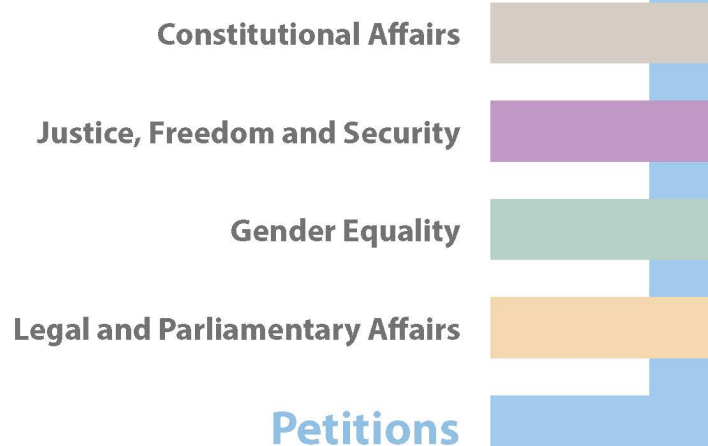


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT** **C**  
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



**The protection role  
of the Committee on Petitions  
in the context of the  
implementation of the UN  
Convention on the Rights of  
Persons with Disabilities**

**STUDY FOR THE PETI COMMITTEE**





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND**  
**CONSTITUTIONAL AFFAIRS**

**PETITIONS**

**The protection role of the Committee on  
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implementation of the UN Convention on  
the Rights of Persons with Disabilities**

**STUDY**

**Abstract**

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the PETI Committee. It explains the context of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) with reference to the PETI Committee's role in the EU Framework for its implementation. It considers the petitions received on disability issues and examples of CRPD protection mechanisms implemented at level of the UN, the EU and the Member States. Recommendations are made to assist the EP in deliberating on disability issues in its protection role.

## DOCUMENT REQUESTED BY THE COMMITTEE ON PETITIONS

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## LIST OF ABBREVIATIONS

- ANED** Academic Network of European Disability Experts
- CJEU** Court of Justice of the European Union
- COHOM** Council of the European Union Working Party on Human Rights
- CONT** Committee on Budgetary Control
- CRPD** Convention on the Rights of Persons with Disabilities
- DHLG** Disability High Level Group
- EBU** European Blind Union
- Ecofin** Economic and Financial Affairs Council
- EDF** European Disability Forum
- EEA** European Economic Area
- EMPL** Committee on Employment and Social Affairs
- ENEB** European Network of Equality Bodies
- EP** European Parliament
- FRA** European Union Agency for Fundamental Rights
- LIBE** Civil Liberties, Justice and Home Affairs Committee
- NHRI** National human rights institution
- OHCHR** Office of the High Commissioner for Human Rights
- PETI** Committee on Petitions
- REGI** Committee on Regional Development
- RNIB** Royal National Institute for the Blind
- TFEU** Treaty on the Functioning of the European Union
- TEU** Treaty on European Union
- UN** United Nations

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## EXECUTIVE SUMMARY

### Background

The EU is founded on core values that include respect for human rights, and the European Parliament is committed to develop 'a Europe of rights'. The rights of persons with disabilities are acknowledged in the Charter of Fundamental Rights and in the Treaty of European Union. Up to one quarter of the European electorate declare some degree of impairment or disability, forming a significant constituency of public interest.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an international treaty that establishes the equality of their human rights with other citizens. The EU is a party to this treaty, along with almost all its Member States. To implement its CRPD treaty obligations the EU has established a Framework of bodies, which includes the EP, in which PETI is designated a role to protect such rights through its petitions process.

### Aim

- The aim of this study is to examine the role of PETI and the EP in protecting CRPD rights, within the EU's designated implementation Framework.
- The report seeks to provide a context to the Convention and to the protection of human rights in such treaties. In this context, it sets out to examine the petitions received by the EP on disability issues and to evaluate how these have been addressed.
- It reviews existing knowledge concerning the arrangements for similar protection functions in the Member States, including examples of their structures and mechanisms. This information should assist in informing citizens about the competent authorities in Member States to which they may also address relevant concerns that fall outside EU competence.
- The analysis of petitions links disability rights issues to the latest assessments of CRPD implementation in the EU, and to recent PETI debates on disability issues, occurring in September 2015. In light of this state-of-the-art assessment, the report makes recommendations to the EU institutions, notably to the EP and the PETI committee, regarding the CRPD protection role.
- This, in turn, will assist the EP Committees in elaborating a joint response to the UN and in promoting the petition mechanism with other stakeholders and publics, as well protecting the rights concerned.

## 1. INTRODUCING THE UN CRPD

### KEY FINDINGS

- **Human rights** are among the core value of European Union and **the rights of people with disabilities** are guaranteed by the Charter of Fundamental Rights. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) establishes the equality of these human rights in **international law**.
- Current approaches to disability policy are based on the **social model of disability** and on human rights. The European Disability Strategy 2010-2020 and the CRPD seek to **remove the barriers** to full participation and equality throughout society and to **involve people with disabilities** and their organisations.
- The CRPD requires the EU to establish a domestic **framework for implementation**, and this is constituted with reference to **EU competence** vis-à-vis the Member States. This framework includes the EP.

The EU is founded upon a set of common core values that include 'human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities' as set out in Article 2 of the Treaty on the European Union. The European Parliament made human rights one of its priorities, including in 2009 when it resolved commitment to the Stockholm programme on freedom, security and justice - to develop 'a Europe of rights' in which 'diversity enriches the Union' and to fight discrimination.<sup>1</sup> More specifically, Article 21 of the Charter of Fundamental Rights (the Charter),<sup>2</sup> prohibits all discrimination on grounds of disability, along with other grounds, and Article 26 elaborates that:

*'The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.'*

In 2010, the Commission adopted an implementation strategy for the Charter aiming to make the EU 'exemplary' and 'above reproach' in its approach to fundamental rights. In this context it acknowledged also the EU's decision to conclude the United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>3</sup>.

The CRPD was the first UN treaty to deal exclusively with disability issues and the first to be concluded by the EU as well as individual Member States. It includes arrangements for a domestic implementation framework, with a protection role for the PETI Committee within the EU's framework. This chapter outlines the basis of the CRPD treaty and the arrangements for its implementation in the EU. The following chapter then explains the protection role, including the role of PETI.

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<sup>1</sup> European Parliament resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme, P7\_TA(2009)0090

<sup>2</sup> [http://ec.europa.eu/justice/fundamental-rights/charter/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm)

<sup>3</sup> COM(2010) 573 final, p.4, [http://ec.europa.eu/justice/news/intro/doc/com\\_2010\\_573\\_en.pdf](http://ec.europa.eu/justice/news/intro/doc/com_2010_573_en.pdf)

## 1.1 A global human rights treaty

The establishment of the CRPD followed decades of work to change attitudes and policies towards disability, following a trend from individual towards social models of disability<sup>4</sup> and from welfare-based towards rights-based policies.<sup>5</sup> This trend has been based on a progressive realisation that the widespread social disadvantage or exclusion experienced by people with disabilities arises largely from social and physical barriers in society, rather than from any personal characteristic or limitation. Hence:

*...disability, according to the social model, is all the things that impose restrictions on disabled people; ranging from individual prejudice to institutional discrimination, from inaccessible buildings to unusable transport systems, from segregated education to excluding work arrangements, and so on.*<sup>6</sup>

For the purposes of the CRPD this is defined in Article 2 as follows:

*"Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;*

Policy approaches inspired by a social model of disability and based on human rights principles, like the CRPD, seek to remedy this kind of discrimination by removing barriers to full participation and equality. The CRPD maps out where discrimination may exist and what actions state parties should take to address it, providing a clear legal framework within which people with disabilities can also identify and claim their rights.<sup>7</sup> This kind of approach is widely viewed as a paradigm shift in the way that Member States, and the EU, approach disability policy.<sup>8</sup> The role of the PETI Committee in this context, and the wider understanding of this role by other stakeholders, will be improved by enhancing knowledge of the CRPD and the arrangements for its implementation in the EU.

### 1.1.1 A brief history of disability and human rights at the UN

The protection of human rights for people with disabilities within the UN system has evolved over a number of decades. There was no mention of disability rights in the 1948 Universal Declaration of Human Rights but the UN Economic and Social Council pursued some early work in this field through their global rehabilitation and welfare programmes. A more explicitly rights-based approach began to emerge in 1975, when the General Assembly adopted a Declaration on the Rights of Disabled Persons.<sup>9</sup> This was followed by

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<sup>4</sup> Mike Oliver & Colin Barnes, *The New Politics of Disablement*, Basingstoke, Macmillan (2012).

<sup>5</sup> Rosemary Kayess & Phillip French, *Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities*, *Human Rights Law Review*, vol. 8, p. 3 (2008).

<sup>6</sup> Oliver, M. (1996). *Understanding Disability: from theory to practice*. Basingstoke: Macmillan (p. 3).

<sup>7</sup> UN Enable <http://www.un.org/disabilities/default.asp?navid=15&pid=150>.

<sup>8</sup> Priestley, M. (2007). In search of European disability policy: between national and global. *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 1(1), 61-74 ; Waldschmidt, A. (2009). Disability policy of the European Union: The supranational level. *ALTER-European Journal of Disability Research/Revue Européenne de Recherche sur le Handicap*, 3(1), 8-23.

<sup>9</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx>

the proclamation of 1981 as the International Year for Disabled Persons, a World Programme of Action and a Decade of Disabled Persons 1983-1992.

The first participative international human rights instrument was a set of non-binding Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted in 1993.<sup>10</sup> This provided a basis for proposals, in 2001, to establish a more comprehensive international Convention and leading to the CRPD, which opened for signatures at the UN in 2007. The EU and all 28 Member States committed themselves to its principles, the large majority signing up on the opening day. The CRPD came into force in May 2008 and was concluded by the EU in 2010. All but three of the 28 Member States had so far ratified the CRPD by 2015 (all except Ireland, Finland and the Netherlands).

The CRPD is one of nine core international human rights instruments (Conventions and Covenants) in the UN human rights system. These include, for example: the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child. Each is monitored by a relevant UN Committee.<sup>11</sup>

While all of the EU Member States are party to all of these UN instruments the EU is party, so far, only to the CRPD. This means that while the work of the EU on human rights may be influenced by the principles of all the instruments it has additional legal obligations in relation to the CRPD. This includes an obligation to protect the rights of people with disabilities within its jurisdiction. This protection role is explained in the next chapter.

### 1.1.2 An overview of CRPD rights to be protected

The CRPD does not convey any new rights upon people with disabilities. It seeks to ensure that they can enjoy the same human rights as others and on an equal basis with them. It places an obligation on its parties to make changes in many areas, removing barriers to full and equal participation and consulting with representative organisations.

The key principles of the CRPD are defined in Article 3, and have much in common with basic rights principles established also in EU laws and strategies, as follows:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women

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<sup>10</sup> <http://www.un.org/esa/socdev/enable/dissre00.htm>

<sup>11</sup>Monitoring the core international human rights treaties, <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

There are a total of 50 CRPD Articles, the majority of which define rights to be protected in various areas of life and policy making (Articles 8-30). The preliminary Articles (1-7) cover general principles and obligations, gender mainstreaming and the recognition of children's rights. The UN OHCHR publishes a helpful Handbook for Parliamentarians, which outlines both the principles and obligations of the Convention.<sup>12</sup>

**Table 1: Summary of rights covered by the main UN CRPD Articles**

Topic	CRPD Article	Topic	CRPD Article
Awareness-raising	8	Personal mobility	20
Accessibility	9	Freedom of expression and opinion, and access to information	21
Right to life	10	Respect for privacy	22
Situations of risk and humanitarian emergencies	11	Respect for and the family	23
Equal recognition before the law	12	Education	24
Access to justice	13	Health	25
Liberty and security of the person	14	Habilitation and rehabilitation	26
Freedom from torture or cruel, inhuman or degrading treatment or punishment	15	Work and employment	27
Freedom from exploitation, violence and abuse	16	Adequate standard of living and social protection	28
Protecting the integrity of the person	17	Participation in political and public life	29
Liberty of movement and nationality	18	Participation in cultural life, recreation, leisure and sport	30
Living independently and being included in the community	19		

**Source: UN Committee on the Rights of Persons with Disabilities<sup>13</sup>**

<sup>12</sup> Office of the High Commissioner for Human Rights (2007) *From Exclusion to Equality : Realizing the Rights of Persons with Disabilities : Handbook for Parliamentarians*, No. 14, Geneva, available at <http://www.ipu.org/PDF/publications/disabilities-e.pdf>

<sup>13</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>

### 1.1.3 Implementation arrangements

The remaining CRPD Articles deal mainly with arrangements for implementation, either at the level of the UN or at the 'domestic' level (which includes arrangements in the EU institutions and in the Member States). Article 33 is particularly relevant to the role of PETI and the European Parliament. It establishes three basic requirements – to designate one or more focal points and a coordination mechanism within government; to establish a framework to promote, protect and monitor CRPD rights; and, to involve civil society in the monitoring function. The inspiration for this Article came from the Optional Protocol to the Convention against Torture, which also includes provision for a domestic implementation framework.<sup>14</sup> Article 33 of the CRPD is intended to address likely implementation gaps and to hold governments accountable for their treaty obligations.<sup>15</sup> Many civil society actors attach great importance to this as necessary and symbolic of a party's commitment to the CRPD.<sup>16</sup>

Government focal points are tasked with overseeing the implementation process while an effective coordination mechanism ensures that shared responsibilities across different sectors are well organised (the CRPD is the first human rights treaty to require the establishment of such institutional arrangements).<sup>17</sup> Meanwhile the designation of an implementation framework requires 'one or more independent mechanisms' to be included, whose independence should be considered in relation to the so-called 'Paris Principles' relating to the status of national human rights institutions (NHRI).<sup>18</sup> Such mechanisms vary<sup>19</sup> (as discussed in chapter 4) but the broad principles are that they should be independent of government, with a broad mandate and a pluralistic membership. They should meet regularly and be free to consider any relevant question or complaint, with powers of investigation and recommendation. Article 33 CRPD does not state that an independent mechanism must be a NHRI but the principles must be taken into account. The third pillar of Article 33 is that civil society should be involved in the monitoring, 'in particular persons with disabilities and their representative organizations'. This provision should be read in the general context of Article 4.3, stating that:

*In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.*

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<sup>14</sup> Gauthier de Beco, Article 33(2) of the UN Convention on the Rights of Persons with Disabilities: Another Role for National Human Rights Institutions?, *Netherlands Quarterly of Human Rights*, Vol. 29(1), 84–106, 2011.

<sup>15</sup> Mental Disability Advocacy Centre, *Building the Architecture for Change: Guidelines on Article 33 of the UN Convention on the Rights of Persons with Disabilities*, 15, [http://mdac.info/sites/mdac.info/files/Article\\_33\\_EN.pdf](http://mdac.info/sites/mdac.info/files/Article_33_EN.pdf).

<sup>16</sup> Luis Fernando Astorga Gatjens, *Analysis of Article 33 of the UN Convention: The Critical Importance of National Implementation and Monitoring*, 8 Int'l J. on Hum. Rts. 14, 71 (2011).

<sup>17</sup> Gauthier de Beco, *Study on the Implementation of Article 33 of the UN Convention on the Rights of Persons with Disabilities*, [http://europe.ohchr.org/Documents/Publications/Art\\_33\\_CRPD\\_study.pdf](http://europe.ohchr.org/Documents/Publications/Art_33_CRPD_study.pdf).

<sup>18</sup> UN General Assembly resolution 48/134 of 20 December 1993. Available at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

<sup>19</sup> Gauthier de Beco & Alexander Hoefmans, *National Structures for the Implementation and Monitoring of the UN Convention on the Rights of Persons with Disabilities*, in Article 33 of the UN Convention on the Rights of Persons with Disabilities: National Structures for the Implementation and Monitoring of the Convention, 9, 22 (Gauthier de Beco, ed. 2013); <http://www.un.org/esa/socdev/enable/dissre05.htm>

## 1.2 CRPD implementation in the EU

The European Community (EC, now EU) became a party to the CRPD in its capacity as a 'regional integration organisation', which is defined as '...an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention' (CRPD Article 44.1). This Article requires such organizations (the EU is the only one) to make a declaration concerning 'the extent of their competence' but it also makes clear that all the responsibilities attaching to 'State Parties' apply equally to them, within these limits.

