



PUBLIC DEFENDER OF
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ENNHRI CRPD WORKING GROUP **NEWSLETTER**

APRIL-JUNE 2022 / **ISSUE IX**

A Way Forward towards Protecting the Rights
of Persons with Disabilities



Dear Reader,

I am delighted to present to you the IX Newsletter of ENNHRI's CRPD Working Group. It is the second issue of 2022 covering April 2022 through June 2022. The Newsletter encompasses information about CRPD WG members', observers' and other relevant international and regional actors' work on the rights of persons with disabilities.

Unfortunately, the war continues in Ukraine, affecting the lives of many who remain in Ukraine, as well as those who were forced to flee their homeland and leave their loved ones behind. This has been particularly painful for an estimated 2.7 million persons with disabilities in Ukraine, whose lives and well-being are at risk. Full-scale invasion of Ukraine by Russia has put people with disabilities in peril - those in wheelchairs, with hearing loss, with vision impairment or any other form of disabilities. It is also important to mention that many persons with disabilities were not even able to evacuate from a war zone. It is crucial that humanitarian response is inclusive, and the disadvantaged groups are protected as well. No one should be left behind and this is an imperative for the world.

Despite many victories in fighting the Covid-19 Pandemic, it is still around us and we should still pay attention to it, as it impacts mostly the vulnerable groups, such as the persons with disabilities. National Human Rights Institutions (NHRIs), together with international and/or regional organizations, have been actively working on the development of policy documents in various directions. NHRIs have also contributed to raising awareness about the rights of persons with disabilities, which is important in terms of implementing the rights of persons with disabilities, especially during such critical periods.

I would also like to underline that existence of discriminatory remarks, deinstitutionalization, care for people with mental health issues, election rights of the persons with disabilities, public awareness, etc. remain a challenge. Despite all the challenges, I am sure that we can overcome everything by working together for a common objective.

I want to thank everyone who has been involved in the preparation of this Newsletter and especially the members of ENNHRI CRPD WG. We will continue to prepare quarterly Newsletters and be active in the work of ENNHRI's CRPD WG.

I hope you find this issue of the Newsletter informative and useful. Please feel free to share it with your colleagues and other stakeholders. We would greatly appreciate your feedback.

Yours sincerely,

Ekaterine Skhiladze

Deputy Public Defender of Georgia

ENNHRI CRPD WG Chair

ENNHRI CRPD WG Members and Observers Work on the Rights of Persons with Disabilities

Bulgaria

After repeated actions and a submitted bill prepared by the NHRI, the National Assembly adopted amendments to the Measures and Actions during the State of Emergency and Addressing the Consequences Act. Based on the amendments citizens can receive the support they deserve as disabled people for the entire period until the new medical document comes into force. **The NHRI also sent an opinion to relevant agencies regarding the restrictive requirements for exemption of disabled people and their families from paying vignette fees.** The main problem still is the technical parameters that must be met by passenger cars owned by citizens with disabilities or in the matrimonial property regime. Although declared as discriminatory by the Anti-Discrimination Commission, the criteria continue to apply. The NHRI sent an opinion regarding the Family Allowances for Children Act emphasizing the lack of mechanism for automatic update of the amount of monthly allowances. The NHRI sent an opinion regarding the normative acts governing the procedure for granting and providing medical devices, aids, and facilities to disabled persons after their transfer to the realm of the Ministry of Health. The opinion emphasized the importance of ensuring appropriate opportunities for citizens to easily submit applications for the provision of medical devices. See the details [here](#).

Czech Republic

At the end of June, the Deputy of the Czech Public Defender of Rights [sent comments to the UN Committee on the Rights of Persons with Disabilities on its Draft Guidelines on deinstitutionalization](#), including emergency situations. This document guides States Parties to the UN Convention on the Rights of Persons with Disabilities (UN CRPD) on what steps they should specifically take in the deinstitutionalization process. **In particular, the document highlights the need for States to respond immediately and close institutions to people with disabilities as soon as possible,**

as well as to ensure full access to community-based support services for them. Indeed, the institutionalization of people with disabilities is dangerous. This has been demonstrated, among other things, by the experience of the pandemic, when it was almost impossible to protect people with disabilities living in institutions from cross-contamination with often fatal consequences. In her comments, the Deputy of the Public Defender of Rights asks the Committee, for example, to clarify some of the definitions used in the document (the definition of an institution or the definition of residential social service corresponding to a community-based service in accordance with the UN CRPD) and to clarify the State Party's obligation to compensate a person with a disability who has lived in an institution. Lastly, the Deputy of the Public Defender of Rights requests the Committee to elaborate in the future on the risks of the use of assistive technologies for people with disabilities or on the issue of affordability of community-based social services.

