

The role of services in the implementation of the Convention on the Rights of Persons with Disabilities



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1. Introduction

1.1 What is the Convention?

The UN Convention on the Rights of Persons with Disabilities (UNCRPD, *hereafter: 'Convention'*) recognises the fundamental human rights of persons with disabilities. It clarifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations should be made. All states within the Council of Europe are bound by its provisions, as well as the European Union itself.

The UN Committee on the Rights of Persons with Disabilities is the body of independent experts which monitors the implementation of the Convention. They publish practical interpretations of the Convention in the form of “General Comments”. On top, all States Parties must submit regular reports to them on how the rights enshrined in the Convention are being implemented. The Committee examines them and makes specific suggestions and recommendations in ‘Concluding Observations’ per State Party. The General Comments, Concluding Observations and recommendations are not binding in the strict sense, though highly authoritative.

The UN also provides several reports and studies on the rights of persons with disabilities, mostly overseen by the Office of the United Nations High Commissioner for Human Rights (*OHCHR*).

To understand how the Convention should be implemented, all these documents must be taken into account. While there is a high potential for support services to implement the UN CRPD, there is a need to better understand and recognise their role in all EU policy frameworks as well as in social and disability-related policies. This report aims at shedding light on the multiple functions support services can cover and on the way support provision of the future should be developed.



1.2 Areas relevant for support services

This report highlights the main role of **services** in the implementation of the Convention, according to the UN. It aspires to give an overview of how **support services** are considered by the UN.

We have assessed the Convention and its explanatory documents (until end 2018), while consolidating all relevant aspects and mentions of support service providers. The first part of this research consists of the general state of play: an overview on the role of **support services** according to the UN documents, as well as the related recommendations on this topic. The positions have been grouped per theme (accessibility, legal capacity, education, etc.) for easy consultation.

In the second part of this research we have assessed the Concluding Observations (until end of 2018) of the latest reporting cycle, focusing on states within the Council of Europe. In these documents we have assessed how **support services** are seen as enablers of inclusion and participation in society for persons with disabilities, highlighting general trends and listing practical points for improvement.

2. Support services in the UN CRPD and its explanatory documents

2.1 Introduction: necessity of support services

Support is a cross-cutting obligation under the Convention. It is firmly grounded in an equality model, starting with its general obligation:¹

The Convention underlines the importance of adopting all appropriate measures to support the full and effective participation of persons with disabilities in society on an equal basis with others (art. 4 (1) (a)).

States must also undertake or promote research and development, and promote the availability and use, of devices and assistive technologies (art. 4 (1) (g)).

*[States must] provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, and other forms of **assistance, support services** and facilities (art. 4 (1) (h)).*

The Report (2016) of the Special Rapporteur on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*), goes deeper into the importance of **support services**:

- *For most persons with disabilities, access to quality support is a necessary precondition for living and fully participating in the community on the basis of choices equal to others.*
- *The provision of appropriate support is necessary to the realization of the full spectrum of human rights and enables persons with disabilities to achieve their*

¹ As laid down in the Report of the Special Rapporteur on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*) (20 December 2016).



full potential, thus contributing to the overall well-being and diversity of the communities in which they live.

- *Evidence indicates that in most developed and developing countries, the majority of persons with disabilities have limited access to **support services**. Especially:*
 - *Deaf and deafblind persons frequently face difficulties in accessing trained interpreters, particularly in rural or isolated communities.*
 - *Persons with psychosocial and intellectual disabilities are overrepresented among the homeless because of the lack of support for living in the community and for decision-making.*
 - *Furthermore, general public **services** in such areas as education and employment do not envision support measures to ensure the full participation of persons with disabilities.*
 - *While all persons with disabilities face challenges in accessing support, those with high support needs are disproportionately affected by the lack of appropriate **services***
- *States should therefore adopt and implement policies and programmes that enable persons with disabilities to obtain the support they need to participate in decisions affecting their lives and in the life of their communities.*
- *States have an obligation to take immediate steps to the maximum of their available resources, including those made available through **international assistance** and cooperation, to ensure support for persons with disabilities, including the adoption of legislative and policy frameworks and budgetary measures.*
- *States must ensure that the support made available is of good quality. This requires, inter alia, the implementation of person-centred approaches and the adoption of guidelines and criteria to regulate the delivery of **assistance** and **support services**, including standards for **training** and certification.*



The Convention not only incorporates **support services** in its general obligation (*article 4*), but also throughout the specific obligations, which are further explained in the general comments, thematic studies, and reports. In the next chapter, we provide an overview of the role of **support services** according to the UN.

2.2 The Convention and its explanatory documents

2.2.1 Accessibility (art. 9)

According to Article 9 of the UN Convention, States Parties shall take appropriate measures:

To ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems. Inter alia:

- *(e) To provide forms of **live assistance** and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;*
- *(f) To promote other appropriate forms of **assistance** and support to persons with disabilities to ensure their access to information*

NOTE: Scope is limited to spaces 'open or provided to the public' (see *art. 9*)

What is important is not who owns the building but who uses it.

General Comment No 2 states:

- *As long as goods, products and **services** are open or provided to the public, they must be accessible to all. [...] Barriers shall be removed gradually in a systematic and, more importantly, continuously monitored manner, with the aim of achieving full accessibility.*
- *The importance of ICT lies in its ability to open up a wide range of **services**, transform existing **services** and create greater demand for access to information and knowledge, particularly in underserved and excluded populations, such as persons with disabilities.*
- *Even in countries where sign language interpretation **services** exist for deaf persons, the number of qualified interpreters is usually too low to meet the increasing demand for their **services**, and the fact that the interpreters have to travel individually to clients makes the use of their **services** too expensive.*
- *Persons with intellectual and psychosocial disabilities as well as deaf-blind persons face barriers when attempting to access **services** due to prejudices and a lack of adequate **training** of the staff providing those **services**.*
- *Without signage, accessible information and communication and **support services**, orientation and movement in and through buildings may become impossible for many persons with disabilities, especially those experiencing cognitive fatigue.*
- *Part of the task of encompassing the diversity of persons with disabilities in the provision of **accessibility** is recognizing that some persons with disabilities need **human or animal assistance** in order to enjoy full **accessibility** (such as **personal assistance**, sign language interpretation, tactile sign language interpretation or guide dogs).*
- *In the field of **communication-related services**, States Parties must ensure at least a minimum quality of **services**, especially for the relatively new types of*



*services, such as **personal assistance**, sign language interpretation and tactile signing, aiming at their standardization.*

- *States Parties need to set **accessibility** standards, which must be adopted in consultation with organizations of persons with disabilities, and they need to be specified for service-providers, builders and other relevant stakeholders.*

The Report (2016) of the Special Rapporteur on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*):

- ***Support services** and arrangements should be accessible to all persons with disabilities, especially the most disadvantaged ones, without discrimination of any kind.*
- *States must ensure that support is available within safe physical and geographical reach for everyone, including those living in institutions. (...) States must take positive measures to ensure that persons with disabilities living in rural and remote areas also have access to **support services** and arrangements.*
- *Dissemination of information about existing **services** and social protection schemes must also be ensured.*
- *Support must be affordable for all persons with disabilities. (...) States must ensure that support is available at nominal or no cost to the maximum extent of their available resources, and take into account the gender disparity in income and access to financial resources.*
- *Qualifying conditions for accessing support must be reasonable, proportionate and transparent, and should not be limited to those persons protected by social insurance schemes.*

The Thematic Study (2011) on participation in political and public life by persons with disabilities states:



- *In many countries persons with disabilities continue to encounter a number of physical and communication barriers, ranging from inaccessible polling stations to the lack of information in accessible formats, that prevent or limit their equal and effective participation in the conduct of public affairs.*

Statement by the CRPD (2018) on inclusion and full participation of persons with disabilities and their representative organizations in the implementation of the convention:

- *Public and private facilities including education, health care services, banking facilities, and others, including public parks, are not constructed taking into account the access requirements of many persons with disabilities. Not only is the physical environment inaccessible, but also information, communications, electronic and emergency services are not designed to be accessible for persons with disabilities, including **web-accessibility**.*

Statement by the CRPD on the International Day of Sign Languages 2018:

- *The Committee calls upon States Parties to recognise sign languages and provide support to the Deaf Communities*
- *Persons with disabilities can exercise their right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis. (...) States Parties must facilitate the learning of sign language and the promotion of the linguistic identity of Deaf Communities.*

The Thematic Study (of 2012) on work and employment of people with disabilities states:

- *Taking steps towards ensuring a fully accessible workplace is crucial for removing the various barriers – physical, attitudinal, information-,*



communication- or transport-related – that prevent persons with disabilities from seeking, obtaining and maintaining work.

- *Good practices to this end include awareness-raising efforts among employers on the need to implement regulations relating to the creation of a barrier-free, disability-friendly environment, and the development of guidelines on **accessibility** and universal design for employers.*

The Thematic Study (of 2013) on the right of persons with disabilities to education states:

- *Barriers arising from the attitudes of teachers, fellow students and families can be considerable and are often difficult to surmount. It is important to note that, in Norway, for example, the Education Act recognizes that **accessibility efforts** shall apply to both the physical and the psychosocial environment.*
- *The requirement to guarantee accessibility should be established by legislation and supported with adequate funding.*

General Comment No 6 states:

- *Reasonable accommodation is an intrinsic part of the immediately applicable duty of non-discrimination in the context of disability. Examples of reasonable accommodations include making existing facilities and information accessible (...) or enabling access to support personnel without disproportionate or undue burden.*



NOTE: As laid down in General Comment No 6 **reasonable accommodations** ≠ accessibility requirement.

They both guarantee **accessibility**, but:

Accessibility (from art. 9) must be built into systems and processes without regard to the need of a particular person with a disability.

↔

Reasonable accommodation (from art. 5)² must be provided from the moment that a person with a disability requires access to non-accessible situations or wants to exercise their rights. **Reasonable accommodation** must be negotiated with the applicant(s)

2.2.2 Legal capacity (art. 12)

According to Article 12 of the UN Convention, States Parties will:

1. *Reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.*
2. *Recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.*
3. *Take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.*

General Comment No 1 states:

² Art. 5, 3: “In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that **reasonable accommodation** is provided.”



