

**Latvian Presidency of the Council of the European Union  
High Level Meeting on Disability**

**Keynote speech by Catalina Devandas, Special Rapporteur on the Rights of  
Persons with Disabilities**

11 May 2015, Riga (Latvia)

Panel discussion I – Towards disability policies based on the human rights model

Excellencies,  
[Honourable Ministers],  
Distinguished guests,  
Ladies and gentlemen,

It is an honour for me to participate in this High Level Meeting on Disability. I would like to congratulate the Latvian Presidency, for reinstating this excellent initiative: This conference is an opportunity for the EU to take stock of its experience, progress and challenges faced since it concluded the UN Convention on the Rights of Persons with Disabilities. This panel discussion also constitutes a great opportunity to reflect together on the next steps required by the EU to ensure the participation of Europeans with disabilities, as equal members of society, in full compliance with the Convention.

From the onset, let me share with you that the disability community is very pleased that the innovative character of Article 44 of the CRPD enabled the **ratification** of this Convention by the European Union, which is the first regional integration organization ever to join a UN treaty. This constitutes a landmark achievement that will certainly contribute to a strengthened universal recognition of human rights.

The convening of this High Level meeting is very timely, given that the Committee on the Rights of Persons with Disabilities has recently adopted the **List of Issues in relation to the initial report of the EU**, which will be followed by the interactive dialogue at the Committee's next session in September, when the concluding observations will be adopted. I am keen to follow these discussions closely, as well

as the subsequent implementation by the European Union of these recommendations.

The European Union has been a key international supporter in the promotion and advancement of the rights of persons with disabilities; it played a leading role in the negotiation process towards adoption of the CRPD, and has ever since proactively engaged in all international debates following its entry into force; including the process towards the creation of the mandate that I represent today, the first Special Rapporteur on the Rights of Persons with Disabilities of the UN Human Rights Council.

I am very pleased to note that the European Union has also made considerable progress and played a central role to promote and protect the rights of Europeans with disabilities by developing normative instruments and policies; such as the European Disability Strategy 2010-2020, the Employment Equality Directive 2000/78/EC, the new Common Provision Regulation for the European Structural and Investment Funds (Regulation 1303/2013), and the different passenger's rights regulations. Also important, the Union is in the process of adopting the Equal Treatment Directive (Article 19 Directive) and the European Accessibility Act, which are crucial legislation to advance CRPD implementation.

While acknowledging these positive steps, I believe that more efforts are required to ensure European Union's compliance with fundamental provisions of the CRPD, and that these obligations are translated into practical and concrete measures to be implemented across its member States.

In my view, more efforts are required to advance the implementation of the Convention with regards to;

- Enjoyment of **legal capacity**, on an equal basis with others, in all aspects of life (Art. 12);
- **Liberty of movement and nationality** (Art. 18);
- **Live independently and be included in the community** (Art 19);
- **Inclusive education** (Art. 24) and **employment** (Art. 27);
- **Social protection** (Art. 28); and

- **International cooperation** (Art. 32).

As I won't have the time to elaborate on each of these issues, let me focus on those, which, from my perspective, would require your most urgent attention and action.

### **1. The right to live independently and be included in the community (Article 19)**

The European Union funding instruments can be used to promote the participation of persons with disabilities in their communities; by for instance supporting the transition from institutional to community based services. However strong concerns have been raised about the use of European Structural and Investment Funds for the creation of new residential institutions that further lead to the segregation and social isolation of persons with disabilities. While the EU has taken positive measures with the adoption of the above mentioned Regulation 1303/2013, which include a precondition to ensure **the existence of administrative capacity for the implementation and application of the CRPD in the field of ESI Funds**; more needs to be done to monitor the implementation of the projects and to guarantee the full compliance of the regulation and of article 19 of the CRPD: In other words no European funding should be used to support the creation of new institutions.

In addition, the limitations to the freedom of movement of Europeans with disabilities due to non-transferability of their disability support benefits stand in stark contrast with those situations in which persons with disabilities are transferred into institutions in neighbouring countries, due to the lack of support services in their own communities.

Also, strongly related to the right to live independently and be included in the community, it is of utmost importance that the EU combats discrimination of Europeans with disabilities when exercising their legal capacity, this is a **sine qua non** to guarantee their enjoyment of the full range of EU rights on an equal basis with others.

## **2. Education (Article 24):**

There is no need to say that inclusion is a key element of **quality education for all**, and that lack of access to regular education will for sure lead to marginalize persons from society as a whole.

