

# Myth Buster

## EU FUNDS AND INDEPENDENT LIVING



## Acknowledgments

The Myth buster was written by Ines Bulić Cojocariu and Nataša Kokić, with original illustrations by Hatiye Garip, as part of her European Solidarity Corps placement at the European Network on Independent Living. This publication was developed as part of the “EU Funds for Our Rights” Campaign, supported by the Open Society Foundations – Public Health Programme.

Layout: Marieta Vasileva

© European Network on Independent Living, December 2019



# Myth Buster

## **EU FUNDS AND INDEPENDENT LIVING**

European Network on Independent Living

2019

# Introduction

The European Network on Independent Living (ENIL) has been monitoring the use of European Structural and Investment Funds (ESI Funds) for 13 years. In 2016, we launched our campaign “EU Funds for Our Rights”, with the objective to improve the monitoring and complaints system at the Member State and European Union (EU) level, in order to prevent ESI Funds from being used to renovate or build new institutions for disabled people. The funds we have been looking into are the European Social Fund (ESF), the European Regional Development Fund (ERDF), and more recently, the European Agricultural Fund for Rural Development (EAFRD).

Since we began looking into ESI Funds use, we have been working closely with our members and allies from the Member States. Among them are disabled people, disabled people’s organisations and other civil society organisations active at the grassroots level. During this process, we found that the role of ESI Funds in facilitating independent living was not very clear to our partners, that they had difficulties monitoring their use or applying for projects, and that there were many cases when ESI Funds were used to restrict the rights of disabled people, rather than promote them. It appears that there is also a lack of knowledge in the Member States on how to develop services that facilitate Independent Living, and a lot of resistance to the closure of residential institutions.

During one of our annual campaign meetings, it was suggested that we publish a Myth buster, in order to address some of the misconceptions around how ESI Funds can and should be used, with regard to investments that affect disabled people’s right to live independently and to be included in the community. This right is set out in Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) and further explained in the General Comment 5, adopted in 2017. The Myth buster includes a non-exhaustive list of such misconceptions, all of which are linked to the role of ESI Funds in promoting independent living.

ESI Funds have a great potential to improve the quality of life of disabled people when used well. For example, they can contribute to the closure of long-stay residential institutions and improve access to a range of community-based services, including personal assistance, early intervention services, housing, education, employment, health care and transport. On the other hand, when misused, ESI Funds can further delay the process of deinstitutionalisation and lead to segregated facilities being in use for years to come.

## Making a complaint

If you have information about EU funded projects that do not comply with the EU Fundamental Rights Charter and/or the UN Convention on the Rights of Persons with Disabilities, you can file a complaint to the European Commission<sup>1</sup> or the European Ombudsman<sup>2</sup>. Cases of fraud

---

1. Further information about lodging a complaint to the Commission about breaches of EU law is available at: [https://ec.europa.eu/assets/sg/report-a-breach/complaints\\_en/index.html](https://ec.europa.eu/assets/sg/report-a-breach/complaints_en/index.html)

2. Further information about filing a complaint to the European Ombudsman is available at: <https://www.ombudsman.europa.eu/en/how-can-the-ombudsman-help>

or serious financial irregularities involving EU Funds can be reported to OLAF – the European Anti-Fraud Office. The information provided in the Myth buster should help you draft the complaints.

To submit a **complaint to the European Commission**,

complete the following online form:

[https://ec.europa.eu/assets/sg/report-a-breach/complaints\\_en/index.html](https://ec.europa.eu/assets/sg/report-a-breach/complaints_en/index.html)

To submit a **complaint to the European Ombudsman** online or by post,

download the form from the Ombudsman's website:

<https://www.ombudsman.europa.eu/en/make-a-complaint>

To **report fraud or serious irregularities online or by post to OLAF**,

use the forms available on their website:

[https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud\\_en](https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en)

## Using the Myth buster

This Myth buster is aimed at all those advocating for ESI Funds to be used to support the right to independent living, and for those involved in the programming, implementation and monitoring of these funds. It contains the following sections.

### ➤ Introduction

Explains the purpose of the Myth buster and how to make a complaint about the misuse of ESI Funds.

### ➤ Myths and Facts

Each myth is followed by the facts, with examples from ENIL's work.

### ➤ Annexes

Annex I contains the key legal and policy documents which can be used to advocate for the use of ESI Funds to support Independent Living.

Annex II explains the key terms of relevance to the right to live independently and to be included in the community.

Annex III explains ESI Funds terms, such as the Managing Authority, Operational Programme or the Monitoring Committee.

Annex IV presents some of the resources on deinstitutionalisation and the use of ESI Funds.

# Myth

Transition from institutional care to living independently in the community is a long and complex process and there is not enough money within the ESI Funds to pay for it all.

## MEANWHILE...



# Fact

Insisting that the process of moving from institutional care to living independently is long and complex is just an excuse not to fully close down institutions, or to move disabled people<sup>3</sup> into smaller institutions.

In reality, the reason why 'deinstitutionalisation' (see Definitions) may turn into a never-ending process is because there is no comprehensive, time-bound and adequately funded deinstitutionalisation strategy, whose objective is to ensure that all disabled people are

---

3. ENIL prefers the term 'disabled people' over 'persons with disabilities' or 'people with disabilities', in order to reflect the fact that people are disabled by the environmental, systemic and attitudinal barriers in society, rather than by their impairment. This is in line with the social model of disability.

able to enjoy their right to independent living. Failure to close down old institutions for disabled people and building “modern” institutional care facilities (such as ‘group homes’, see Definitions), while developing community-based services, will keep the two systems running in parallel and will take resources away from support services that facilitate independent living. We can see this in countries that started the process some 20 years ago or more, but where large numbers of disabled people still live in institutions.

ESI Funds have the potential to support the implementation of a deinstitutionalisation strategy that is aligned with Article 19 CRPD, provided that this priority is included in the country’s programming documents (the Partnership Agreement and the Operational Programmes; see Terminology). Where state funds are inadequate to cover the running of all services and for ensuring that mainstream services are accessible to all, ESI Funds can step in and help drive some of the reforms; for example, by piloting innovative services. It is important, however, that all the investments are aligned with an overall strategy and policy that support independent living and other CRPD rights. Such policy should be developed in partnership with disabled people and their representative organisations, as the best experts on what disabled people need to live included in society.

The likely length or complexity of the process cannot be used as an excuse not to put in place a deinstitutionalisation strategy that complies with Article 19 CRPD and to use ESI Funds to develop services that fail to support the right to independent living. Importantly, investing ESI Funds in services that perpetuate segregation or social exclusion of disabled people will further delay the process of deinstitutionalisation. This is because funds are not unlimited and money will have been spent. There is also a requirement that projects which received ESI Funds remain in place for a number of years – which applies to institutions as well.

