
THE IMPACT OF THE EUROPEAN SEMESTER AND THE UNCRPD ON THE RIGHT TO WORK FOR PEOPLE WITH DISABILITIES

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INTRODUCTION

The European Platform for Rehabilitation is a network of service providers to people with disabilities committed to excellence and innovation through mutual learning. EPR has 31 members in 17 Member States and in Norway. Members typically provide vocational rehabilitation and employment services, social care and housing services, training and education as well as medical rehabilitation services. Clients are primarily persons with disabilities but also other persons in vulnerable situations such as young unemployed persons, long term unemployed, persons with substance addiction are among the client groups served by EPR members. Whereas its members are operating as service providers in the Member States, the EPR is their representative body at EU level. EPR is member of Social Services Europe and the Social Platform.

Activities on European Semester were for the first time incorporated into EPR's annual work programme in 2014. The project activities that were implemented during this first year revealed that EPR members and their staff had very little knowledge about the European Semester and its potential impact on national public policies including on employment and social protection policies that concern persons with disabilities. With the exception of one single member (Ireland), none of EPR rehabilitation service providers had been consulted in the national consultation processes in preparation of the NRP. The first year furthermore revealed that in the perception of the EPR members, e.g. service providers for service users in vulnerable situations, the European Semester had only marginal relevance for their business operations as it was predominantly conceived as being focused on macroeconomic matters and public spending of national governments.

For present year's activities and analytical paper EPR chose to have a more focused or thematic approach, with a view to be as relevant as possible for the daily operations of its members. Since EPR members are organisations, which for a large part provide employment related services to persons with disabilities, EPR decided to take the *right to work and employment for persons with disabilities* as the starting point for its annual work plan. By selecting the employment theme for people with disabilities (PWD), a better connection was sought between the EPR members' operations and interests on the one hand and the European Semester's priorities on employment and social protection on the other.

The right to work and employment for persons with disabilities is one of the fundamental rights enshrined in the UNCRPD, one of the main though more recent international human rights treaties, which has been ratified by the European Union and most of the EU Member States. The UNCRPD has an own reporting and monitoring mechanism guided by the Committee on the Rights of Persons with Disabilities in which framework, participating States produce country reports on the implementation status of the Convention, which subsequently are analysed and commented on by the Committee. The surveillance mechanism implemented under the UNCRPD provides hence useful information on how countries, including EU Member States report on their achievements in view of ensuring the right to work and employment for persons with disabilities.

During 2015, EPR undertook awareness raising actions and training concerned with the employment dimension of the European Semester and the UNCRPD implementation. The online training session was held on the 4th of November 2015 for EPR members.

This paper aims at presenting some of the findings that resulted from the project activities on the employment strand of the European Semester and the UNCRPD and their respective impact within the national contexts in the countries where EPR members are based. The paper proposes a reflection on the possible interconnection between the UNCRPD and the European Semester to ensure the realisation of rights of people with disabilities from one hand and the achievement of the Europe 2020 Strategy and the Stability and Growth Pact from the other.



02.

RECOMMENDATIONS

A series of suggestions in view of improving the performance of the Europe 2020 surveillance mechanism can be thought of, both at the EU level and at the level of the Member States.

EU - Member State level:

- Develop indicators and statistics on persons with disabilities in line with the Concluding Observations from the UN Committee on the rights for persons with disability relating to the Report from the EU;
- The European Commission should develop a strategy to ensure that the European Semester contributes positively to the implementation of the UN Convention on the Rights of Persons with Disabilities;
- Make reference in the Country analysis and Country Specific Recommendations to the UNCRPD Country Concluding Observations;
- Complement the Europe 2020 head line targets on employment and poverty with specific 'sub-targets' including targets on employment and poverty of persons with disabilities;
- The European Union take effective actions to measure the employment of persons with disabilities and to increase their employment rate in open labour market, including by providing training for Member States on reasonable accommodation and accessibility in the context of employment.
- The European Commission should to continue to promote the social dimension of EU policy.
- Introduce a platform with comparative information on social protection cash benefits and social services for persons with disabilities throughout Member States;
- Develop benchmarks and exchange of good practices across policy areas to renew the process of upward economic and social convergence. Care should be taken to ensure the process encourages countries to aim higher and facilitate improvement in social protection and services, and not inadvertently encourage Member States to settle for a minimum benchmark.

At national level:

- Stakeholder engagement in the European Semester must extend beyond social partners and include the providers of social and health services as well as the wider civil society community,;
- Call on Member States to promote social investment more broadly, including in healthcare, childcare, housing support and rehabilitation services, in line with the recognition in the AGS 2016 that "*social investment offers economic and social returns over time*".



03.