Denmark

The Danish Institute for Human Rights (DIHR) participated in the annual ["Folkemøde" - the Democracy Festival of Denmark](#) in June 2022. The DIHR engaged in several debates with politicians, authorities, experts and civil society representatives on different human rights related themes, including on how to bring down coercion in the Danish psychiatric sector. In addition to that, in June 2022 the Danish Board of Equal Treatment decided that a public transport company had violated The Danish Act on a Ban against Discrimination on the Grounds of Disability because of indirect discrimination based on the complainant's disability. This discrimination complaint was managed by the DIHR on behalf of a citizen and resulted in a monetary compensation to the complainant. **In the spring of 2022 DIHR published a [report](#)** (in Danish only, but with an English summary) **on how forensic autopsies can help protect and promote the rights of persons with mental disabilities.** Besides, DIHR together with DIGNITY – Danish Institute Against Torture and Better Psychiatry communicated with the Committee of Ministers regarding the judgement concerning [Aggerholm v. Denmark](#) from 15 September 2020. The case concerned the applicant's strapping to a restraint bed for almost twenty-three hours in a psychiatric hospital, which was not strictly necessary and not respectful of his human dignity. The rule 9 submission urged the Danish Government to take further

measures to ensure that means of restraint are only used as a last resort and formally represents input to the dialogue between Denmark and the Committee of Ministers in the implementation of the judgement. See the details [here](#).

Georgia

With the support of the United Nations Development Program (UNDP) the Office of the Public Defender (Ombudsman) of Georgia (PDO) **held 14 information meetings with different focus groups on the rights of persons with disabilities throughout Georgia**. Participants of the meetings discussed systematic problems and specific facts of alleged human rights violations, which were identified and on which the PDO started the case study. In June 2022, the Government of Georgia, made legislative amendments to the Decree of the Government of Georgia on Social Package. As a result, persons with disabilities will no longer be restricted from receiving a social package during the implementation of public activities. It should be mentioned that the PDO found discrimination against the above restriction in 2017 and issued a recommendation to the Government of Georgia to extend the right to use the social package provided for by law to persons with significant and moderate disabilities employed in the public service. As the Government of Georgia did not implement the recommendation, the PDO filed a constitutional complaint with the Constitutional Court of Georgia in May 2021. The hearings were postponed at the request of the Government of Georgia. Soon after it was announced that the Government of Georgia implemented the recommendation of the PDO and made changes to the decree. The Public Defender was engaged in the process of preparation of various documents and drafts laws prepared by the public authorities. The PDO actively cooperated with the civil sector and international organizations and was involved in various Events. See the details [here](#).

Germany

On the 2nd and 3rd of May 2022, the German Institute for Human Rights hosted a workshop on the rights of persons with disabilities and older persons in armed conflicts: **“War – the Raw Edge of Intersectionality: Protecting and Accommodating Persons with Disabilities and Older Persons affected**

by War in Ukraine”. The event was a joint initiative of the Institute, the UN Special Rapporteur on the rights of persons with disabilities, Gerard Quinn, and the UN Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler. The workshop identified human rights violations, protection gaps and challenges of persons with disabilities and older persons in armed conflicts. In addition to that, on 16th of May 2022 the German Institute for Human Rights [issued recommendations](#) in cooperation with the Commissioner for Matters relating to Persons with Disabilities of the Federal Government of Germany. The focus of these recommendations is the protection of persons with disabilities from violence. In June, the German Institute for Human Rights published a position on refugees with disabilities. The structural problems that refugees with disabilities face in Germany have been known for a long time. Currently, they mainly affect people from Ukraine seeking protection in Germany. [The position paper](#) lists the key human rights requirements for the identification, accommodation and care of refugees with disabilities in Germany. See the details [here](#).

Ireland

In May 2022, the Irish Human Rights and Equality Commission published its submission on the General Scheme of the Mental Health (Amendment) Bill. This General Scheme engages and interferes with a number of fundamental rights, including the right to exercise legal capacity, the right to consent to medical treatment, deprivation of liberty safeguards, de facto detention for treatment, restraint and seclusion, and the rights of the child. In order to align this legislation with the State’s human rights and equality obligations, in particular the UN CRPD, the Commission