### 1.2.1 EU and Member States competence

When the EU concluded the CRPD by adopting a Council Decision its Declaration of Competence was defined in an annex.<sup>20</sup> This decision, and the areas in which the EU claims competence, were explored in a report for the European Foundation Centre, *Study on Challenges and Good Practices in the Implementation of the UN Convention on the Rights of Persons with Disabilities VC/2008/1214*, and elaborated in the EU's initial implementation report to the UN CRPD Committee in 2014.<sup>21</sup> The Declaration acknowledged that 'the scope and the exercise of Community competence are, by their nature, subject to continuous development'. Hence, the list of Acts appended should be considered indicative rather than definitive.

Where the EU has exclusive competences (e.g. in matters such as state aid, common custom tariffs or its own public administration) it is clearly accountable for the promotion, protection and monitoring of CRPD rights. Furthermore, the EU's conclusion of the CRPD does not extend the treaty provisions to any Member State that has not ratified it. In most of the areas covered by the substantive CRPD Articles the EU shares competence with the Member States - notably in combatting discrimination on the ground of disability and the co-ordination of employment and social policies, but across such diverse areas as free movement of goods, persons, services and capital, transport by rail, road, sea and air, taxation, the internal market, or the collection of European statistics. Separately, the EU's CRPD mandate includes exclusive responsibility for its own internal public administration and staff affairs (e.g. for the accessibility of its own buildings and communications, the employment of its own staff or its contact with citizens).

### 1.2.2 The European Disability Strategy 2010-2020

The European Disability Strategy 2010-2020 was adopted just prior to the EU's conclusion of the CRPD as an initial organising instrument to deliver the forthcoming obligations, within the scope of EU competence. It set out eight priority areas for action and four means by which to deliver their implementation (raising awareness, financial support from EU funds, data collection for monitoring, and putting in place the institutional arrangements required by Article 33).<sup>22</sup> The latter provision did not refer directly the protection role and

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<sup>20</sup> Annex II to Council Decision 2010/48/EC of 26 November 2009, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401271474087&uri=CELEX:32010D0048>

<sup>21</sup> *Report on the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union*, SWD(2014) 182 final, [http://ec.europa.eu/justice/discrimination/files/swd\\_2014\\_182\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/swd_2014_182_en.pdf)

<sup>22</sup> *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, COM SEC(2010)

the accompanying List of Actions referred only to preliminary plans for the creation of 'an inter-institutional group to coordinate the implementation'.<sup>23</sup>

**Table 2: Actions and implementation in the European Disability Strategy**

Areas for action	Accessibility
	Participation
	Equality
	Employment
	Education and training
	Social protection
	Health
	External action
Implementation	Awareness raising
	Financial support
	Statistics and data collection and monitoring
	Mechanisms required by the UN Convention

**Source:** European Disability Strategy 2020-2020, COM(2010) 636 final

Within these priorities, the areas of accessibility and equality are highly relevant to EU competence where they apply to non-discrimination and to regulation of the single market (e.g. in the accessibility of products, goods and services). Participation is also relevant to creating full freedom of mobility for people with disabilities within the EU, and to support community living. The three areas of employment, education and training, and social protection are clearly relevant to achieving the Europe 2020 strategy targets and for disability mainstreaming within the European Semester process. All of these areas raise issues that are relevant to CRPD rights or implementation but not all of them map directly or comprehensively onto CRPD Articles. Following the EU's dialogue with the UN in September 2015 the CRPD Committee recommended that the EU should adopt of a more explicit 'strategy on the implementation of the Convention' and align its mid-term review of the existing strategy with the UN's monitoring observations.<sup>24</sup>

### 1.2.3 The EU CRPD Framework

The EU's designated focal point for CRPD implementation is the Commission's Unit for the Rights of Persons with Disabilities, based in DG Employment and Social Affairs, but the overall co-ordination mechanism is the Human Rights Working Group of the Council of Ministers (COHOM). A Commission proposal to establish an EU Framework under Article 33.2 was developed in 2011-12 and discussed with Member States' representatives at COHOM meetings.<sup>25</sup> A revised version was approved by the Council in October 2012.<sup>26</sup>

1324 final (2010) 636 final, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:en:PDF>

<sup>23</sup> Initial plan to implement the European Disability Strategy 2010-2020 : List of Actions 2010-2015, SEC(2010) 1324 final <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:1324:FIN:en:PDF>

<sup>24</sup> United Nations (2015) *Concluding observations on the initial report of the European Union*, CRPD/C/EU/CO/1 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1&Lang=en)

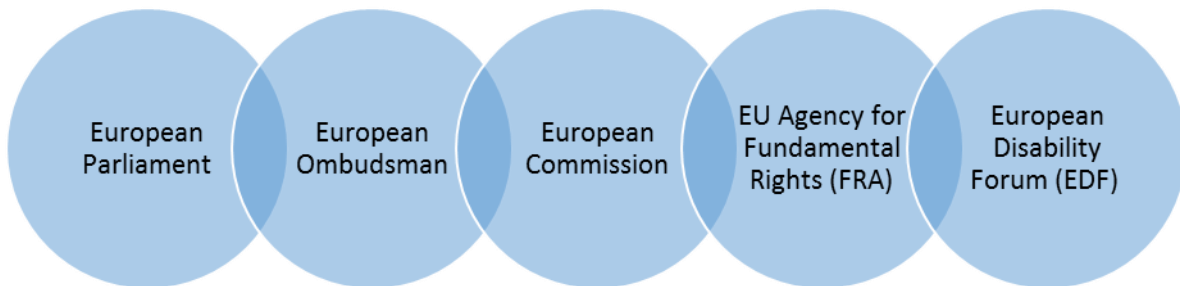
<sup>25</sup> The background to establishment of the Framework is described and defined in a Commission non-paper (discussion document), *On the setting-up at EU level of the framework required by Art. 33.2 of the UN Convention on the Rights of Persons with Disabilities*, <http://ec.europa.eu/social/BlobServlet?docId=14155&langId=en>



These deliberations considered the balance of roles among various EU bodies, as well as civil society involvement, with reference to the principle of undue administrative burden.

Various representations were considered and the Commission proposed an EU CRPD Framework with representation from five core members, on the assumption that each would define and develop its own role within its existing mandate and with reference to the other members.

**Figure 1: Current members of the EU CRPD Framework**



The first meeting took place in January 2013 and an EU Framework website was launched in July 2015, outlining the roles of each member.<sup>27</sup>

In relation to the Paris Principles (outlined earlier) the European Network of National Human Rights Institutions (NHRI) had previously questioned whether the existing EU bodies could fulfil all the functions required by Article 33 within their existing mandates and in the absence of an EU-wide human rights institution. It recommended strengthening the mandate of the FRA and engaging with NHRIs, the European Network of Equality Bodies (ENEB) and with EDF. It made no reference to the role of the European Parliament but pointed out that while the EU Ombudsman may admit complaints concerning maladministration by the EU institutions it ‘...cannot investigate complaints against national, regional or local administrations in the Member States, even when the complaints are about European Union matters’.<sup>28</sup> Related concerns were highlighted by the UN CRPD Committee in its concluding observations in 2015 in recommending the removal of the European Commission from the EU monitoring framework to ensure its independence.

The role of the PETI Committee within this framework is discussed in the next chapter.

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<sup>26</sup> Note on the set-up of the EU level of the framework required by Art. 33.2 of the UN Convention on the Rights of Persons with Disabilities, <http://ec.europa.eu/social/BlobServlet?docId=14154&langId=en>

<sup>27</sup> EU Framework for the UN Convention on the Rights of Persons with Disabilities, <http://ec.europa.eu/social/main.jsp?catId=1189&langId=en>

<sup>28</sup> Proposal of the CRPD Working Group of the European Network of National Human Rights Institutions regarding implementation of Article 33 of the United Nations Convention on the Rights of Persons with Disabilities by the European Union (p. 13) [http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/uncrdp/proposal\\_of\\_crpdp\\_working\\_group\\_on\\_eu\\_article\\_33\\_arrangements.doc](http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/uncrdp/proposal_of_crpdp_working_group_on_eu_article_33_arrangements.doc)

## 2. UNDERSTANDING THE PROTECTION ROLE

### KEY FINDINGS

- Everyone should receive **equal protection** of their rights and this should apply to all relevant policies. Anyone should be able to bring forward information of concern about implementation of the CRPD, or **compliance** with it.
- The EU has the same CRPD protection obligations as the Member States and **complaints procedures** are an important part of this obligation. **Petitions** to the EP are one of several mechanisms for raising CRPD concerns.
- The process for considering petitions in the EP shares some similarities with **individual communications procedure** at the UN, although the functions differ. Parliament also has a **wider role** than complaints or protection.
- In exercising its role, PETI interacts with **other EP Committees**, other members of the EU CRPD Framework, including **civil society**, and with a range of **stakeholders and networks** relevant to human rights protection in Europe.

The CRPD, like other important human rights treaties, sets out to 'promote and protect' the human rights of those covered by its provisions. This covers all people with disabilities, including those who need support to exercise their rights. It also promotes their dignity. Everyone should receive equal protection of their rights without discrimination and this protection should be effective. The responsibility to protect often lies at the national level but it exists also at the EU level where principles of competence, subsidiarity and proportionality have been considered.

All parties to the CRPD, including the EU, are required 'to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes' (Article 4). Article 33 CRPD Framework establishes that the Framework to be set up should 'promote, protect and monitor implementation', taking account of established international principles and this should include a treaty body or committee that can receive and respond to allegations of rights violations. Such committees should be capable of making decisions and they should publish their decisions and recommendations. This is the main role envisaged for the PETI Committee within the EU Framework discussed in the previous chapter.

### 2.1 Key principles for protection

The UN OHCHR publishes guidance for human rights monitors in relation to the CRPD.<sup>29</sup> This provides a clear summary and overview of disability as a human rights issue and an introduction to the Convention. From a human rights perspective, compliance is an obligation rather than an option and protection is important to ensure that this happens, particularly where there is evidence that rights may be violated.

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<sup>29</sup> Office of the High Commissioner for Human Rights (2010) *Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for human rights monitors*, Professional training series No. 17, New York and Geneva, available at : [http://www.ohchr.org/Documents/Publications/Disabilities\\_training\\_17EN.pdf](http://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf)

'Protection' refers mainly to the cessation and remedy of violations of the CRPD.<sup>30</sup> There must be the possibility for people with disabilities to claim their rights when states fail to respect them. The first objective is to seek a solution between the parties concerned but the competent body should nevertheless be able to help them obtain a binding decision when necessary. In this role, protection may include *amicus curiae* briefs to courts, i.e. providing comments or expertise to judges, and following up their decisions at the 'domestic' level. For parties that have ratified the Optional Protocol to the CRPD, 'protection' may also include helping people to make communications before the CRPD Committee. This kind of protection requires considerable know-how. It also requires a high degree of independence because it is mainly undertaken against state authorities. In many states, it is already carried out by equality bodies or ombudsmen.

Anyone should be able to bring forward information on the implementation of the CRPD, including potential breaches of individual rights or systematic violations. The presence of independent national mechanisms in the CRPD framework is essential to this monitoring function, although they may lack power to enforce their decisions and recommendations. Supranational enforcement is also difficult to achieve at the UN level and it may be complicated to achieve at the EU level too where competences are shared with the Member States. It is easier to 'monitor' and to 'promote' rights than to 'protect' them. Protection is ultimately about compliance with, and enforcement of, respect for rights. It is often linked to mechanisms for the consideration of complaints about rights violations.

The UN guidance underlines the distinction between 'national' and 'international' mechanisms. As noted previously, 'international' refers here to the role and functions of the UN Committee on the Rights of Persons with Disabilities (Article 34 CRPD). The responsibilities of the EU, as a regional integration organisation, fall into the category of 'national' or 'domestic' for this purpose (as described in Chapter 1). All of the UN principles that apply to national mechanisms apply to the EU mechanisms too. At the same time the EU's role clearly involves a supranational element and there may be scope to learn lessons from the protection experience of UN Committees at the 'international' level.

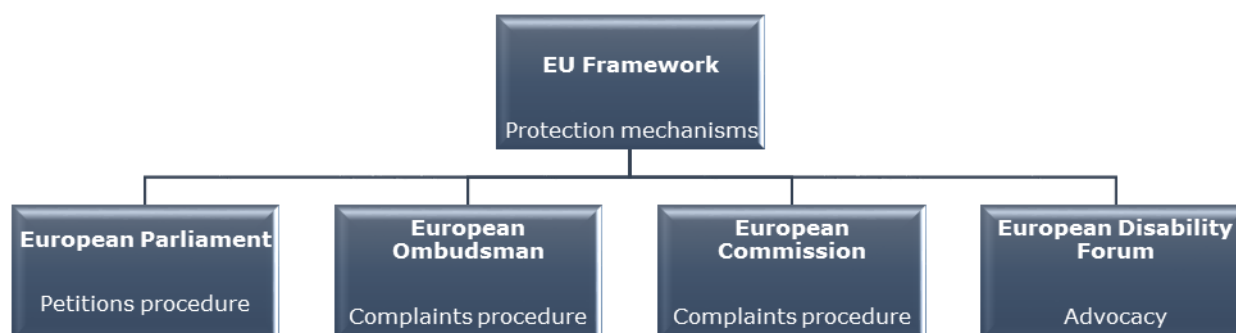
### 2.1.1 Protection roles in the EU Framework

The EU's protection role is concerned with complaints that fall within EU competence and EU law. The EU Framework website identifies four mechanisms by which action can be taken. These include the Parliamentary petitions procedure (PETI's role), the complaints procedures of the European Ombudsman and the European Commission, and the information and advocacy services of the European Disability Forum (acting on behalf of organisations of people with disabilities). It emphasises that violations within the responsibility of national authorities, or beyond EU law, should be taken up first with the appropriate national mechanisms in the Member States.

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<sup>30</sup> Gauthier de Beco & Alexander Hoefmans, 'National Structures for the Implementation and Monitoring of the UN Convention on the Rights of Persons with Disabilities', in Article 33 of the UN Convention on the Rights of Persons with Disabilities: national structures for the implementation and monitoring of the Convention, 9, 47 (Gauthier de Beco, ed. 2013); <http://www.un.org/esa/socdev/enable/dissre05.htm>

**Figure 2: Protection mechanisms within the EU's CRPD Framework**



**Source:** EU Framework for the UN Convention on the Rights of Persons with Disabilities website<sup>31</sup>

Within this Framework, the protection role of the European Parliament is linked to the PETI procedure for hearing petitions and its capacity to bring issues of non-compliance to the attention of the relevant authorities. Its competence is distinguished from that of the Ombudsman, who is concerned with maladministration or non-compliance by the EU institutions themselves rather than matters arising in the Member States. Petitioning the European Parliament is one of the fundamental rights granted to EU citizens. However, petitions concerning disability issues gain an additional significance when they also alert a member of the EU Framework to possible non-compliance with the CRPD. In such cases they may constitute complaints of treaty infringement.

### 2.1.2 Individual complaints at the UN

CRPD is one of several international human rights treaties, across which some general principles for individual communication are established at the UN level (although the arrangements differ for each).<sup>32</sup> These offer a useful starting point for thinking about PETI's protection role as the UN complaint process shares much in common with the EU's petition process (which is explained later). An individual complaint to a UN Committee should be:

- submitted by, or on behalf of, a person who can show that their rights have been violated
- not anonymous
- not an abuse of the right to complain (i.e. it should be well justified)
- have exhausted the possibility of domestic remedies (i.e. respect state sovereignty)
- not under consideration by another international or regional body procedure

An individual human rights complaint in the UN process may proceed roughly as follows:

- Consideration of admissibility

<sup>31</sup> <http://ec.europa.eu/social/main.jsp?catId=1189&intPageId=3518&langId=en>

<sup>32</sup> Human Rights Treaty Bodies - Individual Communications, <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale>

- Requests for additional information or advice
- Possibility to request interim protection measures (to avoid further damage)
- Receive evidence from the state party concerned
- Conduct a hearing with the petitioner and state present
- Communicate decision to the parties (not legally binding)
- Develop jurisprudence over time

The UN's competence to monitor and report on CRPD implementation does not extend to the consideration of individual cases unless the party has also ratified the Optional Protocol to the CRPD, which creates a channel for individual communications to the UN after the exhaustion of domestic remedies. The EU has not yet ratified this Protocol, although it has been strongly encouraged to do so in dialogue with the UN CRPD Committee.<sup>33</sup> So, at the present time, the UN CRPD Committee lacks competence to hear individual complaints against the EU although it may hear individual communications relating to any of the 21 EU Member States that have, so far, ratified both the CRPD and its Optional Protocol.