WORK AND EMPLOYMENT FOR PERSONS WITH DISABILITIES

3.1 THE RIGHT TO WORK AND EMPLOYMENT FOR PWD

Article 27 of the UNCRPD defines the right to work and employment of persons with disabilities², which implies that persons with disabilities have, on an equal basis with others, *the right to the opportunity to gain a living by work, which is freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.*

The realisation of the right to work and employment for persons with disabilities, presupposes that governments and public authorities as well as stakeholders in the employment related fields, including (public and private) employers and service providers take, each from their own perspective, appropriate measures to promote and ensure an effective implementation which leads to the full enjoyment of the right to work for persons with disabilities.

The legal prohibition of discrimination in all employment related matters, including the conditions of work, access to employment and rights to join trade unions is hereby fundamental. This requires appropriate legislation (by governments) and an effective transposition in employment practices (by governments, employers and social partners) with adequate monitoring and recourse to corrective action in cases of infringements or discriminatory approaches and practices. The effective employment in public and private sector, as well as the facilitation of

self-employment for persons with disabilities through various mechanisms such as quota systems, affirmative action programmes and incentives, calls for proper legislation and an active engagement of employers both in the public and the private sector. The concept of reasonable accommodation is in this respect of significant importance and of practical relevance for businesses and the work environment.

The right to work furthermore encompasses the right to effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training, the right to vocational and professional rehabilitation, job retention and return-to-work programmes and the right to gain work experience in the open labour market. The material scope of the right to work and employment includes as a consequence also all trajectories such as training and rehabilitation, which prepare for and support labour market integration of persons with disabilities with the ultimate goal to maximally include persons with disabilities into the open labour market on equal basis with any other person.

2. The Employment Directive 2000/78/EC is the principal EU legislative instrument regulating non discrimination on grounds of disability in matters of employment and occupation apart from other grounds such as age, religion and sexual orientation. Other Directives regulate non discrimination on ground of sex and on grounds of race-ethnic origin in the employment and other policy areas. Since 2008 a proposal for Directive to extend non discrimination on ground of disability to other policy domains such as education, social protection, health care, access to goods and services is being debated but not yet adopted.

Ensuring these trajectories requires government actions with a view to create the legislative basis and climate for the services provision, the presence of professional service providers accompanying labour market integration of persons with disabilities and an active participation and recruitment policies by public and private employers.

3.2 BARRIERS TO EMPLOYMENT OF PERSONS WITH DISABILITIES

The EU statistics on Income and Living Conditions (EU-SILC) is the main source for the compilation of statistics on income, social inclusion and living conditions, including housing, labour, education and health in the European Union. EU-SILC does however not include specific variables addressing barriers faced by persons with disabilities but it includes a *global activity limitation indicator*, a “proxy measure” for disability, which assesses functional limitation. Information on barriers was collected under the European Health and Social Inclusion Survey (EHSIS) in 2012-2013, which included the Employment domain (next to other areas such as Mobility, Transport, Education and Training, Accessibility to buildings, etc.) but the Survey has since been discontinued.

In 2011, the Labour Force Survey contained an ad hoc module on employment of persons with disabilities with questions on barriers in employment faced by persons with disabilities. As proxy measure for disability a double

definition was applied: having a basic activity difficulty or having a long term health problem or activity difficulty.

The employment rate of persons with disabilities in the EU and in all Member States is significantly lower than the general employment rate and in some countries even below the 30% (especially when the second proxy definition is applied). Persons with disabilities have moreover generally lower income from work and are more often on temporary work contracts than on average.

The employment of persons with disabilities has been seriously hampered since the onset of the crisis. Reports³ confirm that the labour market participation and activity rates of PwD have decreased and are below the pre-crisis levels and that unemployment rates for PwD have increased since the onset of the crisis.

