

**Minutes of the constituent meeting of the
EU Framework to promote, protect and monitor the UNCRPD (art. 33.2 CRPD)**

Rue du Luxembourg 46, 1049 Brussels, 23 January 2013, 10:15 to 14:15

Participants:

European Ombudsman: Ian Harden, Rosita Agnew.

European Parliament, Secretariat of the Committee on Petitions (PETI): David Lowe, Georgiana Sandu, Anna Pospisilova Padowska.

EU Fundamental Rights Agency (FRA): Ioannis N. Dimitrakopoulos.

European Disability Forum (EDF): Ioannis Vardakastanis, Carlotta Besozzi, Javier Guemes, An-Sofie Leenknecht.

European Commission, DG Justice (EC): Aurel Ciobanu-Dordea (Chair), Johan ten Geuzendam, Inmaculada Placencia Porrero, Annelisa Cotone, Moritz Schott.

Agenda

1. Welcome and opening by Mr Aurel CIOBANU-DORDEA, Director for Equality, European Commission, DG Justice
2. Approval of the agenda
3. Setting up of the EU Framework, elements of the Commission's non paper and the Council adoption
4. Practical work of the Framework and *modus operandi*:
 - a. Role, nature and resources of the Framework's secretariat
 - b. Chair of the Framework
 - c. Working methods for coordination and cooperation, rules of procedure
5. Publicity, transparency and visibility of the EU Framework
6. Presentation of on-going and planned activities relevant for the EU Framework's work programme
7. Information from the Commission on the preparation of the EU Report to the UN CRPD Committee under art. 35 CRPD, and planned consultation within the EU Framework
8. Next steps
 - a. Exchange of letters between the Members and the Commission
 - b. Date of next meeting

1. Welcome and opening by Mr Aurel CIOBANU-DORDEA, Director for Equality, European Commission, DG Justice

The Chair thanked the participants for attending the constituent meeting of the EU Framework required under Article 33.2 of the UNCRPD. The aim of the meeting was to discuss and seek agreement on the modus operandi of the Framework, including issues like the establishment of a Secretariat, the determination of a Chair and rules of procedure, and also to discuss the contribution of each member to a coordinated work programme.

2. Approval of the agenda

All participants confirmed that they had received the agenda beforehand. The agenda was adopted with a change in the order of sub-items under point 4 "Practical work of the Framework and modus operandi" as follows: a) Role, nature and resources of the secretariat function; b) Appointment of the Chair and c) Working methods for coordination and cooperation, rules of procedure.

3. Setting up of the EU Framework, elements of the Commission's non paper and Council adoption

The Commission briefly recalled the essential elements of the Commission's proposal to set up an EU Framework implementing art. 33.2 of the Convention as it was endorsed by the Council on 29 October 2012, and outlined the process that led to the Council's formal endorsement of the Commission's proposal for the Framework.

The five members identified in the Commission's proposal perform under their existing mandates the tasks of promotion, protection and monitoring of the rights defined by the Convention. Working together as EU Framework these bodies will create synergies and enhance the impact of their individual activities.

EDF welcomed the endorsement by the Council of the Framework. EDF argued that the declaration of EU competences which was presented as an appendix to the Council Decision on the conclusion of the Convention by the EU is now outdated. It needs to be updated in the light of new legislation that includes disability provisions, and also the entry into force of the Treaty of Lisbon. It was stated that there should be a discussion about the revision of the list of competences.

EDF also requested to have access to the legal analysis carried out by the Commission regarding the status of the UNCRPD in the EU legal order.

In response to EDF, the Commission confirmed that in 2013 it will propose an update of the list of EU acts included in the declaration of competences to reflect the change introduced by the Lisbon Treaty as well as the adoption of legislation subsequent to the Council Decision on the conclusion of the Convention. It also pointed to the non-exhaustive nature of the list.

The PETI Committee underlined its willingness to work in a cooperative and proactive manner with the other members and emphasised its preference for a pragmatic approach.

The Ombudsman stressed the importance attached to participation in the Framework and welcomed the opportunity to work with the other bodies. The Ombudsman indicated that they are preparing a public register of documents not related to complaints. This register will also contain final documents held by the Ombudsman that are related to the work of the Framework.