The CRPD is the first international human rights treaty concluded by the EU and no other regional integration organisation is yet a party to the Convention elsewhere in the world. The EU's protection mechanisms exist on an equal level, horizontally, with the national protection mechanisms in the Member States but it also exists in a hierarchical relationship with them, in those areas where EU law applies. This means there is no precedent outside the EU for developing the scope and function of a 'regional' protection role.

### 2.1.3 The role of Parliament

The UN's *Guide for Parliamentarians* envisages a broad role for Parliamentary oversight of domestic CRPD implementation via Committees, Commissions of enquiry, questioning of Ministers, scrutiny of public appointments, oversight of non-governmental agencies, and budgetary control.

The specific arrangements for European Parliament representation in the EU's CRPD Framework have evolved since its establishment. This representation extends beyond the narrow protection role designated to PETI (which is the focus for this report). It notably includes roles for Committees with a significant interest in disability issues and policies, such as the Employment and Social Affairs (EMPL) and the Civil Liberties, Justice and Home Affairs Committee (LIBE), in addition to PETI. Four MEPs have been appointed to represent the EP in the EU Framework meetings on behalf of EMPL, LIBE and PETI (Ádám Kósa for EMPL, Helga Stevens for LIBE, Rosa Estaras Ferragut and Soledad Cabezon Ruiz for PETI). Parliament will respond to the UN Committee's observations with a report to be drafted by EMPL in association with PETI and LIBE.<sup>34</sup>

A new network of Committees was also established in September 2015, similar to the Gender Mainstreaming network, to raise awareness of CRPD and to promote the rights of

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<sup>33</sup> United Nations (2015) *Concluding observations on the initial report of the European Union*, CRPD/C/EU/CO/1 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1&Lang=en)

<sup>34</sup> EMPL\_PV(2015)0305\_1, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-551.996%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

people with disabilities and ultimately better mainstream disability throughout the work of the Parliament.

Members of the European Parliament interact also in a Disability Intergroup, first established in 1980 and re-launched in January 2015 under the co-presidency of Ádám Kósa (EPP, Hungary), Richard Howitt (S&D, UK), Helga Stevens (ECR, Belgium) and Pablo Echenique-Robba (GUE/NGL, Spain). This cross-cutting forum of more than one hundred Members from eight political groups reflects the broad consensus in support of disability rights. It also maintains regular dialogue with the European Disability Forum as the voice of organizations representing people with disabilities to the EU institutions. The Intergroup holds no formal status in the EU's CRPD Framework but it does provide a significant parliamentary forum focused on disability issues at the EU level.

The EU's designation of Parliament in the Framework for Article 33.2 CRPD is unusual when compared to national mechanisms in the Member States (see Chapter 4). The protection role is usually designated to a national human rights institution or ombudsman, although these may be appointed by Parliaments. The unique situation of the EU, as a regional integration organization without a comparable NHRI, was highlighted in the previous chapter. Within its CRPD framework PETI is one of several bodies with a protection role.

The Paris Principles refer to 'parliaments' when listing those actors whose representation must be guaranteed through the nomination process. It is relevant to note that the function 'to protect' is optional under the Paris Principles in contrast to Article 33 (2) CRPD in which it is clearly mandated.<sup>35</sup> The protection function is therefore not always covered by existing NHRIs. It can also be argued that parliaments have a certain level of independence towards government, and may therefore participate in monitoring processes (usually by promotion and monitoring, less often by protection). The fact that PETI is part of the European Network of Ombudsman also argues in favour of a special status in the European Union's 'domestic' human rights structures.

## 2.2 The protection role of the PETI Committee

In the Commission's proposal to establish an EU CRPD Framework the protection role was associated with 'compliance' – compliance by the Member States when implementing EU law and compliance by the EU institutions themselves. Within this Framework:

*The European Parliament's Petitions Committee (PETI) also contributes to the protection against Member States breaches of the Convention when implementing EU law as it can hear all petitions from any EU citizen on matters that come within the Union's field of activity and directly affect them (Art. 227 TFEU). The Committee is independent from the Member States and the Commission when carrying out this task.<sup>36</sup>*

The Framework web page elaborates this protection role with an emphasis on 'complaints' concerning EU law, and a prominent link is provided to the petitions portal. Hence:

*Petitions to the European Parliament are a valuable means for citizens to obtain a formal hearing by the EU institutions, establishing a direct link between them and their elected representatives. They also bring to the*

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<sup>35</sup> Gauthier de Beco & Rachel Murray, *A Commentary on the Paris Principles on National Human Rights Institutions*, Cambridge: Cambridge University Press (2015) 48 and 103.

<sup>36</sup> Note on the set-up of the EU level of the framework required by Art. 33.2 of the UN Convention on the Rights of Persons with Disabilities, (p. 3) <http://ec.europa.eu/social/BlobServlet?docId=14154&langId=en>

*Parliament's attention infringements or incorrect implementation of EU legislation.*<sup>37</sup>

So, within the EU's CRPD Framework, PETI performs a specific role on behalf of the Parliament in its 'protection' of rights, as foreseen in Article 33.2 CRPD. Protection here is understood to refer to infringements of CRPD rights in the Member States, insofar as they implement EU law, and broadly in terms of compliance by the EU institutions, in any of their functions. In this role PETI's mandate allows it to pursue a number of actions, to:

- hear petitions from any EU citizen, resident or legal entity
- hear petitions concerning EU legislation and policies
- table questions to the Council and the Commission
- issue reports
- make resolutions
- seek non-judicial remedies
- inform other competent parliamentary committees
- report on the petitions it receives
- issue newsletters
- mainstream disability in its own work

PETI has no mandate to mediate between the national CRPD protection mechanisms of the EU Member States and the UN's CRPD Committee (i.e. because the national mechanisms report directly to the UN, not via the EU). However, it may seek to address issues that are unresolved at the national level before they reach the UN level, if they fall within its EU competence. It is worth noting here that the UN Committee may not consider an individual complaint that is 'under consideration by another international or regional body procedure' (e.g. in a case pending before a European Court). It is not entirely clear whether admission of a petition by PETI would make the matter ineligible for an individual communication to the UN before it was heard but this seems a likely interpretation.

### 2.2.1 How the petitions process works

The right to petition the EP, and the process, is detailed in the Parliamentary Rules of Procedure (Title IX, Rules 215-218).<sup>38</sup> Petitions may be submitted by any EU citizen, any resident of an EU Member State or any organisation based in a Member State. In contrast to the European Citizens' Initiative, which currently requires one million signatures from a quarter of EU Member States, the right to petition permits matters of individual complaint. Petitions may be submitted in any official language of the EU.

PETI receives more than 2,000 petitions per year. They are registered in the order in which they are received and each is assessed for admissibility (i.e. Under Article 227 TFEU a petition should relate to 'a matter which comes within the Union's fields of activity and which affects him, her or it directly'). This judgement is not always straight forward and may require an assessment or opinion of EU competence.

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<sup>37</sup> EU Framework for the UN Convention on the Rights of Persons with Disabilities – Protection,

<sup>38</sup> <http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=TOC>

Other citizens may add their signatures in support of a petition published online but before a petition can be added to the database, or appear online, an agreed summary must be produced. These preparatory stages present a substantial workload and require diverse linguistic resources, as do subsequent substantiation, investigation or follow-up activities (e.g. liaising with petitioners or national bodies). PETI is required to inform Parliament about the petitions it admits and the actions it takes. It must also publish, with the petitioner's consent, its opinions and decisions. Its administrative team was recently increased but faces significant challenges and delays in process (the PETI Committee has a Secretariat of around 20 officials).

Admissible petitions are considered at monthly Committee meetings or via written procedures, during which the Committee may exercise its initiative to report, propose a motion for Parliamentary Resolution, request opinions from other Committees, make fact-finding visits, or forward recommendations to relevant parties for action. It may reply directly to the petitioner, for example to inform them about relevant legislation, contact national authorities in the Member States or request the Commission to investigate. In general, the Committee seeks non-judicial remedies. It is not empowered to overrule competent legal authorities and it is often reliant in practice on the responsiveness of other Committees and bodies to its requests and recommendations.

**Figure 3: Stages in the petition process**



The petitions received by PETI on disability issues, their admissibility and the actions taken, are reviewed in Chapter 3.

### 2.2.2 Interaction with the roles of other bodies

The membership of the EU's CRPD Framework was outlined earlier and highlighted the complementarity of PETI's protection role with that of the European Ombudsman, the Commission and EDF. The discussion so far has also referred to other Committees of the European Parliament, to NHRIs and Ombudsmen in the Member States, to the European Courts and FRA, and to UN bodies within the global human rights system.

The European Ombudsman receives complaints that are concerned with disability issues relating to the administration of the EU institutions. These have included, for example, complaints about:

- failure of the European Schools to cater for the special educational needs (2005)<sup>39</sup>
- lack of parking spaces for disabled people near Commission and Council buildings (2005)<sup>40</sup>
- an own initiative enquiry into the integration of people with disabilities by the European Commission (2007)<sup>41</sup>
- the wheelchair accessibility of a Commission building (2009)

<sup>39</sup> <http://www.ombudsman.europa.eu/cases/summary.faces/en/48970/html.bookmark>

<sup>40</sup> <http://www.ombudsman.europa.eu/cases/summary.faces/en/48973/html.bookmark>

<sup>41</sup> <http://www.ombudsman.europa.eu/cases/summary.faces/en/3611/html.bookmark>



- accessibility to blind people of a European Personnel Selection Office competition for translators (2012)<sup>42</sup>

Along with the European Ombudsman, PETI is member of the European Network of Ombudsmen, which includes nearly one hundred national or regional offices in 36 countries (EU Member States, Candidate and Associated countries). The network functions as a coordination body and it is used directly by the European Ombudsman to coordinate responses to complaints beyond its mandate. It also serves as a forum for dissemination of promising practice. There is scope within this network to raise awareness of PETI's role and to share experience with national offices engaged in CRPD protection roles.

The European Commission also receives many complaints and enquiries concerning disability issues from citizens (including from Member of the European Parliament on behalf of their constituents). PETI may refer directly to the Commission for its opinion on the petitions it receives (as illustrated in the next chapter). It may, after hearing a petition within its mandate, request the Commission to instigate an enquiry (which could, in principle, result in infringement procedure against a Member State). However, the response time for such requests may take several months.

PETI can request opinions from other EP Committees on matters that fall within their remit but there are some similar response challenges in this process too when dealing with busy legislative Committees. The involvement of EMPL and LIBE in the EU's CRPD Framework, the establishment of a new cross-cutting Committee structure, and the relaunch of the Disability Intergroup of MEPs may strengthen the opportunities for disability mainstreaming and inter-Committee responsiveness. PETI contributions on disability were included in the 2010 and 2013 *Citizenship Reports*, and in opinion to the Kosa report on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020.<sup>43</sup>

There have been calls, notably from EDF, to strengthen the protection mandate of the EU's CRPD Framework by granting citizens and civil society organisations direct access to the Court of Justice of the European Union (CJEU) for the remedy of CRPD infringements that fall within its competence. The CJEU has heard a number of cases relevant to disability rights and the application of EU law, mainly referred as disputes from the national courts in Member States. Certainly the CJEU should now refer to the CRPD in interpreting cases of discrimination on the grounds of disability, and in interpreting relevant EU law.<sup>44</sup>

Civil society actors have a key role to play in protection mechanisms, especially in ensuring their independence and responsiveness to citizen complaints. Within the EU the most notable actors are EDF and its national assemblies in the Member States. As noted in Chapters 1 and 2 the active involvement of representative organisations of people with disabilities is viewed as an essential component of CRPD implementation, and of the EU's CRPD Framework. Such organisations both receive and initiate rights-based claims from, or on behalf of, citizens. Establishing an effective dialogue and interaction with them is essential to the protection role and they should be included.

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<sup>42</sup> <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/49161/html.bookmark>

<sup>43</sup> A7-0263/2011

<sup>44</sup> e.g. as in the Joined Cases C-335/11 and C-337/11 Ring and Skouboe Werge <http://curia.europa.eu/jcms/upload/docs/application/pdf/2013-04/cp130042en.pdf>

### 3. ADDRESSING DISABILITY ISSUES IN PETITIONS

#### KEY FINDINGS

- PETI receives **thousands of petitions** on diverse topics. Disability issues form a small proportion of these but they are of **high significance** under EU and international law. Both the UN and PETI have recently drawn greater attention to disability rights **compliance issues in the EU**.
- Disability issues have **strong public support** and speak to a **large public constituency** but protection from **non-discrimination** under EU law is uneven across different policy areas, while CRPD rights need to be protected in a **more comprehensive scope**.
- Examples of **relevant petitions** illustrate the complex relationship between global, European, national and local governance. They also illustrate how the EU's participation in the CRPD may **expand the scope of the EP's concern** with disability issues in areas of shared competence.
- There are also **process and resource issues** for PETI, which may become intensified in the field of disability issues.

Petitions relating to disability issues include those by disabled people, submitted on their behalf, or in their interest, for example by NGOs working in the field. Given the volume and diversity of petitions received by PETI, disability petitions compete for visibility and attention with many other issues (including those of high political priority, such as environmental issues). A disability keyword was added to the petitions database in 2012-2013. This provides a basis for the present analysis, for the thematic consideration of disability petitions by the Committee, and for monitoring in its annual reports. A PETI debate dedicated to petitions on disability issues was held on 17 September 2015 and is available as a webcast.<sup>45</sup> A public hearing on the issue was held on 15 October 2015, including the launch and presentation of this report.

The Committee's annual reports have included sections on disability petitions (the 2014 Report was awaiting Committee decision at the time of writing). The *Report on the activities of the Committee on Petitions 2013*<sup>46</sup> (the final year of the 7th Parliament) congratulated PETI for its work on disability issues, noting the 'significant increase' in petitions for the year in question and expressing some concerns about the potential, at that time, for 'misinterpretation' of roles in the CRPD Framework. In this chapter we seek to clarify PETI's role, as outlined in the previous chapter, by examining the petitions it received concerning disability issues and how it acted.

#### 3.1 Petitions considered as disability issues

Details of 88 petitions relevant to disability were extracted from the PETI database for the three-year period 2012 (19), 2013 (37) and 2014 (32). A summary of these petitions is included in Annex. These petitions were reviewed in terms their origin, subject matter and

<sup>45</sup> <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20150917-1500-COMMITTEE-PETI>

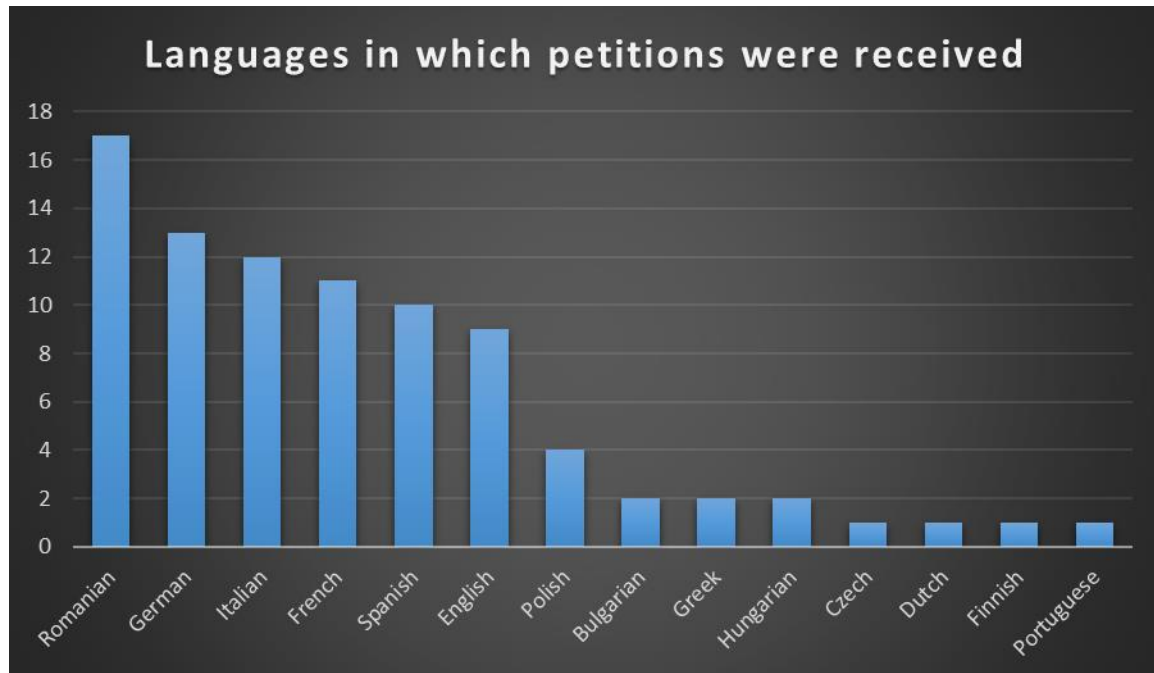
<sup>46</sup> A7-0131/2014, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2014-0131+0+DOC+PDF+V0//EN>

the actions taken by PETI, as well any advice or responses received by the Committee from the Commission. They were analysed in terms of their relevance to articles of the CRPD and their significance for the EU Framework protection role (discussed in Chapters 1 and 2).