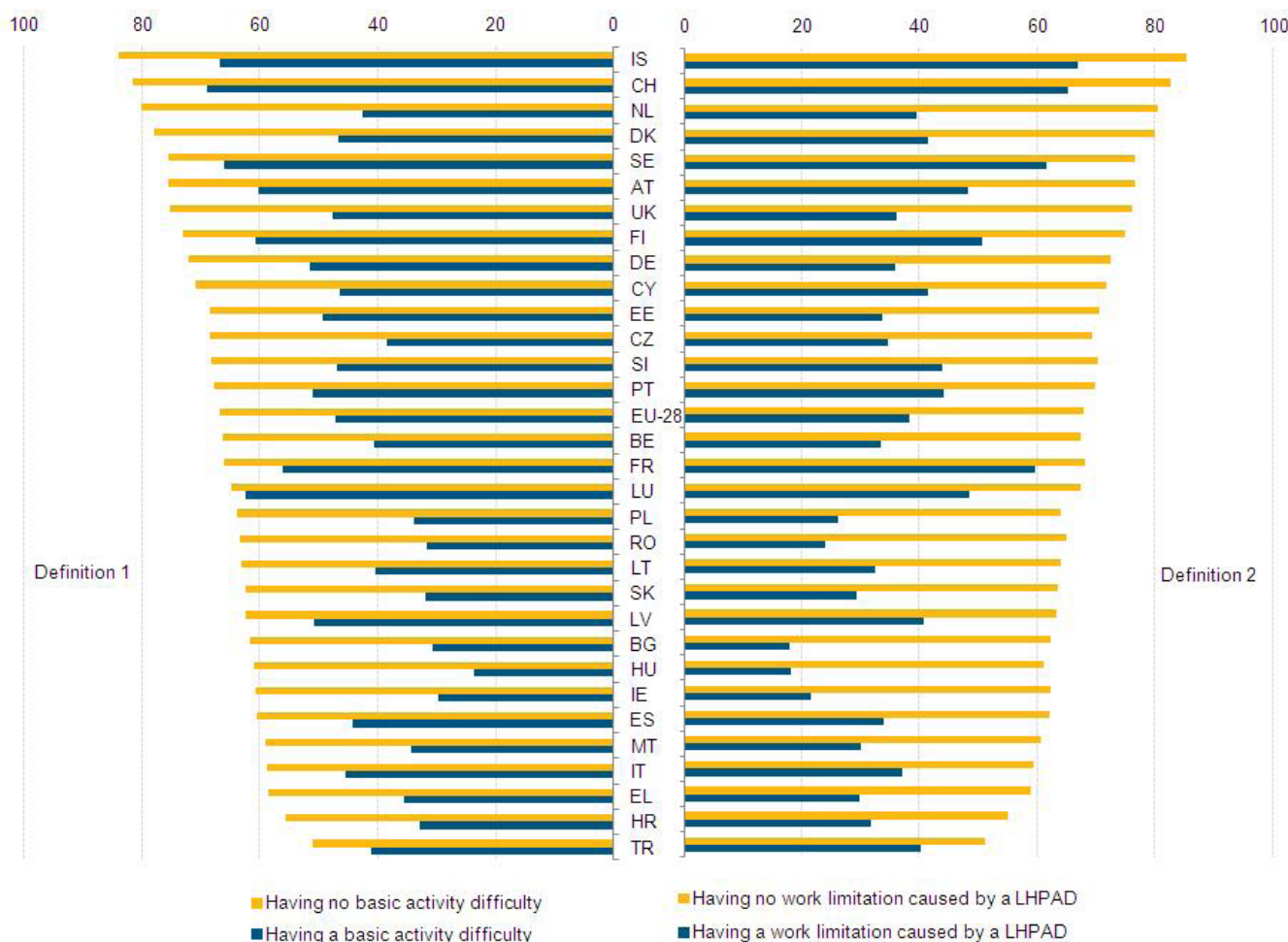
There are many barriers obstructing access to the labour market for persons with disabilities. The research project “*BITSE - Barriers which Inhibit the Transition from School to Employment*” identified the barriers that prevent persons with disabilities to find employment after school. The project developed best practice toolkits and proposes recommendations to improve the transition process towards open employment.

The Best Practice Toolkit for Overcoming the Barriers is designed to help all interested stakeholders on how to overcome barriers that prevent people with disabilities from gaining equal opportunities through the process of transition from school to employment. The toolkit evolved from results of focus groups and stakeholders questionnaires (interviews) which identified the main barriers. The toolkit examines the main barriers to employment and clusters them into 7 groups, as showed in the diagram on the following page.

³ “Assessing the impact of the European Governments’ Austerity Plans on the rights persons with disabilities”, EFC October 2012.

⁴ BITSE project recommendations at http://www.innovia.at/neu/index.php?id=bitse_recommendations





Graph 1: Employment rate of PwD

The analysis of barriers across stakeholders (students, teachers, service providers, employers, and personal network) shows that barriers related to attitude, perception towards people with disability have been identified as the most recurring ones. Structural and administrative barriers (specific legislation, lack of information, employment and work placement, bureaucratic structures etc.) as well as lack of resources and opportunities have been listed as common by all stakeholders.

Based on these results, the BITSE project developed general recommendations to inform and raise awareness among all disability sector stakeholders on matters and issues that influence and impact on the transition process from school to employment for persons with disabilities.

EPR members discussed this approach to further improve their role in removing barriers and ensuring that persons with disabilities have equal access to education and vocational training and to the labour market in inclusive and accessible settings.



Diagram 2: Barriers to employment

04.

THE IMPACT OF THE EUROPEAN SEMESTER MECHANISM

4.1 WHAT IS THE EUROPEAN SEMESTER?

In 2010 the European Commission launched the European Semester as a cycle of economic and fiscal (tax) policy coordination within the European Union (and its Economic and Monetary Union - the Euro). Member States were asked to present their fiscal and economic plans for the years to come to the EU in order to ensure economic stability and sustainability of the public finances⁵. The EU institutions (Commission and Council) assess and monitor the decisions taken by Member States to detect, prevent, and correct problematic economic trends such as excessive government deficits or public debt levels. This process happens during a 6-month period from the beginning of each year, hence its name - the 'semester'.

Beside this economic policy coordination and surveillance, the EU asked Member States to lay out their policy reforms that are connected with the overall umbrella strategy that the EU has adopted for the ten year period 2010-2020: the Europe 2020 Strategy.