- *Support in the exercise of legal capacity must respect the rights, will and preferences of persons with disabilities and should never amount to substitute decision-making.*
- *Support” is a broad term that encompasses both informal and formal support arrangements*
- *Might include measures relating to **universal design and accessibility** — for example, requiring private and public actors, such as banks and financial institutions, to provide information in an understandable format or to provide professional sign language interpretation*
- *Support can also constitute the development and recognition of diverse, non-conventional methods of communication, especially for those who use non-verbal forms of communication to express their will and preferences*
- *Support should be provided to a person, where desired, to complete an advance planning process.*

The Report (2016) of the Special Rapporteur on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*):

- *States must take all appropriate measures to ensure that support programmes incorporate a rights-based approach, are provided on a voluntary basis and respect the rights and dignity of persons with disabilities. (...) States must design **support services** and arrangements so that they enable direct choice and control by persons with disabilities.*

The Report (2018) of the Special Rapporteur on the rights of persons with disabilities (*theme: legal capacity reform and supported decision-making*):

- *[Supported decision-making] provides a very broad range of support to individuals, including access to information, support for communication,*



*empowerment, building self-confidence, relationship building, personal planning, **independent living assistance** and administrative support.*

- *While in many jurisdictions supported decision-making involves the appointment of one or more individuals, in practice support is also provided in group settings or using a mixed structure that incorporates both individual and group support. Legislation needs to acknowledge this diversity in supported decision-making regimes.*
- *A “one size fits all” approach to supported decision-making is ineffective and discriminatory. States should take steps to ensure that all persons with disabilities are provided with the opportunity to access supported decision-making measures.*
- *Legal frameworks should be flexible enough to recognize both informal and formal support arrangements and avoid overregulation.*
- *The majority of supported decision-making practices include a component for **training** supporters to ensure respect for the will and preferences of individuals and avoid paternalistic attitudes, low expectations and substitute decision-making. Programmes with good practices on **training** typically involve supporters receiving initial comprehensive training and continuous training, including one-on-one coaching and problem-solving sessions.*
- *Community involvement is necessary to address structural factors that can hinder or violate the exercise of legal capacity of persons with disabilities, such as stigma, discrimination and institutionalization.*
- *Many supported decision-making initiatives have considered **training** for the authorities and for service providers, including judges, notaries and medical personnel, among others.*
- *In many projects, having multiple supporters was identified as a safeguard, since it ensures that different points of view are present, reducing the risk of undue influence.*



- *There is a broad range of measures that States can implement to respect and ensure the right to legal capacity of persons with disabilities. However, States and their leaders need to systematize those lessons and turn them into systemic, comprehensive and sustainable policy responses.*
- *[States must] progressively increase the allocation of funds to ensure access to supported decision-making and refrain from adopting any retrogressive measures that directly or indirectly affect the access of persons with disabilities to support.*

The Thematic Study (2011) on participation in political and public life by persons with disabilities states:

- *All persons with disabilities who are elected to a public position be provided with all required support, including personal assistants*
- *In order to ensure that persons with psychosocial or intellectual disabilities exercise their right to vote and be elected on an equal basis with others, States Parties should adopt all appropriate measures, in line with article 12, paragraph 3 and 29 (a) (iii), to provide persons with disabilities with the support they may require, including the **assistance** of a person of their own choice, in exercising their political rights.*

Report by the Human Rights Council (2017) on Right to access to justice:

- *States should reform their legislation that, as a consequence of depriving persons with disabilities of legal capacity, promotes further violations of the right to a fair trial, including the presumption of innocence, the right to be heard in person, the right to contest witnesses and the right to offer evidence, among other procedural safeguards of due process of law.*
- *The Committee has strongly rejected the concept of unfitness to stand trial (...) This position is supported by the Working Group on Arbitrary Detention, which*



has called for persons with psychosocial disabilities to be given the opportunity to stand trial promptly, with support and accommodations, rather than declaring such persons incompetent.

- *The provision of supported decision-making can facilitate instructing a lawyer, directing one's defence in court and self-representation.*

The Report of the UN High Commissioner for Human Rights (2017) on Mental Health and Human Rights states:

- *Criminal law and procedures commonly deny due process of law to persons with disabilities considered unfit to stand trial and/or incapable of criminal responsibility. (...) This denies fair trial rights, amounts to arbitrary detention and often leads to harsher consequences than criminal sanctions, such as indefinite detention in mental health facilities.*
- *Article 14 of the Convention (...) establishes an absolute ban on deprivation of liberty on the basis of impairments, which precludes non-consensual commitment and treatment:*
 - *Persons with psychosocial disabilities continue to be subjected to forced institutionalization. (...) Deprived of their liberty, they are commonly subjected to forced treatment.*
 - *Outside of institutions, the use of community treatment orders or mandatory outpatient treatment, even if enforced in the community, violates the right to liberty and security of the person as such measures impose treatment and the threat of detention if refused.*
 - *States parties should repeal legislation and policies that allow or perpetuate involuntary commitment, including its imposition as a threat, and should provide effective remedies and redress for victims.*



2.2.3 Access to justice (art. 13)

According to Article 13 of the UN Convention, States Parties will:

1. *Ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*
2. *In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate **training** for those working in the field of administration of justice, including police and prison staff.*

NOTE:³ art. 13 has a broad scope

The list of measures that States parties should take to ensure effective and equal access to justice, enumerated in article 13 (1) of the Convention, is not exhaustive.

General Comment No 6 states:

- *In order to encourage appropriate respect for and fulfilment of rights and obligations, it is necessary to train law enforcement officers, raise awareness among rights holders and build the capacity of duty bearers.*

The Report (2018) of the Special Rapporteur on the rights of persons with disabilities (*theme: legal capacity reform and supported decision-making*):

³ As laid down in the report on the right to access to justice.



- *States must ensure that all persons under substitute decision-making regimes have access to an effective remedy and consider a moratorium on new applications.*

Report by the Human Rights Council (2017) on Right to access to justice:

- *The Committee has strongly rejected the concept of unfitness to stand trial (...) This position is supported by the Working Group on Arbitrary Detention, which has called for persons with psychosocial disabilities to be given the opportunity to stand trial promptly, with support and accommodations, rather than declaring such persons incompetent.*
- *The provision of supported decision-making can facilitate instructing a lawyer, directing one's defence in court and self-representation.*
- *The Convention underscores (...) the promotion of the active involvement and participation of persons with disabilities in the administration of justice.*
- *States parties are required under the Covenant to guarantee that individuals have accessible and effective remedies to assert their rights, which should be appropriately adapted so as to take into account the specific requirements of different populations.*
- *To have effective remedies, persons with disabilities require:*
 - *(a) equal and effective access to justice (i.e., available and accessible complaint mechanisms, investigation bodies and institutions, including independent judicial bodies capable of determining the right to reparation and awarding redress);*
 - *(b) adequate, effective and prompt redress and reparation for harm suffered; and*
 - *(c) access to relevant information concerning violations and reparation mechanisms.*



- *Complaint mechanisms and investigations thus require positive measures which are gender sensitive to ensure that victims of gender-based violence are able to come forward and seek and obtain reparation.*
- *States should also implement laws and policies that ensure that information needed to defend rights is accessible, and that free and affordable legal aid is provided to persons with disabilities in all areas of law.*
- *Several good practices illustrate the possibilities of guaranteeing that legal information and communication are accessible to persons with disabilities:*
 - *The Constitutional Court of Colombia and the Supreme Court of Mexico called for the translation of judgments concerning the rights of persons with disabilities into easy read formats for the benefit of the petitioners and other persons with intellectual disabilities.*
 - *In Finland, the police have designed their website to provide a range of accessible formats, such as plain language, content and videos in sign language, some of them captioned, and a complaint form in large print.*
- *The Committee on the Rights of Persons with Disabilities has provided a number of examples of how procedural accommodations for persons with disabilities can look in practice, for example, through the provision of sign language interpretation, legal and judicial information in accessible formats for, multiple means of communication, easy read versions of documents, Braille and video link testimony, among others.*
- *The absence of free legal aid is one of the most common barriers to equality of arms and equal access to justice, particularly for persons with disabilities, who number disproportionately among the world's poor and face challenges in affording legal advice and representation:*
 - *In some countries where **legal aid services** have been established, in practice they lack the necessary resources; do not operate on an independent basis; are inaccessible to persons with disabilities; or lack sufficient expertise about the rights of persons with disabilities*



- *Legal aid should be accessible, and States parties must ensure the availability of **services** and information using multiple means, modes and formats of communication across their whole territory*
- *States should implement mechanisms to monitor their legal proceedings and evaluate the success of their policies with regard to access to justice.*
- *States must also seek to overcome barriers in access to justice by providing **training** to judicial officers, lawyers and others, including forensic experts, prison staff and the police, on the human rights of persons with disabilities.(...)
The Committee has recommended that training programmes address such areas as:*
 - *(a) barriers faced by persons with disabilities in accessing justice;*
 - *(b) the rights enshrined in the Convention, including participation on an equal basis with others;*
 - *(c) the provision of procedural accommodations in the legal process;*
 - *(d) overcoming gender- and disability-based stereotypes;*
 - *(e) the rights connected to marriage, family, parenthood, fertility and relationships; and*
 - *(f) ways to combat prejudice against persons with disabilities, particularly those with psychosocial and/or intellectual impairments.*

NOTE:⁴ no definition of ‘procedural accommodations’

The Committee has not yet defined what the practical process in providing procedural accommodations would be.

Nevertheless, it has consistently indicated that procedural accommodations should be provided on the basis of the “free choice and preference” of the person concerned. (...)

If the requirements of the person concerned change over time, procedural

⁴ As laid down in the report on the right to access to justice.



accommodations must be modified or replaced, as appropriate. (...) Appropriate procedural accommodations may require (...) **age-appropriate assistance**.

