



EDF's initial response to the European Pillar of Social Rights

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EDF's Initial Response to the European Pillar of Social Rights

Executive summary and recommendations

In March 2016, the European Commission published the first outline of the European Pillar of Social Rights (the Social Pillar) and opened the consultation for inputs from stakeholders. The stated aim of the Social Pillar is to provide a reference framework to screen the employment and social performance of EU Member States. The European Disability Forum (EDF) welcomes any action from the European Union which seeks to strengthen commitment to, and implementation of social rights within the European Union (EU). EDF welcomes the opportunity to provide input to the Social Pillar, and based on our first analysis and dialogue with our members representing 80 million persons with disabilities in Europe, EDF recommends the European Commission to:

- **Mainstream the rights of people with disabilities** throughout the Social Pillar with a human rights-based approach in line with the EU and its member states obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD);
- **Specify the legal nature of the Social Pillar** and ensure that existing legal and policy instruments are fully integrated in the final text; specify how implementation will be measured and include an accountability mechanism for the EU and the Member States;
- **Enlarge the scope of the Social Pillar** beyond Eurozone countries, EU citizens and legally residing third country nationals, to also include other individuals, i.e. undocumented migrants and refugees;
- Include provisions on the **promotion, protection and monitoring** of the Social Pillar at the national level;
- Include provisions on the **direct involvement and consultation of persons with disabilities and their representative organisations** in the implementation of the Social Pillar at the European and national level;
- Include specific provisions on the **protection from exploitation and forced labour of persons with disabilities**, particularly among persons with intellectual and psychosocial disabilities, or persons deprived of their legal capacity;
- **Mainstream the rights of women and young people** throughout the Social Pillar, including specific actions on women and young people with disabilities;



- **Ensure a social protection floor and a minimum income scheme** through the Social Pillar in order to protect persons with disabilities from poverty and exclusion, as recommended by the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee);
- Ensure the **free movement of people**, particularly persons with disabilities, and the transferability of services across EU Member States;
- Include **provisions on deinstitutionalisation** and the provision of community-based services;
- Prevent **adverse and retrogressive effects of the austerity measures** on the adequate standard of living of persons with disabilities through the Pillar.



The European Disability Forum (EDF)

EDF is the European umbrella organisation representing the interests of 80 million persons with disabilities in Europe. It is EDF's mission is to ensure that persons with disabilities have full access to fundamental and human rights through their active involvement in policy development and implementation in Europe. EDF is a member of the International Disability Alliance and works closely with the European institutions, the Council of Europe and the United Nations.

Introduction

EDF welcomes the European Commission's consultation on the Social Pillar. Ahead of submitting its response, EDF would like to take the opportunity to issue an initial response to the [first outline of the Social Pillar](#). This initial response is based on a preliminary consultation of EDF's members and draws from EDF's past work on employment and social policy, including [EDF's Alternative Report to the CRPD Committee](#). In the coming months, EDF will undertake detailed discussions with its members, and partners in order to submit a comprehensive input to the consultation by December 2016.

The Social Pillar and persons with disabilities - Ensuring that existing commitments are met

EDF welcomes any initiative which sincerely seeks to strengthen social rights in the EU. At this point, EDF has concerns about the Social Pillar as it is proposed. EDF recommends the EU to specify the legal nature of the Social Pillar, to include an accountability mechanism at EU and national level, and to enlarge its scope beyond Eurozone countries, EU citizens and legally residing third country nationals, to include undocumented migrants and other groups in vulnerable positions, such as refugees. EDF also recommends the EU to ensure that existing legal and policy instruments are fully integrated in the Social Pillar, and that provisions of the Social Pillar do not reduce the social rights to which the EU is already committed.



As a party to the CRPD, the EU together with 27 out of 28 Member States have the obligation to promote and protect the rights of persons with disabilities when developing new legislative and policy initiatives.

In 2014 and 2015 the EU was reviewed by the CRPD Committee in order to assess its implementation of the CRPD. Following the review process, the [EU received specific recommendations from the CRPD Committee](#). This gives the EU a strong obligation to act in specific areas of its competence. The recommendations provide a clear set of priorities, a road map for EU actions in the next years in order to implement the CRPD and promote and respect the rights of persons with disabilities in the EU. The recommendation should therefore serve as main reference in developing the final text of the Social Pillar. Similarly, EDF also recommends the European Commission to make full use of [EDF's Alternative Report to the CRPD Committee](#) in the drafting of the final text of the Social Pillar in order to ensure the inclusion of the opinion of persons with disabilities and their representative organisations, as per the principles of the CRPD.