The Europe 2020 Strategy, which was initiated on 3 March 2010, aims at creating a "smart, sustainable and inclusive economy" and defines 5 measurable 'headline' targets for the whole EU to be achieved by the year 2020: employment rate at 75%, reduction of poverty with 25%, school drop-out rates below 10%, annual investment in research and development of minimum 3% of the GDP and the 'green 20%-

20%-20%' target rates⁶. Member States are expected to 'translate' these EU headline targets into national targets and report annually to the European Commission on the progress achieved and on the challenges encountered.

The annual reporting and monitoring cycle evolves in two semesters and follows a strict time line. The European Semester concerns the first part of the year and is launched with the publication of the Annual Growth Survey (AGS)⁷, by the European Commission, setting out the broader EU economic objectives for the year to come. Member States are to take these priorities into account when designing their annual National Reform Programmes (NRP) and their Stability (Eurozone countries) and Convergence (non-Eurozone countries) Programmes, which they submit in April to the European Commission⁸. The reforms and the policy initiatives outlined in this programme are supposed to respond to recommendations given by the European Commission in the Country Specific Recommendations.

⁵ The National stability and convergence programmes (SCPs) concern predominantly macro-economic and fiscal policies of the Member States.

⁶ 20% of renewable energy, 20% reduction of greenhouse gas and a 20% efficiency gain in energy consumption

⁷ The AGS is published in November of the preceding year and is accompanied with the draft Joint Employment Report, which gives an overall assessment of the employment and social situation in the EU.

⁸ In 2014, Member states were also invited to produce National Social Reports (NSR). The NSR are developed under the (Social) OMC mechanism and provide information on the three main strands the social OMC is concerned with: (1) eradication of poverty and social exclusion, (2) adequate and sustainable pensions and (3) access to high quality and sustainable health and long term care. The 2014 NSR have furthermore a thematic focus on the access of young unemployed persons to social protection.

After assessment of the NRP and SCPs, the European Commission issues for each Member State some Country Specific Recommendations (CSR) addressing some priority challenges Member States are requested to tackle in the immediate future and assessing progress on previous CSRs. In the second part of the year, the so-called national semesters, Member States have to implement the CSR and prepare for their annual budgets⁹. Reporting on progress¹⁰ will be done in the subsequent NRPs.

4.2 THE 2015 EUROPEAN SEMESTER

The implementation of the 2015 European Semester ran in parallel with the installment of the new European Commission, which announced an ambitious political agenda for "*Jobs, Growth, Fairness and Democratic Change*". The AGS 2015, together with the accompanying documents, launched the *Jobs, Growth and Investment Package*, which was announced as the first priority in the Political Guidelines for the new Commission.

The Package starts from an integrated approach combining *investment, structural reforms and fiscal responsibility* as the three principal areas for simultaneous action and calls on an increased engagement of public authorities at all levels. In order to implement the new integrated approach, the Commission proposed to *streamline and reinforce* the European Semester in support of the three main pillars.

In the pillar concerning the structural reforms the 2015 AGS calls for enhanced structural reforms in the *product, services and labour markets* and recommends Member States to focus the attention on a number of key

reforms such as improving the dynamics in the labour markets and tackling the high levels of unemployment, pension reforms, social protection modernisation, and increasing the efficiency of public administration.

In the 2015 AGS, the EU Commission proposed to *streamline the European Semester* by simplifying the various stages and outputs, improving the co-ordination and dialogue with Member States, limiting reporting requirements and by enhancing the multilateral nature of the process and by strengthening ownership at all levels.

The main proposed changes related to the 2015 European Semester implementation are :

- The publication of the country specific analysis by the Commission already in February or three months earlier than before so as to enable discussions with the Member States in advance;
- More intensive discussions with Member States and stakeholders on implementation of past recommendations and on potential areas for future recommendations;
- Reduction of the number of recommendations for the Member States and structuring the 2015 Recommendations around 4 priorities: (1) removing barriers to investment, (2) improvement of business environment, (3) adapting public finances to make them more growth friendly and (4) improvement of employment policy and social protection.

⁹ Since 2013 Member states of the Eurozone have to present their national budgets for surveillance to the European Commission by 15 October. The CSR are consequently to be taken into account when drafting the national budgets for the following year

¹⁰ In 2013 the European Commission issued a written assessment of the implementation of the CSR implementation, which accompanied the AGS.

¹¹ The Commission took office on 1 November 2014.

¹² See Political Guidelines for the new Commission of 15 July 2015

¹³ 2015 European Semester: Country Specific Recommendations, COM(2015) 250 final

Member States prepared their 2015 NRP under the renewed European Semester implementation and NRP were made available on the Europa site (Directorate General – Employment) for the wider public by May . The Commission issued Country Specific Recommendations in the course of May 2015. The CSR are published on the same Europa-webpages allocated to the European Semester.