The determination of the need for procedural accommodations should not necessarily be based on medical information and cannot be subject to any disability assessment.

In the negotiations on article 13 of the Convention, it was debated whether the language to be adopted should refer to “procedural accommodation” or “**reasonable accommodation**”; it was decided to drop the reference to “reasonable”. The deliberate decision to drop “reasonable” underscored that, unlike **reasonable accommodation**, procedural accommodation is not subject to a proportionality test.

2.2.4 Inclusive living (art. 19)

According to Article 19 of the UN Convention, States Parties will ensure that:

- (b) Persons with disabilities have access to a range of in-home, residential and other community **support services**, including **personal assistance** necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;*
- (c) **Community services** and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.*

Draft General Comment No 5 states:

- *The right to an adequate standard of living not only includes having equal access to adequate food, accessible housing and other basic material requirements, but also the availability of **support services** and assistive devices and technologies fully respecting the human rights of persons with disabilities*
- *Some of the remaining barriers are the following:*



- (c) *Inadequacy of legal frameworks and budget allocations aimed at providing **personal assistance** and individualized support;*
- (e) *Lack of deinstitutionalization strategies and plans and continued investments into institutional care settings;*
- (f) *Negative attitudes, stigma and stereotypes preventing persons with disabilities from being included in the community and accessing **available assistance**;*
- (h) *Lack of available, acceptable, affordable, accessible and adaptable **services** and facilities, such as transport, health care, schools, public spaces, housing, theatres, cinemas, goods and services and public buildings;*
- *It includes living a full social life and having access to all **services** offered to the public and to **support services** offered to persons with disabilities to enable them be fully included and participate in all spheres of social life. These **services** can, among others, relate to housing, transport, shopping, education, employment, recreational activities and all other facilities and **services** offered to the public, including social media.*
- *Persons with disabilities have the right to choose **services** and service providers according to their individual requirements and personal preferences, and individualized support should be flexible enough to adapt to the “users” requirements and not the other way around. This places an obligation on the States Parties to ensure that there are sufficient number of qualified specialists who are able to identify practical solutions to the barriers to live independently within the community according to the requirements and preferences of the individual.*
- *All **support services** must be designed to be supporting living included within the community preventing isolation and segregation from others within the community*



- *Various de-institutionalization programs have shown that the closure of institutions, regardless of their size and the relocation of inhabitants in the community, in itself is not enough. Such reforms must be accompanied by comprehensive service and community development programs, including awareness programs*
- **Support services** *must be available within safe physical and geographical reach to all persons with disabilities living in urban or rural areas. They have to be affordable, taking into account persons living on low income. They also need to be acceptable which means that they must respect standard levels quality and be gender, age and culturally sensitive.*

The Report (2016) of the Special Rapporteur on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*):

- *States must adopt a community-based approach to the provision of support, either directly or through intermediaries.*
- *When **services** are not made available within the community, there is limited participation by persons with disabilities in their design and provision, and there is an increased risk of segregation and institutionalization.*
- *By benefiting from local skills and resources, community participation in the provision of support facilitates the optimal and efficient delivery of **services**, enabling a cost-effective policy response in countries with limited resources.*
- *Different models of personalization have been implemented, including direct payments and personal budgets. While these models can potentially empower persons with disabilities, States need to adopt a set of measures to enhance their effectiveness:*
 - *Building the capacities of beneficiaries to manage their own funding and support (including supported decision-making);*

- *Having a wide range of providers that respond to the diversity of support needs, particularly for those who live in rural and remote areas;*
- *Preventing precariousness in the work conditions of supporters;*
- *Avoiding channeling personal budgets through the family rather than directly to the persons with disabilities*
- *While personal assistants may not require specialized preparation, States should ensure they have adequate **training** in order to provide safe and quality support.*
- *States must establish an immediate moratorium on new admissions to institutions and set up a policy framework to guide deinstitutionalization processes. This framework should include:*
 - *The adoption of a plan of action with clear timelines and concrete benchmarks,*
 - *The redistribution of public funds from institutions to community services and the development of adequate community support for persons with disabilities such as **housing assistance, home support, peer support and respite services.***

The Report of the UN High Commissioner for Human Rights (2017) on Mental Health and Human Rights states:

- *Criminal law and procedures commonly deny due process of law to persons with disabilities considered unfit to stand trial and/or incapable of criminal responsibility. (...) This denies fair trial rights, amounts to arbitrary detention and often leads to harsher consequences than criminal sanctions, such as indefinite detention in mental health facilities.*
- *[States should] ensure the availability of and equitable access to **services and support** for persons with mental health conditions and those with psychosocial disabilities, including those in prisons and other detention facilities.*



- *Article 16 of the Convention (...) calls for the establishment of independent monitoring mechanisms for all **services** and facilities serving persons with disabilities in order to prevent exploitation, violence and abuse. These mechanisms should include representative organizations of persons with disabilities and civil society and should be able to access and monitor institutions while States move towards deinstitutionalization.*
- *Effective deinstitutionalization requires an understanding that the right to community living is more than just access to a physical placement in the community. Social support for persons with psychosocial disabilities must be made available at the same time, including supported and assisted housing, health care, crisis response systems, income support, support for social networks and access to education and work.*

The Thematic Study (2014) on the right of persons with disabilities to live independently and be included in the community states:

- ***Support services** are essential for enabling persons with disabilities to live independently and be included in the community; they are also an indispensable element of deinstitutionalization*
- *Support as intended by article 19 implies a shift from “care” to “rights”.*
- *All persons with disabilities should have equal access to, an equal choice of, and control over **support services** that respect their inherent dignity and individual autonomy and aim to achieve effective participation and inclusion in society.*
- *The promotion of participation and self-reliance as a goal of support should also extend to children with disabilities*
- *In-home **support services** include **assistance** with self-care and housekeeping. (...) In any case, in-home support must contribute to promoting inclusion and preventing segregation. It should not prevent a person from*



*leaving the home when he or she desires and should be complemented, where needed, by other **community-based services**.*

- *Residential support must respect the choice of the individual to avoid forms of institutionalization. Day-care centres may also lead to isolation and stigmatization if they are used to keep persons with disabilities separate from the community.*
- ***Personal assistance** fosters inclusion by supporting persons with disabilities to participate fully in community life:*
 - ***Personal assistance** can include individually designed support for personal hygiene, meals, dressing, mobility and communicating with others.*
 - ***Personal assistance** should be available to all persons with disabilities. However, in many countries it is available only to persons with certain impairments*
 - *The provision of access to personal assistants for persons with intellectual and psychosocial disabilities is essential to moving from a medical to a social approach concerning mental health issues with respect to personal autonomy.*
- *In certain contexts, **training** is essential in order to ensure that support is in conformity with the standards of the Convention on the Rights of Persons with Disabilities, responds to needs and respects the individual's will*
- *Persons with disabilities must have control over the support provided and be the ones who hire, employ, supervise, evaluate and dismiss their assistants. The possibility to choose between different service providers is a way to make the **services** more accountable, increase control by the user and provide protection against the risk of abuse*
- *Payment to users rather than providers contributes to ensuring that the support is person-centred and respects the preferences of the person with disabilities.*



(...) Independent planning support and facilitation services may be required to assist the person in deciding how to use personal budgets.

- *Eligibility criteria for access to **support services** need to be defined in a non-discriminatory way. In particular, the assessment should shift from a medical to a human rights-based approach to disability, focus on the needs of the person rather than the impairment and respect individual choice and preferences by ensuring the participation of persons with disabilities in the decision-making process.*

2.2.5 Education (art. 24)

According to Article 24 of the UN Convention, States Parties shall ensure that:

2.

- b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;*
- c) **Reasonable accommodation** of the individual's requirements is provided;*
- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;*
- e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.*

3.

- a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;*

4.

In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who



*are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such **training** shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.*

According to Article 2 of the Convention, **reasonable accommodation** is defined as:

Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

General Comment No 6 states:

- **Reasonable accommodation** is an intrinsic part of the immediately applicable duty of non-discrimination in the context of disability. Examples of **reasonable accommodations** include making existing facilities and information accessible (...) or enabling access to support personnel without disproportionate or undue burden.

General Comment No 4 states:

- All teachers and other staff receive education and **training** giving them the core values and competencies to accommodate inclusive learning environments, which include teachers with disabilities
- Involvement of parents/caregivers and the community must be viewed as assets with resources and strengths to contribute.
- Curricula must be conceived, designed and applied to meet and adjust to the requirements of every student, and providing appropriate educational responses



- *States Parties should avoid relying exclusively on technology as a substitute for direct involvement of students with disabilities and interaction with teachers and role models within the educational environment itself*
- *Support in terms of general availability of **services** and facilities within the education system*
- *The Committee emphasizes the necessity for the provision of individualised education plans*
- *Support can also consist of a qualified learning support assistant, either shared or on a one-to-one basis, depending on the requirements of the student.*
- *The learner must have access to recourse mechanisms if the support is unavailable or inadequate*

Statement by the CRPD on the International Day of Sign Languages 2018:

- *The Committee urges States Parties to take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and to train professionals and staff who work at all levels of education*

The Thematic Study (of 2013) on the right of persons with disabilities to education states:

- *Ensuring **accessibility** is an overarching obligation for States parties to the Convention on the Rights of Persons with Disabilities, as detailed in article 9:*
 - *Barriers arising from the attitudes of teachers, fellow students and families can be considerable and are often difficult to surmount. It is important to note that, in Norway, for example, the Education Act recognizes that **accessibility** efforts shall apply to both the physical and the psychosocial environment.*



- *The requirement to guarantee **accessibility** should be established by legislation and supported with adequate funding.*
- *Placing students in mainstream schools is not enough; adequate support is needed and effective participation too.*
- *The availability of adequate support is an essential feature of inclusive education.*
- *Individualized attention should be considered a central feature of inclusive education. (...) The core element of individualized education plans is the involvement of professionals, parents and the student (...) Individual plans should be regularly updated, based on achievable targets and expressed in clear language.*
- *One of the most important measures is the use of a learning support assistant, either shared or on a one-to-one basis, depending on the needs of the student.*
- *All of these measures should be sustained by adequate allocation of resources in the State budget.*
- **Training** *on instructional strategies to manage courses with students from different backgrounds and characteristics should be made available:*
 - *Pre-service training on the inclusive approach to education is fundamental to prepare new teachers for teaching a diverse group of students and to use diversity as an opportunity to teach and learn.*
 - *In-service training is not only necessary to provide for the requirements of students who are (or could be) in the school system but also for the positive transformation of the system.*



NOTE:⁵ **reasonable accommodation** ≠ systemically

Even the most advanced inclusive education system may have gaps in its design because of the specific individual needs of students. In such an instance, an inclusive system would respond by reviewing its practice to determine whether the gaps might be addressed systemically or through a **reasonable accommodation** measure.