FRA and EDF emphasised the significance of appropriate coordination in the Framework in order for the EU to become a best practice example for other state parties and regional integration organisations. To do so, the EU would need to take a progressive and bold approach towards implementing the UNCRPD. FRA's main contribution will be the independent data collection and analyses to support the monitoring process.

Operational Conclusions of Point 3:

A discussion on the updating of the declaration of EU competences will be put on the agenda of the next meeting of the Framework in order to ensure a consultation with all members.

Ahead of the next Framework's meeting the Commission will present a summary of the legal analysis regarding the status of the UNCRPD in the EU legal order.

Point 4: Practical Work of the Framework and *modus operandi*

a. Role, nature and resources of the Framework's Secretariat

The members discussed the role, nature and resources of the Framework's Secretariat. It was agreed that the Secretariat should have a facilitating and coordinating role for the Framework (including preparing the meetings), not a leading one. The Commission stated that it is willing and has the necessary resources internally to take up this role, but that it is unable to provide additional funding for another organisation or institution to perform this task.

The PETI Committee underlined the importance of a pragmatic and flexible operation of the Secretariat to respond to the challenges of this new mechanism and facilitate cooperation.

EDF emphasized that the Framework's Secretariat should be distinct from the organisation's other roles and tasks and that it should be accountable to the Framework.

It was agreed that the Commission will circulate a document describing the role, nature and resources of the Secretariat one month prior to the next meeting of the Framework when a decision will be taken on which organisation will carry out the secretariat functions.

b. Chair of the Framework

The members went on to discuss the necessity and benefit of having a Chair for the Framework. EDF supported the idea of a Chair, but pointed out that this role should

not be taken up by the same organisation that will ensure the role of Secretariat. EDF indicated their preference for a rotating Chair.

FRA agreed with EDF and saw the role of a Chair as potentially useful in order to strengthen the Framework's perception by external stakeholders.

The PETI Committee stated its preference for a collegial functioning of the Framework rather than having a Chair, especially if there was a well-functioning Secretariat.

The Commission stated that it would accept a rotating system and that if the Commission was attributed the role of Secretariat, it could also accept not to be included in the rotation.

Members agreed that the Secretariat and the Chair are two interconnected issues and a decision on the Chair will be taken together with a decision on the Secretariat. The Commission will circulate a paper outlining the role of the Chair one month prior to the next meeting.

c. Working methods for coordination and cooperation, rules of procedure

Next the members discussed the possibility of having rules of procedures for the meetings and operation of the Framework.

In the Commission's view the Framework's operation is based on consensus and any rules, if necessary at all, would have to be as "light" as possible. The annual work programme should not be too formal but rather reflect the effort of dovetailing the agenda of the different members. The Commission will circulate a third paper on working methods outlining the guiding principles and possible rules of operation.

The PETI Committee said that it could provide a quarterly report of relevant issues pointed out to the PETI by EU citizens and also raise disability issues in forums and conferences they participate in. It was argued that once all procedural steps for setting up the Framework have been concluded, the Framework will have to prioritise the issues that will need particular attention.

The Ombudsman considered that the operation of the Framework should be based on a voluntary coordination of activities rather than strict rules of procedure. If it is considered useful for the Framework to have an annual report it should consist of the relevant parts of each member's annual report.

EDF indicated the need for a work plan for the Framework for 2013. EDF also underlined the need for clear rules of procedure also to address any possible conflicts of interest. These could arise when issues are discussed that relate to a particular Framework member having obligations as an institution or as the focal point under the UN CRPD.

Operational Conclusion of Point 4:

The Commission will circulate 1) a document describing the general role, nature and resources of the Secretariat, 2) a paper on the role of the Chair and 3) a paper outlining the Framework's modus operandi and possible rules of procedure.

All three documents will be circulated for comments one month prior to the next meeting of the Framework. The other members will provide their comments two weeks prior to the next meeting.

Point 5: Publicity, transparency and visibility of the EU Framework

Members stressed the importance of clear communication towards the public.

The Commission proposed that the Framework's Secretariat sets up a central website providing links to the websites of all other members as well as the date, agendas and minutes of all meetings. All members fully supported this idea.