In its October Communication on “steps towards completing economic and monetary union”, the Commission introduces further steps to streamline the European Semester. The earlier timing of the country specific analysis by the Commission (compared to the previous years) implied already that the NRP will be more focused a forward looking policy initiatives in response to the analysis presented by the Commission in February.

New proposals for change are:

- To increase the focus on the employment and social dimension by means of including three new indicators when reporting on economic performances: activity rate, long term unemployment and youth unemployment.
- To promote the involvement of the social partners in the Member States and at EU level in the European Semester and the convergence towards best practices. The Commission will progressively suggest benchmarks across policy or thematic areas, to foster a common understanding of challenges and policy responses and to increase reform implementation.
- To strengthen the dialogue with national stakeholders (governments, parliaments, social partners) and the European Parliament at key moments of the Semester. Member States are encouraged to involve national Parliaments and social partners more closely, e.g. in the formulation of National Reform Programmes.

4.3 GENERAL OBSERVATIONS REGARDING THE 2015 EUROPEAN SEMESTER

The European Semester mechanism matured considerably since it first was set up. A greater interconnectedness has been achieved between the various public policies (vertically between the EU and national levels and horizontally between the different policy fields of Member States) concerned with the macro-economic and fiscal situation on the one hand and with the structural reforms concerned with growth and jobs on the other, contributing also to a better understanding among stakeholders including those at national level.

The 2015 revision of the Semester has greatly simplified the reporting cycle and made it more focused with clear priorities and fewer country specific recommendations¹⁷. The most recent proposals will allocate increased attention to the employment and social dimension of the Semester. Stakeholder involvement and consultation, when preparing and implementing the NRP, remains a key principle of the whole approach and monitoring cycle and will be further enhanced in the years to come.

¹⁴ <http://ec.europa.eu/europe2020/making-it-happen>

¹⁵ In spite of the call for submission of NRP by 15 April not all countries complied. The actual on-line publication of NRP happened also considerably later.

¹⁶ Com(2015), 600 final

¹⁷ In 2015 the number of CSRs has been significantly reduced in order to focus on key priority issues. The EU Parliament in its Report on European Semester for economic policy coordination: implementation of 2015 priorities (2015/2210(INI)) welcomes this initiative but believes that further efforts are needed in order to ensure that social and environmental targets are mainstreamed in the new assessment and CSRs are proposed to all countries that are not making progress in combating poverty, providing decent jobs leading to quality employment. Efforts are needed to reinforce the process and increase the implementation rates and the effectiveness of CSRs, as well the national ownership of CSRs. Report available at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2015-0307&language=EN>

During its project activities and internal consultation process in the frame of the ongoing Partnership Agreement with the European Commission, EPR noted still a rather low level of awareness on the European Semester among its members and their staff. Whereas some of the members seem to have gained some knowledge on the Europe 2020 Strategy and generally on the existence of a mechanism for economic policy co-ordination executed by the Commission, most were not familiar with the exact scope of the EU wide surveillance mechanism, the national consultation process and development of the NRP and relevance for the national employment and social policies.

4.4 AN OVERVIEW OF EMPLOYMENT AND DISABILITY IN THE NRPS AND CSRS

During the previous year, EPR screened the NRP 2013 and 2014 for those countries where it has members in order to examine whether they contained *relevant provisions concerned with disability, social services or other aspects that are relevant for the rehabilitation field*. Several NRPs have references to (persons with) disability albeit in a varying way and with different degrees of detail.

Access to employment for people with disabilities was often mentioned as part of the plans under the 2014 NRP (like in BE, DK, EE, FI, DE, HU, IE, LT, IT, PL, SI, ES, NL). BE and DK indicate furthermore plans to boost inclusive education of PWD in higher education whereas other countries are tackling the vocational education and training

(VET) sector (DE, PL, SI).

Several countries mentioned reform initiatives concerned with the social inclusion and welfare policy area in general terms (DK, FI, IE) or with direct reference to PWD such as in BE, EE, LT and SI. One country (EE) specifically indicated its continued action in the development of a quality system for social services in 2014.

When compared to the 2014 NRPs CSR in 2014 had only very indirect references to (the) disability (sector). CSRs are generally public finance-oriented with the main aim of containing costs and increasing financial sustainability of the systems while boosting productivity and competitiveness. None of the 2014 CSR mentioned PWD as a target group for specific actions unlike what is sometimes the case for young unemployed or persons from migrant backgrounds. CSR, when addressing the social headline targets, are primarily concerned with the employment strand and far less with the poverty and school leavers' targets. The social services and rehabilitation sector are also not directly addressed by the 2014 CSR.

During this year, EPR screened the 2015 NRP and 2015 CSR for the countries where it has members in order to examine whether they contained provisions relevant for the thematic area *'employment of persons with disabilities'*.

Preparatory summary sheets were prepared for the 17 countries in which EPR's members are based. The 17 country summary sheets presented:

- The 2014 CSR in relation to the employment strand;
- The 2015 NRP's part concerned with employment;
- The 2015 CSR in relation to the employment strand.

