**Human Rights and Persons with Disabilities**

**Written Statement for the CRPD Pre-Sessional WG - 11th Session (April 8-11)**

**by the**

**National Confederation of Disabled People Greece (NCDP)**

For the attention of the UN Secretariat of the

Committee on the Rights of Persons with Disabilities

The National Confederation of Disabled People (NCDP) of Greece is an umbrella organization founded and established in 1989. Its founding members were federations and associations representing various disabilities, chronic diseases, and family members. It is a democratically run and structured organization. Only persons with disabilities, persons with chronic diseases and family members have the right to vote and be elected in all organs of the Confederation; as delegates to the National Congress, as members of its Board and as members of the Confederation’s Executive Secretariat.

The NCDP’s vision and mission are to protect the interests of persons with disabilities, promote their rights and monitor the law and policy-making of the Greek state on issues concerning themselves and their families. In order to achieve this, the NCDP from the very first day of its existence has systematically set out to be recognized as the representative umbrella organization of the Greek disability movement by the state. This has been mainly achieved, and the Confederation actively participates and is involved in the decision-making process at all levels of the organization of the Greek State. The motto “Nothing about persons with disabilities without persons with disabilities” is a guiding principle in the NCDP’s work to make disability rights fully visible and respected.

The Confederation is a founding member of the European Disability Forum (EDF), and it has been very active in EDF’s work and through EDF in the work of the International Disability Alliance (IDA). The NCDP is, also, a member of the Greek National Commission for Human Rights, of the Greek Economic and Social Council and the European Economic and Social Committee. Also, the representation of the Greek disability movement through NCDP and its members in all relevant agencies, bodies, and committees is guaranteed by law. For example, NCDP is a member of all monitoring committees of the European structural funds in Greece with the right to vote.

Since 1999, Yannis Vardakastanis, the NCDP’s President is also the President of EDF. Also, he was the Chair of IDA from 2012 to 2014, Vice-Chair from 2010 to 2012, and, currently, he holds the position of Treasurer at IDA's board. The President of EDF and NCDP has participated in all ad-hoc committees at the headquarters of the United Nations in New York as well as in all Conferences of State Parties for discussing issues about the implementation of the Convention on the Rights of Persons with Disabilities (CRPD). The NCDP took actively part in the negotiations for the UN CRPD and after that for its implementation both in Greece and at EU level through EDF. Among the initiatives that the President of NCDP and EDF has taken for the implementation of the CRPD are: i) in EU level, in 2010, the EDF campaigned for the adoption of the CRPD by EU, and, immediately, its ratification was achieved at the end of 2010. The ratification of the Convention by EU is an important move regarding the implementation of CRPD since EU is the first regional union that has ratified a human rights treaty; and ii) it was NCDP and EDF through their President that proposed, in June 2017, in a side event during the proceedings of the 10th Conferences of State Parties to the CRPD in New York to Chairperson of the UN Committee on the Rights of Persons with Disabilities, Ms. Theresia Degener, to start work for General Comment Nr. 7.

In Greece, the ratification of the CRPD took place in May 2012, almost five years since the time that the Greek state signed the Convention, expressing thus its intention to comply with the provisions of the latter. This delay, however, was not the only one. From the ratification of the Convention, in 2012, to the enactment of a law that concerns measures and actions for its implementation, it took almost five more years. To be more specific, the ratification of the Convention in Greece coincided with a crucial period in the modern history of the Greek state and especially after the regime change in 1974, both in a political and socioeconomic context. The outbreak of the severe economic crisis early in 2009 and the extreme events that Greece had to deal with -such as the enactment of austerity-driven policies and radical cost-cutting measures to the welfare state, which have had as a consequence the violation of the guaranteed rights, e.g., the right to health, social security, and work, to name but a few, of the less powerful social groups such as persons with disabilities, chronic diseases and their families- also affected the establishment of an efficient mechanism responsible for the implementation of the Convention.

The involvement of the Greek disability movement to the implementation of the Convention started long before its ratification. In 2009, the NCDP through its own initiative and in collaboration with *The Centre for European Constitutional Law – Themistocles and Dimitris Tsatsos Foundation (CECL)* carried out a study on the compatibility between the existed Greek legislation with the provisions of the Convention. The aim of this study was threefold: first, to record the existed legislation (until January 2012); second, to illustrate the compatibility of the existed legislation with the provision of the Convention, and, third, to proceed with substantiated proposals for the legislation restructuring. Considering that for the Greek disability movement the struggle for the rights of persons with disabilities starts and ends with the implementation of the Convention, this initiative shows/depicts their ambition as well to implement it even before its ratification.