Background searches were made of Committee papers and minutes online, which include published details of observations and committee decisions on each petition also contained in the database. For context, in the online papers for the current Parliament 39 mentioned disability/disabilities out of around 600, and 12 mentioned the CRPD.<sup>47</sup> Of the petitions publicly 'available to supporters' at the time of analysis (August 2015), 26 of these made reference to disability, out of 952 (approximately 2%).<sup>48</sup> A further 61 petitions referring to disability were previously 'closed' and 43 were identified as 'not admissible' (noting that the online portal presented details of petitions only from 2013 and 2014).

As noted in Chapter 2, petitions may be submitted in any official language of the EU. The distribution of languages in which the sample of disability petitions were submitted is shown below.

**Figure 4: Disability petitions 2012-2014, by language of submission**



**Source: information from PETI database**

The following table shows the number of times each country, and the EU, were implicated in the sample of petitions extracted from the database. Some petitions are counted twice in this illustration where they concern Member States jointly (Norway is also referred to as a non-EU state where issues arose concerning mobility in the EEA).

<sup>47</sup> <http://www.europarl.europa.eu/committees/en/peti/search-in-documents.html#sidesForm>

<sup>48</sup> <http://www.petiport.europarl.europa.eu/petitions/en/petition/search-by-keywords?keyWords=disab&year=&statuses=AVAILABLE& statuses=1& countries=1&searchRequest=true>

**Table 3: Disability petitions 2012-2014, by country concerned**

Country	Frequency	Observations
European Union	12	1 jointly with IT
Austria	1	
Belgium	6	6 jointly with FR
Bulgaria	4	1 jointly with RO and SK
Croatia	0	
Czech Republic	0	
Denmark	0	
Estonia	0	
Finland	1	
France	11	6 jointly with BE
Germany	6	
Greece	3	
Hungary	2	
Ireland	0	
Italy	12	1 jointly with the EU
Latvia	0	
Lithuania	0	
Luxembourg	0	
Poland	5	
Portugal	1	
Romania	11	1 jointly with BG and SK
Slovakia	1	1 jointly with BG and RO
Slovenia	0	
Spain	9	
Sweden	0	
United Kingdom	5	2 jointly with Norway

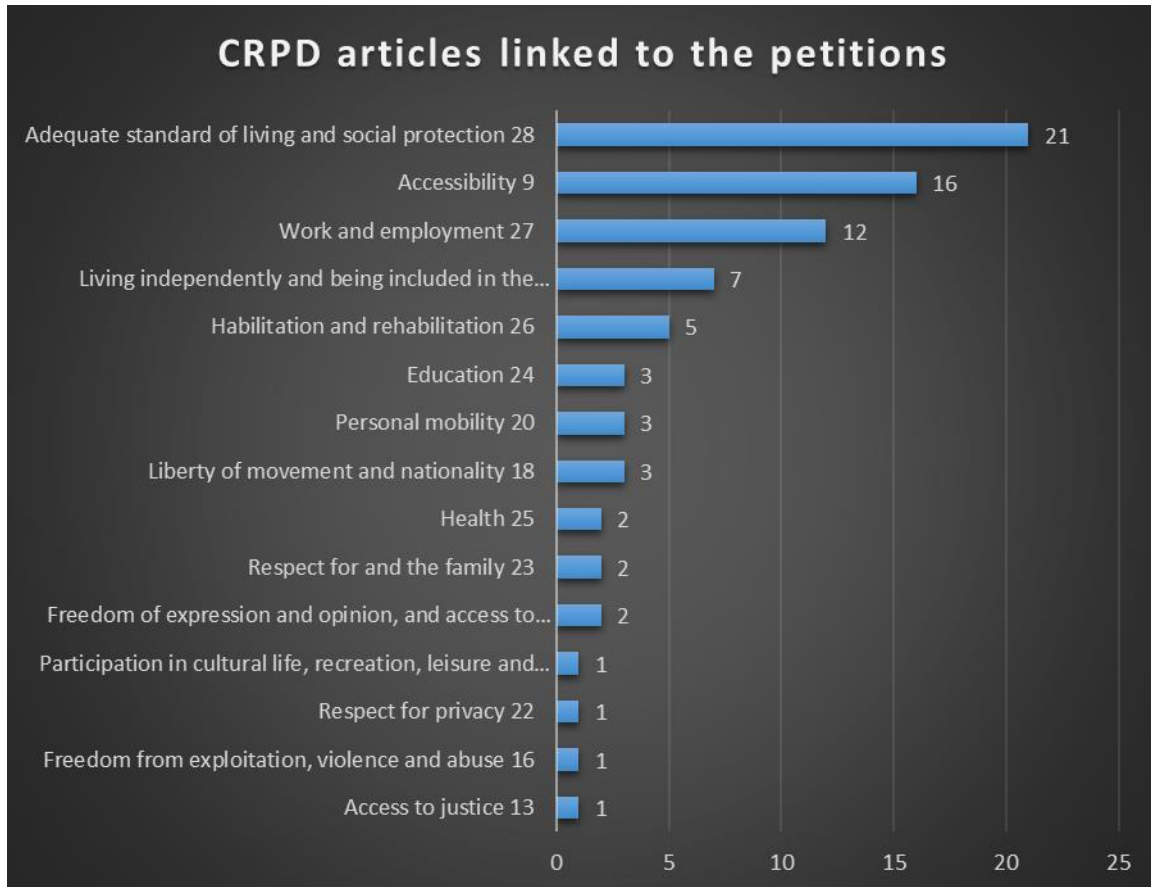
**Source:** adapted from information in the PETI database

The petitions covered a wide range of issues relevant to at least 15 of the substantive CRPD articles identified in Table 1, as well as articles relating to the rights of women and children with disabilities or the principle of non-discrimination in Article 5 CRPD. Some of the most important CRPD articles were not addressed explicitly in any petition (such as the Right to life, Equal recognition before the law, Freedom from torture or cruel, inhuman or degrading treatment or punishment, or the right to Participation in political and public life).

The following table illustrates the frequency with which certain CRPD articles were invoked by the petitions analysed. This reveals the large proportion of petitions that were concerned with social protection and standard of living, employment opportunities or community living (where the balance of shared competences lie with the Member States in their social policies) or with accessibility issues. Where a petition raised two or more main issues this is reflected in the frequencies. The subsequent analysis then proceeds to examine examples from this sample, which deals in depth with some of the most salient disability issues raised.<sup>49</sup>

<sup>49</sup> The names of the citizens that have tabled the petitions have been removed to ensure the protection of their personal data (with the exception of the petition "1 million 4 disability" that was tabled by an MEP), while the

**Figure 5: Frequency of CRPD rights in the sample of petitions**



**Source:** analysis of petitions (see Annex 1)

### 3.1.1 Example – the ‘1 million 4 disability’ petition

Public support for disability petitions, as for other topics, varies considerably but can be highlighted by significant cases. The most prominent example is **Petition** 0360/2009 on the rights of people with disabilities, submitted by Kathy Sinnott (an Irish Member of the European Parliament on behalf of EDF and supported by 1,364,984 signatures. Precedence was given to this petition in the September 2015 debate, described by the chair (Cecilia Wikström) as ‘a fantastic achievement’.

The petition arose from the ‘1 million 4 disability’ campaign, launched by disabled people’s organisations in 2007. It called simply for:

*...a European Union in which disabled people’s rights are protected through effective legislation, combating all forms of discrimination and guaranteeing the full inclusion of 50 million citizens with disabilities in the European society.<sup>50</sup>*

This campaign targeted, in particular, the need for an EU Directive concerning non-discrimination on the ground of disability beyond the narrow field of employment, which was officially proposed by the Commission in 2008. The petition was admitted in June

number of the petition, the nationality, the title and the subject of the petition are kept.

<sup>50</sup> <http://www.1million4disability.eu/>

2009, the year prior to the EU's conclusion of the CRPD. The Commission's response received on 20 November 2009 affirmed that its proposal had taken into full consideration the petition in the drafting of the Directive, which was 'in line with the UN Convention on the Rights of Persons with Disabilities' and that it was doing 'its utmost' to achieve progress on the file.<sup>51</sup>

PETI examined the petition on 26 April 2010, called for the speeding up of the consideration of the draft directive by the Council and sent it for information to the EP rapporteur of the LIBE committee on the matter, so that he could take it into consideration in his report.

Since then, the 2008 Commission proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (the four grounds not already covered by EU law)<sup>53</sup> has been blocked in the Council for 7 years now, due to the requirement of unanimity and the veto placed by some Member States.<sup>54</sup> The Parliament approved this proposal in April 2009.<sup>56</sup> While the proposed Directive would prohibit direct discrimination, indirect discrimination, harassment and victimisation on all four grounds its provision on disability also defines 'accessibility' and 'reasonable accommodation' as contributory to non-discrimination.

Returning to the petition in the 2015 PETI debate, EDF called further for the development of EU-wide legislation on accessibility and for a comprehensive EU strategy to implement the CRPD. These calls have been echoed in the UN's concluding observations to the EU – noting that 'a strategy on the implementation of the Convention across all its institutions is missing' and that 'a European Accessibility Act has not yet been adopted' (this issue is referred to in a subsequent petition example).<sup>57</sup>

The PETI chair proposed to keep the original petition open and to send a letter to the Luxembourg EU Presidency defining as 'unacceptable' the actions of those Member States blocking Council consensus on the horizontal non-discrimination Directive and making reference to the UN Committee's recommendation.

This example of the '1 million 4 disability' petition illustrates some of the key features of disability issues presented to PETI in its CRPD protection role. First, there is a very large public constituency for disability issues and potential for a very high level of citizen engagement with petitions concerning CRPD rights. Second, PETI has an important role in highlighting such issues when brought to their attention, with potential to engage significant stakeholders in thematic debates and public hearings on disability issues. Third,

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<sup>51</sup> [http://www.europarl.europa.eu/meetdocs/2014\\_2019/documents/peti/cm/797/797238/797238en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/peti/cm/797/797238/797238en.pdf)

<sup>53</sup> COM/2008/0426 final

<sup>54</sup> See for instance the Council document 9009/15 stating that Germany 'has maintained a general reservation and expressed various concerns... has questioned the existence of an adequate legal basis, and taken the view that the

proposal violated the subsidiarity principle... has stressed, moreover, that a sufficient impact assessment and cost-benefit analysis had not been carried out... has also emphasised the burden that the proposed measures would impose on businesses (especially SMEs) and underlined the lack of legal certainty as a critical issue...has taken the view that the issues covered in the proposal could be better regulated at the national level and therefore regarded the proposal as infringing on national competence'. Other Member States also raised issues, such as the Netherlands and Ireland. See <http://data.consilium.europa.eu/doc/document/ST-9009-2015-INIT/en/pdf>

<sup>56</sup> P6\_TA(2009)0211

<sup>57</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1)

there is scope to accelerate and intensify actions on such petitions while they remain 'open'. These general themes can be illustrated with reference to other petition examples.

### 3.1.2 Other petitions highlighted in the September 2015 debate

The PETI session to exchange views on the rights of people with disabilities considered a batch of further petitions, which illustrate the range of relevant concerns.

**Petition:** 0924/2011 (British), on behalf of European Blind Union (EBU)/Royal National Institute of Blind People (RNIB), on access by blind people to books and other printed products.

This petition highlighted the World Intellectual Property Organisation initiative to promote accessibility through legislative measures (the so-called Marrakesh Treaty).<sup>58</sup> It was based on a long-standing campaign from civil society for the Commission and Member States to ratify this international agreement, which encountered resistance in some Member States.

PETI examined the petition on 3 October 2011, after the coordinators' decision to declare it admissible under the urgency procedure, and decided to adopt an Oral Question to the Council and Commission followed up by a resolution, which was adopted by Parliament in 2012.<sup>59</sup> The resolution called the Council and the Commission to 'support a binding WIPO treaty with regard to copyright on books and printed products for blind and visually impaired people'.

On 12 July 2012 PETI examined the petition again and invited the EP President Martin Schulz to write to the Council and the Commission in order to speed up the procedure, while on 24 April 2013 it proposed to submit a further Oral Question to Plenary<sup>60</sup> and to request an urgent meeting with the Commissioner of the Internal Market and Services Michel Barnier.

The Treaty was finally signed by the EU and Member States in 2014, still the ratification of it by the EU proved problematic, as stated during the 2015 PETI debate, when it was noted that some Member States continued to block EU ratification on a political as well as technical level, which the chair described as 'embarrassing for Europe'<sup>61</sup>.

PETI consequently decided to write to the Council (and to all EU Member State Permanent Representations) to request that the Council proceeds without any further delay with the EU ratification of the Marrakesh Treaty, reminding the Member States of their legal obligations under the UN Convention on the Rights of Disabled People. Letters were also sent to the Commission. The Chair asked to know officially the identity of the opposing Member States, as well as the timeframe for the delivery of the CJEU opinion.

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<sup>58</sup> Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities, adopted in 2013.

<sup>59</sup> P7\_TA(2012)0059

<sup>60</sup> An Oral Question was tabled to plenary by the JURI committee on 3 March 2015, which led to a debate in plenary, see <http://www.europarl.europa.eu/sides/getDoc.do?type=OQ&reference=O-2015-000021&language=EN>

<sup>61</sup> Germany, Italy and the UK are reportedly blocking the ratification by the EU, while the Commission has decided to ask for a CJEU opinion - while Argentina, El Salvador, India, Mali, Mexico, Paraguay and Uruguay have already ratified the Convention.

**Petition:** 0312/2013 (Bulgarian), on behalf of the association 'Center for independent living', with 19 signatures, on the inaccessibility of public transport in Bulgaria for people with disabilities and persons with reduced mobility

This petition highlights the issue of accessibility as key to the exercise of rights. It focused on the inaccessibility of public transport by bus and train, where both EU legislation and the CRPD applies - namely Regulation (EC) No 1371/2007 on rail passengers' rights, Directive 2001/85/EC relating to passenger vehicles, and Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport. The Commission's advice highlighted that a state's CRPD obligations are limited to 'measures to the maximum of its available resources' but contacted the national authorities to arrange dialogue with civil society organisations and responses from transport providers.<sup>62</sup> The Commission confirmed that EU co-funding and public procurement may not be used to develop inaccessible transport systems. PETI decided to consider whether to close the petition after its Hearing on Disabilities of 15 October 2015.

**Petition:** 0543/2013 (Finnish), on Developmental disabilities and social welfare in Finland

The petitioner challenged national welfare legislation and legislative proposals as restrictive and asked the EU to evaluate these restrictions from a human rights impact, notably in terms of living conditions. The petition was admitted but the petitioner was advised that 'the Committee is not competent to conduct such an evaluation' and clarification was sought from the national authorities 'on the conformity of the proposed legislation with the Charter of Fundamental rights'. PETI obtained a written response from the Finnish Ministry committing to a resolution within one year, to be forwarded to the petitioner, and consequently declared the petition closed.

**Petition:** 0098/2015 (Italian), with 31,866 signatures, su sostegno all'assistenza familiare (family caregiver) per i disabili in Italia

This 2015 petition was not included in the sample for this report but was presented at the PETI debate on behalf of families, rather than people with disabilities themselves, following a decision to apply the "urgency procedure" and schedule it on the 2015 September agenda together with petitions on disability. It drew attention to the isolation and lack of support experienced by family members who support relatives in order to avoid them being admitted to residential institutions. The CRPD Preamble acknowledges that 'family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities' and prioritises care in 'a family setting' although it does not protect non-disabled family members directly. The Commission also views support for informal carers as a matter for national authorities, in the absence of EU coordination of social security and long-term care systems (although recommendations are possible within the European Semester process). PETI decided to send the petition to the Committee dealing with social affairs, to write to the Italian authorities to encourage the exchange of best

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<sup>62</sup> Commission reply, received on 30 July 2014 ; Commission reply (REV), received on 16 December 2014.



practices to support and empower family caregivers and await the Commission written answer.