“Reasonableness” is understood as the result of an objective test that involves an analysis of the availability of resources, as well as the relevance of the accommodation, and the expected goal of countering discrimination.

2.2.6 Health (art. 25)

According to Article 25 of the UN Convention, States Parties shall:

Take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.

In particular, States Parties shall:

*(b) Provide those **health services** needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and **services** designed to minimize and prevent further disabilities, including among children and older persons;*

*(c) Provide these **health services** as close as possible to people’s own communities, including in rural areas;*

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and

⁵ As laid down in the Thematic Study on the right of persons with disabilities to education.



*needs of persons with disabilities through **training** and the promulgation of ethical standards for public and private health care*

The Report (2018) of the Special Rapporteur on the rights of persons with disabilities (*theme: right to health*):

- *Access to essential habilitation and rehabilitation, to essential assistive devices and to essential **health services** needed by persons with disabilities owing to their impairment should be considered as core obligations that are not subject to progressive realization.*
- *Efforts to promote healthy behaviours, such as regular exercise and good diet, generally are not accessible and place little emphasis on addressing the needs of persons with disabilities.*
- *There is a need to rethink and review international health-related tools and standards that can contribute to further stigma and pathologization of disability.*
- *Health services and programmes are not generally adapted to the diversity of persons with disabilities, including gender, life-cycle and intercultural requirements.*
- *Additionally, **services** do not always respect confidentiality and the privacy of persons with disabilities. For example, deaf people often face breaches of their privacy because family members may be needed to act as their interpreters.*
- *While **disability-specific services** and programmes are needed to address some of the particular needs of persons with disabilities that cannot be met by making general health care programmes inclusive, as a general rule all **health-care services** and programmes must be inclusive of and accessible to persons with disabilities.*
- *[States must] design and implement health literacy programmes and activities that are inclusive of and accessible for persons with disabilities.*
- *[States must] promote early identification and intervention strategies and provide support to families of children with disabilities, including through*



information, education and **services**, to increase their understanding and capacities to address the health needs of their children without stigma or discrimination.

- [States must] design awareness-raising campaigns and **training** programmes for health-care professionals to change their perceptions regarding persons with disabilities, and provide guidance on how to render adequate age-, gender- and **disability-sensitive services**.
- [States must] mobilize resources in the framework of the Sustainable Development Goals to increase the access of persons with disabilities to health care, ensuring that all investments are inclusive of them, and refrain from adopting any retrogressive measures that directly or indirectly affects persons with disabilities.

The Report of the UN High Commissioner for Human Rights (2017) on Mental Health and Human Rights states:

- *Article 14 of the Convention (...) establishes an absolute ban on deprivation of liberty on the basis of impairments, which precludes non-consensual commitment and treatment:*
 - *Persons with psychosocial disabilities continue to be subjected to forced institutionalization. (...) Deprived of their liberty, they are commonly subjected to forced treatment.*
 - *Outside of institutions, the use of community treatment orders or mandatory outpatient treatment, even if enforced in the community, violates the right to liberty and security of the person as such measures impose treatment and the threat of detention if refused.*
 - *States parties should repeal legislation and policies that allow or perpetuate involuntary commitment, including its imposition as a threat, and should provide effective remedies and redress for victims.*

- *A human rights-based approach to mental health requires attention to its underlying determinants which, as noted earlier, include violence and abuse, adverse childhood experiences, early childhood development and whether there are supportive and tolerant relationships in the family, the workplace and other settings. Addressing these and other determinants involves coordinated action across the health and other relevant sectors.*
- *[States should] ensure the availability of and equitable access to **services** and support for persons with mental health conditions and those with psychosocial disabilities, including those in prisons and other detention facilities.*
- *[Mental health laws should] ensure the individual's right to free and informed consent in all cases for all treatment and decisions related to health care, including the availability and **accessibility** of diverse modes and means of communication, information and support to exercise this right.*
- *[States should] develop, adopt and integrate into the legal framework the practice of supported decision-making, advance directives and the principle of “the best interpretation of the will and preferences” of the person concerned as a last resort.*
- *States should, therefore, ensure that (...) persons with mental health conditions and persons with psychosocial disabilities participate meaningfully during all stages of planning and implementation, as envisaged in article 4 (3) of the Convention. (...) An effective strategy will include education and awareness-raising, and ensuring that transparent and accessible mechanisms for participation are established or strengthened at community, subnational and national levels.*
- *Resources should, among other things, be directed towards:*
 - *(a) raising the quality of health care as well as ensuring availability, **accessibility** and acceptability;*
 - *(b) improving working conditions for mental health personnel;*
 - *(c) strengthening health workforce training, including in human rights;*



- (d) ensuring the provision of the full range of **support services**;
 - (e) achieving equality between **mental and physical health services** across all domains, including resource allocation, research and data;
 - (f) **emergency mental health services**;
 - (g) **community-based mental health services**;
 - (h) mental health promotion;
 - (i) ensuring access to education, adequate housing, support for securing and retaining employment, and social protection.
- Article 16 of the Convention (...) calls for the establishment of independent monitoring mechanisms for all services and facilities serving persons with disabilities in order to prevent exploitation, violence and abuse. These mechanisms should include representative organizations of persons with disabilities and civil society.(...) This monitoring role should extend to mental health and community services to ensure that they are conducive to inclusion, participation and the overall enjoyment of rights on equal basis with others.
 - Community-based service delivery for mental health should encompass a recovery-based approach that places the emphasis on supporting individuals with mental health conditions in achieving their own aspirations and goals. A recovery-based approach to mental health is centred on the strengths of the individual and on facilitating access to the supports he or she needs.
 - Evidence shows that the provision of interdisciplinary and demedicalized services in the community enables users to remain connected with their families, to maintain employment and generally to remain close to the support networks which facilitate early treatment and recovery.
 - In order to guarantee the right to access to services for persons with mental health conditions and psychosocial disabilities, States should ensure the availability of recovery-based treatment in the community and in the primary care system.



2.2.7 Habilitation and Rehabilitation (art. 26)

According to Article 26 of the UN Convention, States Parties shall:

1. *Take effective and appropriate measures, including through peer support, (...) organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:*
 - a) *Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;*
 - b) *Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.*
2. *States Parties shall promote the development of initial and continuing **training** for professionals and staff working in habilitation and rehabilitation services.*

The Report (2018) of the Special Rapporteur on the rights of persons with disabilities (*theme: right to health*):

- *Early access to health and rehabilitation services ensures better health outcomes and reduces the costs incurred by health and social care systems associated with poor health. Health goes beyond formal health - care systems*
- *While different categories of people require rehabilitation services, coverage is generally low across the diversity of persons with disabilities.*
- *Health-related habilitation and rehabilitation services are scarce for persons with disabilities. Evidence suggests that the demand for rehabilitation is much higher than what these services can provide.*



- *The shortage of professionals who deliver rehabilitation services (e.g., physiotherapists, occupational therapists, speech and language therapists, optometrists, audiologists or general practitioners working on rehabilitation), and their concentration in urban areas, also represent significant barriers.*
- *[Habilitation and rehabilitation] services and programmes should begin at the earliest possible stage; be based on a multidisciplinary assessment; support participation and inclusion; be voluntary; and be available as close as possible to people's communities.*
- *In many countries, access to health care and rehabilitation services is conditioned upon obtaining a disability certificate, which constitutes an arbitrary requirement.*
- *Access to essential habilitation and rehabilitation, to essential assistive devices and to essential health services needed by persons with disabilities owing to their impairment should be considered as core obligations that are not subject to progressive realization.*
- *In many countries, health-related habilitation and rehabilitation services and programmes, including the provision of assistive devices and technologies, are underfunded.*
- *States should establish a policy framework to organize, strengthen and extend comprehensive health-related habilitation and rehabilitation services and programmes for persons with disabilities. Efforts should include:*
 - *Improving integration of health - related habilitation and rehabilitation in primary health care;*
 - *Building comprehensive service delivery models;*
 - *Developing a multidisciplinary rehabilitation workforce;*
 - *Ensuring that rehabilitation is included within health-care budgets.*

Observations (2013) on the Standard Minimum Rules for the Treatment of Prisoners:

- *Prison administration should be obliged to implement appropriate measures to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability and full inclusion and participation in all aspects of prison life, on an equal basis with others. Rehabilitation and habilitation programs should be put in place in order to achieve these goals.*

The Thematic Study (of 2012) on work and employment of people with disabilities states:

- *It is imperative that sheltered employment be regarded as a transitional arrangement as people move to more open forms of employment that enable them to work alongside persons without disabilities, but also one that provides ongoing support to those who, for a variety of reasons, may be unable to assume employment in the open labour market.*
- *In many countries, employees who acquire disabilities do not have access to vocational rehabilitation and return-to-work programmes, which translates into challenges in terms of returning to working life.*
 - *ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) defines the purpose of vocational rehabilitation as being to enable a person with a disability to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.*

2.2.8 Employment (art. 27)

According to Article 27 of the Convention, States Parties will:

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

*(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as **assistance** in finding, obtaining, maintaining and returning to employment;*

*(i) Ensure that **reasonable accommodation** is provided to persons with disabilities in the workplace;*

(k) Promote vocational and professional rehabilitation

According to Article 2 of the Convention, **reasonable accommodation** is defined as:

Necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

General Comment No 6 states:

- **Reasonable accommodation** is an intrinsic part of the immediately applicable duty of non-discrimination in the context of disability. Examples of **reasonable accommodations** include making existing facilities and information accessible (...) or enabling access to support personnel without disproportionate or undue burden.