Graph 3: Overview CSR and employment

	BE	DK	EE	FR	GE	GR	HU	IE	IT	LV	LT	PL	PT	SI	ES	NL	UK
Improving labour market participation	Blue	Grey	Blue					Grey								Grey	
Increasing employability		Grey						Grey		Blue	Blue			Blue		Grey	
Addressing skills shortages and mismatches	Blue	Grey				Red	Blue	Grey								Blue	
Transition from school to work		Grey				Red	Blue	Grey	Blue							Grey	
Reforming benefits for unemployment	Blue	Grey		Blue		Red	Blue	Grey	Blue							Grey	
Addressing unemployment and LTU		Grey				Red		Grey						Blue		Grey	
Alignment of wages and minimum income scheme		Grey				Red		Grey		Blue				Blue		Grey	
Adjusting employment protection legislation		Grey		Blue		Red		Grey	Blue							Grey	
Reducing high labour taxes and social security contributions		Grey			Blue	Red		Grey								Grey	
Fiscal treatment of mini-jobs to facilitate the transition to other forms of employment		Grey			Blue	Red		Grey								Grey	
Gender pay gap		Grey	Blue			Red		Grey								Grey	
Improving Public Employment Services		Grey				Red		Grey								Grey	

In addition to the information relevant for the European Semester, the country summary sheets prepared by EPR also contained information on the country's status in view of the UNCRPD's implementation including, (if yet applicable, see further):

- Information from the country report on the implementation of Art. 27 of the UNCRPD on the right to work for persons with disabilities;
- Issues raised by the Committee in relation to the Art. 27 implementation;
- Concluding observations from the Committee in relation to art 27.

05.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The UNCRPD, adopted in 2006 and in force as of the 3rd of May 2008, is one of the principal international human rights treaties. The purpose of the UNCRPD is to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms by all persons with disabilities¹⁸, and to promote respect for their inherent dignity.

Separate articles define the fundamental rights such as the right to live independently and be included in the community (Art.19), the right to education (Art.24), the right to health (Art.25), the right to work and employment (Art. 27) and the right to an adequate standard of living and social protection (Art.28).

“State parties” to the UNCRPD (countries or organisations having signed up to implementing the UNCRPD) commit further to establishing a focal point within the government to ensure the co-ordination, a co-ordination mechanism within government to facilitate government action and to an independent framework to promote, protect and monitor the Convention.

As of to date, 160 states worldwide have ratified the UNCRPD, whereas another 27 states only signed but did not yet ratify. Only 11 countries in the world did not take any action at all. The UNCRPD is legally binding for the participating

states, which have ratified the instrument. Monitoring of the Convention is done through the Conference of States and by means of a reporting cycle to the Committee on the rights of persons with disabilities, which is composed of 18 independent experts. Within 2 years of ratification, states are invited to produce a country report and submit it to the Committee, which then makes comments (List of Issues) and raises questions on the Country reports. States are invited to reply to these Lists of Issues and participate at a hearing, which is taking place in Geneva. Concluding observations will subsequently be issued and published by the Committee. The reporting cycle is then repeated every 4 years.

The UNCRPD is complemented by an Optional Protocol, which is attributing two additional mandates to the Committee on the Rights of PWD, the individual complaints procedure and a procedure for launching inquiries in case of grave and systematic violations by state parties to the UNCRPD. The Optional Protocol requires a separate ratification by the state parties.

All 28 EU Member States and the EU itself signed the UNCRPD but three Member States (FI, IE, NL) did not ratify the Convention. 23 Member states signed the Protocol (not EE, FI, IE, NL, PL and also not the EU) out of which 20 Member States also ratified the Protocol (in addition to the previous listing also BG, CZ and RO did not yet ratify the Protocol).

¹⁸ The CRPD starts from an evolving concept of ‘disability’: persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (Art.1).



5.1 THE IMPACT OF THE UNCRPD

Regarding the monitoring of the UNCRPD, Spain was the first EU Member State to submit its country report on 1st July 2010. The EU submitted its report on 5th June 2014. As of to date only 9 Member States (AT, BE, CZ, DE, DK, ES, HR, HU, SE) and the EU have gone through the full process and received Concluding Observations by the Committee.

Regarding the Member States where EPR members are operationally active, the overview presented in the subsequent graph provides information on the status of the UNCRPD monitoring.

8 Member States where EPR is active, presented a country report to the Committee. The submitted country reports follow the structure of the UNCRPD and give information on the degree to which the individual articles of the UNCRPD have been implemented into the national legal contexts and practices including Art. 27 concerned with the right to work and employment for persons with disabilities.

The Committee on the rights for persons with disabilities issued Lists of Issues and questions for 7 of the countries concerned (BE, DE, DK, ES, HU, LT and PT) as well as for the EU and Concluding Observations for 5 of the countries concerned (BE, DE, DK, ES and HU).