Finally, it is important to be aware of the principle of “additionality”. Based on this principle, ESI Funds are not intended to replace state funds, but should complement them. Therefore, Member States are still expected to use state funds to support the process of deinstitutionalisation, and should be able to continue running all the services once EU funding runs out.

# Myth



Using ESI Funds to build institutional care facilities for disabled people is justified for people who spent a long time in large institutions and cannot live independently.



# Fact

The view that some people are not fit for living in the community is based on the now outdated **medical model of disability**. According to the medical model, people are disabled by their impairment (such as blindness, not being able to walk, having autism or intellectual disabilities) and it is this impairment that should be cured if they are to fit in. Once the impairment is cured (which in most cases is not possible), all the problems are solved and the society does not have to change. The opposing model – the **social model of disability** – considers that people are disabled by the barriers imposed on them by the society. So, if we want to ensure that everyone is included, we have to remove those barriers.

As a result of the prevailing medical model of disability, the process of “deinstitutionalisation” is seen in many countries as transfer of people from large institutions into smaller ones. According to a recent report on independent living by the Academic Network of

European Disability Experts (ANED)<sup>4</sup>, the practice of re-institutionalisation, rather than deinstitutionalisation, is wide-spread across the European Union. Such processes are often funded by the EU, without any prospect for the concerned individuals to eventually live independently in the community.

As an example, Hungary is investing more than 200 million Euros from the European Regional Development Fund (ERDF) to build smaller institutions, as part of a single grant scheme, with many located away from towns in sparsely inhabited rural areas. These facilities are bound to perpetuate the segregation and social exclusion of disabled people. In Bulgaria, the Committee on the Rights of Persons with Disabilities expressed concerns “that the [long-term care] strategy envisages the transfer of residents from large institutions to small group homes, contrary to the provisions of article 19, as laid out in general comment No. 5 on living independently and being included in the community.”<sup>5</sup>

It is important to note that Article 19 CRPD, on the right to live independently and being included in the community, applies to all disabled people equally. According to the General Comment 5:

**“Article 19 explicitly refers to all persons with disabilities. Neither the full or partial deprivation of any “degree” of legal capacity nor the level of support required may be invoked to deny or limit the right to independence and independent living in the community to persons with disabilities.”<sup>6</sup>**

For people who spent a long time in institutional care, continued institutionalisation will only prolong their exposure to human rights abuses and their social exclusion. While they may need complex and specialised support to address the effects of long-term institutionalisation, there is no reason why such support cannot be provided in the community.

Moreover, it is important that there is awareness among the general public, service providers and other stakeholders about the right of all disabled people to live in the community, to ensure that everyone supports the process of deinstitutionalisation and to prevent incidents of hate crime against disabled people in the community.

---

4. The right to live independently and to be included in the community in the European States: ANED synthesis report, 20 May 2019, available at: <https://www.disability-europe.net/theme/independent-living>

5. Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Bulgaria, 22 October 2018, CRPD/C/BGR/CO/1, para 39, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBGR%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fBGR%2fCO%2f1&Lang=en)

6. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 20, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en)

# Myth

Investments into residential and/or institutional care facilities are justified in countries where disabled people do not have access to community-based services, such as personal assistance. They provide an alternative to old, large institutions.



# Fact

The fact that disabled people rely on informal care provided by their families, are in institutions, or on waiting lists for institutions, is not an excuse to invest into services that do not comply with the CRPD. In fact, it is all the more important to invest in a range of services and infrastructure that is lacking – from social housing, to personal assistance, early intervention, family support services and inclusive education, among other. Investing in residential care services, such as group homes, is a dead end for those that will move in and will not strengthen community capacity to facilitate disabled people’s right to live independently and to be included in the community.

All disabled people should have a genuine choice to decide where and with whom they will live, on an equal basis with others – not a choice between several bad options. As explained in the General Comment 5:

**“To choose and decide how, where and with whom to live is the central idea of the right to live independently and be included in the community. Individual choice, therefore, is not limited to the place of residence but includes all aspects of a person’s living arrangements: the daily schedule and routine as well as the way of life and lifestyle of a person, covering the private and public spheres, every day and in the long term. [...] Often, persons with disabilities cannot exercise choice because there is a lack of options to choose from. This is the case, for instance, where informal support by the family is the only option, where support is unavailable outside of institutions, where housing is inaccessible or support is not provided in the community, and where support is provided only within specified forms of residence such as group homes or institutions.”<sup>7</sup>**

Sometimes, authorities claim that investing in small institutions, where groups of disabled people live together, is needed, because “no one can take care of these people”. Such claims are not justified, given that ESI Funds can be used to develop different types of community-based services, which should be underpinned by national deinstitutionalisation strategies and action plans. This can include both specialised services, such as personal assistance, but can also be directed towards mainstream services, such as housing, education, employment, health care and transport, both when it comes to investing in people and in infrastructure.

In Portugal, ENIL raised concerns about an institution for disabled people built on the Azores Islands, funded through the European Regional Development Fund. Although, according to the project description, the institution aims to promote “a qualified occupation that contributes to their well-being, developing strategies for reinforcement of self-esteem and valorisation”<sup>8</sup>, ENIL found that such congregate care would have a negative impact on disabled people living there, by removing them from their family and community, and reducing their opportunities for participation, rather than promoting their independence. This is consistent with the recommendations of the CRPD Committee, which in 2016 asked Portugal to: “adopt a national strategy for living independently, including increased investment to facilitate living independently in the community rather than in institutions, that it regulate personal assistance [...] establish support services in the community for persons with intellectual or psychosocial disabilities.”<sup>9</sup>

Considering that ESI Funds should support genuine reforms in the Member States, and therefore fund innovative services, investments into services that have proved to segregate disabled people and exclude them from society should simply not be permitted.

---

7. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 24-25.

8. Information obtained from a Government’s website in Portugal: [https://www.azores.gov.pt/Portal/pt/entidades/srssi-drss/textoimagem/ACORES-09-4842-FEDER-000010-\\_Construcao\\_do\\_Lar\\_Residencial\\_dos\\_Valados.htm](https://www.azores.gov.pt/Portal/pt/entidades/srssi-drss/textoimagem/ACORES-09-4842-FEDER-000010-_Construcao_do_Lar_Residencial_dos_Valados.htm) (unofficial English translation)

9. Concluding observations on the initial report of Portugal, CRPD/C/PRT/CO/1, 20 May 2016, para 39, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fPRT%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fPRT%2fCO%2f1&Lang=en)

# Myth

There is no legal basis to stop building and renovating institutions for disabled people with EU funds.