In 2010, the European Commission adopted the European Disability Strategy aiming at eliminating barriers to the full inclusion of persons with disabilities in the society – specifically in areas such as accessibility, participation, equality, employment, education and training, social protection, health and external action. Once reviewed to serve its purpose of implementing the CRPD, the Strategy should be embedded in the Social Pillar and it should also include the recommendations set out in [EDF's response](#) to the public consultation on the review of the European Disability Strategy 2010-2020.

In 2010, the EU also adopted its economic strategy with specific targets to reach inclusive economic growth by 2020 (Europe 2020). The Social Pillar should serve as an instrument to reach these targets and the perspective of persons with disabilities and their representative organisations should be taken on board.

In 2015 the European Commission published the [Strategic Engagement for Gender Equality 2016-2019](#). Among the five thematic priority areas set out in the document, two are particularly relevant in employment and social policy: increasing female labour-market participation and the equal economic independence of women and men, and reducing the gender pay, earnings and pension gaps and thus fighting poverty among women. A gender equality perspective should thus be integrated throughout the Social Pillar, with a particular emphasis on girls and women with disabilities who often face multiple and intersectional discrimination.



The European Commission also launched the [Youth Guarantee](#) to tackle youth unemployment. The Social Pillar should complement the approach taken by the Youth Guarantee to provide good-quality job, apprenticeship, traineeship, or continued education to young people, in particular to young persons with disabilities, and have measures adapted to each individual need and situation.

Finally, all EU Member States have committed to the Sustainable Development Goals and to the promise of 'leaving no one behind'. The Social Pillar should work in the same direction providing an additional framework to fighting poverty, unemployment and social exclusion, and effectively implementing the SDGs within the EU, as well as in its external actions.

The final draft of the Social Pillar should, therefore, incorporate and bring to life all the existing legal and political obligations of the EU, providing a framework for their implementation in Europe. Moreover, the Social Pillar should also contain provisions on how its implementation will be measured and how accountability will be ensured.

Mainstreaming the disability perspective across the Social Pillar

Actions and principles of the Social Pillar should take into consideration the situation and the human rights of persons with disabilities. Data and statistics confirm that persons with disabilities face discrimination in various areas including access to employment, education, life-long learning, social protection, social and health services. Moreover, as mentioned in the [European Commission's communication on the Social Pillar](#), the impact of the economic crisis has been harsher on persons with disabilities and their families compared to the general population, impacting more significantly on women and girls with disabilities.

Inclusive, quality employment promotes social participation, independence, as well as a sense of contribution to the national economy and growth. Yet persons with disabilities still remain excluded from the labour market: facing widespread discrimination and inaccessible transport and workplaces, persons with disabilities are often unemployed or dissuaded from actively seeking for a job. Among those who are working, many are underemployed, paid below minimum wage and work below their capabilities. This lack of economic participation has a significant impact on the lives of persons with disabilities, as they are then unable to earn an adequate standard of living and to live independently in the community. This is particularly relevant for women and young people with disabilities, who are at higher risk of living in poverty.



The Social Pillar only pays attention to persons with disabilities in Chapter III on adequate and sustainable social protection, with a section on disability benefits. This ignores the rights of persons with disabilities more generally, and describes the situation of disability in an outdated medical model which sees persons with disabilities as people in need of care and protection or as beneficiaries of benefits, rather than as people facing discrimination and persons who have the right to participate in all aspects of society and life. The Social Pillar should move away from the medical model of disability to a human-rights based approach, which focuses on unlocking abilities and empowering the rights of persons with disabilities, in particular of people requiring more intensive support, as well as women and girls with disabilities.

For all these reasons, persons with disabilities should be explicitly included as a specific target group within the Social Pillar and provisions should address the specific needs and situations of each individual. The rights of persons with disabilities should be mainstreamed throughout the text to ensure social inclusion beyond social protection and disability benefits.

Equal opportunities and access to the labour market

Chapter I of the Social Pillar includes skills development, life-long learning and active support for employment, to increase employment opportunities, facilitate transition between different statuses and improve the employability of individuals.

Access work and employment is a fundamental right. Despite strong legal obligations coming from the [EU Equal Employment Directive](#) and [Article 27 of the CRPD on work and employment](#), the employment rate of persons with disabilities is remarkably lower than persons without disabilities, with persons with disabilities requiring more intensive support being even more discriminated (see Annex I). Moreover, persons with disabilities also face numerous barriers in self-employment and entrepreneurship as they are discriminated in access to loans, credit guarantees and financial assistance. Persons deprived of legal capacity are totally excluded since they are unable to sign an employment contract. Specific measures for persons with disabilities must, thus, be included in the Social Pillar to secure equal opportunities and full access to the labour market.