The examples presented so far illustrate both the range of disability issues coming forward to the PETI Committee and the range of petitioners from which they come. They illustrate too the very complex connections between CRPD rights protection, UN governance, EU competence and non-judicial remedies.

## 3.2 Relevance to CRPD rights and EU competence

To examine these connections in more detail we focus on four examples from the sample of petitions as they relate to the protection of rights under specific CRPD articles. Indicative links between all of the petitions reviewed and CRPD article numbers are included in the Annex for cross-reference or further study. We focus here on examples of accessibility, independent living, employment and social protection (articles 9, 19, 27 and 28 CRPD).

### 3.2.1 Example – accessibility (Article 9 CRPD)

**Petition:** 2554/2013 (Spanish), on access of disabled persons to railway services in Spain

The petitioner complained about a lack of accessibility from a Spanish railway operator and the lack of an effective policy for passengers with limited mobility, specifically access from the platform to the train. This, it was claimed, was inconsistent with the European Disability Strategy commitment to accessibility.

This petition was closed on the basis of the Commission's written response alone, which referred to weakness in its generality where specific substantiation would strengthen the complaint. It noted that Spain's national ratification of the CRPD placed it under an obligation to develop accessibility in transport systems (see below). It highlighted the relevance of Regulation (EC) No 1371/2007 on rail passengers' rights and obligations, Commission Decision 2008/64/EC concerning the technical specification of interoperability relating to persons with reduced mobility in the trans-European conventional and high-speed rail system, and Commission Regulation 1300/2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility. It defined their implementation as a national responsibility and noted that Spain has excluded certain domestic rail transport services (urban, suburban and regional services) from certain articles of Regulation (EC) No 1371/2007 on rail passengers' rights and obligations, notably those relating to the transport of passengers with disabilities or reduced mobility. It then underlined that according to a case study on Spain,<sup>63</sup> no significant problems could be identified, notably as regards requirements in terms of assistance to PRM passengers and that national law or the customer policy of the main national rail operator are in many respects more generous to passengers than required by the Regulation. The lack of clear and precise information in the petition did not allow the Commission to launch an investigation of the situation in Spain. The Commission consequently suggested to direct complaints to the rail operator and/or to the competent national enforcement body first<sup>64</sup>. The petition was also sent to the EDF for information.

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<sup>63</sup> <http://ec.europa.eu/transport/themes/passengers/studies/doc/2012-07-evaluation-regulation-1371-2007.pdf>

<sup>64</sup> [http://ec.europa.eu/transport/themes/passengers/rail/doc/2007\\_1371\\_national\\_enforcement\\_bodies.pdf](http://ec.europa.eu/transport/themes/passengers/rail/doc/2007_1371_national_enforcement_bodies.pdf)

This example illustrates an important challenge in the submission and administration of petitions. Firm substantiation is needed, particularly given the large numbers of complaints received. However, this example does raise an important concern for CRPD rights protection and one that features as a priority in the European Disability Strategy, namely accessibility. Related accessibility concerns were raised in five other petitions in the sample:

- **Petition** 1636/2013 (German) on the accessibility of a lock crossing; the petition was declared admissible by PETI and closed after informing the petitioner that the EP cannot issue instructions to national, regional or local authorities and suggesting to address the petition to the Hesse petitions committee;
- **Petition** 0975/2013 (German), on the disadvantage for visually-impaired passengers using public transport outside Germany; the petition was declared admissible and closed by PETI after the Commission stated that it is preparing an initiative for a mutually recognised EU disability card to ensure cross border recognition of the disability status of individual persons and the entitlements attached thereto;
- **Petition** 0388/2013 (Portuguese), on the right of persons with disabilities to use public sidewalks in Portugal; the petition was declared admissible, a letter was sent to the Portuguese Secretary of State for Internal Administration, while the Commission underlined that the Union has no competence in matters concerning illegal parking on pedestrian walkways, sidewalks and pedestrian crossings. PETI then closed the petition;
- **Petition** 0312/2013 (Bulgarian) on the inaccessibility of public transport in Bulgaria (see above)
- **Petition** 0686/2012 (Spanish), on the accessibility of the public bus transport in the municipality of Madrid; the petition was declared admissible and closed, after the Commission underlined that rules on priority access to urban buses fall under the responsibility of Member States - even if it is clear for the Commission services that Directive 2001/85/EC on the type-approvals of buses and coaches gives the priority to wheelchair users for the access to the space dedicated to them in urban buses. The Commission also stated that discussions are underway with Member States to provide for an additional dedicated place for prams.

These types of issues are all directly relevant to Article 9 CRPD on Accessibility, in those areas where EU law also exists.

#### **Article 9 - Accessibility**

*1. To enable persons with disabilities to live independently and participate fully in all aspects of life, 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, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*

*a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*

*b) Information, communications and other services, including electronic services and emergency services.*

Article 9 refers to the obligation of parties to develop 'minimum standards and guidelines' and 'training for stakeholders', as well as providing suitable signage and assistance (such as interpreters) in public buildings and facilities, and accessible information and communications technologies. The UN CRPD Committee has further elaborated the concept of accessibility rights in a detailed General Comment.<sup>65</sup> It explains that accessibility is a core principal of the CRPD and a precondition for the exercise of other CRPD rights.

Parties to the CRPD would be expected to have in place clear strategies, plans and standards for accessibility, and to enforce them. For example, in its concluding observations on CRPD implementation in Belgium, the UN Committee expressed concern about 'poor accessibility for persons with disabilities [and] the absence of a national plan with clear targets' and recommended that Belgium 'establish a legal framework with specific, binding benchmarks for accessibility, including in respect of buildings, roads and transport, services, and e-accessibility'.<sup>66</sup>

Accessibility was the first thematic pillar of the European Disability Strategy 2010-2020 and the UN Committee recommended that the EU fulfil its Strategy objective to establish accessibility legislation at the European level.<sup>67</sup>

*The Committee recommends that the European Union take efficient measures for prompt adoption of an amended European Accessibility Act that is aligned to the Convention, as elaborated in the Committee's General comment No. 2 (2014) on accessibility, including effective and accessible enforcement and complaint mechanisms.*<sup>68</sup>

These wider issues were aired in the PETI debate on disability petitions in September 2015 (notably in relation to petition 0924/2011, outlined earlier), in which the Committee expressed its concern and called for legislative progress within the year.

### 3.2.2 Example – living independently (article 19 CRPD)

**Petition:** 1459/2012 by Judith Klein (Hungarian), on behalf of Open Society Foundations, supported by 12 associations, on misuse of Structural Funds in relation to people with disabilities in some central and eastern European countries:

The petitioner drew attention to the estimated 1.2 million people with disabilities forced to live in long-term residential institutions in Europe, sometimes in inhuman conditions. The petition claimed that at least four Member States had invested EU funds in residential institutions, contrary to the Charter of Fundamental Rights, the CRPD, and EU disability policies. The petitioner called for stricter conditions and compliance measures for the use of the structural funds.

The petition was declared admissible and information was requested from the Commission, in particular on indicators of the use of structural funds for transition from institutional to community based care in the Member States. The petition was forwarded to the Committee on Budgetary Control (CONT), for information on the use or abuse of relevant structural

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<sup>65</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2)

<sup>66</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBEL%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBEL%2fCO%2f1)

<sup>67</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1)

<sup>68</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1)

funds in the Member States mentioned in the petition, and to the Committee on Regional Development (REGI) for information on transparency in the use of funds and asking for ex-ante conditionalities in the revision of the structural instruments regulation.

The Commission reply, in 2013, suggested that no specific cases of abuse had been linked to EU co-financing in the petition but invited the petitioner to identify any evidence of them to 'the relevant managing authority' or to the Commission. It indicated that the 'choice of individual projects is the responsibility of the relevant programme managing authority' but signalled 'legislative proposals to channel future investments from Structural Funds towards supporting the deinstitutionalisation process'.<sup>69</sup>

The new common rules for the structural funds covering the 2014-2020 programming period entered into force at the end of 2013 and effectively included the requirement of ex-ante conditionality, thanks to the common work of the parliamentary committees involved. The Partnership Agreements negotiated between the Commission and national authorities should include also investments that are aimed at addressing disability issues and CRPD implementation. The level of fulfilment and implementation of the ex-ante conditionalities is currently under review by the EP<sup>70</sup> and might be examined again by PETI, as the petition is still open.

These issues are relevant to Article 19 CRPD and they have been raised by a number of different actors and human rights monitors in other forums, as well as in petitions to PETI (such as the example of petition 0312/2013 discussed at the September 2015 debate).

**Article 19 - Living independently and being included in the community**

*States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community...*

Article 19 defines that any person has right to 'choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement'. It emphasises the need for access to community support services, including personal assistance to support community inclusion.

It has become clear that the UN Committee interprets all structural investments in congregative institutional care for people with disabilities as a human rights violation of article 19 CRPD. For example, in its concluding observations to the Czech Republic, the UN Committee expressed concern that 'the State party continues to invest more resources in institutional settings than in support services that would enable persons with disabilities to live independently in their respective local communities'. It recommended the need to 'step up the process of deinstitutionalization and to allocate sufficient resources for the development of support services in local communities'.<sup>71</sup> For many Member States, such

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<sup>69</sup> Commission reply, received on 31 May 2013

<sup>70</sup> see Jürgen Pucher, Isabel Naylor, Herta Tödting-Schönhofer of Metis GmbH (2015), *Review of the adopted Partnership Agreements*, Study for the European Parliament Committee of Regional Development, PE 563.393, [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563393/IPOL\\_STU\(2015\)563393\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563393/IPOL_STU(2015)563393_EN.pdf)

<sup>71</sup>[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fCZE%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fCZE%2fCO%2f1)

transitional resources are dependent on co-financing from European investment funds. The EU is responsible for CRPD rights protection in the use of its funds.

In its concluding observations on the EU's own CRPD implementation (in September 2015), and taking account of civil society representations, the UN Committee expressed concern that people 'still live in institutions rather than in local communities' and that EU funds 'continue being used for maintenance of residential institutions rather than for development of support services' in some Member States. Hence:

*The Committee recommends that the European Union develop an approach to guide and foster deinstitutionalisation, to strengthen the monitoring of the use of ESI Funds - to ensure they are being used strictly for the development of support services for persons with disabilities in local communities and not the re-development or expansion of institutions. It further recommends that the European Union suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached.*

There is clearly a role for PETI in protecting and seeking enforcement of this right at the EU level where petitioners identify such cases, whether or not the planning and organisation of long-term care systems lies within the responsibility of national authorities. Given the existence of specific EU law relating to European investment funds and public procurement this is, conceivably, an issue where Commission infringement proceedings could be invoked as consequence of a well-substantiated petition.

### 3.2.3 Example – employment (article 27)

**Petition:** 1273/2010 (Italian), on the right of persons with disabilities to engage in gainful employment

In the case highlighted by this petition the Commission had given formal notice to Italy in 2006 of gaps in its transposition of Council Directive 2000/78/EC on equal treatment in employment and, in response, Italy had admitted some weaknesses. The Commission issued further opinion of its complaints in 2009 and brought a case to the European Court of Justice in 2010. The case sought a declaration that, by not requiring all employers to provide reasonable accommodation, the State had failed in its obligation to transpose Article 5 of the Directive.

A series of letters were sent by PETI to the Commission asking why it had taken so long for the case to be brought before the Court and to the Italian authorities urging them to fully transpose and implement the Directive.

The Court of Justice ruled in favour of this case in July 2013 (C-312-11) and made direct reference to the CRPD to establish the relevant concepts of disability and reasonable accommodation in EU law, interpreting the latter as an obligation to remove barriers to full participation in working life on an equal basis with other workers.<sup>72</sup> The petition was then closed, after calling the Commission and the Italian authorities to act rapidly to implement the CJEU judgment.

While this example did not fall within the sample time period for this research study (2012-2014) it is an important case for the protection role, and was referred to in PETI's response

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<sup>72</sup> See ECJ judgement on HK Danmark (C-335/11 and C-337/11)

to similar petitions in the sample: **Petition** 0756/2013 (Italian), on difficulties for people with disabilities in the labour market; **Petition** No 0818/2014 (Italian) on the difficulties faced by disabled people in Italy in finding employment, and **Petition** No 0792/2014 (Italian), on the plight of disabled persons in Naples. The individual **Petition** 0997/2012 (discussed at the September 2015 PETI debate) also invoked Council Directive 2000/78/EC.

Given the EU's competence for non-discrimination law in the field of employment (not yet extending to the other fields envisaged by the horizontal non-discrimination Directive proposal) this topic presents a clear example of PETI's ability to act in a CRPD protection role. Employment rights are protected specifically in Article 27 CRPD.

**Article 27 - Work and employment**

*1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation...*

Article 27 refers to a wide range of steps that need to be taken, including the prohibition of disability discrimination in 'all matters concerning all forms of employment', protecting 'just and favourable conditions of work' and 'labour and trade union rights', promoting equal opportunities in work and training, and ensuring 'reasonable accommodation' is provided in the workplace.<sup>73</sup> It is clear that the UN Committee views structural segregation of people with disabilities in employment in a similar light to segregated institutional care. For example, in its concluding observations to Germany the CRPD Committee expressed concern about 'segregation in the labour market' and 'The fact that segregated, sheltered workshops fail to prepare workers for or promote transition to the open labour market'.<sup>74</sup>

In its concluding observations to the EU, the UN Committee also focused its concern on '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'. Accordingly:

*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.*<sup>75</sup>

So, there is an expectation from the UN that the EU Framework has some competence and responsibility not only to protect non-discrimination rights arising from Directive 2000/78/EC but also in its capacity for the coordination and monitoring of Member States' employment policies (e.g. in the context of the European Semester). This raises questions of shared competence but, as we will see in the following example, there may be wider scope to consider the EU's CRPD protection role in relation to the outcomes of social policies than is often perceived.

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<sup>73</sup> <http://www.un.org/disabilities/default.asp?id=287>

<sup>74</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fDEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fDEU%2fCO%2f1)

<sup>75</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fEU%2fCO%2f1)

### 3.2.4 Example – social protection (Article 28 CRPD)

**Petition:** 0279/2012 (Hungarian), on the reform of the pension system for persons with disabilities in Hungary

The petitioner noted that a new law, reforming the national disability pension system, required a systematic re-evaluation of work capacity for all existing pensioners and likely reductions in benefit. He argued that the new law was adopted with the aim of withdrawing or reducing disability pensions abusively, according to political rather than medical criteria. The petition was admitted but the Commission advised PETI that the EU had limited competence:

*'...in the absence of harmonisation at Union level, it is for the legislation of each Member State to lay down the conditions under which social security benefits are granted, as well as the amount of such benefits and the period for which they are granted' .<sup>76</sup>*

The petition was declared admissible and information was requested from the Commission.

In 2014 the Commission confirmed again that this matter was not within their responsibility,<sup>77</sup> but noted that Hungary is party to the CRPD, which includes relevant rights, and identified the potential for individual communication to the UN Committee (outlined in Chapter 2). The petition was closed on the basis of the lack of competence of the EU in the matter.

A number of the petitions raised related concerns about the level, or administration, of social protection for people with disabilities in the Member States. These are clearly relevant to the rights guaranteed in CRPD Article 28.