Graph 4: EPR members and status of UNCRPD implementation

EPR members	UNRPD ratification	Protocol ratification	Country Report	List of issues	Final Observations
1 BE	yes	yes	YES	YES	YES
2 DE	yes	yes	YES	YES	YES
3 DK	yes	yes	YES	YES	YES
4 EE	yes	yes	No	No	No
5 EL	yes	yes	Advanced unedited (Word doc)	No	No
6 ES	yes	yes	YES	YES	YES
7 FR	yes	yes	No	No	No
8 HU	yes	yes	YES	YES	YES
9 IE	no	no	No	No	No
10 IT	yes	yes	Advanced unedited (Word doc)	No	No
11 LV	yes	yes	Advanced unedited (Word doc)	No	No
12 LT	yes	yes	YES	YES	No
13 NL	no	no	No	No	No
14 PL	yes	no	No	No	No
15 PT	yes	yes	YES	YES	No
16 SI	yes	yes	Advanced unedited (Word doc)	No	No
17 UK	yes	yes	YES	No	No

As for Lithuania, for which no concluding observations have been produced thus far, the List of Issues concerned with Art. 27 stated:

“Please provide data, as figures and as a proportion of the total workforce, on persons with disabilities employed in the open labour market and sheltered workshops, and those unemployed, disaggregated by sex, age, minority group, ethnicity and locality. Please also provide information on the average income of persons with disabilities compared with others, disaggregated by sex, age and source of income.”

Similar observations were included into the List of Issues for Portugal, which has not yet completed the entire cycle *“Please provide the Committee with information on the means, resources and programmes available to the Employment and Vocational Training Institute to improve the employability of persons with disabilities. Please also provide information on measures being developed to eliminate discrimination and inequality in the employment and conditions of work of persons with disabilities, in particular women with disabilities. Please explain the function of occupational activity centres and what working conditions apply there, including the average wage. Please provide information on data, disaggregated by sex, on the unemployment rate for persons with disabilities as compared with that for their non-disabled counterparts.”*

The Concluding Observations for Belgium mention in relation to Art.27 the following observations:

- *The Committee notes with concern the low number of persons with disabilities in regular employment. The Committee also notes the Government’s failure to reach targets for the employment of persons with disabilities within its own agencies, as well as the lack of a quota in the private sector.*
- *The Committee recommends that the State party take all necessary regulatory measures*

and incentives to guarantee the right of persons with disabilities to employment, in both the private sector and the public sector. It should ensure that they have effective protection against discrimination, vocational training, adequate accessibility and the necessary reasonable accommodation.

The concluding observations for Denmark state the following in what regards Art.27:

- *The Committee notes with concern that while the Act on the Prohibition of Discrimination in the Labour Market prohibits direct and indirect differential treatment on the grounds of disability, neither the general labour legislation nor collective labour agreements stipulate clear obligations on employers to afford reasonable accommodation in the labour market, which may be among the sources of a prevailing employment gap between persons with disabilities (44 per cent of whom are working) and persons without disabilities (78 per cent of whom are working).*
- *The Committee recommends that the State party take all necessary measures to significantly increase, as soon as possible, the percentage of persons with disabilities working in the open labour market, including amendments to the general labour legislation so that it imposes clear obligations on employers to afford reasonable accommodation to employees with disabilities.*

The Concluding Observations regarding Art.27 issued for Germany state the following:

- *The Committee is concerned about:*
 - (a) *Segregation in the labour market;*
 - (b) *Financial disincentives for persons with disabilities preventing their entry or transition to the open labour market;*
 - (c) *The fact that segregated, sheltered workshops fail to prepare workers for or promote transition to the open labour market.*

➤ *The Committee recommends that the State party provide regulations that effectively create an inclusive labour market in accordance with the Convention by:*

(a) Creating employment opportunities in accessible workplaces, in line with general comment No. 2 of the Committee, in particular for women with disabilities;

(b) Phasing out sheltered workshops through immediately enforceable exit strategies and timelines and incentives for public and private employment in the mainstream labour market;

(c) Ensuring that persons with disabilities do not face any reduction in social protection and pension insurance currently tied to sheltered workshops;

(d) Collecting data on the accessibility of workplaces in the open labour market.

As for Hungary, the concluding observations relating to Art.27 mention the following:

➤ *The Committee notes with appreciation that the State party has taken a number of steps to promote the right to work of persons with disabilities, including through the inclusion of a provision on reasonable accommodation for persons with disabilities in the 2012 Labour Code (Law 1/2012). The Committee regrets, however, that the overall employment rate of persons with disabilities remains lower than for other population groups despite such efforts.*

➤ *The Committee recommends that the State party effectively implement the disability-specific provisions of the Labour Code and develop programmes to integrate persons with disabilities into the open labour market and the education and professional training systems, and to make all work places and educational and professional training institutions accessible for persons with disabilities, as recommended by the Committee on Economic, Social and Cultural Rights in 2008 (E/C.12/HUN/CO/3), through fulfilling the requirements of article 27 of the Convention, with a special view to*

further intensifying its efforts to increase the employment opportunities for women and men with disabilities in the public and private sectors.