# Fact

The European Union and all 28 Member States have ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), which sets out in Article 19 the right to live independently and to be included in the community. According to the General Comment 5:

**“Article 19 reaffirms non-discrimination and recognition of the equal right of persons with disabilities to live independently in the community. In order for the right to live independently, with choices equal to others,**

**and be included in the community to be realized, States parties must take effective and appropriate measures to facilitate the full enjoyment of the right and the full inclusion and participation of persons with disabilities in the community.”<sup>10</sup>**

Pursuant to Article 216(2) of the Treaty on the Functioning of the European Union (TFEU), “[a]greements concluded by the Union are binding upon the institutions of the Union and on its Member States.” Thus, Article 19 of the CRPD, as interpreted by General Comment 5, creates a legal obligation for the EU and the Member States, including the European Commission.

Article 26 of the EU Charter on Fundamental Rights states that “[t]he Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.”

According to Articles 4 and 6 of the Common Provisions Regulation, operations supported by ESI Funds shall comply with EU law, including its obligations under the CRPD. Moreover, Article 7 of the Regulation states that “the Commission shall take appropriate steps to prevent discrimination”, including that based on disability, during the preparation and the implementation of an ESI programme.

Hence, Article 26 of the EU Charter, as well as Articles 4, 6 and 7 of the Common Provisions Regulation, read together with Article 19 CRPD, provide a strong legal basis for the European Commission to suspend payments, or apply other financial sanctions, when there is clear evidence of an infringement of the EU’s obligations under the CRPD.

That the European Commission should “develop an approach to guide and foster deinstitutionalisation and to strengthen the monitoring of the use of the European Structural and Investment Funds so as to ensure that they are used strictly for the development of support services for persons with disabilities in local communities and not for the redevelopment or expansion of institutions” was stated by the CRPD Committee in its Concluding Observations to the EU.<sup>11</sup> The Committee added, in the same paragraph, that the EU should “suspend, withdraw and recover payments if the obligation to respect fundamental rights is breached.”

These recommendations by the CRPD Committee are consistent with the results of the own initiative inquiry by the European Ombudsman (OI/8/2014/AN), which asked the European Commission, among other, to “[c]onsider maintaining, in addition to the new system of complaint-handling, the practice of initiating infringement proceedings against a Member State if its actions in the framework of the cohesion policy amount to a violation of EU law, including the Charter”.<sup>12</sup>

---

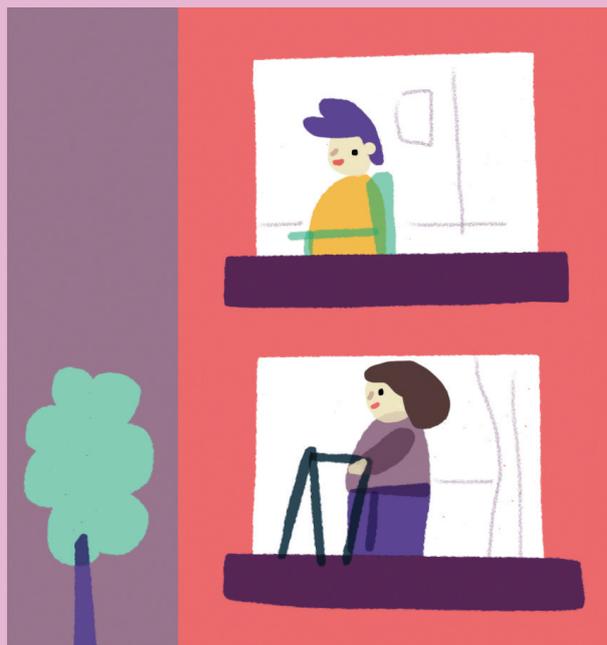
10. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 18.

11. Concluding observations on the initial report of the European Union, CRPD/C/EU/CO/1, 2 October 2015, para 51.

12. Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission.

# Myth

The EU rules make it difficult for countries to invest in independent living. For example, funds for infrastructure have to be used to build new buildings for disabled people.



# Fact

It is true that the different ESI Funds have different objectives – thus, the European Regional Development Fund is used to develop infrastructure (including, for example, transport systems, hospital equipment, museums etc.), while the European Social Fund is used for investing in people (for example, training, employment and professional development). Combined, they provide Member States with an opportunity to reform their social and health care systems, by putting in place the necessary infrastructure, but also ensuring that there is enough capacity to run various services. Some countries use ESF to fund personal assistance or home care services, for example, while others use it to develop employment schemes targeting people in long-term unemployment.

Access to ERDF may provide an incentive for investing in segregated services. This can include building and renovating institutions, building group homes, special schools, day care centres and sheltered employment facilities. However, this cannot be blamed on the ERDF regulations, or any other part of the ESI Funds legislative framework, but on the lack of political will in the Member States to move away from segregated settings, and their failure to put in place laws and policies that would ensure that ESI Funds are used for infrastructure and services that support social inclusion of all marginalised groups. Failing to involve NGOs in all stages of ESI Funds use may also be one of the reasons for misplaced investments.

Instead of building institutions or group homes, Member States can use ERDF for some of the following actions that would support the process of deinstitutionalisation: the building of social housing for those in need; renting or purchase of regular apartments in blocks of flats for those leaving institutions; funding adaptation of apartments or houses of disabled people and their families, to make them accessible; adaptation of buildings where disabled or older people live, by building ramps or installing lifts for example; building or renovation of schools and childcare facilities, to make them accessible to all; building or renovation of other social or health care infrastructure, to ensure that disabled people and their families are able to use mainstream services and facilities.

Key to this process is the existence of a comprehensive deinstitutionalisation strategy and mechanisms for implementation and monitoring, to ensure involvement of disabled people and their representative organisations, and to avoid hurried, one-size-fits-all solutions that will eventually have to be dismantled. Moreover, coordination between ERDF and ESF funding is crucial, to ensure that funding is available to run the new services, in line with Article 19 CRPD.

# Myth

The danger of advocating against using EU funds for group homes is that countries will decide not to invest in deinstitutionalisation at all. It is better to have some form of investment, rather than none.



# Fact

Investing into new institutions, under the guise of creating community-based services, is not deinstitutionalisation. It is about replacing one type of segregation and social exclusion with another. Therefore, although many Member States claim to use ESI Funds to support deinstitutionalisation – also referred to as transition from institutional to community-based care – this is not the case.

It is important that, when we use the terms like deinstitutionalisation, independent living, or family-based care – we are guided by the international and European human rights standards, such as the UN Convention on the Rights of Persons with Disabilities. Misusing these terms gives the impression that systemic reforms are underway, where in fact disabled children and adults continue to be excluded, unable to access support to be fully included and participate in mainstream society.