The Greek disability movement, by having this essential knowledge in hand from the abovementioned study, reacted to the procrastination or reluctance of the Greek state to take measures for the implementation of the Convention in order 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”, as it is its purpose. Therefore, through different types of tactics, either by protesting, e.g., especially on December 2, 2016 or by being in continuous negotiations with the Ministry of Labor, Social Insurance and Social Solidarity and the Minister of State, the Greek disability movement exerted pressure to the government. It should be noted here that during the negotiation phase, the Greek disability movement did not hesitate to strongly disagree with the representatives of the State, on issues concerning the implementation of the Convention. For instance, one point of conflict between the Greek state and the disability movement concerned the designation of the focal point within the government. The Greek state argued that the focal point responsible for issues on the implementation of the Convention should be designated at the Directorate of International Relations of the Ministry of Labor, Social Security and Social Solidarity, while the Greek disability movement argued that the focal point could not be designated to another ministry rather than the Ministry of Justice and the General Secretary of Human Rights, in particular.

As a result, the key Law 4488/2017 was enacted, which introduces a number of provisions that have the potential to establish a new legal framework for protecting the rights of persons with disabilities, chronic diseases, and their families. However, the role of the Greek disability movement and its strong voice has not only been limited to the negotiations for the enactment of the abovementioned Law. Instead, according to 4488/2017, its active involvement will be continued and during the implementation stage of the Convention by having an active and essential role in the monitoring process.

At the dawn of 2019, where the economic crisis seems to be getting over -at least according to the representatives of the government- and after all the preparatory procedures that took place for the implementation of the Convention, e.g., the enactment of the Law 4488/2017, it is the time the Convention to begin operating as a national strategy for disability. By that is meant that both the new legal framework that will emerge and the existing legal framework, which will be reformed, should be in line with its provisions by mainstreaming disability rights into all policy fields/areas. Even though a few initiatives have been undertaken during the last years e.g., the recent enactment of a law about the web accessibility of persons with disabilities, the integration of EU directives which protect and promote the rights of persons with disabilities or a workshop between the NCDP, representatives of the Greek state and the Greek Civil Servants' Confederation on matters regarding reasonable accommodation measures in the field of public sector, mainly because of the pressure and/or intervention of the disability movement, it is necessary more actions to be taken to promote and protect the rights of persons with disabilities, chronic diseases, and their families.

At this point, we would like to raise two important issues regarding the State’s report to the attention of the Committee. The first point concerns the involvement of the NCDP. While the State’s report says that “the report was prepared on the basis of the guidelines issued by the Committee on the Rights of Persons with Disabilities in cooperation with the jointly competent Ministries and other Authorities and Agencies and the National Confederation of Disabled People (ESAMEA),” actually this is not true. The only time that the NCDP was consulted at the State’s report was at the beginning and not throughout the whole drafting process. What is more, NCDP was just informed by the Greek Government that their report was just submitted. Nothing else.

The second point is that the State’s report -as submitted to the UN Committee on the Rights of Persons with Disabilities in 2015- contains information that does not reflect the current situation in Greece. The descriptive rhetoric, which was adopted, while, on the one hand, aims at persuading that the at-the-time of its preparation existing legal framework meets to a large extent the provisions of the CRPD, on the other hand, lacks to provide information regarding the implementation part. For instance, as it has already discussed at the NCDP’s alternative report, even though the state has a full legal framework about accessibility, the public services and services of public use are inaccessible. Also, another example that confirms the gap between the existing legal framework and its implementation for meeting the challenges when they arise, goes back to 2015 and, specifically, to the continuous mass influx of migrants and asylum seekers, where the Greek state did not respond in a way to guarantee the protection of the rights of migrants and asylum seekers and, particularly, of migrants and asylum seekers with disabilities.

For that reason, we would like to suggest that the questions that will be raised to the Greek state to focus on implementation matters and to look for concrete and binding answers and specific implementation timeframes. In what follows, we would like to further present and inform the CRPD Committee about the critical and main issues on the rights of persons with disabilities as they have been identified by the disability movement.