The Thematic Study (of 2012) on work and employment of people with disabilities states:

- *Taking steps towards ensuring a fully accessible workplace is crucial for removing the various barriers – physical, attitudinal, information-, communication- or transport-related – that prevent persons with disabilities from seeking, obtaining and maintaining work.*



- *While the primary focus of employment strategies for persons with disabilities should be on providing them with equal opportunities for productive and gainful employment in the open labour market, so called “alternative” employment has been, for many, the only real option available:*
 - *It is imperative that sheltered employment be regarded as a transitional arrangement as people move to more open forms of employment that enable them to work alongside persons without disabilities, but also one that provides ongoing support to those who, for a variety of reasons, may be unable to assume employment in the open labour market.*
 - *In addition to individual supported jobs in the open labour market, supported employment may take the form of small businesses, mobile work crews or enclaves in a company, in the case of individuals requiring a higher level of support.*
 - *When it takes place in regular workplaces, supported employment is a preferable alternative to sheltered work and has been found to be more effective in leading to jobs.*
 - *The Committee on Economic, Social and Cultural Rights has pointed out that arrangements whereby persons with a certain category of disability are effectively confined to certain occupations or to the production of certain goods may violate the right to work.*
- *Governments should develop policies which promote and regulate flexible and alternative work arrangements that reasonably accommodate the individual needs of employees with disabilities.*
- *The Convention requires States Parties to enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training.*



- *In many countries, employees who acquire disabilities do not have access to vocational rehabilitation and return-to-work programmes, which translates into challenges in terms of returning to working life.*
- *States should ensure that persons with disabilities are provided with vocational training in inclusive settings and that the most marginalized groups, such as persons with intellectual or psychosocial disabilities, are included.*
- *States Parties have an obligation to raise awareness among employers of their duty to employ persons with disabilities. (...) [Good practices]:*
 - *State-led efforts aimed at raising awareness among employers on the rights of persons with disabilities with a view to eliminating stereotypes related to the capacity of persons with disabilities to work.*
 - *Awareness-raising efforts among employers on the need to implement regulations relating to the creation of a barrier-free, disability-friendly environment, and the development of guidelines on **accessibility** and universal design for employers.*

The Report of the UN High Commissioner for Human Rights (2017) on Mental Health and Human Rights states:

- *States should promote the inclusion of persons with psychosocial disabilities in the open labour market so that they are assured of an income. States should also raise awareness and provide technical guidance and support on how to provide **reasonable accommodation** for persons with psychosocial disabilities in the workplace.*

3 Implementation of UN CRPD through support services

3.1 Introduction: way forward according to UN

After giving an overview of the UN's opinion on the role of **support services** in ensuring equal rights for persons with disabilities, we go more in-depth with an assessment of the Concluding Observations. These Observations are published per Member State and consist of the Committee's view on the implementation of the Convention by that state. From a European perspective, it is thought-provoking to compare the reports of countries within the Council of Europe. Not all states were reviewed by end 2018 and not all areas have been assessed equally thorough, but several trends and pitfalls can be distinguished.

As for the first part of this research, we have opted for a thematic approach. We have scanned the Concluding Observations for mentions of the role of **support services**, and ordered it per topic (**accessibility**, legal capacity, education, etc.). This enabled us to map out the status quo, as well as the Committee's view on how to move forward. When extrapolating information from Concluding Observations, we systematically indicated the state's acronym. For more information on specific situations, the country reports submitted to the Committee can be consulted, as well as several publications by EASPD.

The Concluding Observations for the European Union are relatively general. Therefore, we could not give an overview per article. We have, however, grouped the most relevant remarks. Another limitation lies in the fact that the Committee does not go into detail when it comes to achievements. Most Member States have adopted several strategies to support the inclusion of persons with disabilities, but these are only briefly commended by the Committee. They highlight few good practices, considering their focus on concerns and recommendations. This should not be interpreted as a critique, but as an encouragement.



3.2 CRPD's Concluding Observations for EU Member States

3.2.1 Accessibility (art. 9)

Overall accessibility: status quo

Accessibility is still a major challenge for many Members States, who can be divided into the following categories:

- 1) Lacking a national plan with clear targets and sanctions (*BE, BA, CY, DK, LV, ME, PL, RS*);
- 2) Adequate legislation, but the norms aren't implemented (*AM, CZ, HU, MK, MD, SK, SI, ES, UA*);
- 3) Legislation with a limited scope (*DE, HR, LT, GB*);
- 4) Legislation doesn't comply with art. 9 (*BG, LU, PT*);
- 5) Inadequate information and data collection to evaluate **accessibility** (*IT*).

There is specifically room for improvement when it comes to:

- Rural areas. The CRPD has noted that while the level of **accessibility** might be acceptable in urban settings, persons with disabilities often face barriers in more rural ones (*AT, BG, HR, MK, PL, SI*).
- The private sector. The Committee is concerned about the lack of binding obligations for private entities, particularly private media and websites (*DE, ES*).
- Non-physical disabilities. According to the CRPD, governments focus too much on physical disabilities. Few measures are adopted for persons with hearing, visual, intellectual or psychosocial disabilities. Information and communication services are too often neglected (*BE, HR, CZ, LU, SI*).

Specific measures in the favour of services are highly applauded by the Committee, like Serbia's recognition of the right to use guide dogs in public transports and facilities (*RS*).



Key areas: universal design & communication

The Committee urges several Members States to invest in the promotion of universal design (*BA, BE, AM, DK, LV, LT, ME, PL, RS, SK*):

- A main area of concern is the lack of accessible format for electronic mass media services (*BA, BE, BG, CY, DK, RS, SI, GB*). These media can, however, also be used as an excellent tool for awareness-raising on the rights of persons with disabilities (*PL*).

Throughout the Concluding Observations, the Committee has stressed the need for alternative modes of communication (*AM, CZ, LU, SK, SI, UA*), with a focus on sign language.

- Positive developments:
 - The CRPD applauds the recognition of sign language as an official language (*AT, CY, CZ, DK, DE, LV, RS, SE, UA*) which allows, inter alia, the use of sign language in court proceedings. Austria has even enshrined it in the Constitution;
 - They commend Austria for offering sign language interpretation to students at the tertiary level;
 - The Committee was also pleased to learn that hearing-impaired Members of the Austrian Parliament have been accommodated through the provision of sign language.



- Negative developments:
 - Some Member States have, however, not yet made sign language interpretation widely available (*BE, CZ*);
 - Others have, but not in all areas of life, e.g. in broadcasting (*DE, RS*) or public material (*SE*);
 - Sometimes there's even a lack of **accessibility** for critical areas, like the 112 hotline (*ME, GB*).
 -

Key Message:

The Committee recommends adopting a time-bound **accessibility** strategy and plan of action for persons with disabilities – including those with hearing, visual, intellectual or psychosocial disabilities – in all sectors and areas of life.

They urge to allocate the human and financial resources necessary to ensure the implementation, with clearly defined indicators, in close consultation with persons with disabilities through their representative organizations. Dissuasive penalties for non-compliance must be incorporated into the legal framework, together with a thought-out monitoring system in which persons with disabilities are involved.

All of this must be done with special regard to those providing **public legal assistance** and/or **services for persons with disabilities** (*as stressed in BA's Concluding Observations*).



3.2.2 Legal capacity (art. 12)

Status quo

Most States Parties still allow for the deprivation of legal capacity and the appointment of a guardian based on psychosocial or intellectual disability (*AM, AT, BA, BG, CY, CZ, DK, DE, LT, LU, MK, ME, MD, PL, RS, SI, UA*).

- There is not enough understanding among States Parties about supported decision-making. The Committee is concerned that guardians are seen as a form of support, although they are appointed as substitute decision makers for persons with disabilities in various areas of life (*SI*).

To comply with the convention, it is not sufficient to recognise legal capacity on paper:

- States who have taken measures for legal reform, don't have mechanisms in place to change the decision-making process towards one of **assistance** (*BE, ES, HR, IT, LV, PT, SK, SE*). They either implement exemptions on legal capacity, or simply don't guarantee the right of supported decision-making;
- State intervention must be approached with caution. The Committee has mentioned several concerns. The appointment of an 'administrator' or 'administrative support system' might sound like it is in line with the convention, but in reality, substituted decision-making continues to be practised (*IT, SE*).

Supported decision making

The CRPD has, nonetheless, also recognised positive change:

- Many States Parties have launched model pilot projects on supported decision-making that respect the autonomy, will and preferences of the individuals concerned (*AT, LV*);
- Some states are in an early state of legislative reform towards supported decision-making. They have either implemented laws that apply in certain



situations (CZ), or have the ambition to do so while reviewing current legislation (HU).

When providing a framework for supported decision-making, states need to:

- Develop professional quality standards for supported decision-making mechanisms (DE, LU);
- Ensure that persons with disabilities have access to the necessary support (AT, CZ);
- Allocate sufficient financial and human resources to provide for supported decision-making (BE, CY);
- Consult with disabled persons' organizations for (pilot projects on) supported decision-making (AT, AM, BG, HR, LU).
- Learn from good practices, e.g.: the mechanism of "person of trust" currently existing in the health sector (LU).

3.2.3 Access to justice (art. 13)

Status quo

The Committee is concerned about the limited - physical and communicative - **accessibility of courts**, and administrative and notary buildings (AM, CY, DE, ME, PT, SK, SI, UA).

- For an overview of its views on **accessibility**, see above (*under '3.2.1 Accessibility (art.9)'*).

The Committee is also concerned that persons with psychosocial and/or intellectual disability deprived of their legal capacity are denied the right to take part in a litigation and to stand as witnesses in procedures before civil courts (PL, SI).