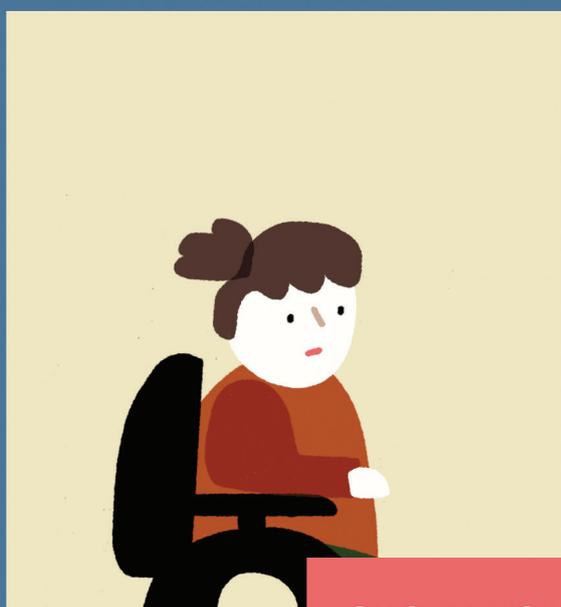
Another key point is that ESI Funds are not meant to entirely replace other investments into support services for disabled people and their families, which come from state funds and other sources. Their intention is to support systemic reforms; therefore there is no excuse for using them to prop up outdated models of care and support.

Moreover, ensuring that ESI Funds are not used to invest in institutions is no guarantee that state and other funds will not continue going into such settings. Advocacy for using ESI Funds in line with the CRPD is therefore just one part of broader efforts to ensure full compliance of Member States with their Convention obligations. As explained in the General Comment 5, States Parties must ensure that no public or private funds are spent on “maintaining, renovating, establishing, building or creating any form of institution or institutionalisation”.

ENIL’s position is that it is preferable that no ESI Funds investments are made into “deinstitutionalisation”, if that means maintaining the system of institutional care. Any new investments into institutions will further delay genuine deinstitutionalisation efforts, by wasting available resources, reducing public pressure for reform and increasing the number of segregated services that must be dismantled. We maintain that ESI Funds have great potential of addressing gaps in access to services and the mainstream society for disabled people and their families, but only if used in line with international and European human rights standards.

# Myth

ESI Funds are helping countries close down large institutions for children. Unfortunately, it is not possible for all children to go back to their families, so family-type homes are a good transitional option for such children.



GROUP HOME  
FOR CHILDREN



GROUP HOME  
FOR ADULTS

# Fact

Children with or without disabilities are often placed in so-called 'family-like' or 'family-type homes' (see Definitions) – also referred to as 'small group homes' – when no family-based alternatives are available. Placements of children into 'small group homes' are sometimes explained as a transitional, temporary or a short-term solution. However, there is no evidence that this is the case in practice. Where disabled children are placed into 'small group homes',

this tends to be a permanent solution, with children typically moved into group homes for adults once they turn 18. Some children stay in these group homes for children well into adulthood.

Bulgaria, which serves as an example of bad practice, based much of their “deinstitutionalisation” process on transferring children from large into smaller institutions. Research by ANED found that, during the first six years of “deinstitutionalisation” – from 2010 to 2016 – nearly two-thirds of large institutions for children (91 of 137) were closed. The total number of institutionalised children and youth decreased from 7,587 in 2010 to 1,232 in 2016. However, by the end of 2017 “there was also a six-fold increase of the number of FTACs (family-type accommodation centres): from 48 in 2010 to 282, of which: 145 – for children/youth without disabilities, 128 – for children/youth with disabilities, and 8 – for children/youth who need permanent medical care.”<sup>13</sup> Report by Disability Rights International uncovered serious human rights abuses in a substantial number of these places.<sup>14</sup>

ENIL, and many other disability organisations, fight for all children to be able to enjoy their right to grow up in a family, and believe that there is no place for group homes in child protection systems. This was highlighted in a joint Position paper with a group of child rights and disability rights organisations:

**“If the right to live with a family were fully enforced, it would not be necessary to place any child in an orphanage or institution of any size. If a child does not have parents or cannot live with them, alternatives can be made available to ensure that a child can live and grow up with a family – including kinship care, substitute family care, or foster care.”<sup>15</sup>**

That all children have a right to grow up in a family is established international law – in Article 19 and Article 23 of the CRPD, as well as the General Comment No. 5. Article 19 applies to both children and adults, which means that services for children and their families should be available to “support living and inclusion in the community” and that mainstream services must be accessible to disabled children and their families.

Article 23 requires that States Parties “ensure that children with disabilities have equal rights with respect to family life” and that they “prevent concealment, abandonment, neglect and segregation of children with disabilities”. To implement this right, they must “provide early and comprehensive information, services and support to children with disabilities and their families.” The same article also stipulates that children must not be separated from their parents “on the basis of a disability of either the child or one or both of the parents.” Moreover, “where the immediate family is unable to care for a child with disabilities [States Parties shall] undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.”

---

13. ANED Country report on Living independently and being included in the community – Bulgaria, 6 May 2019, available at: <https://www.disability-europe.net/theme/independent-living>

14. Disability Rights International, A Dead End for Children: Bulgaria’s Group Homes, 2019, available at: <https://www.driadvocacy.org/new-dri-report-finds-appalling-conditions-in-bulgarias-group-homes/>

15. Position paper: The right to live and grow up in a family for all children, December 2018., available at: <https://enil.eu/wp-content/uploads/2018/12/DRI-Right-to-Family-December-2018.pdf>, p.5

The General Comment 5 on Article 19 makes it clear that small group homes are a not a suitable place for children to grow up in:

**“Large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family. ‘Family-like’ institutions are still institutions and are no substitute for care by a family.”<sup>16</sup>**

Furthermore, in its Concluding observations on the initial report of the European Union, the CRPD Committee recommends that the EU take the necessary measures “to ensure that its economic and social policies and recommendations promote support for families with persons with disabilities and ensure the right of children with disabilities to live in their communities.”<sup>17</sup> The Committee also underlines the role of ESI Funds in developing support services for children with disabilities:

**“The Committee recommends that the European Union take the necessary measures, including through the use of the European Structural and Investment Funds and other relevant European Union funds, to develop support services for boys and girls with disabilities and their families in local communities, foster deinstitutionalization, prevent any new institutionalization and promote social inclusion and access to mainstream, inclusive, quality education for boys and girls with disabilities.”<sup>18</sup>**

---

16. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 16(c).

17. Concluding observations on the initial report of the European Union, CRPD/C/EU/CO/1, 2 October 2015, para 57, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FCO%2F1](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2FCO%2F1)

18. *Ibid*, para 23.