The European Union is in a privileged position to encourage cooperation among its members and support their actions with regard to inclusive education. The implementation of the obligations resulting from article 24 varies significantly across the Union; some member states have substantially promoted inclusive education for children and adults with disabilities, while others still operate under systems where segregation and exclusion from regular schools is the rule. Also, in many countries there is a need to increase access and quality of education for specific groups such as autistic children.

Here, I would like to echo the recommendations recently made, at the day of general discussion on education of the CRPD Committee, where experts alerted about the use of evaluation and ranking systems, which can lead to the exclusion of children with learning challenges, including children with disabilities. Alternatively, a system where the quality of inclusive education could be measured and which will guide education policies was suggested. The European Union could take the lead in encouraging the creation of such alternative ranking systems.

Last but not least, EU funding instruments can also help to support Member States to transform its educational systems.

## **3. Employment (Art 27)**

In most EU member states, employment rates of persons with disabilities remain very low and, despite the existence of strong EU legislation (the EU Employment Equality Directive 2000/78/EC), discrimination is widespread. Experts point out that resources are invested mainly in sheltered workshops (i.e., work in segregated environment, mostly without proper contracts etc.) or in generic vocational training which fails to provide real entry to the labour market, rather than in supported

employment (i.e., placement of persons with disabilities, with some support, into jobs on the mainstream labour market - which has been shown to be more effective).

The way in which disability benefits are being designed has a clear impact on labour market participation of persons with disabilities, as the experience of many EU countries shows. More reflection is required to ensure social protection systems that while providing adequate income to persons with disabilities who cannot work also adequately cover disability related extra costs of persons with disabilities who can work.

While denial of reasonable accommodation as a form of discrimination is part of the EU legal framework since 2000, it is still largely an unknown concept and more needs to be done to make this important element of anti discrimination policies really effective. The EU experience could in this respect inspire other countries that have ratified the CRPD and will be faced with similar challenges to its effective implementation.

Lastly, one important issue that deserves attention is the need for better government policies to promote the employment and return to work of people with mental health conditions; as highlighted in the conclusions of the recent OECD High Level Forum on mental health and work.

More efforts also need to be made to engage the private sector. The experience of the ILO Global Business and Disability Network shows how an employer led network can play a key role in this.

#### **4. Social Protection and the effects of austerity measures.**

The European social protection schemes for persons with disabilities have been clearly affected by the fiscal adjustments. Available research shows that persons with disabilities were among those hardest hit by budget cuts over the last few years, with disability pensions reduced, decreases in individual budgets, drastic decrease of funding for community-based services and significant cuts in inclusive education

budgets, thus reversing some of the gains of the previous periods.

Social Protection should have been a response to the economic crisis: without it the right to live independently and included in the community will never become a reality.

### **5. International Cooperation;**

The Union is taking positive steps towards a more inclusive International Cooperation; however stronger action is needed to fully mainstream the disability rights perspective into European External Action Aid. In following its obligations under article 32 of the CRPD the Union could adopt safeguards and conditionalities to ensure that all its international cooperation efforts are fully inclusive and are not resulting in the creation of new barriers for the participation of persons with disabilities. The Post 2015 development agenda represents a window of opportunity to further advance in the inclusion of persons with disabilities in the EU development cooperation efforts. Another area in which the EU can make a significant contribution through its external aid is to ensure that persons with disabilities are fully included in all humanitarian initiatives. Article 11 of the CRPD reminds us that persons with disabilities are particularly vulnerable in situations of emergency.

In my capacity of UN Special Rapporteur on the rights of persons with disabilities, I am mandated to develop a dialogue and to consult with States and others on the realization of the rights of persons with disabilities, including by providing technical assistance and making recommendations on how to better promote international cooperation and the inclusion of persons with disabilities both as agents and beneficiaries of development processes. **It would be very important to be able to count on the support of the EU to advance the processes undergoing in the developing countries; it would be an immense contribution to the advancement of the disability rights agenda at Global level.**

### **6. Opportunities**

Before I close I would like to highlight some clear opportunities for the EU to further advance in the implementation of the CRPD; as follows:

- Both the Disability Strategy and the Strategy Europe 20-20 will be revised in 2015. These revisions should be made taking into consideration the recommendations that will be made by the CRPD Committee and in consultation with persons with disabilities and their representative organizations
- I would also highlight the opportunity of the EU to conclude the Marakesh treaty, greatly advancing the right of blind people to access information and knowledge.

**(Closing)**

In closing, I would also like to stress the relevance of this high level conference and the need to continue these discussions on how to better advance with the implementation of the CRPD in the EU.

I look forward to the forthcoming discussion and to continue this dialogue beyond this event.

Thank you.