- States Parties should design and implement a decision-making regime with guidelines and appropriate resources, focusing on respecting the will and preferences of persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, in court proceedings (UK).
- For an overview of The Committee's views on legal capacity, see above (*under '3.2.2 Legal Capacity (art. 12)'*).

Personnel in the judicial and law enforcement sectors – *including those working in the administration* - are often not adequately trained (CY, IT, LV, LT, LU, MK, ME, PL, UA, UK). The training courses do not cover all barriers faced by persons with disabilities who wish to gain access to the justice system and are insufficient in scope and number.

- The Commission recommends further schooling, even for countries whom they haven't criticised in this area (AM, BA, CZ, DE, MD, SK).
- For an overview of the Committee's view on **training** of judicial personnel, see below (*under '3.2.9 Need for Training'*).

Procedural accommodations

Procedural accommodations are key in ensuring the right to access to justice.

While providing procedural accommodation, States Parties must:

- Ensure appropriate accommodation and support for persons with psychosocial and/or intellectual disabilities, considering their own wishes, and the prejudice by the judiciary (AM, CZ, DE, LV, MK, ME, PL, SK, SI, UA, UK);



- Take the needs of girls and women who are victims of violence and abuse into account (*DE, MD, RS*);
- Provide Braille and other alternative formats, as well as the availability of registered and qualified sign language interpreters (*BA, BG, CY, CZ, IT, MK, ME, PL, SI, UA, UK*).

Key message:

State Parties must ensure procedural and gender- and age-appropriate accommodation – *at all stages of criminal, civil, labour and administrative procedures, and in prison* – based on free choice and preference of persons with disabilities through legislative reforms that make these accommodations mandatory.

The Committee also recommends ensuring:

- Effective mechanisms for persons with disabilities to report violence, including crimes on the grounds of hatred (*PL*);
- Free (or affordable) legal aid for persons with disabilities, including those living in residential institutions, and abolish any bureaucratic restrictions for obtaining Pro Bono aid (*AM, LV, MK, PL, MD, UK*);
- Measures to address the underrepresentation of persons with disabilities in the legal profession and ensure **reasonable accommodation** and all necessary support for this purpose (*LU, PL, SI, UK*).



NOTE:

Member States evaluated before 2015 have not been assessed on article 13 (AT, BE, HR, DK, HU, ES, SE).

3.2.4 Inclusive living (art. 19)

Status quo: slow deinstitutionalisation process

Most countries are slow in the deinstitutionalization process, with large number of children and adults with disabilities still living in residential institutions (AM, AT, BE, BA, BG, HR, CY, CZ, DK, DE, HU, IT, LV, LT, LU, MK, ME, PL, PT, MD, RS, SK, SI, UA, UK).

- The United Kingdom's legislation doesn't even recognise that living independently and being included in the community is a human right that enshrines individual autonomy, control and choice as intrinsic aspects of that right (UK).

Throughout the reports, the following key problems can be identified:

- Limited **support services** to enable persons with disabilities to live independently within the community (AM, BE, HU, LV, LT, MK, ME, PL, RS, SK, SI, ES, UK);
- Lack of **support services** in rural areas, which implies a limited choice of residence of persons with disabilities (SK, ES);
- **Personal assistance services** are project-based and non-systemic (PL);
- Excessive administration to access support (LV, RS);
- Insufficient information on opportunities to continue living in society and the community (BE, LV);
- Linking eligibility of social **services** to a specific grade of disability (ES);



- Resources are still invested in institutions, while initiatives of — and opportunities provided for — organizations of persons with disabilities for developing **services** within the community that enable independent living are not sufficiently supported (*BA, BG, CZ, DK, HU, LT, MK, ME, PL, PT, RS, SK*).

Positive developments, with points of improvement

Most countries still have a long way to go before they fully comply with art. 19 of the Convention. The deinstitutionalisation process has been slow, with insufficient funding for the development of **support services** for persons with disabilities. There have, however, also been some positive developments.

- One of the few countries the Committee has little concerns about, is Sweden. Sweden's report does not mention any defaults in the deinstitutionalisation process, nor in the lack of **support services** (*SE*).
- Sweden's only point of attention, is the cutback on **personal assistance programmes**. The Committee recommends therefore to ensure that **personal assistance programmes** provide **sufficient and fair financial assistance** (*SE*).

The Committee has also signalled some other positive developments:

- Cyprus has been commended on the process of de-institutionalization of persons with disabilities who require a high level of support (*CY*);
- Austria has been commended on its various **personal assistance** programmes (at the federal and Länder levels) for persons with disabilities (*AT*).

Yet, the committee notes with concern that Austria's **personal assistance** programmes are not available to persons with psychosocial disabilities and that not all programmes cover persons with intellectual disabilities (*AT*).



- The latter is a critical area. Many governments focus primarily on **accessibility** for persons with physical disabilities and take few measures to promote **accessibility** for persons with hearing, visual, intellectual or psychosocial disabilities (*BE, BG, PT, UA*).
- There is little focus on age-sensitive support that allow persons with disabilities to live independently in the community (*CZ, LT, MK, SK*). On top, not all **services** take the specific needs of women with disabilities into account (*SK*).

Developing support services

The committee recommends adopting clear time-bound measures for the development of – and guaranteed access to – individualised **support services** for persons with disabilities, regardless of the type of impairment or age, including peer support and **personal assistance** (*AM, BE, BA, BG, CY, DE, HR, HU, CZ, IT, LT, LU, MK, ME, PL, PT, RS, SK, ES, UA, UK*).

This implies the duty to:

- Allocate sufficient resources for the development and availability of **support services** (*AM, CY, DE, HU, IT, LT, LU, MK, ME, PL, RS, SI, ES, UK*);
- Ensure equal (geographical) distribution of resources for social care (*SK*);
- Ensure that persons with disabilities have access to sufficient financial resources to cover disability related costs (*BE, AT, CY, DE, HU, IT, LT, LU, MK, RS, SK, UK*);
- Clarify the responsibilities and resource allocations of central and local authorities (*MD, UK*);
- Eliminate current waiting lists (*BE, LT*);



- Discontinue the concept of holidays in a different institution and ensure that persons with disabilities can spend holidays in a community care environment (*ME*);
- Involve persons with disabilities, through their representative organizations, in all stages of the deinstitutionalization process (planning, implementation, evaluation and monitoring) (*AM, BE, BA, BG, LU, ME, PT, MD, RS, SK, SI, UK*).

3.2.5 Education (art. 24)

Status quo: positive developments

Most states have taken various measures towards inclusive education for persons with disabilities.

The Committee has highlighted with appreciation:

- Bulgaria's declaration to make inclusive education "a national priority" (*BG*);
- Italy's striving for the last three decades to implement an inclusive education system free of segregation (*IT*);
- Austria's sign language interpretation to students at the tertiary level (*AT*);
- Sweden's right to appeal decisions concerning special support before the Board of Appeal for Education (*SE*);
- Hungary's opportunity to study using sign language and the Braille system, as well as **training** for teachers on those subjects (*HU*);
- Spain's laws which oblige the education authorities to provide specialist teachers and the necessary materials and resources, as well as the laws which oblige schools to make necessary curricular adjustments and diversifications for pupils with disabilities (*ES*).



As a result, the number of students with disabilities in regular schools keeps rising, i.e.:

- Spain: 78.35% (*ES*);
- Portugal: 98% (*PT*);
- Sweden: 98.5% (*SE*).

Status quo: negative developments

Nonetheless, a high percentage of children with disabilities remain in segregated educational settings, mainly due to the lack of support in mainstream schools (*AM, AT, BE, BG, HR, CY, CZ, DE, HU, LV, LT, MK, PL, MD, SK, SI, UA, UK*).

⇔ Some countries didn't provide sufficient data on this topic (*BA, DK, IT, ME, RS*).

Too often, people with disabilities do not get any form of education at all:

- In Croatia, many persons with disabilities have not completed primary education, and less than 30% have completed secondary education (*HR*);
- In Serbia, more than half of the children living in residential care institutions are not in education (*RS*);
- For Bulgaria, there is a lack of data on children with disabilities not receiving any education (*BG*).

Even when the number of pupils in mainstream education is high (*see above*), the Committee has several concerns:

- In Portugal, there is a lack of support for persons with disabilities in mainstream education because of austerity measures, which puts the right to inclusive education at risk (*PT*);
- In Spain, there are reported cases of failure to provide **reasonable accommodation**, and financial arguments used as justification for



discrimination, as well as cases of children enrolled in special education against their parents' will (*ES*);

- In Sweden, schools can refuse admission to certain pupils with disabilities on the grounds of organizational and economic hardship. The Committee is further concerned at reports indicating that some children who need extensive support cannot attend school due to a lack of such support (*SE*).

Points of improvement

To ensure the right to access to education, states parties must:

- Ensure that all children with disabilities who so require have access to **personal assistance** (*SK*);
- Provide highly qualified sign language interpreters for any deaf child who requests such **assistance**, and to desist from recommending general communication assistants as an exclusive alternative (*DE, IT*);
- Make greater efforts to enable persons with disabilities to enjoy vocational training and to study at universities and other tertiary institutions, including through the provision of **reasonable accommodation** and **support services** (*AT, BA, LT, MK, ME, PT, SI*);
- Provide transport **services** for students with disabilities from their place of residence to their education facilities (*SI*);
- Raise awareness among parents of non-disabled children about the advantages of inclusive education for all (*PL*);
- Ensure that persons with disabilities, including children with disabilities and their representative organizations, are involved in the day-to-day implementation of the inclusive education models (*AT, PT*).

For certain groups, special support measures must be taken:

- Children with psychosocial and intellectual disabilities (*CZ, LT, LU, MK, MD*);



- Students with moderate and severe disabilities (*PL*);
- Roma children with disabilities (*HU, SK*);
- Children with multiple disabilities (*RS*);
- Pupils and students with disabilities living in institutions (*RS*).