# Annexes

## Annex I: Legal basis and policy context

---

### United Nations Convention on the Rights of Persons with Disabilities<sup>19</sup>

The UN Convention on the Rights of Persons with Disabilities (CRPD) has been ratified by the EU and all Member States. The articles most relevant to ESI Funds investments that have as their objective “deinstitutionalisation” and/or “development of community-based services” are Article 5 (equality and non-discrimination), Article 12 (equal recognition before the law), Article 13 (access to justice) and Article 19 (living independently and being included in the community).

General Comments<sup>20</sup>, adopted by the Committee on the Rights of Persons with Disabilities, act as authoritative guidance and should be used by the Member States and the European Commission to interpret their obligations under the CRPD. General Comment 5 on living independently and being included in the community includes definitions of independent living, institutional care and personal assistance. It states in paragraph 51 that no public or private funds “should be spent on maintaining, renovating, establishing, building or creating any form of institution or institutionalisation”.<sup>21</sup>

Concluding Observations<sup>22</sup> in respect of the State Parties reviewed by the Committee on the Rights of Persons with Disabilities, also in many cases refer to the use of ESI Funds (see, for example, Concluding Observations in respect of the European Union).

---

### United Nations Convention on the Rights of the Child<sup>23</sup>

The UN Convention on the Rights of the Child (CRC), ratified by all the Member States, recognises that children should grow up in a family environment.

The 2019 European Parliament Resolution<sup>24</sup> on the occasion of the 30th anniversary of CRC calls on the European Commission “to use EU funds to support the transition from institutional to community-based services, both inside and outside the EU.”

---

19. United Nations Convention on the Rights of Persons with Disabilities, see: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

20. United Nations Human Rights Office of the High Commissioner, Committee on the Rights of Persons with Disabilities, General Comments, see: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

21. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 51, see: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en)

22. All the Concluding Observations are available here: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TB-Search.aspx?Lang=en&TreatyID=4&DocTypeID=5](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TB-Search.aspx?Lang=en&TreatyID=4&DocTypeID=5)

23. United Nations Convention on the Rights of the Child, see: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

24. European Parliament resolution on children’s rights on the occasion of the 30th anniversary of the Convention on the Rights of the Child (2019/2876(RSP)), see: [http://www.europarl.europa.eu/doceo/document/B-9-2019-0180\\_EN.html?redirect](http://www.europarl.europa.eu/doceo/document/B-9-2019-0180_EN.html?redirect)

<b>EU Charter of Fundamental Rights<sup>25</sup></b>	EU Charter stipulates in Article 21 the prohibition of discrimination, in Article 26 the right of disabled people to participate in the life of the community and in Article 24 the children’s right to protection and care according to their best interests.
<b>Recommendations of the European Ombudsman in her own-initiative inquiry OI/8/2014/AN<sup>26</sup></b>	<p>In 2014, the European Ombudsman underlined the importance of respect of the Fundamental Rights Charter, requiring the European Commission to: “include, in its assessment of the success of programmes and actions financed through ESI Funds, consideration of how they have contributed to the promotion of respect for the fundamental rights enshrined in the Charter”.</p> <p>The Ombudsman has asked the European Commission to “promote the inclusion of fundamental rights-related preconditions whenever they are applicable”, and in addition to putting in place a new system of handling complaints, to initiate infringement proceedings against a Member State “if its actions in the framework of the cohesion policy amount to a violation of EU law, including the Charter”.</p>
<b>European Disability Strategy 2010 – 2020<sup>27</sup></b>	The European Disability Strategy 2010 – 2020, adopted in 2010, has eight priority areas: Accessibility, Participation, Equality, Employment, Education and training; Social protection; Health and External action. Under the priority area Participation, the strategy states that the European Commission will work to “promote the transition from institutional to community-based care by: using Structural Funds and the Rural Development Fund to support the development of community-based services ...”.
<b>Europe 2020 Strategy<sup>28</sup> and the European Semester</b>	<p>This refers to Europe’s strategy for smart, sustainable and inclusive growth. The European Semester cycle<sup>29</sup> is used to monitor progress that Member States are making in reaching the Europe 2020 targets.</p> <p>The key documents of the European Semester cycle<sup>30</sup> are the Annual Growth Survey, published in November and setting out priorities for the year ahead; the Country Reports, published in March by the European Commission; the National Reform Programmes and Stability/Convergence Programmes, presented by the Member States in April; and the Country-specific recommendations (CSRs) proposed by the European Commission in May. CSRs provide policy guidance to Member States on how to boost jobs and growth.</p>

25. Charter of Fundamental Rights of the European Union (2000/C 364/01), see: [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

26. Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission, see: <https://www.ombudsman.europa.eu/en/decision/en/59836>

27. European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010)636 final, 15 November 2010, see: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:en:PDF>

28. Europe 2020 – European strategy for smart, sustainable and inclusive growth, see: <https://ec.europa.eu/eu2020/pdf/COMPLETE%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>

29. European Commission, the European Semester, see: [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en)

30. European Commission, European Semester timeline, see: [https://ec.europa.eu/info/sites/info/files/2018-european-semester-timeline\\_en.pdf](https://ec.europa.eu/info/sites/info/files/2018-european-semester-timeline_en.pdf)

Annex D of the Country Reports provides investment guidance on Cohesion policy funding 2021 – 2027.

---

**European Pillar of Social Rights<sup>31</sup>**

The Social Rights Pillar is built on 20 principles, the aim of which is to deliver new and more effective rights for EU citizens. Its implementation is monitored through an online social scoreboard.

The most relevant principles to the use of ESI Funds for deinstitutionalisation are Principle 3 (Equal opportunities), 11 (Childcare and support to children), 17 (Inclusion of people with disabilities), 18 (Long-term care), 19 (Housing and assistance for the homeless) and 20 (Access to essential services).

---

**European Commission's Thematic guidance fiche for desk officers on deinstitutionalisation<sup>32</sup>**

This guidance, from January 2014, lists relevant provisions from the ESI Funds regulations, and includes examples of ESF and ERDF funded measures which support the process of transition from institutional care to community-based services.

---

**Common Provisions Regulation for ESI Funds 2014 – 2020<sup>33</sup>**

Article 7 (Promotion of equality between men and women and non-discrimination) of the Regulation obliges the Member States and the Commission to “prevent any discrimination...” when preparing and implementing programmes.

Article 9 (Thematic objectives) sets out as one of the objectives for funding “promoting social inclusion, combating poverty and any discrimination”.

Among the ex ante conditionalities is a thematic conditionality, which requires that Member States have in place a strategy for poverty reduction that includes measures for the transition from institutional to community-based care, and general conditionalities, on non-discrimination and CRPD implementation.

New ESI Funds Regulations will come into force in 2021, for the period 2021 – 2027, replacing the current ones.