#### **Article 28 - Adequate standard of living and social protection**

*1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.*

*2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right...*

With its focus on social and economic rights, Article 28, like Article 19 on the right to live independently and be included in the community, addresses the core of the CRPD (i.e. without access to adequate social and economic resources other rights cannot be fully realised). Article 28 refers to 'social protection programmes and poverty reduction programmes' as well as 'assistance from the State with disability-related expenses' and 'retirement benefits and programmes', access to 'affordable services, devices and other assistance for disability-related needs' and to 'public housing programmes', while Article 19

<sup>76</sup> Commission reply (REV), received on 29 September 2014

<sup>77</sup> according to Article 153(4) TFEU

refers to 'in-home, residential and other community support services, including personal assistance' schemes.<sup>78</sup>

There is growing evidence that a failure to ensure progressive improvement of living conditions for people with disabilities, relative to a state's available resources, may be regarded as a human rights violation under the CRPD. Changes to social protection policies that systematically impact on people with disabilities in a discriminatory way may be viewed in this way. For example, in the UN's 2015 examination of Croatia concern was expressed about the number of people living in poverty (notably among Roma and rural communities) but also about 'the use of a restrictive financial assets test, which has downgraded the disability benefit'. The Committee recommended that 'poverty reduction programmes be strengthened' in this respect.<sup>79</sup>

In its concluding observations to the EU, in September 2015, the UN Committee noted 'with deep concern the disproportionately adverse and retrogressive effect the austerity measures in the EU have on the adequate standard of living of persons with disabilities'. It recommended that the EU should:

*...take urgent measures, in cooperation with its Member States and representative organisations of persons with disabilities, to prevent further adverse and retrogressive effect of austerity measures on the adequate standard of living of persons with disabilities, including by the provision of a minimum social protection floor.*<sup>80</sup>

During the September 2015 debate on **Petition** 0098/2015 on family caregivers in Italy (see above), PETI Member Notis Marias argued that austerity measures and their impact in Member States are relevant to EU competence because the Economic and Financial Affairs Council (Ecofin) approves Member States' budgets. Indeed, in those countries operating in the Memorandum process, such as Greece or Italy, the Troika may be involved in discussion and approval of very detailed measures concerning, for example, pension rates or social service staffing levels. If austerity measures imposed upon a Member State via EU mechanisms do impact disproportionately on people with disabilities then it could be argued that any complaint of CRPD rights violation might also fall within the EU Framework's mandate for PETI.

This observation and the UN's recommendation suggest that members of the EU Framework, including PETI, might be obliged to act in protecting against a wider range of abuses of human rights that are brought to their attention in the Member States.

### 3.3 Issues arising from the analysis

Disability issues, including those relevant to the CRPD protection role, cover a wide terrain of policy. Disability is a major public issue that affects a very large constituency of EU citizens and organisations (and up to one quarter of the Parliament's electorate may be protected by the provisions of the CRPD). The analysis presented in this chapter draws on a sample of petitions extracted from the PETI database, providing a comprehensive three-year overview of its work in this area. From this sample a range of examples were

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<sup>78</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#28>

<sup>79</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fHRV%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fHRV%2fCO%2f1)

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[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1)



considered with an emphasis on issues given precedence for public hearing and issues most relevant to the EU's protection of CRPD rights. The selection of examples is illustrative of a much wider range of issues relevant to disability and to other CRPD articles but it draws out the complex and developing relationship of national, European and global rights governance.

In general, petitions relevant to the EU's protection of CRPD rights are being received and considered by PETI. Relevant petitions are being admitted but there is more that the committees could do to act upon them, independently and in the spirit of human rights monitoring envisaged in Article 33 CRPD.

The UN Committee as well as civil society has requested a greater independence of the EU CRPD framework from the Commission but PETI remains strongly reliant on Commission advice when considering relevant petitions. This advice tends to be conservative in its interpretation of EU competence or responsibilities, reflecting concerns for the principles of subsidiarity and proportionality. The committee, acting in its CRPD mandate for rights protection may wish to take a bolder and proactive view of its responsibilities and own-initiative under international law. Certainly there would be greater scope to exercise its independence in own-initiative reports and fact finding activity on potential rights abuses, in active co-operation with civil society at the EU level and in the Member States.

The analysis suggests that EU protection responsibilities extend beyond traditional perceptions of declared legal competence in this area (in other words, the fact that competences are shared in a certain area, does not allow the EU to dismiss petitions on the grounds that they fall mainly within national competence). The Commission/EU may reasonably take legislative action or launch an infringement proceeding or write letters to national authorities in the Member States on such issues.

Indeed, the UN CRPD Committee has already underlined the EU's responsibilities for co-ordination in employment, education and other areas of social policies, as well as its monitoring of EU investment funds, as they relate to outcomes for people with disabilities in the Member States (whether or not those states are also party to the CRPD and notwithstanding their responsible for domestic implementation). Members of PETI have also begun to engage with and develop these lines of thought in their debates.

Beyond the substantive debates and the specific discussion of PETI's role within the EU Framework (to which we return briefly in the final Chapter) the analysis also highlighted some questions of process and resource allocation that merit consideration.

### 3.3.1 Process issues

As outlined in Chapter 2 there are considerable pressures on the PETI administrative system, beginning at the first stage of petition submissions (and including language resources) but also in the complexity of liaison with diverse actors at European and national level. These have been addressed to some extent in the recent increase of Secretariat staffing but have resulted in significant delays in some cases.

This is compounded by the extent to which petitions dealing with significant legislative issues can be resolved, or 'closed' in a timely way. As an illustration: 3 of the 19 petitions admitted in 2012 were still 'open' in 2015; 9 of the 37 petitions admitted in 2013 were still open; and, 13 of the 32 petitions in 2014 were either open or yet to be considered in

August 2015. The example of the '1 million 4 disability' petition from 2009 (prior to EU conclusion of the CRPD) is an obvious example. Although it is a great strength of the system that PETI is able to sustain and reinvigorate its focus on unresolved issues, the cumulative workload on 'open' disability petitions is only likely to increase as awareness of CRPD rights grows across Europe and as EU law extends in this area.

PETI's repertoire of non-judicial responses inevitably falls short of the competence to effect definitive remedy in many cases. The effectiveness of its protection role remains contingent upon the responsiveness and timely intervention of other actors in the system at its invitation or request (such as the Commission, the Council, the Member States and national authorities, the Parliament, the Court of Justice). This is similar to the domestic protection mechanisms in the Member States but its implications should be clearly understood.

Suggestions concerning response deadlines for the Commission were highlighted in the June 2015 Study on *The right to petition*<sup>81</sup>. The committee has previously requested shorter deadlines, a more regular information flow and an alert mechanism for open petitions that are long-standing.

It had also suggested regular meetings with chairs of national petitions committees, and the same argument could be made for mechanisms identified within domestic CRPD frameworks.

As illustrated with these examples, petitions are often submitted to PETI with limited substantiation or clarity to enable an efficient or effective consideration. With large numbers of competing petitions on other pressing or popular issues petitions addressing CRPD rights present, as yet, a small proportion of the overall workload. The practice of hearing batches of disability petitions at one sitting, and engaging civil society responses with those of the EU institutions, has helped to foreground the disability issue and raise awareness of PETI's role. At the same time, there is rather less evidence of own initiative visits or press engagement by PETI members on disability issues compared with other issues, such as environmental issues.

Many petitions have been considered as not admissible, or quickly closed, by PETI on advice that they fall outside EU competence. In light of the developing interpretations, comments and conclusions of the UN CRPD Committee, as well as developing jurisprudence in the European courts, it is important to keep this under review in coordination with other actors in the EU Framework.

The strongest petitions, or those that have received strongest attention, have often been backed by civil society organisations or campaigns representing people with disabilities. Whilst examples of individual complaints have been significant there is a need to promote the protection role and to spread information about what makes an effective petition amongst civil society organisations that can actively pursue and support relevant rights-based claims in the Member States.

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<sup>81</sup> Tiburcio, T. (2015), *The right to petition*, Study carried out for the Policy Department for Citizens' Rights and Constitutional Affairs upon request of the PETI committee of the European Parliament, available at [http://www.europarl.europa.eu/ReqData/etudes/STUD/2015/519223/IPOL\\_STU\(2015\)519223\\_EN.pdf](http://www.europarl.europa.eu/ReqData/etudes/STUD/2015/519223/IPOL_STU(2015)519223_EN.pdf)

### 3.3.2 The CRPD and the Rules of Parliamentary Procedure

The substantive and process issues arising from the petitions on disability issues suggest implications for the existing Rules on Parliamentary Procedure, particularly at the point that the EU will conclude the Optional Protocol. Rule 215 concerns the Right of petition. It is relevant to recall that all matters concerning the EU's responsibilities for CRPD implementation fall 'within the European Union's fields of activity' and are legitimate areas for petition under Rule 215(1). For clarity, it may be helpful to amend Rule 215 stating explicitly the right to petition on matters concerning violation of CRPD rights falls within these fields of activity. Under Rule 215(7) it may be necessary also to refer questions of admissibility on such CRPD issues for opinion from the Commission or other members of the EU Framework (noting the principles of independence in monitoring).

Rule 215(5) requires that petitions be 'written in an official language of the European Union' but under Article 21 CRPD, the EU institutions should be 'Accepting and facilitating the use of sign languages' in their communications. Accordingly, it may be argued that petitions should be acceptable in sign language as well as in 'written' form and that Rule 215(5) should reflect this (this raises some wider and significant questions of sign language recognition at both national and EU level which have been extensively analysed by the European Union of the Deaf).<sup>82</sup>

Rule 216 concerns the Examination of petitions. In determining admissibility of CRPD issues 'in the course of its normal activity' there should be consideration to securing appropriate representation or opinion from civil society (notably from EDF). Certainly there is scope to exploit more fully the potential in Rule 216(2) and Rule 52(1) for own initiative reports on CRPD issues. In requesting opinions from other Committees under this Rule, consideration should also be given to input from the Disability Intergroup in the EP and to the new Committees network on disability mainstreaming established in 2015.

The EP is charged with protecting international treaty rights as they relate to the implementation of EU law in the Member States and there is scope to exercise greater initiative under Rule 216(5) for 'fact-finding visits to the Member State or region concerned by the petition' in relation to CRPD issues, as well as for own-initiative reporting under Rule 216(3) where petitions on CRPD issues raise questions about the 'application or interpretation of Union law'. In requesting assistance from the Commission under Rule 216(6) the EP Committees, acting in their CRPD protection role, should be prepared also to request advice from other members of the EU framework (such as the FRA or EDF).

When informing the Parliament 'every six months of the outcome of its deliberations' under Rule 216(8) the Committee should report specifically on deliberations relevant to its CRPD protection role and the outcomes. Similarly, when informing petitioners of decisions under Rule 216(9) reference should be made to relevant CRPD Articles and to domestic protection mechanisms in the Member States concerned where this is relevant (see chapter 4). Rule 217 concerns Notice of petitions. Noting the point above, and to facilitate reporting, there should be a mechanism within the register that identifies petitions relevant to the CRPD and ideally referring to indicative CRPD articles.

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<sup>82</sup> Wheatley, M. & Pabsch, A. (2012). *Sign Language Legislation in the European Union - Edition II*. Brussels: EUD.

## 4. EXAMPLES OF OTHER PROTECTION MECHANISMS

### KEY FINDINGS

- Parallel **petition and complaint procedures** exist both at UN level and in the Member States, including in the disability field. These arrangements vary but information is readily available about their form and function.
- Most of the EU Member States have put in place a **domestic CRPD Framework** including one or more **independent mechanisms**, taking account of the Paris Principles for national human rights institutions.
- Following its dialogue with the UN in 2015 the EU should explore how to **optimise the protection role** in relation to PETI's mandate. This will become increasingly relevant as the EU moves towards **conclusion of the CRPD Optional Protocol**.

PETI's mandate within the European Parliament was adapted from arrangements already existing in some national parliaments.<sup>83</sup> A study carried out for PETI on the general right to petition (beyond the field of disability) reviewed the range of provisions, identifying a Lower House Parliamentary petitions system in 21 EU Member States, plus the Scottish Parliament and the European Parliament.<sup>84</sup> No such Parliamentary system was evident in six Member States (Cyprus, Denmark, Estonia, Finland, Poland and Sweden). It examined the criteria, number of petitions and responsiveness of government and other actors to questions raised. It recommended, in particular, that a more focused communication strategy is needed to provide information on the petitions process and its limits for citizens.<sup>85</sup>

In this final chapter we highlight the range of approaches to protection mechanisms at different levels of CRPD governance, and with specific reference to examples of protection mechanisms in the EU Member States. There are two purposes in this concise overview – first to provide information on competent national authorities for the referral of CRPD concerns raised by petitioners to PETI, second to inform discussion of future options for PETI's developing protection role and its interactions within the EU CRPD Framework.

### 4.1 PETI's relationship to the UN Committee

The principle and process for individual complaints to the UN Committee, under the provisions of the Optional Protocol to the CRPD, was outlined in Chapter 2. This is based on a single Committee structure with nominated members from state parties acting in an independent and individual capacity. This Committee also has a broader monitoring mandate, in reviewing states' reports, and it has own-initiative powers of investigation. Its

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<sup>83</sup> Epaminondas Marias (1994), The right to petition the European Parliament after Maastricht, *European Law Review*, 2.

<sup>84</sup> *The Right to Petition in National Parliaments and in the European Parliament*, [http://www.europarl.europa.eu/meetdocs/2014\\_2019/documents/peti/dv/right\\_petition\\_presentation\\_tt\\_right\\_petition\\_presentation\\_tt\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/peti/dv/right_petition_presentation_tt_right_petition_presentation_tt_en.pdf), power point presentation of the study by Tiburcio, T. (2015), *The right to petition*, Study carried out for the Policy Department for Citizens' Rights and Constitutional Affairs upon request of the PETI committee of the European Parliament, available at [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519223/IPOL\\_STU\(2015\)519223\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519223/IPOL_STU(2015)519223_EN.pdf)

<sup>85</sup> European Parliament Briefing on *The right to petition the European Parliament*, June 2015, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/559514/EPRS\\_BRI\(2015\)559514\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/559514/EPRS_BRI(2015)559514_EN.pdf)

specific principles for responding to individual complaints, in line with the established UN treaty body principles, are somewhat similar to EU treaty principles and the Rules of Procedure governing PETI's approach to petitions. There are very significant functional differences between the two Committees but in terms of practical process they bear some similarities and their members act independently within their respective mandates.

The two Committees are differently constituted in relation to the CRPD governance hierarchy. The UN Committee is established at the 'international' level under Article 34 CRPD while PETI's role is established at the 'domestic' level under Article 33. The EU reports on its implementation to the UN Committee in a hierarchical relationship, and exists horizontally to its Member States in this regard. But in matters of EU law and competence it also exists in vertical governance with them in some areas of 'domestic' CRPD obligation (including areas where PETI may admit petitions). The EU is not yet a party to the Optional Protocol and so it does not yet recognise the competence of the UN Committee to receive direct individual communications concerning its compliance with the CRPD. These are likely to be directed towards PETI, or other members of the EU framework, so long as this is the case. Once the EU concludes the Optional Protocol it is then possible that the exhaustion of PETI's 'domestic' process at the EU level might be considered pre-requisite to bringing an individual complaint about the EU to the UN (where undue delay might become an issue).

PETI's protection role within the EU CRPD Framework is currently contained within its existing mandate but petitions brought to its attention that concern CRPD rights acquire an additional significance and responsibility under international law at the UN. The CRPD is, so far, the only UN human rights treaty concluded by the EU and its obligations are thus unique in this respect. Following the UN's dialogue with the EU in 2015 an immediate challenge for the EU is to explore how, and to what extent, the CRPD protection role can be optimized in relation to PETI's existing mandate. This will become particularly relevant as the EU progresses towards conclusion of the Optional Protocol to the CRPD, at which point the hierarchical relationship of EU complaints procedures to UN complaints procedures may also require clarification. To this end it may be relevant to refer to other examples of 'domestic' Article 33 Frameworks and protection mechanisms for inspiration.

## **4.2 Petition processes in the Member States**

Since the launch and opening for signatures of the CRPD in 2007, all but three of the EU Member States have ratified the treaty and most have put in place, or begin to put in place, a domestic Framework for the promotion, protection and monitoring of the rights that it contains. There is no set model for these arrangements or the role of 'independent mechanisms' within them, which may involve national equality bodies, ombudspersons, National Human Rights Institutions (NHRI), and national monitoring committees including representatives of civil society organisations. As noted in Chapter 2, although some NHRIs and Ombudsman may be appointed by national parliaments there appears to be no direct parallel in the EU for employing a national parliamentary petitions mechanism explicitly within a domestic protection CRPD Framework.

The most common mechanism is to designate a pre-existing or reformed NHRI, established according to the Paris Principles, principles which must be 'taken into account' in setting up any domestic Framework containing one or more independent mechanisms. The CRPD does not oblige a party to create such an institution but current interpretation suggests that, in the spirit of the Convention, all members of any domestic Framework should be 'independent' of government. Alternative models do exist, however, in Member States without a relevant NHRI. These include some that accept individual complaints.

Details of Article 33 arrangements in the EU and Member States (as well as national policies) are maintained in the 'Disability Online Tool of the Commission' (DOTCOM) updated annually by the Academic Network of European Disability experts (ANED).<sup>86</sup> FRA also maintains an overview reference table (updated in January 2015) which is linked from the EU Framework webpage.<sup>87</sup> This includes information on designated national focal points, co-ordination mechanisms and frameworks. The following data is extracted from that table and includes bodies designated in draft legislation by Member States yet to ratify the CRPD.