States should also invest in **training**:

- People with disabilities should be attracted to follow a **teacher training** (*AT*);
- The use of braille and sign language must be an integral part of the **teacher training** (*AT, BE*);
- There must be mandatory **trainings** on inclusive education for teachers and other staff (*AM, BE, BA, HR, DE, HU, MK, ME, PL, MD, SI, UA*).

Key message:

School environments - from preschool to post-doctoral level, and lifelong learning institutions - must be accessible, and support and reasonable accommodation (incl. individual learning plans, assistive technology in classrooms, and accessible and adapted materials and curricula) based on the student's individual requirements, ought to be offered for free.

The right to such accommodation must be legally enforceable before the courts.

States should adopt and implement a coherent strategy - with clear timeline and targets - on inclusive education, for which adequate (financial, material and human) **resources** must be allocated.



3.2.6 Health (art. 25)

Status quo

There are lots of concerns when it comes to access to healthcare for persons with disabilities.

Availability:

- **Health-care services and facilities** (including emergency services and HIV/AIDS prevention, treatment, care and support programmes) remain inaccessible and unavailable to many persons with disabilities (*AM, BA, HR, CY, CZ, DE, LV, LU, MK, ME, PL, PT, MD, RS, SK, SI, UA, UK*);
- There is a lack of availability and affordability of specialized health-care services related to disabilities (*MK*).

Regrettable outcomes:

- Persons with psychosocial disabilities have a life expectancy that is 15 to 20 years shorter than persons without psychosocial disabilities (*DK*);
- There is a high suicide rate of persons with disabilities (*UK*).

The Committee is also concerned about the lack of awareness among medical professionals on the rights of persons with disabilities, in particular concerning those with intellectual or psychosocial disabilities.

- Therefore, **training** courses on the rights of persons with disabilities (including the right to free and informed consent, with particular regard to **reasonable accommodation**) and the promulgation of ethical standards, are necessary (*AM, BA, BG, HR, CY, DK, DE, IT, LT, LU, MK, ME, PL, MD, RS*).



Ensuring accessibility

States must ensure the **accessibility** of - general and specialised - **health services**, equipment and facilities.

- For an overview of the Committee's view on **accessibility**, see above (*under '3.2.1 Accessibility (art.9)'*).

While ensuring **accessibility**, states must take specific measures for certain groups:

- Women with disabilities, especially blind women or women with psycho-social and/or intellectual disabilities, in the field of sexual and reproductive health (*AM, BA, BG, CY, IT, LU, MK, ME, PL, MD, UA*);
- Those with chronic, genetic and rare diseases (*BG*);
- Persons with disabilities who do not have compulsory health-care insurance (*HR*);
- Deaf persons (*CZ*);
- People with intellectual and psychosocial disabilities (*CZ, DK, LU, PL*);
- Those that require extensive support (*LU*);
- Asylum seekers and refugees with disabilities (*DE*);
- Children with disabilities (*MK*).

The Committee has also highlighted the importance of early intervention **services** for all children with disabilities (*BA, IT, RS*).

NOTE:

Member States evaluated before 2015 have not been assessed on article 24 (*AT, BE, HR, DK, HU, ES, SE*).



3.2.7 Habilitation and Rehabilitation (art. 26)

Status quo

There is a lack of habilitation and rehabilitation **services**:

- Many children with disabilities have no access to early intervention **services** with an individual (re)habilitation plan (*AM, HR*);
- State-funded rehabilitation is of low quality and scarcely available (*SK, SI, UA*);
- Resources often still go to residential settings, instead of covering independent living and **personal assistance** schemes to offer support for living in the local communities (*IT*).

Existing habilitation and rehabilitation **services** and programmes don't always comply with the convention, they:

- Are not accessible enough (*PL*);
- Do not target all persons with disabilities (*BG*);
- Are not adequately rights based (*AM, PL*);
- Have long waiting times (*LV*);
- Have financial requirements for eligibility to obtain **services** (*PL*).

The Committee has commended Armenia for including the concepts of 'prevention' and 'treatment of disability' in the Constitution (*AM*).

Creating support services

The Committee recommends the creation of rights-based, accessible, comprehensive habilitation and **rehabilitation services**, which are monitored on compliance with the Convention (*AM, BG, MK, PL, SK, SI, UA*).



- These **services** must be developed in close consultation with organizations of persons with disabilities, and provide comprehensive, multidisciplinary and individualized support, targeting all persons with disabilities, regardless of their impairment, sex, gender or age (*AM, BG, MK, SI, UA*).
- Continuity has to be ensured (*PL*).

They also recommend facilitating the adoption, funding and implementation of Minimum Standards of Healthcare, to ensure full access to **(re)habilitation services** within the community (*IT*).

NOTE:

Art. 26 has not been thoroughly reviewed.

The Committee has been very concise, and the following countries have not been reviewed: *AT, BE, BA, CY, CZ, DK, DE, HU, LT, LU, ME, PT, MD, RS, ES, SE, UK*.

3.2.8 Employment (art. 27)

Status quo

The Committee is concerned about:

- The significant unemployment rates among persons with disabilities (*AM, BE, BG, HR, CZ, DK, HU, IT, LT, LU, ME, PL, PT, MD, ES, SE, UA, UK*);
- The amount of people working in segregated work environments outside of the open labour market, like sheltered workshops, while receiving little pay (*AT, BA, CZ, DE, LV, LT, LU, PL, PT, MD, RS, SK, SI*);



- The significant gender gap in the employment and income of women with disabilities, compared to men with disabilities (*AT, CZ, IT, ME, PL, PT, SE, UK*);
- Failure to reach targets for the employment of persons with disabilities within the government's own agencies (*BE*);
- Low availability of labour market activation programmes (*PL*).

The Committee commends Sweden and Hungary for classifying a denial of **reasonable accommodation** as discrimination (*HU, SE*)

Increasing support

The Committee recommends supporting the employment of persons with disabilities in the open labour market, including through:

- Ensuring support for all persons with disabilities (*LV, PL, SE*);
- Provision of vocational **training** programmes (*AM, BE, BG, LT, LU, MK, SE*);
- Ensuring the right to **reasonable accommodation** - including supported employment with **personal assistance** -, with appropriate measures for denial of requests, while providing **training** for employers on the subject (*AM, BA, BE, BG, HR, DK, LT, LU, MK, ME, PL, PT, RS, SK, SI, SE, UA, UK*);
- Monitoring compliance with **accessibility** standards (*see above, under '3.2.1 (art.9)'*) (*BE, HR, HU, MK*);
- Phasing out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market (*DE, LT, LU, PT, RS, SK*);
- Increasing resources (*BG, CZ*).

To ensure the right to access to justice (*see above, 'Access to justice 3.2.3 (art.13)'*), the Committee recommends taking specific measures to address the underrepresentation of persons with disabilities in the legal profession (*LU, PL*).



NOTE:

Disability cannot constitute an excuse for non-employment if the person with disability in question is qualified for the relevant job and can effectively perform it with **reasonable accommodation (BA)**.

3.2.9 Need for training

The Committee notes with appreciation the use of regional European Union funds by Hungary to provide training in **accessibility** for relevant professionals and in higher education (*HU*). This example should be followed by other States Parties.

The Committee recommends providing regular training at national, regional and local levels on the rights of persons with disabilities, in consultation with organizations of persons with disabilities. Particularly for:

- Policy makers (*SK*);
- The staff of current institutions (*BG*);
- Public servants working with persons with disabilities, including teachers, law enforcement officers, judges, lawyers and medical staff (*AM, RS*);
- Municipalities and local authorities on **accessibility (SE)**, as well as the civil servants and experts in charge of monitoring **accessibility (CZ, UA)**;
- **Trainings on accessibility** and universal design in the curricula of architectural, design and computer studies, including for the staff of responsible institutions (*PL*);
- **Trainings** on the convention, especially on the right to independent living, in the curricula of social work studies (*BG*);



- Public servants on the concepts of **reasonable accommodation** and universal design (*MD*);
- Employers in the public and private sector on the right to **reasonable accommodation**, including supported employment with personal assistance (*BA, BG, LT, SK, UK*);
- The judiciary (*judges and other personnel in the justice system, like prosecutors*), lawyers, law enforcement personnel, notaries, personnel of prison systems, and organizations of people with disabilities on a human rights approach to disability and the necessities to foster the use of available legal remedies by persons with disabilities (*AM, BA, CZ, CY, DE, IT, LV, LT, LU, MK, ME, PL, UA, MD, SK, UA, UK*):⁶
 - **Trainings** for the judiciary, members of the legal profession and law enforcement sectors on the universality of human rights for all persons with disabilities must be mandatory and periodic (*CY, LU, PL*);
 - There must be a focus on marriage, family, parenthood and relationship issues, including the right to retain fertility and found and foster a family (*CY, IT*);
- Civil servants, judges, health care professionals and social workers on recognition of the legal capacity of persons with disabilities, mechanisms of supported decision-making, and existing good practices (*AT, BG, ES, HR, DE, HR, IT, LU, MD*);
- Medical staff on the rights of persons with disabilities (including the right to free and informed consent, with particular regard to **reasonable accommodation**)

⁶ The OHCHR has recommended - *in their Report on Right to access to justice* - that training programmes must address such areas as: (a) barriers faced by persons with disabilities in accessing justice; (b) the rights enshrined in the Convention, including participation on an equal basis with others; (c) the provision of procedural accommodations in the legal process; (d) overcoming gender- and disability-based stereotypes; (e) the rights connected to marriage, family, parenthood, fertility and relationships; and (f) ways to combat prejudice against persons with disabilities, particularly those with psychosocial and/or intellectual impairments.



and the promulgation of ethical standards (*AM, BA, BG, HR, CY, DK, DE, IT, LT, LU, MK, ME, PL, MD, RS*);

- Teachers and other staff on inclusive education (*AM, BE, BA, HR, DE, HU, MK, ME, PL, MD, SI, UA*);
- The use of braille and sign language must be an integral part of a teacher training (*AT, BE*).