To begin with and before we start to present a number of main issues that we would like to grab your attention when you prepare the list of issues, we would like to inform you that there is no a national law which refers to the implementation of the CRPD as a whole. As stated earlier, our ambition is that after the enactment of the Law 4488/2017 regarding the national implementation and monitoring of the CRPD, it will create the necessary context towards its overall implementation.

# **Article 33 – National Implementation and monitoring**

As already stated, in 2017 the Law 4488 was enacted where the involvement of the Greek disability movement was essential. Because of the involvement of the Greek disability movement -who had a strong say during the whole negotiation period- the part of the Law which concerns the national implementation and monitoring of the Convention is in line with the provisions of the latter. Thus, the current legal framework meets the provisions of the Convention. Also, a point that we would like to add here concerns one of the key components of this law and particularly the focal points which will be responsible for monitoring the proper implementation of the Convention. After a suggestion or a recommendation of the NCDP, sub-focal points will be designated both to every municipality and every region of the Greek territory. To the NCDP, the existence of more focal points than the central focal point will function as a better measure for monitoring the implementation of the Convention.

What we would like to propose to be included at the list of issues is specific questions regarding the state’s actions for the implementation of the Convention. For example, questions about: the local and regional focal points and how they are going to function and communicate with the main focal point; the staffing of the central focal point, e.g., who are they going to staff the central focal point, information regarding the recruiting process; the operation of the monitoring mechanism as well as regarding the expectations of this procedure; the actions that the Greek state will take for mainstreaming disability into the public policies, and so on.

# **Article 5 – Equality and non-discrimination**

The current Law 4443/2016 regarding equality and non-discrimination provides a legal framework that is in line with the Convention, since it refers to the prohibition of any direct or indirect discrimination, associated, intersectional and/or multiple discrimination. Following the 4443/2016, though the application of the principle of equality at first aiming at the field of employment and occupation, soon it would be integrated and to more sociopolitical areas, through the enactment of a Presidential Decree. However, this Presidential Decree has not been enacted yet. Specifically, according to the Law 4488/2017, this Presidential Decree was supposed to be enacted in September 2018, but something like this has not happened, and there is no any information about the intention of the Greek state to adopt it shortly.

Taking into account the multiple discrimination that women with disabilities face in everyday life -an issue that we have already discussed to our alternative report- the enactment of this Presidential Decree is an essential element to the existed legal framework for the equal treatment of persons with disabilities to all sociopolitical areas and not only to the employment and occupation. Another important reason that the enactment of this Presidential Decree is vital concerns the protection and promotion of the rights of migrants and asylum seekers with disabilities in Greece.

One more point that we would like to stress has to do with the concept of “reasonable accommodation.” Specifically, we refer to the way that this concept is introduced and interpreted within the existed legal framework. As we discussed to our report, the existed definition is very broad. Besides that, in terms of its implementation, it seems that it focuses only on employment and occupation field and not on a horizontal basis and to other policy fields.

For us, it is essential the Greek state be asked to give concrete answers regarding i) the initiatives -both in legal and policy framework- that will take for protecting and promoting the rights of women and girls with disabilities and migrants and asylum seekers against discrimination (e.g., direct, indirect, multiple, associated, and/or, intersectional); ii) the implementation of the concept of “reasonable accommodation” in all areas that concerns persons with disabilities (e.g., funding, personal assistance, technical support and so on), and not only in the area of employment and occupation.

# **Article 9 – Accessibility**

Regarding accessibility, as we stated earlier, even though the existing legal framework could be viewed as sufficient and in line with the provisions of the CRDP; it seems that there is a lack of its implementation. To be more specific, the reason for this gap is located at the lack of national accessibility plan which will create the necessary framework for the implementation of accessibility issues to all relevant domains. For example, while the law “New Building Code” foresees the issues regarding the accessibility of buildings, currently, there is no any law concerning the accessibility study, which, according to the “New Building Code,” is necessary for getting the building permit.

