

Implementation of the UNCRPD

From: Markus Schefer, Member of the CRPD Committee, May 26, 2021

To: Houses of the Oireachtas, Joint Committee on Disability Matters, Ireland

Members of Parliament, I am honored to give a brief presentation on the implementation of the UNCRPD and on its Optional Protocol. Let me begin with some of the insights the Committee has gained from conducting state party reporting procedures:

The CRPD covers nearly all aspects of life and requires substantial changes in law, society and individuals' attitudes toward persons with disabilities. In addition, it extends to all types of impairments. Correspondingly, implementing it is a task with which every member state struggles. It is of paramount importance to develop a comprehensive strategy that sets out goals, time frames, and the measures to be taken, that clarifies the priorities and spells out the reasoning behind them. Poorly coordinated piecemeal approaches are ill equipped to succeed. The measures included in legislation need to be accompanied by the funding necessary to realize them. The Committee is frequently faced with promising legislation, only to be sobered by an absence of enforcement due to a lack of funding. Representative organizations of persons with disabilities need to be actively involved throughout the process. From my personal experience in implementation processes in five Swiss cantons, such participation is indispensable to developing those measures that in fact address existing problems in society. These experiences have also underlined the importance of including local government in all implementation efforts that touch their spheres of responsibility. Our Committee observes that the provision of services for persons with disabilities is often the responsibility of local government, and that it is here where the implementation frequently fails – be the state unitary as Ireland or federal as Switzerland.

Art. 33 CRPD requires the establishment of an independent monitoring mechanism. Parliamentary oversight cannot substitute it, but it can complement it by transforming its findings and those of the independent monitoring mechanism into political action. In addition, parliamentary oversight equips the legislature with unmitigated know-how of those areas where existing legislation is adequate and where it needs to be amended. A clear separation of the oversight and monitoring bodies with precisely delineated powers, not compromising the independence of the monitoring mechanism, is essential.

The Convention does not contain an exhaustive definition of disability, but it does clarify that a disability is the result of the interaction between an impairment and society at a given time and place. Domestic law ought to specify further the disabilities covered by law; but it must not attempt to codify an exhaustive list. As society changes, together with its perception of discrimination and suffering, any definition must remain open to be adapted accordingly.

Allow me one last remark: Implementing the Optional Protocol in a dualist State effectively requires its incorporation in domestic law. We may expound on this in the discussion.

Thank you again for your generous invitation, and I look forward to discussing your questions with you.