**Submission of the European Network on Independent Living on the occasion of the visit by Olivier De Schutter, Special Rapporteur on extreme poverty and human rights, to the European Union**

9 December 2020

**Q1: The protection of social rights in the constitutional architecture of the European Union, and the added value of the European Pillar of Social Rights for addressing poverty, inequality, and social exclusion.**

Several European Commission documents, including the recent [Roadmap for a new disability strategy](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12603-Disability-rights-strategy-for-2021-30), continue to highlight access to employment as essential for the full inclusion of disabled people in the European Union. It is therefore surprising that the entire [Chapter 2 of the European Pillar of Social Rights](https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf), on Fair working conditions, does not include a single reference to disability or social inclusion. This cannot be explained by a lack of data, as figures by Eurostat clearly show that 67% of non-disabled people in the EU have a job, compared to only 47% of disabled people.[[1]](#footnote-1) Reports and testimonies by civil society also clearly illustrate the issues of poverty and insufficient support in employment.[[2]](#footnote-2) Furthermore, Eurostat data shows that 28.7% of the EU population with an “activity limitation” are at risk of poverty or social exclusion compared to 19.2% for the general population in the EU.[[3]](#footnote-3)

One of the issues is that the European Pillar of Social Rights fails to address the persisting discrimination against disabled people and to support their full and equal participation in all aspects of society. This is illustrated by the fact that throughout the European Union, disabled people are still segregated into large or small institutions, as well as in sheltered workshops and day care centres[[4]](#footnote-4), which act as replacement for regular employment. The current COVID-19 crisis has only confirmed the fact that isolating people in institutional care settings is a danger to both their life, health (physical and mental), and safety.[[5]](#footnote-5)

Principle 17 of the European Pillar of Social Rights specifically aims at the “Inclusion of people with disabilities.” Within this principle, the Pillar confirms that disabled people have a right to fully participate in the labour market and all aspects of society. Pillar Principle 20 further supports this by addressing the right to access essential services, including transport, digital communication and financial services.

In line with the objective of the Social Pillar, the EU Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities (CRPD) and its General Comment 5, the European Union should develop a mechanism to monitor and stimulate investments in inclusive services, and sanction Member States that make investments in segregating services. This would help ensure that all initiatives to strengthen social policy in Europe facilitate the shift from segregation to social inclusion.

Below, we highlight some of the policy fields and upcoming EU initiatives which can contribute to this objective:

**Funding and investments**

There are several proposals for new funding mechanisms, such as the Just Transition Fund or Invest-EU, and the Recovery and Resilience Facility. These new funding tools do not have explicit safeguards against investments in institutional care settings for disabled people. Therefore, there is a huge risk that segregated settings will continue to be built or refurbished, this time under the guise of the "green investments”. This would both run counter to the objectives of the Pillar and the obligations of the EU and the Member States under the CRPD.

It is therefore important that the upcoming Action Plan to implement the European Pillar of Social Rights leads to a total ban on the use of EU funds for maintaining segregated settings (residential facilities, sheltered workshops or day care centres), or moving disabled people from large into small institutions. Instead, investments should go towards developing real community-based services, which give people the control, independence and the autonomy necessary to actively participate in all aspects of society.

**Minimum Wages**

Good working conditions and wages are at the heart of Chapter 2 of the European Pillar of Social Rights. This also includes a good work life balance and a safe and healthy workplace. A recent survey among ENIL members showed that disabled people identify fair working conditions as essential for the development of genuine community-based services, such as Personal Assistance. Yet at the moment, the EU policy in this area obstructs, rather than promotes, solutions which put the user in control of the support provision as envisaged by the CRPD.

The current initiatives under the Pillar such as the Work Life Balance directive start from a traditional view of disability based on care, and do not address the needs of disabled workers or employers. Similarly, the Working Time and Written Statement Directives do not take into account that disabled people need higher Personal Assistance budgets to be able to offer their assistants good working conditions and to comply with the working regulations in their countries.