In order to promote exchange of information and coordination between the EU Framework and the national frameworks in the Member States, the members of the EU Framework will be invited to participate in the annual Work Forum on the implementation of the Convention organised by the Commission on 24-25 October 2013.

The Ombudsman pointed out that the central website should be available in the 23 EU official languages. With regard to the constituent meeting, the Ombudsman announced the meeting in the "Upcoming events" section of its website and endeavoured to generate some publicity through social media. The Commission pointed to the importance of not raising false expectations as the meetings are not open to the public. The Ombudsman reminded participants of the obligations on EU institutions stemming from Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents and obligations related to data protection. In line with this Regulation, the Ombudsman intends, where possible, to give public access to any meeting documents, if requested.

EDF mentioned the importance of accessibility for both the webpage and the documents available on it. EDF pointed to the need for Framework members to be able to access documents internal to the EU institutions in order to perform their tasks. The Commission clarified that the internal rules concerning disclosure of internal documents of each of the organisations participating in the Framework remain in place.

FRA suggested to discuss in one of the next meetings the modalities for informing the Framework members about the preparation of draft EU legislation with impact on disability.

The Commission stressed the need to maximise the use of existing transparency procedures and tools in the policy-making cycle, starting from the publication of the Commission's work programme and roadmaps outlining prospective initiatives, to public consultations and stakeholders' workshops, and the use of impact assessments. The Commission recalled that the 2011 Operational Guidance on taking account of Fundamental Rights in Commission Impacts Assessments explicitly requires the verification of compliance of Commission's initiatives with the UN CRPD. Specific issues related to disability can be raised in future revisions of the guidelines.

Operational Conclusion of Point 5:

All members agreed on the need to ensure the EU Framework's transparency and visibility. The Framework's website should publish the dates, the agendas and minutes of all meetings, be fully accessible and distinct from (although it could be hosted by) the websites of the Commission and DG Justice. The Commission will include issues related to transparency and access to documents in the paper dealing with the Framework's modus operandi.

Point 6: Presentation of on-going and planned activities relevant for the EU Framework's work programme

Due to a lack of time, members agreed that Point 6 would be discussed at the next meeting of the Framework.

Point 7: Information from the Commission on the preparation of the EU Report to the UN CRPD Committee under art. 35 CRPD, and planned consultation within the EU Framework

The Commission gave a brief presentation of the preparation of the EU Report to the UNCRPD Committee that is due for submission in 2013 and informed about the study to support the process. The Commission will consult the members of the Framework in the process of preparing the EU report, encouraging them to contribute within the limit of their mandates, in particular by providing data and information resulting from their relevant activities.

FRA highlighted that the members of the Framework should not only be able to comment but rather give an input to the report to ensure that the outcome is a richer and better reflected report.

The Commission pointed out that the Report will cover activities carried out by the EU as a whole to implement its obligations under the Convention. Therefore in addition to the Commission, other EU institutions, including the Ombudsman, the EP and the FRA will have to provide information on how they have been implementing their obligations under the Convention, in particular as regards their activities as public administrations.

Operational Conclusions of Point 7:

All members agreed that the EU Report to the UNCRPD Committee needs to be a complete and frank document about the activities of the EU implementing its obligations under the Convention.

The content and the way in which the members of the Framework will be able to give input to this report will be discussed at the next meeting of the Framework.

Point 8: Next steps

Exchange of letters

The Commission explained that the exchange of letters between the Framework's members is intended as a formal step to mark the acceptance by all entities to

participate in the Framework. The letters constitute a formal commitment to contribute, in line with an institution's mandate, capacity and resources, to the operation of the Framework.

A discussion took place on the possibility of drafting a Memorandum of Understanding but it was agreed that an exchange of letters would serve the purpose in a simpler way.

EDF underlined that the letters should be exchanged bilaterally between all participants as equal partners and not between the European Commission and the other Framework's members.

Date of next meeting

All members agreed that the date of the next meeting, to be held before the summer 2013, will be agreed through written procedure.

Operational Conclusions of Point 8:

The Commission will informally circulate a draft of the substance of the letters to all members. Upon their agreement, each member will launch the exchange of letters with the other members.

The date of the next meeting will be agreed through written procedure.