**Table 4: Designated Article 33 bodies in the Member States (January 2015)**

Country	Ratified CRPD	Optional Protocol	Article 33 Framework to promote, protect and monitor
AT	2008	Yes	Monitoring committee
BE	2009	Yes	Interfederal Centre for Equal Opportunities
BG	2012	No	Not established/designated
CY	2011	Yes	Ombudsperson Human rights Commissioner
CZ	2009	No	Not established/designated
DE	2009	Yes	German Institute for Human Rights
DK	2009	No	Danish Institute for Human Rights Danish Parliamentary Ombudsman
EE	2012	Yes	Estonian Chamber of Disabled People and four DPOs Gender Equality and Equal Treatment Commissioner
EL	2012	Yes	Not established/designated
ES	2007	Yes	Spanish Committee of Representatives of People with Disabilities
FI	No		Human Rights Centre Human Rights Delegation Parliamentary Ombudsperson
FR	2010	Yes	Public Defender of Rights National Advisory Council for Human Rights National Advisory Council for People with a Disability
HR	2007	Yes	Ombudsman for Persons with Disabilities Commission of the Government of the Republic of Croatia for people with disabilities
HU	2007	Yes	National Disability Council
IE	No		Not established/designated
IT	2009	Yes	National Observatory on the Situation of Persons with Disabilities
LT	2010	Yes	Council for Disability Affairs (Ministry) Office of the Equal Opportunities Ombudsperson
LU	2011	Yes	Luxembourg Human Rights Consultative Body Centre for Equal Treatment Ombudsman
LV	2010	Yes	Ombudsman
MT	2012	Yes	National Commission for Persons with Disability
NL	No		Netherlands Institute for Human Rights
PL	2012	No	Human Rights Defender
PT	2009	Yes	National mechanism for monitoring and implementation of the CRPD
RO	2011	No	Romanian Institute for Human Rights
SE	2008	Yes	Not established/designated
SI	2008	Yes	Council for Persons with Disabilities of the Republic of Slovenia
SK	2010	Yes	Not established/designated
UK	2009	Yes	Equality and Human Rights Commission (England and Wales) Scottish Human Rights Commission Northern Ireland Human Rights Commission and Equality Commission for Northern Ireland

Source: adapted from FRA's CRPD overview table

<sup>86</sup> DOTCOM, item A7, <http://www.disability-europe.net/dotcom>

<sup>87</sup> <http://fra.europa.eu/en/publications-and-resources/data-and-maps/int-obligations/crpd>

#### 4.2.1 Example - the German Institute for Human Rights

Germany elected to designate its existing NHRI as the independent monitoring mechanism as part of its domestic CRPD monitoring Framework. The German Institute for Human Rights is constituted in compliance with the Paris Principles and a national CRPD monitoring body was created within it, made up of four members. It seeks to monitor domestic implementation and offer advice to government, awareness raising and public outreach. It holds three meetings a year to consult with civil society organisations and it contributed a shadow report to the UN Committee but it does not investigate individual complaints.<sup>88</sup> The UN Committee has recommended that Germany strengthens its independent monitoring mechanism, including at the regional (sub-national) level in the Länder.

#### 4.2.2 Example – the UK’s equality Commissions

Reflecting the regional dimension, the UK designated four different equality and human rights commissions, relevant to its regionally-devolved administrations: The Equality and Human Rights Commission, the Scottish Human Rights Commission, the Northern Ireland Human Rights Commission and the Equality Commission Northern Ireland. Additional funding was allocated to these pre-existing bodies to raise awareness with civil society of their CRPD framework role.<sup>89</sup>

#### 4.2.3 Example – the Austrian Independent Monitoring Committee

Austria created a new body at the federal level because it did not have a pre-existing NHRI<sup>90</sup> in compliance with the Paris Principles (although the Austrian Ombudsman Board is partially compliant). This Independent Monitoring Committee was funded by the Ministry of Labour, Social Affairs and Consumer Protection, who also appointed its members (on recommendations from the Umbrella Group of the Austrian Disability Association). These include four representatives of organisations of persons with disabilities, a human rights NGO representative, a development NGO representative, and an advisor from a relevant Ministry. Its mandate includes public meetings, which are viewed as valuable by civil society advocates. The Committee prepared its own shadow report for the UN Committee and drew attention to the incompatibility between its location in the Ministry, its ‘independent’ designation and the lack of a sufficient budget to fulfil its CRPD role.<sup>91</sup>

#### 4.2.4 Example – the Czech Office of the Ombudsperson

When the Czech Republic reported to the UN, two years after CRPD ratification, it was not able to identify a national body consistent with the Paris Principles but noted the Ombudsman’s role in reviewing state administration. It too adopted the approach of a national Monitoring Committee, including civil society, but it was unable to reach consensus of all the parties on its constitution. In May 2015, the UN Committee noted the lack of an ‘independent’ national monitoring mechanism in the Czech Republic and recommended that this be designated to the Office of the Ombudsperson in accordance with the Paris Principles and with ‘adequate financial and human resources’ to perform the role.

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<sup>88</sup> <http://www.institut-fuer-menschenrechte.de/en/monitoring-body.html>

<sup>89</sup> *Implementation of the Convention on the Rights of Persons with Disabilities, Initial reports submitted by States parties in accordance with article 35 of the Convention, United Kingdom of Great Britain and Northern Ireland, supra note 15, at ¶ 348-364.*

<sup>90</sup> <http://nhri.ohchr.org/EN/Contact/NHRIs/Documents/Chart%20of%20the%20Status%20of%20NHRIs%20%2828%20January%202014%29.pdf>.

<sup>91</sup> *Report of the Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with Disabilities to the Committee on the Rights of Persons with Disabilities in Preparation of the dialogue with Austria in September 2013, supra note 52.*

#### 4.2.5 Example – the Spanish National Disability Council

In its implementation report to the UN, Spain referred only to the independent role of the Spanish Committee of Representatives of Persons with Disabilities (CERMI), the biggest national NGO in the field. The UN Committee requested more information on the monitoring mechanism and whether CERMI was in compliance with the Paris Principles. Spain noted that CERMI complied with the Principles in terms of its independence, powers and operation but did not have power to receive complaints. It identified the existence of the Ombudsman, which is the relevant NHRI and may receive complaints of rights violation based on disability (although it is not designated in the CRPD Framework). In its concluding observations, the UN Committee commended Spain for establishing its monitoring mechanism and listed no remaining concerns in this regard.

### 4.3 Further information

The European Foundation Centre's report on CRPD implementation in the EU provided a preliminary analysis and overview of emerging practices in 2010, noting that parties are free to choose either disability-specific or non-specific independent bodies as part of their Framework. It also clarified that not all members of a domestic framework need to comply with the Paris Principles for NHRIs (provided at least one of them does and that civil society is also involved).<sup>92</sup> Complaints mechanisms exist alongside other important activities in such frameworks.

A subsequent study for the UN OHCHR Regional Office for Europe focused specifically on Article 33 implementation in the EU and examined the domestic arrangements in 17 Member States in detail. It emphasised that the key principle at stake is independence from governmental interference, established in law and with members appointed by a fair and clear process (although it may include government representatives in an advisory capacity). Such bodies must have sufficient funding to shape their own priorities. As described in Chapter 2, their membership from civil society should be pluralist according to their function and the range of human rights actors in the field. The study recognised only bodies with 'A-Status' accreditation from the Sub-Committee on Accreditation of the International Coordinating Committee of NHRIs (which includes the members of the European Network of National Human Rights Institutions). The study mapped the national arrangements in some detail and highlighted their diversity, dividing them broadly into three types - NHRIs or equality bodies, Ombudsmen and 'other bodies'.<sup>93</sup>

As the available overviews and data indicate, there remains diversity in the designation, combination, capacity and practices of protection mechanisms of domestic CRPD frameworks in the Member States, including the extent to which individual complaint procedures fall to their independent elements. There is scope to explore this diversity further through mutual learning and sharing of good practices via the European Network of National Human Rights Institutions (NHRI), the European Network of Ombudsmen, the European Network of Equality Bodies (ENEB), and the European Disability Forum (EDF).

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<sup>92</sup> European Foundation Centre (2010), *Study on Challenges and Good Practices in the Implementation of the UN Convention on the Rights of Persons with Disabilities (VC/2008/1214)*, p. 153.

<sup>93</sup> Gauthier de Beco (2014), *Study on the Implementation of Article 33 of the UN Convention on the Rights of Persons with Disabilities in Europe*, [http://europe.ohchr.org/Documents/Publications/Art\\_33\\_CRPD\\_study.pdf](http://europe.ohchr.org/Documents/Publications/Art_33_CRPD_study.pdf)



## 5. RECOMMENDATIONS TO THE EU

### 5.1.1 Recommendations to the EP/PETI

- Assess whether the capacity of PETI and its secretariat is sufficient to fulfil its protection role under the CRPD Framework, noting the increasing interest in and significance of disability issues.
- Consider the establishment of a designated PETI officer with responsibility for the oversight of disability issues, from within the Committee Membership and/or its Secretariat.
- Establish a pattern of dedicated hearings to promote disability issues in petitions to the EP, building on the thematic sessions of September and October 2015 and to involve other relevant EP committees in such hearings.
- Establish a mechanism to fully involve organisations representing the voice of people with disabilities in all procedures involving disability issues, with adequate resources to ensure their full participation and accessibility.
- Develop a checklist for the examination of petitions related to disability issues and CRPD rights to guide the Committee in determining their admissibility, the range of possible actions that can be undertaken to gather information and to follow up such petitions effectively, and the approach to keeping such petitions open, or closing them.
- Raise the prominence and scope of PETI's annual reporting on disability issues, to include an assessment of the petitions admitted or heard, and the challenges they raise for the protection of CRPD rights in the EU.
- Raise the profile of disability issues by increasing the Committee's own-initiatives for parliamentary initiatives, visits and media interventions on relevant matters arising in the Member States, in a similar manner to the attention given to other important topics.
- Review the PETI Committee's terms of reference and consider whether its function in protecting CRPD rights as part of the EU Framework should be clarified and better recognised prior to the EU's conclusion of the Optional Protocol (notably in relation to the Parliamentary Rules of Procedure 215-218, or in EU law).
- Accept petitions submitted in sign language, as well as in 'written' form, in accordance with Article 21 CRPD, and after consulting with the European Union of the Deaf on issues of sign language recognition.
- Take into proper consideration the fact that where there is shared competence between the EU and Member States, the EU has an obligation to ensure that CRPD obligations are fulfilled by using all instruments at its disposal.
- Reflect on and develop actions to ensure and enhance the protection role of the PETI committee in the framework of the CRPD, including on the basis of this study, for instance through the elaboration of a dedicated report.
- Build upon the analysis and recommendations made in this study when drafting the EP's joint response to the United Nations CRPD Committee, noting the actions to be taken as a consequence of it.

### 5.1.2 Recommendations to the Commission

- Review the role of the Commission in relation to the EU's CRPD Framework, in light of the UN Committee's recommendations and consider the most appropriate role in which to support the work of the EP and other actors in fulfilling their obligations within this Framework.
- Review the capacity of relevant Commission Directorates to respond in a timely and effective way to requests for information, advice or intervention where concerns about CRPD compliance are raised from the EP Committees, notably from PETI.
- Assess and ensure that the resources of the Commission's Unit on Rights of Persons with Disabilities are sufficient to cope with the increasing scope, and raised public interest in, disability issues resulting from CRPD implementation in the EU and its Member States.
- Consider how civil society organisations representing people with disabilities can be supported and resourced to play a full role in the EP's work on disability issues, notably within the context of the petitions process.
- With reference to the '1 million 4 disability' petition, make all efforts to support and move forward with the Council and the Parliament existing legislative proposals, including for conclusion by the EU of the Optional Protocol to the CRPD.

### 5.1.3 Recommendations to the FRA

- Assist PETI in assessing its capacity to respond effectively to petitions on disability issues arising from, or invoking, the Charter of Fundamental Rights.
- Assess how FRA's mandate for assistance to parliament could be utilised to strengthen this capacity or to offer training and advice to EP Committee Members and/or Secretariat staff.
- Maintain an accurate and up to date knowledge and information on the national and regional mechanisms for CRPD rights protection within the Member States, making this widely available to the EP and the public, to facilitate referral of disability issues from PETI to relevant and competent authorities.

### 5.1.4 Recommendations to the EU Ombudsman

- Ensure that representatives of PETI and the EP are fully engaged with knowledge sharing and information exchange in the European Network of Ombudsmen.
- Consider, with EP representatives and EDF, the potential for shared or joint reporting of disability issues arising from the various complaints mechanisms existing within the EU's CRPD Framework.

## ANNEX: Summary of the sample of disability petitions 2012-2014<sup>94</sup>

Reference	Admitted	Status	Title	CRPD Articles	Protection issue	Summary response	EP classified theme	Concerned Countries
0279-12	Yes	Closed	(Hungarian), on the reform of the pension system for persons with disabilities in Hungary	28	Are national reductions to disability pension entitlements a systematic rights abuse?	The EU does not have competence.	Social Affairs	Hungary,
0455-12	Yes	Open	(German), on creating a European solidarity fund for disabled persons	28, 27	If national social protection benefits cannot provide adequate standards of living, can the EU remedy the situation?	Could be discussed by the Committee	Social Affairs, Disability	European Union,
0475-12	Yes	Closed	(Hungarian), on the protection of the rights of persons providing home care to persons with disabilities	19, 28	Does an inadequate home care system violate disability right?	The EU does not have competence.	Social Affairs	Hungary,
0529-12	Yes	Closed	(Romanian), on a training programme for disabled people	24	Are the standards of an educational programme supported by EU funds in line	Commission requested the standards be brought in line with EU Law	Social Affairs	Romania,

<sup>94</sup> As of 18 August 2015.

					with EU law?			
<b>0686-12</b>	Yes	Closed	(Spanish), on the accessibility of the public bus transport in the municipality of Madrid	9	Has Madrid correctly interpreted EU transportation regulations?	The Commission will discuss this issue with Member States.	Social Affairs, Transport	Spain,
<b>0821-12</b>	Yes	Closed	(Italian) on the problems of persons with disabilities	28	Confidential petition	Petitioner informed of EU work in the disability area	Social Affairs	Italy,
<b>0832-12</b>	Yes	Closed	(Italian) on employment opportunities for persons with disabilities	27	Can the Court of Justice act against unfair recruitment practices?	The issue should be pursued at national level.	Social Affairs	Italy,
<b>0865-12</b>	Yes	Closed	(Bulgarian), on the integration of disabled people into the labour market in Bulgaria	27	Denial of reasonable accommodation as discrimination	Individual case should be pursued at national level but if similar cases appear the EU could intervene	Social Affairs	Bulgaria,
<b>0902-12</b>	Yes	Closed	(British), on the export of his Disability Living Allowance (DLA)	18	Should disability benefits be exportable?	The UK followed the applicable EU rules.	Social Affairs	Norway, United Kingdom,
<b>0982-12</b>	No	Closed	(presumed Polish), on behalf of Families ON, bearing no signatures, on support to families where a member cares for another due to disability	28	Request for carer's allowance	The EU does not have competence.	Social Affairs	Poland,
<b>0997-12</b>	Yes	Open	(German), on the alleged infringement by the German authorities of EU legislation on equal treatment in employment and occupation and equal	27, 28	Does difficulty in entering the labour market equate with employment discrimination?	The EU lacks competence in the national social protection benefits identified	Social Affairs, Disability	Germany,

			opportunities for persons with disabilities					
<b>1171-12</b>	Yes	Closed	(British), on the exportability of the UK Disability Living Allowance	28	Should disability benefits be exportable?	There was no breach of EU law.	Internal Market - Free movement of persons, Pension	Norway, United Kingdom,
<b>1453-12</b>		Closed	(Italian), on equal opportunities for disabled people in Italy				Disability	Italy,
<b>1459-12</b>	Yes	Open	(Hungarian) on behalf of Open Society Foundations, with the support of 12 associations, concerning the investment of EU funds in residential centres for the disabled in certain Member States of Central and Eastern Europe	19	Can Member States use EU funds for institutionalisation?	If specific cases can be found they will be investigated.	Health, Disability	Romania, Bulgaria, Slovakia,
<b>1464-12</b>	Yes	Closed	(French), on the integration of people with disabilities in the French civil service	27	Is dismissal after acquiring disability a violation of EU law?	This may violate EU law, but should be pursued first in the national courts.	Disability	France,
<b>1514-12</b>	Yes	Closed	(Spanish), bearing 2 signatures, on the right of children with disabilities to receive appropriate treatment	26, 25	Should local treatment and rehabilitation charges be affordable to families?	The EU does not have competence.	Disability	Spain,
<b>1619-</b>	Yes	Closed	(Dutch), on her problems with the Polish and Dutch	28	Should a disabled pension from one EU	The two governments must work to agree on	Disability	European Union,

