Conclusion of the UN Convention on the Rights of Persons with Disabilities

2008/0170(NLE) - 26/11/2009 - Final act

PURPOSE: to conclude the UN Convention on the Rights of Persons with Disabilities, subject to a reservation in respect of Article 27.1 thereof.

LEGSLATIVE ACT: Council Decision 2010/48/EC concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities.

CONTENT: in May 2004, the Council authorised the Commission to conduct negotiations on behalf of the European Community concerning the United Nations Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (see also NLE/2008/0171). The UN Convention was adopted by the United Nations General Assembly on 13 December 2006 and entered into force on 3 May 2008. It was signed on behalf of the Community on 30 March 2007 subject to its possible conclusion at a later date. The UN Convention constitutes a relevant and effective pillar for promoting and protecting the rights of persons with disabilities within the European Union, to which both the Community and its Member States attach the greatest importance. Accordingly, this Decision approves the UN Convention on behalf of the Community. Such approval is, however, accompanied by a reservation, entered by the European Community, with regard to Article 27(1) of the UN Convention (on work and employment). The reservation states that the Community concludes the UN Convention without prejudice to the Community law- based right, as provided under Article 3(4) of Council Directive 2000/78/EC, of its Member States not to apply to armed forces the principle of equal treatment on the grounds of disability.

Both the Community and its Member States have competence in the fields covered by the UN Convention. The Community and the Member States will therefore become Contracting Parties to it, so that together they can fulfil the obligations laid down by the UN Convention and exercise the rights invested in them, in situations of mixed competence in a coherent manner. When depositing the instrument of formal confirmation, the Community will also deposit a declaration under Article 44.1 of the Convention specifying the matters governed by the Convention in respect of which competence has been transferred to it by its Member States.

The main provisions of the Convention are as follows:

Purpose: the purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

General principles: the principles of the present Convention shall be: (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. In accordance with the Convention, States Parties undertake to ensure equal treatment for and non-discrimination of persons with disabilities as well as their equality before the law and the same legal protection as able-bodied persons against all forms of discrimination.

Specific provisions have also been established to take into consideration the many forms of discrimination of which women and girls with disabilities are victims, as well as to take into consideration the specific rights of children with disabilities.

Rights: in addition to non-discrimination, the Convention defends several other rights, including the right to:

- **accessibility**: to enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure that persons with disabilities have access 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 shall include the identification and elimination of obstacles and barriers to accessibility to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities, workplaces and emergency services;
- **life**: the Convention reaffirms that every human being has the inherent right to life and calls on State Parties to take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Other rights set out in the Convention include the right to equal recognition before the law; access to justice; liberty and security of person; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from exploitation, violence and abuse; integrity of the person; liberty of movement and nationality; live independently and be included in the community; personal mobility; freedom of expression and opinion and access to information; education; health; participate in political and public life (including the right to vote); participate in cultural life, recreation, leisure and sport. States are also called upon to respect the privacy of persons with disabilities and to ensure respect for home and the family (including the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent, and the right to retain their fertility).

Lastly, States are called upon to prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions. Persons with disabilities must also enjoy, on an equal basis with others, fair and favourable working conditions and a standard of life that includes adequate food, clothing and housing. The Community has entered a reservation in respect of this obligation. The European Community states that pursuant to Community law (notably Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation), Member States may, if appropriate, enter their own reservations to Article 27(1) of the Disabilities Convention to the extent that Article 3(4) of the Council Directive provides them with the right to exclude non-discrimination on the grounds of disability with respect to employment in the armed forces from the scope of the Directive. Therefore, the Community states that it concludes the Convention without prejudice to the above right, conferred on its Member States by virtue of Community law.