[Article 2 of the CRPD](#) defines reasonable accommodation as the duty to provide reasonable adjustment, adaptation or measures in order to effectively and suitably accommodate the



needs of persons with disabilities. For example, this means making different adjustments, including physical changes to premises, allowing flexibility for teleworking, acquiring or modifying equipment, providing a reader or interpreter, ensuring appropriate training or supervision, adapting testing or assessment procedures, altering standard working hours etc.

The Social Pillar should include specific measures to ensure the provision of reasonable accommodation, access to vocational education, training and rehabilitation for persons with disabilities to ensure job retention, return to work and career development. Measures against discrimination in access to self-employment, entrepreneurship, the development of cooperatives and starting ones own business should also be included.

Fair working conditions

Chapter II of the Social Pillar includes the objective to set an adequate and reliable balance of rights and obligations between workers and employers, and promoting social dialogue. Fair and favourable working conditions are instrumental to the enjoyment of the right to work. That means equal opportunities for all employees, equal pay for equal work and health and safety at work.

Big differences in working conditions of persons with disabilities are seen across the EU. Very often persons with disabilities are relegated to low paid jobs or work settings, such as sheltered workshops, without union rights, minimum salary and the possibility to access the open labour market. These conditions might often lead to exploitation and forced labour. Due to lack of adequate training and the persistence of negative stereotypes, persons with disabilities have fewer opportunities to develop their careers or to return to work after a period of forced leave or sickness.

The Social Pillar should include specific measures to address these issues, particularly for women and young people with disabilities. The Social Pillar should promote awareness raising, accessible training opportunities for persons with disabilities and efficient use of EU funds to support persons with disabilities, national authorities and employers. Reconciliation between the professional and private life for parents with disabilities, in particular women with disabilities and mothers of children with disabilities, should be improved.

Finally, Chapter II of the Social Pillar should include a clear reference to the protection from exploitation and forced labour, particularly among persons with intellectual and psychosocial disabilities, or persons deprived of their legal capacity ([Article 12 of the CRPD](#)).



Adequate and sustainable social protection

Chapter III of the Social Pillar includes pensions and disability benefits, as well as access to high quality essential services, including childcare, healthcare and long-term care, to ensure dignified living and protection against risks and to enable individuals to participate fully in employment and more generally in society.

Adequate and sustainable social protection and access to services are key to live a life in dignity and autonomy ([Article 28 of the CRPD](#)). Unfortunately, persons with disabilities face numerous barriers and risk losing control over their own life, living in poverty, being segregated in institutions and excluded from society. It is proven that persons with disabilities and their families are at higher risk of living in poverty than other people (see Annex I). Moreover, the economic and financial crisis worsened the situation and weakened the social protection system, and social investment across the EU. Lack of financial resources limits the possibilities of persons with disabilities to live independently and be included in the community and makes them more reliant on families and informal support. This is particularly relevant for young people with disabilities who often lack the adequate support to transition from education to employment. Young people with disabilities face many barriers in accessing the labour market, which increases their employment rate and affects their right to live independently and being included in the community.

Social protection must be adequate and must respond to the real needs of persons with disabilities and people in need of support. A social protection floor as well as a minimum income scheme should be promoted by the EU in order to protect persons with disabilities from poverty and exclusion. Additionally, the Social Pillar should promote the free movement of people across EU Member States and ensure that social protection does not stop at the border. This is particularly relevant for persons with disabilities who might not be able to freely move within the EU due to the lack of provision ensuring the same level of social protection in different EU Member States and the transferability of services from one Member State to the other. Freedom of movement is one of the founding principles of the EU,¹ as well as of [Article 18 of the CRPD](#), and it should be fully embedded in the final draft of the Social Pillar. The Social Pillar should therefore lay down the principle of portability of services for persons with

¹ The free movement of workers within the EU is set out in Article 3(2) of the [Treaty on European Union \(TEU\)](#); Articles 4(2)(a), 20, 26 and 45-48 of the [Treaty on the Functioning of the European Union \(TFEU\)](#); [Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States](#); [Regulation \(EU\) No 492/2011 on freedom of movement for workers within the Union](#); [Regulation \(EC\) No 883/2004 on the coordination of social security systems](#) and [its implementing Regulation \(EC\) No 987/2009](#).



disabilities wishing to live, work and study across the EU. The precarious situation of refugees, migrants and other third country nationals should also be taken into account when ensuring social protection across borders.

The section on long-term care of Chapter III of the Social Pillar should not be limited to aging population, but also include persons with disabilities and their right to live independently. In particular, it should make a clear reference to the deinstitutionalisation process and the provision of community-based services as per [Article 19 of the CRPD](#). The EU in its Social Pillar should lead in the definition of a model based on the right of each person to live independently, with adequate support, and avoid at all costs forcing people to live in institutions because there are no other choices available in the community for them.