---

---

31. European Commission, European Pillar of Social Rights, see: [https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en)

32. European Commission: Draft thematic guidance fiche for desk officers, Transition from institutional to community-based care (de-institutionalisation – DI) Version 2, January 2014, see: [https://ec.europa.eu/regional\\_policy/sources/docgener/informat/2014/guidance\\_deinstitutionalisation.pdf](https://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_deinstitutionalisation.pdf)

33. European Union Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1303&from=LV>

---

**Regulation on the European Regional and Development Fund (ERDF)<sup>34</sup>**

Article 5 of the ERDF Regulation includes under the thematic objective “promoting social inclusion, combating poverty and any discrimination” the following investment priority: “investing in health and social infrastructure which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services.”

---

**Regulation on the European Social Fund (ESF)**

In recital 19, the ESF Regulation stipulates that there should be no support to any action that contributes to segregation or to social exclusion. Furthermore, at least 20% of all ESF funding should be used for promoting social inclusion.

---

**European Code of Conduct on Partnership<sup>35</sup>**

The Code provides a framework for involving partners in the programming, implementation and monitoring and evaluation of ESI Funds in 2014 – 2020. It defines partnership as implying “close cooperation between public authorities, economic and social partners and bodies representing civil society at national, regional and local levels throughout the whole programme cycle consisting of preparation, implementation, monitoring and evaluation.”

The Code is a legally binding Commission Regulation, and requires the following: that Member States are transparent in the selection of partners; that they provide sufficient information to partners and give them sufficient time to make their voice heard in the consultation process; that they ensure that partners are involved in all stages of the process, from planning to evaluation; that they support capacity building of partners; and that they create platforms for mutual learning and exchange of good practice.

For each operational programme, the Managing Authority has to identify the relevant partners, which must include “organisations or groups which are significantly affected or likely to be significantly affected by the implementation of ESI Funds; in particular, groups considered to be at risk of discrimination and social exclusion.”

---

---

34. All ESI Funds Regulations for 2014 – 2020 can be found at: [https://ec.europa.eu/regional\\_policy/en/information/legislation/regulations/](https://ec.europa.eu/regional_policy/en/information/legislation/regulations/)

35. Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds, see: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0240&from=EN>

---

**Council of Europe  
Human Rights  
Commissioner**

During country visits, the current and previous Commissioners have condemned the use of ESI Funds for the building and renovation of institutions, and have called on the national governments and the European Commission to promote the development of community-based alternatives that support independent living.

In 2012, the Commissioner published an Issue paper<sup>36</sup> on the right to independent living, which includes indicators and guiding questions that can be used to monitor whether governments are implementing Article 19 CRPD.

---

**EU Fundamental  
Rights Agency**

The EU Fundamental Rights Agency (FRA) has published a series of reports on the right to independent living<sup>37</sup>, as well as human rights indicators on Article 19 CRPD, which can be used for monitoring purposes.

---

---

36. Council of Europe, The right of people with disabilities to live independently and to be included in the community, Issue Paper published by the Council of Europe Commissioner for Human Rights, see: <https://rm.coe.int/the-right-of-people-with-disabilities-to-live-independently-and-be-inc/16807bef65>

37. European Union Agency for Fundamental Rights, The right to independent living of persons with disabilities, see: <https://fra.europa.eu/en/project/2014/right-independent-living-persons-disabilities>

## Annex II: Definitions of key terms

### Independent Living

The right to living independently and being included in the community is set out in Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD) and further defined in the General Comment No 5.

ENIL defines 'Independent Living' as:

"[...] the daily demonstration of human rights-based disability policies. Independent living is possible through the combination of various environmental and individual factors that allow disabled people to have control over their own lives. This includes the opportunity to make real choices and decisions regarding where to live, with whom to live and how to live. Services must be available, accessible to all and provided on the basis of equal opportunity, free and informed consent and allowing disabled people flexibility in our daily life. Independent living requires that the built environment, transport and information are accessible, that there is availability of technical aids, access to personal assistance and/or community-based services. It is necessary to point out that independent living is for all disabled persons, regardless of the gender, age and the level of their support needs."

The General Comment 5 on living independently and being included in the community defines 'Independent Living' as follows:

"Independent living/living independently means that individuals with disabilities are provided with all necessary means to enable them to exercise choice and control over their lives and make all decisions concerning their lives. Personal autonomy and self-determination are fundamental to independent living, including access to transport, information, communication and personal assistance, place of residence, daily routine, habits, decent employment, personal relationships, clothing, nutrition, hygiene and health care, religious activities, cultural activities and sexual and reproductive rights. These activities are linked to the development of a person's identity and personality: where we live and with whom, what we eat, whether we like to sleep in or go to bed late at night, be inside or outdoors, have a tablecloth and candles on the table, have pets or listen to music. Such actions and decisions constitute who we are. Independent living is an essential part of the individual's autonomy and freedom and does not necessarily mean living alone. It should also not be interpreted solely as the ability to carry out daily activities by oneself. Rather, it should be regarded as the freedom to choose and control, in line with the respect for inherent dignity and individual autonomy as enshrined in article 3 (a) of the Convention. Independence as a form of personal autonomy means that

the person with disability is not deprived of the opportunity of choice and control regarding personal lifestyle and daily activities.”<sup>38</sup>

## Community living

The term ‘community living’ is used to refer to the right of disabled people to live in their local communities and receive the support they need to participate in every-day life. This includes, for example, living in their own homes or with their families, attending the same schools or working in the same places as their non-disabled peers, and taking part in community activities they choose.

## Group homes/Institutional care

The term ‘group homes’ refers to buildings, houses or apartments where disabled people live together. Some countries will use other terms, such as protected homes, sheltered homes, organised housing or even supported or assisted living.

If group homes have one or more of the following ‘institutional care’ characteristics, they can be considered as institutional in character and not compliant with Article 19 CRPD<sup>39</sup>:

- obligatory sharing of assistants with others and no or limited influence over whom one has to accept assistance from;
- isolation and segregation from independent life within the community;
- lack of control over day-to-day decisions;
- lack of choice over whom to live with;
- rigidity of routine irrespective of personal will and preferences;
- identical activities in the same place for a group of persons under a certain authority;
- a paternalistic approach in service provision;
- supervision of living arrangements;
- a disproportion in the number of persons with disabilities living in the same environment.

General Comment 5 goes on to state that institutional settings with these characteristics “may offer disabled people a certain degree of choice and control; however, these choices are limited to specific areas of life and do not change the segregating character of institutions”.

---

38. Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community, CRPD/C/GC/5, 27 October 2017, para 16(a).

39. *Ibid*, para 16(c).