Similar observations can be found in the Concluding Observations for Spain:

➤ *Despite a number of enabling provisions to keep persons with disabilities in employment, the Committee is concerned with the overall low rate of employment of persons with disabilities.*

➤ *The Committee recommends that the State party develop open and advanced programmes to increase employment opportunities for women and men with disabilities.*

The Concluding Observations issued by the Committee in 2015 on the implementation of the UNCRPD by the EU in relation to the right to work and employment for persons with disabilities:

➤ *The Committee is concerned about the high unemployment rates for persons with disabilities, especially women with disabilities and persons with intellectual and/or psychosocial disabilities, in comparison with other groups of population in the European Union.*

➤ *The Committee recommends that the European Union take effective actions to measure the employment of persons with disabilities and to increase their employment rate in open labour market, including by providing training for Member States on reasonable accommodation and accessibility in the context of employment.*

➤ *The Committee furthermore notes in what regards Art. 31 on statistics that it is “concerned at the lack of consistent and comparable data on persons with disabilities in the European Union and the lack of human rights indicators.”*

- *The Committee recommends that the European Union develop a human rights-based indicators system in cooperation with persons with disabilities and their representative organizations, as well as a comparable comprehensive data collection system, with data disaggregated by gender, age, rural/urban population and impairment type.*

The Committee in its concluding observations asked Member States and the EU to conduct a comprehensive review of its legislation in order to ensure the implementation of the UNCRPD. In this perspective, the social and employment policies from one hand (Europe 2020 Strategy targets) and the economic and fiscal (tax) policy from the other (Stability and Growth Pact) should be included in this review.

Investing in people with disabilities by facilitating their access to employment will enable them to become active contribute to the society. The reduction of people unemployed suffering also from social exclusion will contribute to the achievements of Europe 2020 employment targets.

The few examples of concluding observations given above, show that there is a number of concrete actions that both the European Union and Member States can take in order to ensure the realisation of the right to work for people with disabilities, their access to the labour market and their active participation into society.

The European Semester should therefore strongly promote the implementation of the UNCRPD and devote more attention to the disability perspective in its key documents. Country Specific Recommendations, Country Reports and National Reform Programmes should more explicitly refer to persons with disabilities and other disadvantages as a target group when promoting social and fiscal (tax) reforms. Country Specific Recommendations should focus on more concrete measures and initiatives when encouraging Member States to implement structural reforms.

This approach, beside the general idea of mainstreaming the disability perspective in all policies, will support in a more concrete way the improvement in the realisation of the rights of persons with disabilities.

06.

REFLECTION POINTS IN VIEW OF THE 2016 EUROPEAN SEMESTER AND FURTHER STEPS ON THE UNCRPD IMPLEMENTATION

The 2016 AGS 'Strengthening the recovery and fostering convergence' was published on 26th November 2015. The EC recommends to pursuing economic and social policies based on three main priorities: *relaunching investment, pursuing structural reforms to modernise the economies* (including labour market policies that combine flexibility with security, focusing on young and long term unemployed and more competitive markets to stimulate job creation) *and responsible fiscal policies* (including making tax systems addressing disincentives to employment creation and modernisation of social protection systems to efficiently protect against the risks throughout the life cycle while remaining fiscally sustainable to cope with demographic changes).

The AGS explicitly distinguishes two phases: the European Phase between November and February and the National Phase between February and June.

Under the investment pillar, the AGS explicitly mentions that *"it is essential that Member States promote social investment more broadly, including in healthcare, childcare, housing support and rehabilitation services to strengthen people's current and future capacities to engage in the labour market and adapt"* and *"social infrastructure should be provided in a more flexible way, personalised and better integrated to promote the active inclusion of people with the weakest link to the labour market."*

Under the structural reform chapter, several references are made to policy actions which are needed in the Member States such as

job creation, tackling unemployment and specifically youth and long term unemployment, tackling disincentives to entrepreneurship and job creation, tackling the gender gap in employment, ensuring flexibility and security, simplification of employment protection and promotion of labour market transitions, more effective social protection systems to tackle poverty and social exclusion and comprehensive integration measures for those further away from the labour market and in response to the recent arrival of large number of refugees.

The responsible fiscal policies' pillar calls on responsible policies to ensure that pension, healthcare and long-term care systems are financially sustainable and can provide adequate protection for all.

During the first three months of 2016, governments from the Member States will embark on producing their 6th NRPs in line with the latest changes that have been introduced by the Commission.

EPR welcomes the recognition in the AGS 2016 that *"social investment offers economic and social returns over time"*, and the call on Member States to promote social investment more broadly, including in healthcare, childcare, housing support and rehabilitation services.

EPR will continue to support its members in this process and closely analyse Member States' progress on implementing Country Specific Recommendations, given that implementation has so far been irregular and often limited to few areas.



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