When defining these measures, the EU and national authorities should involve directly persons with disabilities and their representative organisations, as in compliance with [Article 3](#) and [Article 4](#) of the CRPD. Moreover, the EU should fulfil its obligations under the CRPD and the recommendation by the CRPD Committee “that the European Union take urgent measures, in cooperation with its Member States and representative organisations of persons with disabilities, to prevent further adverse and retrogressive effects of the austerity measures on the adequate standard of living of persons with disabilities, including by setting a social protection floor that respects the core content of the right to an adequate standard of living and to social protection”.

Conclusions

As a party to the CRPD, the EU has the obligation to promote and protect the rights of persons with disabilities in the development of the Social Pillar. In particular:

- The rights to education, employment, access to social and health services, social protection and adequate standards of living must be taken into consideration. Through the Social Pillar, the EU should ensure the full enjoyment of these rights by persons with disabilities on an equal basis with others;
- The EU should follow a comprehensive approach to mainstream the rights of persons with disabilities beyond economic coordination and competitiveness;
- The Social Pillar should not only address Euro Zone countries, nor only cover EU citizens and legally residing third country nationals;
- Progress made under other EU initiatives, such as Europe 2020, the European Disability Strategy 2010-2020, and the follow-up from the review of the CRPD Committee should not be lost. The EU should rather use existing financial instruments



and policy frameworks in a way to promote and protect the rights to adequate standards of living of people with disabilities, developing fair societies and equal opportunities for all;

- Fight against all sort of discrimination should be the overarching objective of the EU social policies and it should be realised by a strong legislation and sustainable financial means.



Annex I Data on Europe 2020 and persons with disabilities²

Employment, unemployment and activity rate of persons with disabilities

About 47,9% of persons with disabilities are employed compared to 71,5% of persons without disabilities. The employment rate of people with disabilities is about 24 percentage points lower compared to people without disabilities.

The employment rate of women with disabilities (44%) is significantly lower compared to women without disabilities (65%) in all EU Member States. Concerning people with disabilities, the employment rate of women is 44% and the employment rate of men is 52%. We observe a gender gap of 8 percentage points. Consequently, women with disabilities face a double disadvantage. An important factor affecting the employment rate is the degree of disability. At the EU level, the employment rate of severely disabled people is 28%, it is 56% for persons with a moderate disability and 72% for non-disabled.

The EU unemployment rate of people with disabilities is 18,1% (17,4% in 2011) compared to 11,2% (10,2% in 2011) of people without disabilities. At the EU level, 17,8% women with disabilities are unemployed, compared to 11,1% of women without disabilities. The respective rates for men are 18,4% and 11,3%.

There is a significant difference in the activity rates between people with and without disabilities in all EU Member States. At the EU level, 58,5% of persons with disabilities participate on the labour market (employed or unemployed) compared to 80,5% of persons without disabilities. At the EU level, the activity rate of women with disabilities is 53,8% (52,4% in 2011) and of women without disabilities it is 73,3%. This represents a gap of 19,5 percentage points. The respective rates for men are 63,9% and 87,7%. This represents a gap of 23,8 percentage points.

Access to education

Despite the lack of comparable and consistent data on access to education and training by persons with disabilities, according to ANED report³ at the EU level, 21,8% of young disabled are early school leavers compared to 10,3% for non-disabled young persons. This represents about 639.000 young persons with limitations aged 18-24, living in private households, who are early school leavers, out of 2.936.000 young disabled aged 18-24 living in private households. The high rates of early school leavers among young disabled might indicate problems related to accessibility and absence of adapted programmes.

² European comparative data on Europe 2020 & People with disabilities, prepared by Stefanos Grammenos/CESEP, December 2014, available [here](#).

³ Ibid.



At the European level, 28% (of persons with disabilities aged 30-34 have completed a tertiary or equivalent education compared to 39% for persons without disabilities).

People at risk of poverty and social exclusion

On the basis of ANED report⁴, in 2012, at the European level, 30,4% of people with disabilities aged 16 and over live in households which are at risk of poverty or social exclusion compared to 21,9% of persons without a disability of the same age group. The percentage for all persons aged 16 and over is 24,1%. About 31,1% of women with disabilities are at risk of poverty compared to 23,0% of women without disabilities. The corresponding rates for men are 29,4% (men with disabilities) and 20,8% (men without disabilities).

In the EU, 24% of persons with disabilities live in households with a low work intensity (<20%) compared to 8% of persons without disabilities. This represents a difference of about 16 percentage points. The data reveal that people with a disability face a higher risk of poverty compared to people without disabilities. At the EU level, in 2012, 19% of persons with disabilities aged 16 and over compared to 15% of persons without disabilities of the same age group. Moreover, in 2012, about 13% of people with disabilities aged 16 and over are living in households which are severely materially deprived compared to 8% of people without disabilities.



Funded by
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⁴ Ibid.