## Family-like/Family-type homes for children

Group homes for children are often referred to as ‘family-type’ or ‘family-like’ homes or centres. What defines ‘family-like’ and ‘family-type homes’ is that groups of children are placed together, with carers (and other professionals) working in shifts taking care of the children. Some, like SOS Children’s Villages will have a permanent ‘mother’ or both ‘mother and father’ living with groups of children in a number of houses in the same location. Many of such ‘homes’ house only disabled children, and there is nothing ‘family-like’ or home-like about them.

General Comment 5 on living independently and being included in the community states that, with regard to children, anything other than a family is considered an institution, as there can be no substitute for growing up with a family.<sup>40</sup>

## Deinstitutionalisation

ENIL defines ‘deinstitutionalisation’ as:

“a political and a social process, which provides for the shift from institutional care and other isolating and segregating settings to independent living. Effective deinstitutionalisation occurs when a person placed in an institution is given the opportunity to become a full citizen and to take control of his/her life (if necessary, with support). Essential to the process of deinstitutionalisation is the provision of affordable and accessible housing in the community, access to public services, personal assistance, and peer support. Deinstitutionalisation is also about preventing institutionalisation in the future; ensuring that children are able to grow up with their families and alongside neighbours and friends in the community, instead of being segregated in institutional care.”

The Toolkit on the Use of European Union Funds for the Transition from Institutional to Community-based Care<sup>41</sup> describes ‘deinstitutionalisation’ as a process which includes:

- the development of high quality, individualised services based in the community, including those aimed at preventing institutionalisation, and the transfer of resources from long-stay residential institutions to the new services in order to ensure long-term sustainability;
- the planned closure of long-stay residential institutions where children, disabled people (including people with mental health problems), homeless people and older people live, segregated from society, with inadequate standards of care and support, and where enjoyment of their human rights is often denied;
- making mainstream services such as education and training, employment, housing, health and transport fully accessible and available to all children and adults with support needs.

---

40. *Ibid*, para 16(c).

41. European Expert Group on the Transition from Institutional to Community-based care, Toolkit on the Use of European Union Funds for the Transition from Institutional to Community-based care, 2012, available at: <https://enil.eu/wp-content/uploads/2016/09/Toolkit-10-22-2014-update-WEB.pdf>

## **Annex III:**

# **ESI Funds Terminology**

### **European Regional Development Fund (ERDF)**

The European Regional Development Fund (ERDF) was set up in 1975 and provides financial support for the development and structural adjustment of regional economies, economic change, enhanced competitiveness, as well as territorial cooperation throughout the EU. Along with the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Regional Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), ERDF is one of the five Structural and Investment Funds (ESI Funds) of the EU.

For the 2014 – 2020 period, the ERDF budget amounts to more than EUR 250 billion. The Fund supports projects under the 11 thematic objectives for cohesion policy, and focuses in particular on four key priorities: strengthening research, technological development and innovation; enhancing access to, and use and quality of ICT; enhancing the competitiveness of small and medium enterprises (SMEs); supporting the shift towards a low-carbon economy in all sectors.

ERDF also funds cross-border, interregional and transnational projects under the European territorial cooperation objective.

### **European Social Fund (ESF)**

Established in 1958, the European Social Fund (ESF) is one of the EU's main financial instruments for supporting national policies that seek to increase employment and employment opportunities, improve quality and productivity at work, and reduce social exclusion and regional employment disparities.

As one of the five ESI Funds, ESF works towards achieving the 11 thematic objectives set out for the 2014 – 2020 programming period. Specifically, the main priorities for the ESF are: promoting sustainable and quality employment and supporting labour mobility; promoting social inclusion, combating poverty and any discrimination; investing in education, training and vocational training for skills and lifelong learning; enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

### **Managing Authority**

A managing authority is responsible for the efficient management and implementation of an operational programme. A managing authority may be a national ministry, a regional authority, a local council, or another public or private body that has been nominated and approved by a Member State. Managing authorities are expected to conduct their work in line with the principles of sound financial management.

For each operational programme, a managing authority must provide the European Commission with an annual implementation report by 31 May each year. Other key tasks

for a managing authority include: ensuring that activities selected for funding match the operational programme's criteria; checking that EU and national rules are respected; recording and storing accounts, so that they can be audited; ensuring that operational programmes are properly evaluated.

## Monitoring Committee

Member States are required to appoint monitoring committees to check that operational programmes (OPs) are being correctly implemented. These committees are chaired by the relevant Member State (or managing authority) and comprise regional, economic and social partners, including civil society representatives.

A monitoring committee's key tasks include: assessing the effectiveness and quality of OPs; approving criteria for financing under each OP; making periodical reviews of OPs and their progress towards specific targets; examining the results of implementation to assess whether those targets have been met; where necessary, proposing revisions to OPs, including changes related to their financial management.

## Operational Programme

Operational programmes are detailed plans in which the Member States set out how money from ESI Funds will be spent during the 7-year programming period. They can be drawn up for a specific region or a country-wide thematic goal (e.g. Environment, Human resources, or Regional development). For the European Territorial Cooperation goal, cross-border or interregional operational programmes are drawn up.

Member States submit their operational programmes on the basis of their Partnership Agreements. Each operational programme specifies which of the 11 thematic objectives that guide cohesion policy in the 2014-20 programming period will be addressed through the funding available under the operational programmes.

Operational programmes are negotiated by the Managing Authority and the European Commission, and must be approved by the Commission.

## Partnership Agreement

For the programming period 2014 – 2020, each Member State drafted a Partnership Agreement (PA), in cooperation with the European Commission. This is a reference document for programming interventions from ESI Funds and links them to the aims of the Europe 2020 growth strategy. When drafting PAs, Member States are guided by Annex D of Country reports under the European Semester.

A partnership agreement defines the strategy and investment priorities chosen by the relevant Member State and presents a list of national and regional operational programmes (OPs) which it is seeking to implement, as well as an indicative annual financial allocation for each OP.

## Partnership Principle

The partnership principle applies throughout the entire programming process, from the preparatory stage, through to the implementation and assessment of results. It should lead to better programme outcomes and help ensure that money from ESI Funds is spent efficiently.

In the 2014 – 2020 programming period, the partnership principle has been strengthened even further, including not only Member States, but also stakeholders such as trade unions, employers, non-governmental organisations (NGOs), and other bodies that promote, for example, social inclusion, gender equality, and non-discrimination. The Commission has drawn up a European Code of Conduct on Partnership which has to be respected by the Member States when preparing and implementing their operational programmes.

## Shared Management

There are two main types of EU funding: funds which are managed centrally and directly by the European Commission, e.g. for research; and funds whose management is shared between the EU and the Member States, e.g. ESI Funds and the Cohesion Fund. The EU entrusts management of the latter to the Member States. The bulk of EU spending involves funds which come under shared management by the Member States.