12			tax authorities		state be taxed by another EU state?	how a pension is taxed.		
1804-12	No	Closed	(Italian) on a complaint against the airline Air France over inconveniences on a flight to Santo Domingo	9			Disability	France,
1886-12	No	Closed	(Poland) on a programme for the disabled				Disability	Poland,
0084-13	No	Closed	(Romanian), on paying fines for non-payment of the road toll in the case of a family with children with disabilities in Bihor, Romania				Disability, Taxation	Romania,
0312-13	Yes	Open	(Bulgarian), on behalf of the association 'Center for independent living', with 19 signatures, on the inaccessibility of public transport in Bulgaria for people with disabilities and persons with reduced mobility	9	Is inaccessible public transportation a violation of EU regulations?	The government was contacted, and a study was proposed.	Disability, Transport	Bulgaria,
0338-13	No	Closed	(Algerian), concerning the lack of employment opportunities for a disabled person in France	27			Disability, Immigration	France,

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<b>0355-13</b>	No	Closed	(French) concerning the commitment of his son, who suffers from Smith-Magenis syndrome, to an institution for persons with disabilities.	19, 23, 7	Is institutionalisation and family separation a violation of EU law?	Petitioner referred to the French Ombudsman, once he has exhausted all national channels of redress, he may refer the matter to the European Court of Human Rights	Disability	France, Belgium,
<b>0388-13</b>	Yes	Closed	(Portuguese), on the right of persons with disabilities to use public sidewalks in Portugal	9	Tolerance of illegal parking on sidewalks, hampering the movement of people with motor disabilities	The EU does not have competence.	Disability	Portugal,
<b>0457-13</b>	No	Closed	(Polish), on an academic pharmacy adapted to the needs of students with motor disabilities		[application for funding]		Disability	Poland,
<b>0543-13</b>	Yes	Open	(Finish), on Developmental disabilities and social welfare in Finland		Can the EU evaluate the human rights impact of national welfare legislation?	The EU does not have competence, but will seek clarification from the Finnish authorities on the conformity of the proposed legislation with the Charter of Fundamental rights	Disability, Health	Finland,
<b>0565-13</b>		Closed	(Romanian) on alleged discrimination against persons with disabilities in Romania		see 0701 and 0738		Disability	Romania,
<b>0603-13</b>	Yes	Closed	(German) concerning recognition throughout the EU of a German disabled	30	Do national entrance fee exemptions apply to events organised by companies from	The EU had no plans to regulate but has initiated a working group on mutual recognition of	Internal Market - Free movement of	European Union,

			person's card		another Member State?	disability cards	persons	
<b>0697-13</b>	Yes	Closed	(Romanian) concerning alleged discrimination on the basis of disability regarding a competition for a public service post in Romania	27	Can rejection of an individual employment discrimination case in a national court be remedied by the EU?	If EU law has been complied with then this case should be pursued in the national courts.	Disability	Romania,
<b>0701-13</b>		Closed	(Romanian) concerning alleged discrimination against persons with disabilities in Romania		[details not available – see 0738]		Disability, Employment	Romania,
<b>0738-13</b>	No	Closed	(Romanian), on alleged discrimination in Romania against persons with disabilities and members of the Roma community	27	Complaint about finding a job as a person with a disability	Petitioner sent copy of a Court of Justice ruling.	Disability, Employment	Romania,
<b>0756-13</b>	Yes	Closed	(Italian), on difficulties for people with disabilities in the labour market	27			Disability	Italy,
<b>0975-13</b>	Yes	Closed	(German), on the disadvantage for visually-impaired passengers using public transport outside Germany	27	Should national entitlements for additional travel costs apply in all Member States?	The EU has no plans to further regulate disability benefits	Disability	European Union,
<b>1123-13</b>	Yes	Open	(Austrian?) concerning non-recognition of Austrian sign language as a first language for Austrian nationals who are deaf	21	Should all national sign languages be recognised as official languages?	This is a national level dispute and the Commission cannot intervene.	Education, Fundamental Rights, Disability, Equal Opportunities	Austria,



							and Gender	
<b>1274-13</b>	Yes	Open	(Spanish), on behalf of the CERMI committee, on discrimination against disabled passengers by airlines, and Regulation No 1107/2006 (EC)	9	Requests a revision to EU law governing airlines treatment of passengers.	The Commission has no plans to change the regulations	Fundamental Rights, Disability, Transport	European Union,
<b>1335-13</b>	Yes	Open	(French), on Freedom of movement for severely disabled	26	Should citizens have entitlement to treatments when resident in other Member States	Send petition to the Committee on Social Affairs, request information from the UK and the Commission.	Disability, Internal Market - Free movement of persons	United Kingdom,
<b>1406-13</b>		Closed	(Romanian), on the rights of persons with disabilities	9			Disability	Romania,
<b>1426-13</b>		Closed	(Romanian) on alleged discrimination on grounds of disability in connection with a public service recruitment competition in Romania (= P. 697/2013)				Disability	Romania,
<b>1449-13</b>		Closed	(Romanian) on alleged discrimination based on disability in connection with a public service recruitment competition (= P. 697/2013)				Disability	Romania,

<b>1495-13</b>	Yes	Closed	(Romanian) on the treatment of stroke victims as persons with disabilities	26, 25	Should all impairments be recognised for rehabilitation services?	Forwarded to the Committee on Employment and Social Affairs	Disability	Romania,
<b>1496-13</b>	Yes	Open	(Spanish) on the rights of people with disabilities when travelling by air	9	Should EU law allow airlines to deny boarding to wheelchair users for safety reasons?	The EU does not plan to change the regulation, the petitioner should file a national-level complaint if she feels her rights were violated.	Disability, Transport	Spain,
<b>1576-13</b>	Yes	Closed	(Italian), on personal problems related to disability	19	Should states ensure enough social housing for pwds?	Forwarded to the European Disability Forum.	Disability	Italy,
<b>1628-13</b>		Closed	(French) on alleged discrimination against persons with disabilities				Disability	France, Belgium,
<b>1636-13</b>	Yes	Closed	(German) on the accessibility of a lock crossing for people with disabilities	9	Should efforts be made to ensure that every river crossing is accessible to pwds?	Outside of EU competence, petitioner referred to local body. It's possible that the EU could provide funding to ensure accessibility.	Disability	Germany,
<b>1683-13</b>	No	Closed	(British) on discrimination against people with disabilities				Social Affairs	United Kingdom,
<b>1688-13</b>	No	Closed	(Spanish), on the policies of the Spanish Government				Disability	Spain,
<b>1697-13</b>	No	Closed	(British), against the British Government's policy				Disability	United Kingdom,

			towards the disabled.					
<b>1882-13</b>	Yes	Open	(Spanish), on Rights of Disabled in Spain	26	Does Spain's healthcare system meet its obligations under the CRPD?	The issue is outside EU competence.	Disability	Spain,
<b>1979-13</b>	Yes	Closed	(Italian) on difficulties experienced as a result of a disability	9	Do long wait times, possibly caused by accessibility problems, violate the CRPD?	Refer petitioner to local authority.	Social Affairs	Italy,
<b>2137-13</b>	Yes	Closed	(Romanian) on amendments to Romanian legislation on the classification of people with disabilities	19	Is Romania in line with EU regulations on disability matters?	Send the response to a previous petition on this subject (0730-08).	Disability	Romania,
<b>2257-13</b>	Yes	Closed	(Bulgarian), on the living conditions of persons with disabilities in Bulgaria	20	Should the EU help pwds emigrate within the EU if their state does not adequately provide for their rights?	The EU cannot intervene on this matter	Disability	Bulgaria,
<b>2293-13</b>	Yes	Closed	(Romanian), on the situation of persons with disabilities in Romania		Does the Romanian government provide an adequate standard of living for pwds?	The EU cannot intervene in this matter	Disability	Romania,
<b>2449-13</b>	No	Closed	(Romanian), on the alleged discrimination of a person with disabilities during judicial proceedings conducted in Romania	13	Can the European Parliament protect the right to a fair trial in a Member State?	The European Parliament is not a judicial authority. It cannot make judicial decisions or reverse decisions made by courts in the Member States	Justice	Romania,

<b>2554-13</b>	Yes	Closed	(Spanish), on access of disabled persons to railway services in Spain	9	Does Spain's railway comply with the CRPD accessibility standards?	Spain seems to comply with EU regulations, suggests a further study of Spain in the future.	Disability	Spain,
<b>2582-13</b>	Yes	Open	(ES), on alleged discrimination of children with disabilities by Spanish authorities.	24, 7	Can the EU intervene when a child is denied a place in school based on their disability?	The issue is outside the scope of EU law.	Disability, Justice	Spain,
<b>2726-13</b>	Yes	Open	(Spanish) on mapping the real costs of an EU oblivious to the rights of persons with disabilities.	28	Can the EU perform a study on the cost of integration and the effects of the recession?	The Committee requests information for the European Disability Forum for the petitioner.	Disability, Social Affairs	Spain,
<b>0110-14</b>		Open	(German), on cyber-bullying	16			Fundamental Rights, Social Affairs, Information Society and Media	European Union,
<b>0174-14</b>	Yes	Open	(Dutch) on the terms of granting the benefits to disabled persons in Germany	28	Are Germany's regulations about disability pensions in line with EU regulations?	Referred to the Commission for information	Disability, Industry and Enterprise	Germany,
<b>0224-14</b>	No	Closed	(Polish) on the legislation on the nursing allowance in Poland	28	Social protection regulations in the Member States do not fall in EU competence	The petitioner should make representations to the Polish Ombudsman	Social Affairs	Poland,
<b>0300-14</b>		Closed	(French) on alleged discrimination against a	5			Disability	France, Belgium,

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			disabled person					
<b>0415-14</b>		Closed	(French) on alleged discrimination against a person with disabilities	5			Disability	France, Belgium,
<b>0433-14</b>	No	Closed	(Poland) on legislation governing carer's allowances in Poland	20, 9			Social Affairs	Poland,
<b>0462-14</b>		Closed	(French), on alleged discrimination against a person with disabilities	24			Disability	France, Belgium,
<b>0467-14</b>	Yes	Closed	(Romanian), on a request for an increase in disability allowances in Romania	28	Can the EU intervene, as Romania does not provide an adequate standard of living for people with disabilities?	Forwarded to the Committee on Employment and Social Affairs.	Disability	European Union,
<b>0681-14</b>		Closed	(French), regarding diverse remarks about equality between women and men in a family context	6, 23			Disability	France, Belgium,
<b>0720-14</b>	Yes	Open	(Italian) on: The petitioner denounces the failure of the company ASL NAPOLI 1 to meet its obligations to hire disabled people.	28	A public health centre failed to set aside jobs for pwds, can the EU intervene?	Commission asked for information, petitioner referred to a national body.	Employment, Disability	Italy,
<b>0792-14</b>	Yes	Open	(Italian), on the plight of disabled persons in Naples	27	Can the EU intervene in a difficulty in finding employment, including the misappropriation of	Referred to the Commission and the European Disability Forum.	Fundamental Rights, Disability	Italy,

					funds?			
<b>0818-14</b>	Yes	Closed	(Italian) on the difficulties faced by disabled people in Italy in finding employment	27, 28	Will the EU intervene to address a high level of poverty and unemployment?	Petition sent to the Employment Committee and European Disability Forum	Fundamental Rights	Italy,
<b>0864-14</b>	Yes	Open	(German) regarding the infringement of his right to a disability pension	28	Has Italy violated EU law by refusing to recognize a German worker's disability?	There is no violation of EU law, possibly of national law.	Disability	Italy,
<b>0929-14</b>	Yes	Open	(French) on disability mention on the pension certificates delivered by the French state	28	Has France violated a person's privacy by mentioning a disability on their pension certificate?	Requested information from the Commission	Disability, Pension	France,
<b>1095-14</b>	Yes	Open	(German) on the use of colours detectable by the colour blind	9, 22	Should the EU support the petitioner's attempts to change electrical cord cables to accommodate colour blind people?	Requested information from the Commission	Disability, Health	European Union,
<b>1147-14</b>	No	Closed	(German) on his private parking place	9, 20			Disability	Germany,
<b>1249-14</b>	Yes	Open	(German) on the European card for people with disabilities	18, 28	Is it a violation of free movement that not all member states recognize a disability card?	Requested information from the Commission	Social Affairs, Disability	European Union,
<b>1343-14</b>	Yes	Open	(Czech) on Recognition of Persons with disabilities' cards across the EU	18	Can the EU work to ensure that the treatment of pwds is	Requested information from the Commission	Disability	European Union,

					harmonized across the EU?			
<b>1613-14</b>	Yes	Closed	(French) on roofed protections for disabled persons	9	Should the EU provide support to the seller of a product to protect parking spaces for pwds?	The EU believes such devices may be useful, but cannot demand local authorities adopt them.	Urban Development, Disability	European Union,
<b>1852-14</b>	No	Closed	(Romanian) on the alleged limitation of his freedom of expression	21	[details not available]		Disability	Romania,
<b>1883-14</b>	Yes	Closed	(Italian) on lack of assistance given to a disabled child at Charles de Gaulle airport in Paris	9	Can the EU ensure that proper assistance is provided to pwds in airports?	Suggested the petitioner contact the European Disability Forum.	Disability	France,
<b>1912-14</b>	Yes	Closed	(German), on parking permits for disabled people in North Rhine-Westphalia	20, 19	Do German rules around disabled parking permits violate the petitioner's rights?	Suggests petitioner contact the national ombudsman for disability.	Disability	Germany,
<b>2096-14</b>	No	Closed	(Romanian) on the alleged infringement of the rights of persons with reduced mobility in Romania in relation to certain taxes	28	Can the EU intervene in dispute over exemption entitlements?	Explain to the petitioner that the matters referred to are not regulated at European level and suggest that he contacts the Romanian ombudsman office	Disability	Romania,
<b>2189-14</b>	No	Closed	(Slovakian) on his medical condition and the request for compensation		Can the EU help with disability compensation claims?	Explain that compensation may only be granted by the competent national courts. Should he consider that his rights have been	Disability	Romania,

						infringed upon, the petitioner can bring the matter before the European Court of Human Rights, after having exhausted all remedies available in his country		
<b>2260-14</b>	No	Closed	(Italian), on disability and his personal situation in Pistoia (Italy)	19, 28	Can the EU help in a situation of personal living conditions?	The provision and organisation of social services is the competence of Member States. Express concern to the petitioner for his situation and send petition to the European Disability Forum	Fundamental Rights	European Union, Italy,
<b>2275-14</b>	No	Closed	(German), on alleged discrimination	26	Can the EU help with a dispute over entitlement to rehabilitation equipment?	The European Parliament is not a judicial body: it cannot make judicial decisions or quash judgments given by the courts in the Member States	Fundamental Rights, Disability	Germany,
<b>2551-14</b>		Before SIR Adoption	*Petition concernant une discrimination presumee des travailleurs handicapés relatifs au lieu de travail et au salaire	5, 9			Employment, Disability	Italy,
<b>2594-14</b>		Before SIR Adoption	*Petition concernant les avantages sociaux des handicapés en Espagne et un cas presumé de	5			Disability	Spain,



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			discrimination					
<b>2616-14</b>		Before SIR Adoption	*Petition concernant la non-conformite de la loi grecque avec le droit de l'ue en ce qui concerne les handicapes	5, 28			Education	Greece,
<b>2681-14</b>		Before SIR Adoption	*Abolishment of health and welfare benefits for handicapped persons in greece by law after 6 months [annexes non scan]	28			Social Affairs, Pension	Greece,
<b>2706-14</b>		Before SIR Adoption	*Requete concernant l'acces des personnes a mobilite reduite a l'infrastructure de la municipalite de l'ile ionienne de cephalonie [annexes partiellement scan]	9			Urban Development, Disability	Greece,





## DIRECTORATE-GENERAL FOR INTERNAL POLICIES

# POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

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