The proposed Directive on Adequate Minimum Wages in the European Union should not make the same mistake. Rather than treating community-based services and Personal Assistance as an exception to the rule, the Directive should make clear that all employees, including Personal Assistants have a right to a decent minimum wage and that Member States should ensure adequate Personal Assistance budgets to allow disabled people to offer a decent wage to their assistants.

**Child Guarantee**

According the EC, the objective of the Child Guarantee initiative is “to ensure access for children in need to the services they need, in particular in the field of education, care, health care, nutrition and housing.”[[6]](#footnote-6)

For children with disabilities and their families, to have full access to independent living, as set out in Article 19 of the CRPD, mainstream services such as education, health, housing and transport must be accessible. Providing children with disabilities and their families with access to support and mainstream services will help Member States realise principle 11 of the Social Pillar, on the equality of opportunities for children from disadvantaged backgrounds. Personal assistance, as a key tool for independent living, should be available to children with disabilities and their families. At the moment, this is not the case[[7]](#footnote-7).

The Child Guarantee has to contribute to a shift from segregation to social inclusion, and safeguard the right of all children to grow up in a family. Therefore, all initiatives under the Pillar should make clear that there are no exceptions to the right to grow up in a family for any child. As a consequence, investing EU Funds in any projects that institutionalise or segregate (disabled) children should be strictly prohibited, as they violate the European Social Pillar (Principle 11) and the EU Charter of Fundamental Rights, as well as the EU and Member States’ commitments under the CRPD and the Convention of the Rights of the Child.[[8]](#footnote-8)

**European Unemployment Re-insurance Scheme**

Throughout the EU, disabled people who enter the labour market risk losing their disability allowance.[[9]](#footnote-9) This link between employment and disability benefits is a huge barrier to accessing the labour market. Furthermore, it does not take into account the fact that disability allowance is meant to cover disability-related extra costs of living and should therefore not be linked to employment.

The European Unemployment Re-insurance Scheme should recognise this and include a clause to ensure that disabled people continue to have access to their disability benefits before, during and after their employment. Access to unemployment benefit should also not be linked to or restrict access to disability benefits.

**European Education Area**

Pillar Principle 1 refers to inclusive education. However, the recent EC proposal for a new Digital Education Action Plan did not take into account inclusion or the need for accessible online tools.[[10]](#footnote-10)

A 2019 Report on PISA and the EU establishes a clear link between the OECD Programme for International Student Assessment’ (PISA) and the European Education Area.[[11]](#footnote-11) However, a recent ENIL report showed that the PISA testing excludes, rather than includes, disabled students.[[12]](#footnote-12)

To realise the goal of inclusive education and other rights protected by the Pillar, the EU should put inclusion at the heart of the European Education Area and ensure active involvement of disabled people in every step of its development.

**Minimum income**

While the Communication on the Action Plan to implement the Pillar includes a proposal on minimum wage, there is no initiative related to minimum income (Pillar Principle 14). As mentioned above, EU-SILC statistics indicate that disabled people are more at risk of poverty and social exclusion compared to the general population. Disabled people are also more likely to face in-work poverty (11% versus 9.1%).[[13]](#footnote-13)

Therefore, in order to advance the realization of the rights protected by the Pillar, the EU should propose a European income guarantee to monitor and compare the adequacy of social protection and minimum income schemes in the Member States.

**From silos to human rights**

Social rights cannot be realized in isolation. To recognise this, the Pillar was set up as a compass to guide European and national policy towards a more inclusive Union, in which everyone can fully participate.[[14]](#footnote-14) In short, the Pillar should aim to align different European policy initiatives and ensure consistency with the long term social and human rights commitments of the EU. It is clear, from the above mentioned examples, that this is not the case at the moment.

**Q2: The expected impacts of the EU’s COVID-19 response on the rights of people living in poverty and on improving socioeconomic equality within and between Member States.**

As a member of the COVID-19 Disability Rights Monitor (DRM) Coordinating Group, we would like to highlight the key findings of our global report on the impact of COVID-19 on disabled people.[[15]](#footnote-15) The report was based on a survey, which collected 2,152 responses from 134 countries, mainly from disabled people, their organisations and family members; many of these demonstrating a complete failure by the states to adopt disability-inclusive COVID responses. The majority of responses came from Europe – with the highest number coming from Western Europe (515), followed by Southern (330), Eastern (189) and Northern Europe (109).