3.2.10 Involvement of disabled persons' organizations

Throughout the Concluding Observations, the Committee has recommended frequently to involve disabled persons' organizations in all aspects of law reform, at all stages of the decision-making processes.

To ensure full participation in disability related areas, Members States must take appropriate measures, including:

- Provide financial support to representative organizations of persons with disabilities to improve their participation within the decision-making process of the State party (*BA, BG, HR, CY, DE, GB, HU, LT, MK, ME*). (*Croatia has made an intention to do so, which is commended by the CRPD*);
- Provide sufficient information about envisaged reforms to these representative organizations (*BG*);
- Ensure an intersectional approach, including age (e.g. children and elderly), sex, faith, ethnicity (e.g. Roma), sexual orientation, migrant status and impairment groups (e.g. persons who are deaf or hard of hearing, persons with psychosocial and/or intellectual disabilities, persons with high support needs), persons living in rural areas, ... (*BA, BG, CY, DE, GB, IT, PL, SK*);
- Provide support and **reasonable accommodation** when consulting persons with disabilities (*AM*);
- Prioritize the input of organizations of persons with disabilities instead of treating all stakeholder views equally (*IT*);



- Learn from best practices, i.e. the creation of a network of “disability focal points”, appointed within each administration and federal cabinet and tasked specifically with ensuring that the disability perspective is taken into account (BE).

3.3 CRPD’s Concluding Observations for the EU

3.3.1 Accessibility

The Committee urges for “*the prompt adoption of an amended **European Accessibility Act** that is aligned to the Convention, as developed in the Committee’s General Comment No. 2 (2014) on **accessibility**, including effective and accessible enforcement and complaint mechanisms.*”

- They observe i.e. “*barriers faced by persons with disabilities in accessing health care*” and stress the necessity to “*take measures to ensure access to quality health care for all persons with all types of disabilities*”

The Committee also notes that schools are “*not fully accessible to children with disabilities nor do they provide for inclusive, quality education.*”

- Therefore, the Committee recommends to:
 - “*Take measures to facilitate access to and enjoyment of inclusive, quality education for all students with disabilities in line with the Convention*”; and
 - “*Include disability-specific indicators in the Europe 2020 strategy when pursuing the education target.*”

The Committee is concerned that “*awareness-raising strategies on the rights of persons with disabilities are not continuous, do not include all institutions and staff and exclude certain groups of persons with disabilities*”



3.3.2 Deinstitutionalisation

The Committee is concerned that across the European Union, persons with disabilities, especially persons with intellectual and/or psychosocial disabilities still live in institutions rather than in their local communities.

- Despite changes in regulations, the European Structural and Investment Funds continue to be used in different Member States for the maintenance of residential institutions rather than for the development of **support services** for persons with disabilities in local communities.
- Therefore, the Committee recommends to *“develop an approach to guide and foster deinstitutionalization and to strengthen the monitoring of the use of the European Structural and Investment Funds so as to ensure that they are used strictly for the development of **support services** for persons with disabilities in local communities”*

3.3.3 Reasonable accommodation

The CRPD emphasizes the importance of **reasonable accommodation**.

- They urge the European Union to:
 - *“Take the necessary measures to ensure that all students with disabilities receive the **reasonable accommodation** needed”*
 - Provide *“training for Member States on **reasonable accommodation and accessibility** in the context of employment.”*
 - Take action to *“combat discrimination faced by persons with disabilities in accessing justice by ensuring that full procedural accommodation is provided in its member States.”*



- Evaluate the impact of Directive 2011/24/EU on Crossborder Healthcare on *“gaps in access for persons with disabilities, including accessible information, **reasonable accommodation** and **training** of professionals.”*

The Committee also recommends that the European Union take appropriate action to ensure that funding is provided in its member States for **training** justice personnel on the Convention.

To conclude, the Committee recommends that *“the European Union increase employment of persons with disabilities in all European Union institutions”*

3.3.4 Consultation

The Committee notes that *“for the 2014-2020 programming period, the European Structural and Investment Funds Regulations enhance the promotion of equality, non-discrimination, inclusion and accessibility for persons with disabilities.”*

- The EU has, i.e., increased the participation of civil society organisations and social partners into policymaking procedures.
- The Committee is, however still concerned *“at the lack of a cross-cutting, overarching framework for consultation among different bodies in the European Union and persons with disabilities, including women, and girls and boys with disabilities, through their representative organizations”*

They urge, for all the recommendations to the EU, do so in close consultation with persons with disabilities and their representative organizations.



- Therefore, the Committee recommends to *“take the necessary measures to set up a structured dialogue with an independent budget line and sufficient funding”*.



4 Conclusions

This research provides an overview on the role of support services for the enjoyment of human rights, looking at the various reports issued by the UN CRPD committee.

Many diverse support services have been put in place over the years to meet the needs of persons with disabilities, and considerable expertise has been developed around those. Yet, the CRPD Committee highlights that support systems should be meant in a broader way to cover for all needs related to the spectrum of life. More innovation is needed to enlarge the scope of support provision and, at the same time, existing support systems should be improved to fully incorporate the human rights approach of the Convention. Overall, all findings point in the direction that support services should be accessible, affordable, adaptable and available to ensure they meet the scope they are designed for.

Individualised support services are the way forward and when developed according to human rights principles, within inclusive contexts and based in the community, can really make the difference. The UN CRPD Committee incorporates their role function more and more in every sphere of life of persons with disabilities, however, the message is clear: more needs to be done to accommodate all needs.

An area that still requires thorough investment is the one related to services for children in the field of health and early intervention; many of the services existing do not cater well for the needs of the youngest population with disabilities.

In the educational systems, many member states are taking positive steps to increase and improve the inclusion of individuals with disabilities, especially for young pupils. This is promising as it gives a positive message on the need for inclusion to be in place from the very early stages of life. In the adult life, employment instead is still a problematic area, which indicates that increasing and improved support is needed to



address this issue. Efforts have to be done also to successfully lead deinstitutionalisation plans.

The CRPD Committee also underlines at different levels the need for training for staff in different **services** and a deeper involvement of Disabled People's Organisations (i.e. via co-production) in the design and implementation of support programmes.

More attention should be given to persons with severe and profound disabilities and to persons with psychosocial disabilities, whose needs are often considered more complex to meet. In addition, gender, ethnicity and other aspects may have additional discriminatory effects on persons with disabilities.



5 Resources

Law:

- Convention on the Rights of Persons with Disabilities
www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html

Concluding observations:

- 2011-2018, CRPD, Concluding Observations of states in the Council of Europe
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=5

General Comments:

- 2014, CRPD, General Comment No 1
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/1&Lang=en
- 2014, CRPD, General Comment No 2
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en
- 2016, CRPD, General Comment No 4
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en
- 2016, CRPD, Draft General Comment No 5
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en
- 2018, CRPD, General comment No 6



https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en

UN Studies and reports:

- 2011, OHCHR, Thematic Study on participation in political and public life by persons with disabilities
www.ohchr.org/EN/Issues/Disability/Pages/ThematicStudies.aspx
- 2012, OHCHR, Thematic study on the work and employment of persons with disabilities
www.ohchr.org/EN/Issues/Disability/Pages/ThematicStudies.aspx
- 2013, OHCHR, Thematic study on the right of persons with disabilities to education
www.ohchr.org/EN/Issues/Disability/Pages/ThematicStudies.aspx
- 2013, CRPD, Observations on the Standard Minimum Rules for the Treatment of Prisoners
www.unodc.org/documents/justice-and-prison-reform/SPT.pdf
- 2014, OHCHR, Thematic Study on the right of persons with disabilities to live independently and be included in the community states
www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_37_ENG.doc
- 2016, OHCHR Special Rapporteur, Report on the rights of persons with disabilities (*theme: access to rights-based support for persons with disabilities*)
www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Reports.aspx
- 2017, OHCHR, Report on Right to access to justice
www.ohchr.org/Documents/Issues/Disability/A_HRC_37_25.docx
- 2017, OHCHR High Commissioner, Report on Mental Health and Human Rights states:
www.un.org/disabilities/documents/reports/ohchr/a_hrc_34_32_mental_health_and_human_rights_2017.docx



- 2018, CRPD, Statement on inclusion and full participation of persons with disabilities and their representative organizations in the implementation of the convention
www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx
- 2018, CRPD, Statement on the International Day of Sign Languages
www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx
- 2018; OHCHR Special Rapporteur, Report on the rights of persons with disabilities (*theme: legal capacity reform and supported decision-making*)
www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Reports.aspx

EASPD reports:

- 2009, EASPD, Response to the public consultation for a new EU Disability Strategy 2010-2020
www.easpd.eu/sites/default/files/sites/default/files/easpd_contribution_to_public_consultation_on_new_disability_strategy_2.pdf
- 2015, EASPD, EASPD Alternative report on the implementation of the UN CRPD by the European Union
www.easpd.eu/sites/default/files/sites/default/files/easpd_alternative_report_en_final_1.pdf



6 Annex: list of acronyms

Acronyms of European countries included in this report:

- **AM:** Armenia
- **AT:** Austria
- **BA:** Bosnia and Herzegovina
- **BE:** Belgium
- **BG:** Bulgaria
- **CY:** Cyprus
- **CZ:** Czech Republic
- **DE:** Germany
- **DK:** Denmark
- **ES:** Spain
- **HR:** Croatia
- **HU:** Hungary
- **IT:** Italy
- **LT:** Lithuania
- **LU:** Luxembourg
- **LV:** Latvia
- **MD:** Republic of Moldova
- **ME:** Montenegro
- **MK:** Macedonia
- **PL:** Poland
- **PT:** Portugal
- **RS:** Serbia
- **SE:** Sweden
- **SI:** Slovenia
- **SK:** Slovakia



- **UA:** Ukraine
- **UK:** United Kingdom of Great Britain and Northern Ireland



EASPD is the European Association of Service providers for Persons with Disabilities. We are a European not-for-profit organisation representing over 17,000 social services and disability organisations across Europe. The main objective of EASPD is to promote equal opportunities for people with disabilities through effective and high-quality service systems.