made 76 recommendations. Moreover, **on 7 June 2022, the Irish Human Rights and Equality Commission submitted its parallel report on the International Covenant on Civil and Political Rights to the UN Human Rights Committee**, focused on the priority issues identified by the Committee for the review, as well as the Commission's Strategy Statement 2022-2024. This report addressed a number of specific rights issues faced by disabled people, including the impact of the Covid-19 pandemic in institutional settings; health and social care policy and legislation; deinstitutionalisation; legislative delays concerning legal capacity and people with psycho-social disabilities; consent to treatment and use of restrictive practices; and the detention in prisons of people with psycho-social disabilities. **The Irish Human Rights and Equality Commission recently gave legal assistance to a mother and her two sons** in making an application to the Department of Education for a home-based summer programme to support the education or care needs of students with complex needs. Currently, under the terms of the Scheme, siblings with complex needs in the same household are generally taught together and are entitled to less hours overall than children without siblings with complex needs, subject to a few limited exceptions. Based on expert advice, the Commission engaged with the Department of Education to seek an exception to the general rule around sibling allocations, and to argue that the Scheme potentially amounted to discrimination on the grounds of disability. On 17 June 2022, the Commission reported that the Department of Education agreed to grant individual allocations under the Scheme to both children (10 hours for four weeks for each child). See the details [here](#).

Latvia

2021 Annual Report on the progress made in such areas as civil and political rights, social, economic, and cultural rights and children's rights was prepared, published, and presented. Key developments in raising public awareness and international cooperation are also listed. **The Ombudsman and representatives of the Ombudsman's Office met with the Chairperson of the Central Election Commission** and her team to discuss the voting rights of people with disabilities and opportunities for full participation in the upcoming Saeima (Parliament) elections, including the accessibility of polling stations and the information about the election process. During the meeting, the

implementation of the recommendations given by the Ombudsman in previous years was discussed, as well as the information provided by the non-governmental organizations representing people with disabilities regarding the problems related to the elections. See the details [here](#).

Slovenia

The Ombudsman published its annual report for 2021. The Ombudsman specifically addressed the need for systemic care for people with special needs, long-term care, personal assistance, and deinstitutionalization. Due to public opposition expressed by the local civil initiative against the relocation of persons with mental development problems to their town, the Ombudsman called on the relevant Ministry to carry out activities to strengthen respectful attitudes towards the rights and dignity of people with disabilities, especially in places where deinstitutionalization projects are planned. **The National Preventive Mechanism conducted thematic visits to several special social welfare institutions and two psychiatric institutions** to determine the (over)occupancy of protected departments of special social welfare institutions, the conditions due to overcrowding and the increased workload of the staff. The Ombudsman met with representatives of the Association of Paraplegics of Slovenia and civil society representatives who care for people with an autism spectrum disorder. The Ombudsman together with relevant stakeholders prepared the event – Awakening in Autumn - How to best care for adults with intellectual disabilities. The Ombudsman opened a Slovenian Association for Persons with Intellectual Disabilities photography exhibition on its premises. The Association uses art as a medium to show the capabilities of people with intellectual disabilities. See the details [here](#).

Regional and International Actors work on the Rights of Persons with Disabilities

Regional and international actors have continued to actively work towards the protection and promotion of the rights of persons with disabilities. Various documents were adopted, and guidelines developed. It should be noted that in the second quarter of 2022 Autism Europe, European Association of Service Providers for Persons with Disabilities (EASPD), European Disability Forum (EDF), European Network of Ex/ Users and Survivors of Psychiatry (ENUSP), Disabled Peoples' International (DPI), Disabled Peoples' Organizations Denmark (DPOD), Inclusion Europe, International Disability Alliance (IDA), Mental Health Europe (MHE), Society of Social Psychiatry P. Sakellaropoulos and ValidityMental Health Europe (MHE) **has released a joint statement welcoming the suspension of the adoption of the draft additional protocol to the Oviedo Convention** which came after years of advocating for its removal, given strongly held belief that it contradicts the UN CRPD.

United Nations

UN Human Rights [presented the report](#) to the Secretary-General on implementation of the UN Disability Inclusion Strategy.

The [UN Disability Inclusion Strategy \(UNDIS\)](#), adopted by the Secretary General in 2019, provides the foundation for sustainable and transformative progress on disability inclusion through all pillars of the work of the United Nations: peace and security, human rights, and development. The Strategy enables the UN system to support the implementation of the [Convention on the Rights of Persons with Disabilities](#) and other international human rights instruments, as well as the achievement of the [Sustainable Development Goals](#), the [Agenda for Humanity](#) and the [Sendai Framework for Disaster Risk Reduction](#). Following the [Human Rights Council's resolution 43/23](#), the UN Human Rights reports on its performance under the UNDIS to the Human Rights Council. Building on the second report, UN Human Rights worked to improve its performance under the UNDIS entity-based accountability framework. As reported in 2022, UN Human Rights made progress on five out of the 15 applicable indicators:

- Consultation with Persons with Disabilities from missing to approaches requirements.
- Reasonable Accommodation from approaches to exceed requirements.
- Procurement from not applicable to approaches requirements.
- Evaluation from missing to approaches requirements.
- Employment from missing to approaches requirements.