For funds in 'shared management', the Commission currently entrusts the Member States with implementing programmes at national level. Member States then allocate these funds to end recipients (e.g. companies, farmers, municipalities, NGOs etc.). The Member State has primary responsibility for setting up a management and control system which complies with the requirements of the Regulations, ensuring that this system functions effectively and also preventing, detecting, and correcting irregularities. The Commission plays a supervisory role by satisfying itself that the arrangements governing the management and control system are compliant. It does so by verifying the effective functioning of this system and making financial corrections, where necessary.

## Annex IV:

# Selected resources on deinstitutionalisation and the use of European Structural and Investment Funds

### Guidance/legal analysis:

United Nations, 2017. *General comment No. 5 on living independently and being included in the community*. Available from: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2q6qfz0y0vc9Qi-e3KjjeH3GA0srJgyP8IRbCjW%2fiSqmYQHwGkfkC7stLHM9Yx54L8veT5tSkEU6ZD3ZYxFwEgh>

Quinn, G. et al, 2018. *Legal Memo re. Segregation and segregated facilities as a prima facie form of discrimination*. Available at: <http://enil.eu/news/segregation-and-segregated-facilities-as-a-prima-facie-form-of-discrimination/>

United Nations, 2017. *Report of the Special Rapporteur on the rights of persons with disabilities. A/HRC/34/58*. Available from: [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/HRC/34/58](https://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/34/58)

### ENIL publications:

European Network on Independent Living, 2018. *Briefing on the Use of EU Funds for Independent Living*. Available at: [http://enil.eu/wp-content/uploads/2018/04/EU-Funds-Briefing\\_web0903.pdf](http://enil.eu/wp-content/uploads/2018/04/EU-Funds-Briefing_web0903.pdf)

European Network on Independent Living, 2017. *ESI Funds and the Transition from Institutional to Community-based Care – Towards a More Effective Monitoring and Complaints System*. Available from: [http://enil.eu/wp-content/uploads/2017/07/OurRightsCampaign-Briefing\\_FINAL.pdf](http://enil.eu/wp-content/uploads/2017/07/OurRightsCampaign-Briefing_FINAL.pdf)

European Network on Independent Living, 2014. *Myth Buster on Independent Living*. Available from: <https://www.enil.eu/wp-content/uploads/2014/12/Myths-Buster-final-spread-A3-WEB.pdf> (available in a number of languages)

### Manuals and checklists:

European Expert Group on the Transition from Institutional to Community-based Care, 2019. *Checklist to ensure EU funded measures contribute to independent living by developing and ensuring access to family-based and community-based services*. Available from: [https://enil.eu/wp-content/uploads/2019/12/EEG\\_Checklist.pdf](https://enil.eu/wp-content/uploads/2019/12/EEG_Checklist.pdf)

European Union Agency for Fundamental Rights *Human rights indicators on Article 19*. Available at: <http://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living/indicators>

European Expert Group on the Transition from Institutional to Community-based Care, 2014, *Toolkit on the Use of European Union Funds for the Transition from Institutional to Community-based Care: Revised edition*. Available at: <https://enil.eu/wp-content/uploads/2016/09/Toolkit-10-22-2014-update-WEB.pdf>

European Expert Group on the Transition from Institutional to Community-based Care, 2012, *Common European Guidelines on the Transition from Institutional to Community-based Care*. Available at: <https://enil.eu/wp-content/uploads/2016/09/Guidelines-01-16-2013-printer.pdf>

European Commission, Regional policy, Glossary. Available at: [https://ec.europa.eu/regional\\_policy/en/policy/what/glossary](https://ec.europa.eu/regional_policy/en/policy/what/glossary)

European Commission, Open Data Portal for the European Structural and Investment Funds. Available at: <https://cohesiondata.ec.europa.eu>

### **Other reports:**

European Parliament, 2016. *European Structural and Investment Funds and People with Disabilities in the European Union, Study for the PETI Committee*. Available from: [http://enil.eu/wp-content/uploads/2016/06/COMMITTEES\\_PETI\\_2016\\_11-09\\_Study-EUFunds-Disabilities.pdf](http://enil.eu/wp-content/uploads/2016/06/COMMITTEES_PETI_2016_11-09_Study-EUFunds-Disabilities.pdf)

Open Society Foundations, 2015, *Community, not Confinement The Role of the European Union in Promoting and Protecting the Right of People with Disabilities to Live in the Community* (author Dr. Israel Butler). Available at: [www.opensocietyfoundations.org/reports/community-not-confinement](http://www.opensocietyfoundations.org/reports/community-not-confinement)

Office of the High Commissioner for Human Rights (OHCHR), 2012, *Getting a Life – Living Independently and Being Included in the Community*. Available at: [http://www.europe.ohchr.org/documents/Publications/getting\\_a\\_life.pdf](http://www.europe.ohchr.org/documents/Publications/getting_a_life.pdf)

Council of Europe Commissioner for Human Rights, 2012, *The right of people with disabilities to live independently and be included in the community*, CommDH/IssuePaper(2012)3. Available at: <https://wcd.coe.int/ViewDoc.jsp?id=1917847>



---

On 8 November 2016, ENIL launched a campaign on the use of European Structural and Investment Funds ('Structural Funds') in the European Union (EU) Member States. The aim of the EU Funds for Our Rights Campaign is to encourage the European Commission and the Member States to improve the monitoring and complaints system, in order to ensure that Structural Funds are used to support the rights of disabled people, rather than restrict them. Specifically, the EU Funds for Our Rights Campaign is focusing on the role of Structural Funds in supporting the right to live independently and being included in the community, set out in Article 19 of the UN Convention on the Rights of Persons with Disabilities (CRPD). The campaign is supported by the Open Society Foundations – Public Health Program.

#### Follow us on



<https://www.facebook.com/EUFundsforOurRights/>



@ENIL\_EU

---

## About the European Network on Independent Living

The European Network on Independent Living (ENIL) is a Europe-wide network of disabled people. It represents a forum intended for all disabled people, Independent Living organisations and their non-disabled allies on the issues of independent living. ENIL's mission is to advocate and lobby for Independent Living values, principles and practices, namely for a barrier-free environment, deinstitutionalisation, provision of personal assistance support and adequate technical aids, together making full citizenship of disabled people possible.

ENIL has Participatory Status with the Council of Europe, Consultative Status with ECOSOC, is represented on the Advisory Panel to the EU Fundamental Rights Agency's Fundamental Rights Platform, and on the Advisory Council on Youth at the Council of Europe.



### CONTACT US

#### European Network on Independent Living (ENIL)

7th Floor – Mundo J  
Rue de l'Industrie 10  
1000 Brussels  
Belgium

E-mail: [secretariat@enil.eu](mailto:secretariat@enil.eu)

[www.enil.eu](http://www.enil.eu)