It is true that the EU has shared competencies with the Member States in the area of EU citizenship as outlined in Article 4(2) (j) of the Treaty of the Functioning of the European Union (TFEU). Article 20 (2) (b) and 22 TFEU guarantees the right of EU citizens to vote and stand as a candidate in elections to the European Parliament. Furthermore, Article 39 of the Charter of Fundamental Rights of the European Union (CFREU) declares that every EU citizen has the right to vote and stand as a candidate at European elections. In addition, Article 223 TFEU obliges the European Parliament to draw up a proposal which will ensure

¹ European Union Agency for Fundamental Rights, 'The right to political participation of persons with disabilities: human rights indicators' (2014).

Inclusion Europe

The European Association of Societies of
Persons with Intellectual Disabilities and their Families



Inclusion Europe

the electoral procedure is universal and that it does not discriminate against any EU citizen in participating in the elections. In order to comply with its CRPD obligations, the Council could use a special legislative procedure as it is outlined in Article 22(1) TFEU to ensure that every citizen of the EU can enjoy the right to vote.

General Comment on Article 12 CRPD clarifies that the deprivation of legal capacity of persons with disabilities is a form of disability-based discrimination. This should be read together with the EU's commitment in the declaration of its competences to implement the CRPD, to act on areas that fall under discrimination based on disability.² Furthermore, under Article 4 CRPD the EU has an obligation to 'take all appropriate measures to eliminate discrimination on the basis of disability' thus there is a clear right to act and ensure that all citizens could enjoy their right to vote and stand as candidates at the European Parliament elections. Against this background, in countries where people are deprived of their right to participate in EU elections as a result of being placed under guardianship, the EU has an obligation under Article 19 TFEU to take action to combat disability based discrimination. In addition, the European Disability Strategy 2010-2020 also declares that 'EU action will support and supplement national policies and programmes to promote equality, for instance by promoting the conformity of Member State legislation on legal capacity with the UN Convention'.³

There has not been any action carried out by the EU to fulfil this commitment and implement the provisions on non-discrimination as outlined in the CRPD. While the European Parliament's Resolution is an important step to acknowledge the equal right of persons with disabilities to participate in European elections, further steps should be made to eliminate the legal and practical barriers.⁴

We call for

- the EC to adopt a Recommendation to Member States as regards the right of European citizens to vote and stand for EU and local elections on an equal basis with others, which would not infringe on their voting rights on the basis of legal capacity;
- the EU to consider in the on-going reform process of the European Electoral Law the situation of persons with intellectual disabilities and guarantee that they can participate as voters or candidates in future European elections, regardless of their capacity to vote at the national level
- the EU to promote accessible campaigns of political parties. The next elections for the European Parliament might be an ideal opportunity to insist on an inclusive campaigning for all European political parties.

² Annex II to Council Decision 2010/48/EC.

³ European Disability Strategy 2010-2020, COM(2010) 636 final.

⁴ European Parliament resolution of 27 February 2014 on the situation of fundamental rights in the European Union (2012), [2013/2078\(INI\)](#).