



EDF's contribution to the European Ombudsman consultation on the Joint Sickness Insurance Scheme (JSIS) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

The European Disability Forum is an independent NGO that represents the interests of 80 million Europeans with disabilities. EDF is a unique platform which brings together representative organisation of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families.

EDF welcomes the opportunity to contribute to the European Ombudsman's consultation on the Joint Sickness Insurance Scheme (JSIS) and the UN Convention on the Rights of Persons with Disabilities (CRPD). It is important that the European Union looks in detail into this issue as it should lead by example and promote best practices in ensuring that staff with disabilities and family members of children with disabilities have the same working opportunities and conditions on an equal basis with others, and that the EU's rules and practices in this regard are in line with the CRPD.

EDF has been monitoring the implementation of the CRPD by the European Union and its member states since the CRPD entered into force. We have actively contributed to the review of the European Union by the UN CRPD Committee in 2015 with the publication of an alternative report about persons with disabilities in the EU.

As a result of the review process of the EU by the CRPD committee, the UN published concluding observations in September 2015 which contained the following recommendations:

'79. The Committee recommends that the European Union take the necessary measures to ensure that all employees of the European Union who are persons with disabilities, or who have family members with disabilities, receive the reasonable accommodation they need to enjoy their rights from the labour and related relationships on an equal basis with others.

85. The Committee recommends that the European Union take the necessary measures to ensure that all students with disabilities receive the reasonable accommodation needed to enjoy their right to inclusive quality education in European schools. It also recommends that

European schools implement a non-rejection policy on the grounds of disability and ensure inclusive, quality education for all students with disabilities.

87. The Committee recommends that the European Union revise its Joint Sickness and Insurance Scheme so as to comprehensively cover disability-related health needs in a manner that is compliant with the Convention.’

Following these recommendations, it is important to highlight that the EU’s measures, policies and practices do not discriminate against staff members with disabilities or staff members with children with disabilities in the EU health insurance, employment and social protection schemes.

EDF’s comments:

I. Disability-related needs under the JSIS

1. Illness is not the same as disability. Currently staff members with disability and staff members with children with disabilities are forced to describe their situation as an urgent medical issue when applying for reimbursement of medical costs under the JSIS. The eligibility requirement for reimbursement (‘serious illness’) and the four GIP criteria (such as ‘shortened life expectancy’) should be aligned with the CRPD. The rules and practices of the JSIS should be amended as to ensure that all staff members with disabilities and family members of persons with disabilities can enjoy the reimbursement of medical costs on an equal basis with others.
2. We welcome the European Ombudsman’s suggestions to carry out an assessment to identify whether any provisions of the GIPs and/or related forms need to be revised in view of the CPRD and CRPD Committee’s concluding observations. We would add that the European Commission should revise all internal instruments, policies and practices to include the human rights based approach to disability as stated in article 1 CRPD and as included in the Staff Regulations.
- 3-4. We welcome the suggestions 3 and 4 made by the European Ombudsman, and would like to add that the EU should adopt clear and transparent rules of examination and reimbursement. It is important that these rules and individual decisions are communicated to staff members, that well-founded motivation is given with each decision taken and that the staff member has the possibility for its decision to be reviewed by an external expert.

II. Social protection for persons with disabilities

5. EDF welcomes the suggestion for the European Commission to carry out an assessment to identify the non-medical needs of staff members with disabilities or staff members with children with disabilities. It is important, as staff members are no longer able to depend on their national social protection schemes and its disability related benefits, to provide the necessary support to enable them to work and have an adequate standard of living on an equal basis with others.

With regards to the dependent child allowance that is provided to staff members with children with disabilities, it is important to highlight the need to also provide support to staff members with disabilities who are also parents.

With regards to reasonable accommodations, these measures should include support to remain and return to employment for staff with disabilities. It is equally important to provide budgets for these various forms of support and intermediaries (i.e. to cover personal assistant, professional sign language interpreters, mediator, peer counselling, etc), and to take other measures that promote the employment of persons with disabilities.

6. We welcome the analysis that the granting of the dependent child allowance and social aid benefits is medicalised and does not consider the support needs of the staff member with a disability or the staff member with children with disability. The granting of these social protection schemes should be revised and be based on the human rights model to disability by analysing the support needs of the person concerned rather than his or her medical situation.
7. We welcome the suggestion for training of staff and would encourage the European Commission to include in these trainings the CRPD, the human rights based approach to disability and the concept of reasonable accommodation. Persons with disabilities and DPOs should be directly involved in the development and implementation of these trainings.

III. Consultation with interested parties

8. We welcome the suggestion to set up a structure to systematically consult and involve staff with disabilities and staff that have family members with disabilities to negotiate on all labour and social protection matters.

As far as EDF is aware, in case of the EU institutions it is also relevant to include staff members who have children with disabilities in these consultations as the educational

system is provided by the EU and topics such as work life balance are currently being discussed at EU level.

Conclusions

As members of the EU Monitoring Framework, EDF monitors the overall implementation of the CRPD in Europe and how the EU implements the CRPD as a public administration. We are in the process of deepening our understanding of the EU internal practices, and we look forward continuing our cooperation with the European Ombudsman on this important issue.