The DRM survey highlighted how the strict enforcement of lockdowns and other COVID measures failed to take into account their impact on disabled people, which meant that disabled people could not access essential services, including food, because it was impossible to go to a shop or access accessible transport.

The survey has revealed that disabled people around the globe, including more than 25% of respondents in Belgium and France, among other, did not have access to food during the pandemic. The survey respondents also said that disabled people did not have access to personal assistance.

Instead of prioritising emergency measures to support people in the community, respondents pointed out that people have been pushed into residential care, and that many institutions have been locked down, with well know fatal consequences. In some cases, disabled people were directly denied access to treatment for COVID-19, because of their disability.

The COVID-19 pandemic proved once more that segregating people in institutions or making them dependent on a network of “special” services, does not protect them, but instead gravely violates their human rights.

In many countries, disabled people have been living in poverty before the COVID-19 pandemic. Respondents described how the measures taken by their governments created even worse situations for many of them.

At the moment, both the EU and the Member States are drafting post-COVID recovery plans. Rather than reinvesting in segregating services which dehumanize disabled people, socioeconomic recovery should focus on developing innovative community-based services, like personal assistance. Both Member States (with national plans) and the EU (with tools like the Recovery and Resilience mechanism), should ensure recovery plans are in line with the objective of the Social Pillar and the CRPD, to guarantee that disabled people can fully enjoy their human rights.

Contact: Frank Sioen, Advocacy and Policy Coordinator, [frank.sioen@enil.eu](mailto:frank.sioen@enil.eu) and Natasa Kokic, Campaign Coordinator, [natasa.kokic@enil.eu](mailto:natasa.kokic@enil.eu)

1. <https://ec.europa.eu/eurostat/statistics-explained/images/8/8c/Infographic_Disability_statistics_final.png> [↑](#footnote-ref-1)
2. <http://www.edf-feph.org/persons-disabilities-experiences-poverty-and-social-exclusion> [↑](#footnote-ref-2)
3. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Disability\_statistics\_ \_poverty\_and\_income\_inequalities#Being\_at-risk-of poverty\_or\_social\_exclusion\_.28AROPE.29:\_higher\_prevalence\_among\_the\_population\_with\_activity\_limitation](https://ec.europa.eu/eurostat/statistics-explained/index.php/Disability_statistics_%20_poverty_and_income_inequalities#Being_at-risk-of poverty_or_social_exclusion_.28AROPE.29:_higher_prevalence_among_the_population_with_activity_limitation) [↑](#footnote-ref-3)
4. Academic Network of European Disability Experts (2019), The Right to Live Independently and to be Included in the Community in European States: ANED synthesis report, available at: https://www.disability-europe.net [↑](#footnote-ref-4)
5. COVID Disability Rights Monitor: https://enil.eu/news/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities/ [↑](#footnote-ref-5)
6. BACKGROUND NOTE ON THE CHILD GUARANTEE [↑](#footnote-ref-6)
7. https://enil.eu/wp-content/uploads/2020/11/ENI\_DRI\_Validity\_ChildGuarantee\_Nov2020.pdf [↑](#footnote-ref-7)
8. <https://enil.eu/news/seven-priorities-for-the-new-european-child-guarantee/> [↑](#footnote-ref-8)
9. <https://www.europarl.europa.eu/doceo/document/EMPL-PR-657235_EN.pdf> [↑](#footnote-ref-9)
10. <https://enil.eu/news/ec-proposes-new-digital-education-action-plan/> [↑](#footnote-ref-10)
11. <https://ec.europa.eu/education/news/pisa-2018_en> [↑](#footnote-ref-11)
12. <https://enil.eu/news/how-inclusive-is-pisa/> [↑](#footnote-ref-12)
13. <https://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions> [↑](#footnote-ref-13)
14. https://www.robert-schuman.eu/en/european-issues/0493-the-social-dimension-at-the-heart-of-europe [↑](#footnote-ref-14)
15. <https://enil.eu/news/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities/> [↑](#footnote-ref-15)