Equinet

In April, Equinet published the Report [Exploring positive action as a means to fight structural discrimination in Europe](#), which was presented in a [Webinar](#) at the beginning of May. This new report gives an update on Equinet's 2014 report Positive Action Measures: The Experience of Equality Bodies. It delves into the practice, and provides a more profound theoretical background by: (1) explaining how positive action differs from other measures in anti-discrimination law; (2) describing the EU and international legislative framework, including case law; (3) providing an overview of the experiences of Equinet's members and how positive action is understood in national legislation; and (4) giving practical points to keep in mind when designing positive action measures.

Following with the Mainstreaming Cluster project that started in 2021, Equinet, together with CIG and ACM, two of their Portuguese members organized a [Conference on Equality planning](#), in order to explore how Equality Bodies can support Equality Plans as a tool to pursue effective equality mainstreaming across the board. At the beginning of June Equinet [met with CSOs including DPOs](#), to discuss its 2023 Work Plan. These annual meetings serve to ensure that needs and priorities of right holder organizations are included in the work plan and synergies are found between Equinet's activities and those of the different organizations.

Equinet organized, with the support of FRA, a [Training: Engaging with hard-to-reach groups in the context of research in June](#), which, thorough an intersectional approach, aimed at ensuring that equality bodies are better equipped to apply an inclusive approach in designing and carrying out or commissioning research and data collection.

Mental Health Europe (MHE)

MHE hosted the third edition of the [European Mental Health Week](#) on 9-13 May 2022. **The theme 'Speak up for mental health' shined the spotlight on youth mental health as a high-profile societal issue now and in the future.** In most European countries, mental health problems among young people (15–24-year-olds) have doubled in the last two years because of the pandemic. Young people constitute an especially vulnerable group. Immediate action at European and national level is crucial to address the mental health needs of young people in Europe. Now, armed conflict in the European region has increased uncertainty and fear. Various online and hybrid events were organized and documents published during the week to discuss issues related to mental health and young people.

European Disability Forum (EDF)

EDF launched online [Accessibility Database](#) focused on transport where you can report cases of discrimination, especially in transport. **You can share your information anonymously. You can also browse cases of discrimination in other Member States or by transport mode.** All the discrimination incidents will be very useful for EDF's political actions and for campaigning for Member States to adopt and implement laws and policies that will hopefully prevent those situations from happening in the future.

EDF [published the sixth edition of Human Rights Report](#) which focuses on the rights of persons with disabilities to vote and to stand as candidates in the European Parliament elections, also known as EU elections. It explores the legal and practical barriers that prevent millions of persons with disabilities from exercising the same political rights as other EU citizens and highlights consequences, such as the underrepresentation in politics of persons with disabilities.

EDF published the [Annual Report for 2021](#) highlighting the achievements EDF made in the past year.

Resources

EDF adopted [a position paper on disability rights in civil judicial cooperation](#). This document was prepared to contribute to the consultation of the European Commission on Civil judicial cooperation – EU-wide protection for vulnerable adults. The position paper gives an overview of the differences in legal capacity regimes existing across the EU, from guardianship to supported decision making, and how in cross-border cases the rights of persons with disabilities may be violated. It also provides recommendations to the EU on the issue of cross-border legal protection of vulnerable adults and the use of the 2000 Hague Convention on the International Protection of Adults.

EDF adopted [position paper on Recommended response to children from institutions in Ukraine](#). This document provides an initial rapid analysis of the situation for children in institutions in Ukraine. It is based on data provided by the Ukrainian government, as well as input from DPOs and NGOs that work with children in Ukraine, Poland, and Moldova.

EDF adopted [Recommendations on disability rights in pre-trial detention](#). Detainees with disabilities continue to face many violations of their rights in EU Member States. In 2017 the European Parliament adopted a resolution on prison systems and conditions. The resolution recognized the failure of EU Member States to protect the rights of prisoners with disabilities.

MHE launched [Short Guide for Young Adults on Mental Health](#) where advice is compiled to navigate some of the complexities that one or a loved one might come across on this mental health journey. In this short guide MHE navigates readers through the mental health journey, including what mental health is, how and when problems might develop and what can be done to feel more in control of one's own journey.

MHE published [urgent policy recommendations](#) to support young people's mental health in celebration of European Mental Health Week. In this document, MHE lays out three key policy areas where significant action must be undertaken by the European Union and its Member States to secure a healthy future for our young people. Such a transformational system change will require joint action to ensure adequate prevention of mental health problems, meaningful empowerment, and active engagement of European youth in the decisions taken regarding their mental health, and targeted mental health support at every stage of life.

We invite you to share your activities as well as any feedback and questions by writing to the Office of Public Defender of Georgia at

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