The issue that we mainly raise here is the lack of national accessibility plan and what does the Greek state plan to do to face the gap that emerges between the existing legal framework? For the disability movement, it is not enough to rely on the representative of the Greek state’s argumentation that the necessary legal framework has already enacted. Instead, for the disability movement what is essential is to see in practice how the existing legal framework is translated for promoting the rights of persons with disabilities as equal members of the Greek society. So, the issue here again concerns the weakness of the legal framework to be translated to elements that will improve the lives of persons with disabilities in terms of accessibility.

# **Article 12 – Equal Recognition Before the Law**

A main issue in the Greek legal framework is the legal scheme of the “judicial support”, which is a form of guardianship and does not comply at all with the provisions of the CRPD. In order to explain to you how the right of legal capacity is violated, we will present the procedure a parent should follow to request the judicial support of his/her child with a disability.

During the last year of his/her childhood, the parent or another relative of the child with a disability (hereinafter refer to as claimant) submits a request to the public prosecutor attached with the child’s medical record. Through this request, the claimant requests the child with a disability to be put under fully deprived judicial support since the child’s psychosocial disability prevents him/her from taking decisions for his/her own life. Additionally, the claimant proposes himself/herself as a judicial supporter of the child as well as a three-member supervisory board, as provided by the law. Then the request is delivered to the child by the competent court enforcement officer. In other words, the claimant is obliged to take legal action against the child. The next step is the trial to be set. The hearing takes place behind closed doors. At the courtroom both the claimant and the child are present. According to the procedure, the claimant is together with his/her lawyer and a witness who confirms that the claimant will enact for the benefit of the child with a disability. As for the child, s/he is alone because, according to the law, s/he cannot have an appointed attorney-at-law. The final court decision states i) the child was judged in absentia, and, ii) if the child is going to receive full judicial support.

As we can notice on the above example, this child, and every child who is in a similar situation, is not recognized by the existing law as a rights-holder person and with legal capacity. However, here there is a conflict between the existed legal framework in Greece and with the “paradigm shift” that Convention aims to bring, by saying that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.”

The issues that we mainly want to raise here concern the actions or the initiatives that the Greek state will take for the transition from the current substituted decision-making to the supported decision-making, as well as the reform to all legal codes in order to be in line with the Convention.

# **Article 19 – Living independently and being included in the community**

Despite the fact that the Greek state has expressed its intention to elaborate and implement a National Deinstitutionalization Plan, a scheme like this, as well as a personal assistance scheme, do not exist at the Greek social policy. Taking into account the importance for persons with disabilities to live in the community in an equal way as the rest members of the community, the Greek state should give concrete answers on how it plans to take measures for giving the opportunity to persons with disabilities to choose or decide the type of the independent living that s/he wants to have. For us, while the scheme of personal assistance -as well as the choice of the type of independent living that each person with disabilities wishes to have- are of fundamental importance for the inclusion of persons with disabilities, unfortunately, they are very weak in the Greek reality. So, through the process of the list of issues and later through the examination of the Greek state in fall 2019, it is vital the Greek state be asked on the measures that it will take in order be in line with the provisions of the Convention.

# **Articles 24, 25, 26 – Education, Health, and Habilitation and Rehabilitation**

Here we would like to add two more issues that has been recently emerged and owing to the limited time available we were not able to include in our alternative report. Specifically, the issues that we want to bring to the attention of the Committee concern the recent reform of the Integrated Health Care Regulation, which: i) contains reductions to special treatments for children with autism without putting forward any plausible justification, and, ii) changes to the process for administering special education treatment therapies. However, the abovementioned reductions and changes have a crucial impact on children with disabilities and their families, both in financial and qualitative terms. What is more, the above “revisions” are not accompanied by an adequate and, let’s say, scientific reasoning. Considering the vulnerability of the social group of children with disabilities, and let alone during all these years since the outbreak of the economic crisis, these recent “revisions” are one more representative example on how the austerity measures continuous to violate a number of human rights of children with disabilities, such as the right to health, education, and rehabilitation.

# **Conclusion**

To summarize, those are some issues that we would like to raise here to your attention. Obviously, due to the limited time, it was impossible to present all issues as we have already raised on our alternative report. What we would like to suggest to the CRPD committee to raise issues to the Greek government that concern implementation of the Convention. For example, to ask the Greek government to offer concrete and binding answers regarding the actions and measures that they plan to take in order to protect, promote, and ensure the rights of persons with disabilities, chronic diseases, and their families.