

Welcome

Good morning. Hi. If you are all settled, maybe we can start. Welcome to Trier and this seminar on the Uncrpd. My name is-
Luisa Lourenco. I'm the lawyer responsible for this seminar. A few words about Era. Era is a foundation, created by the European Parliament and started in 1992. With the objective for training in various aspects in Eu law. Hence the location in Trier. Just across the border from Luxembourg. There is series of seminars of the Uncrpd. Fully funded by the Commission. Since the Eu is signatory of the convention. As such, we have the pleasure to welcome here an excellent panel of speakers. Thank you for accepting our invitation. And sharing your time and expertise with us. Let's take a quick look at the program before we start. This morning, we will look at the international and European framework of Eu disability-law. We'll start with the key features of the convention and we'll move at the disability used in Eu law. In the court of justice. This afternoon we'll look at the Uncrpd in practice. We'll start with basic concepts. Legal capacity and access to justice, which are important. In this matter. Tomorrow, we'll look into participation in public and political life. And specific areas in discrimination where it arises. I need to speak louder. I'd like to remind you the seminar is being live streamed. The workshops will not be. To facilitate the work in groups. We'll take some pictures. 12.30 - group picture. No one leaves this room without it. If you don't want to be photographed, let me know. Without further ado, I pass the floor to Charles. Thank you very much. Have a lovely seminar. Thank you very much. You are welcome. My job is to chair this first session on looking at the international European framework of disability law. Our first speaker is Paula Campos Pinto. Her presentation is in your pack and her biography as well. She'll speak about 45 minutes. She'll finish at 10.15. Then we'll have discussion. Thank you.

Good morning. It is really a pleasure to be here. And to be able to work with you on such exciting topic. The convention on rights of persons with disabilities.

My presentation this morning will focus on 2 major topics. First to give you a general overview of the convention. In terms of its purpose, general principles and rights. And then, to talk more specifically about monitoring role of the committee on the rights of persons with disabilities. And also on the process of state reporting and individual complaint procedures. Although we have time for debate at the end of the presentation. If something is not clear, or you want to make some comment, we can make this more lively. And you are welcome to interrupt me.

As we all know, and just to talk about more recent history of human rights, around the world. 1948 was an important year. We work in the aftermath of the Second World war. And in face of all the horrors of the war, and of the Holocaust, the countries come together and they wrote this universal declaration of human rights, a foundational text for us today. Where it is recognized, very importantly, right from the beginning, inherent dignity and equal and inalienable rights of all persons directly, theoretically, including persons with disabilities as well. Article 1, the famous article, states all human beings are born in dignity and rights. We all know that the statement took long time. To become real. For many groups in society. And other groups before persons with disabilities tried to make this statement come closer to their special interests and special needs. We had conventions on the rights of women, on the rights of the children, migrant workers and so forth. Before we had the convention on the rights of persons with disabilities. Just to give you also an overview of how this idea of disability rights evolved in the UN system. I think it is important to state the year 1981 as an important mark in this timeline. It was the year where we celebrated international year of disabled people. And we inaugurated a decade that was called world program of action for disabled people 1983-1992. And this decade raised awareness about disability and the very status of disability rights around the world. In 1987, the first proposal for a UN convention specifically for the disability rights was put forward by Italy and Sweden. But the time had not yet come. The proposal was not adopted, accepted, voted, in the UN assembly. We didn't have a convention back then in 1987. We had something different. We had another text that was also important but was not a convention. The standard rules on the equalisation of opportunities for persons with disabilities came out in 1993 and were an important guideline for the governments all over the world in terms of what was needed to change. What were the real issues around the rights of people with disabilities. Again, it raised the standard of disability rights. But not as much as a convention would do.

You may ask, why was it important to have a new international treaty when we had so many conventions already? Theoretically people with disabilities were included in human kind. In all those treaties. The problem was that like in many other areas, societies were not really addressing the needs of persons with disabilities. It was not just enough to say for example everyone has the right to education or everyone has the right to have a job. We needed much more than that. We needed to define exactly what were the supports that needed to be put in place. So that persons with disabilities could ac-

cess education for example. And this is just an example. We could multiply this in any other area.

So in fact we needed a more specific convention that specifically addressed those needs, those interests of persons with different kinds of disabilities.

So in 2001, sorry, there is a mistake there. It is not international year of disabled people. It's the year when the UN-general assembly put forward an ad hoc committee to start developing new conventions.

And in a record time, within 5 years, this convention was developed and was finally adopted in 2006. It opened for signature in 2007. And with the appropriate number of signatures collected and ratifications, it entered into force in May 2008.

What is unique about this convention? First of all, it is a human rights and development treaty. A large percentage of persons with disabilities live in developing countries. And so development has to be concerned with improving the rights of persons with disabilities. The 2 aims, goals must be actually intertwined. Secondly it mainstreams disability across all sectors. That means that disability needs to be an issue that crosses society in all domains of life. Education, employment, access to justice, political, cultural life, accessibility. In all areas we need to consider disability and the needs of persons with disabilities. And the major difference in relation to the standard rules is that the convention is a legally binding treaty. And therefore, the states that ratified the convention are legally obliged to put in place those norms, those standards. And there are also mechanisms to bring those states to compliance with the convention. So, it is much stronger instrument. It is something that the organisations of people with disabilities, the activists, the lawyers, can use as a tool for actually improving justice, improving rights for persons with disabilities. It is not an easy journey. But it is a journey that has started is not possible to stop anymore. The purpose of the convention is defined in article 1. The purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. And to promote respect for their inherent dignity. This idea of inherent dignity is important. It is right there in the beginning of the convention. Because dignity, as a sociologist, I do a lot of research. With persons with disabilities. And I do research that research that tries to monitor. And I can ensure you that what I hear most frequently is my dignity has been violated.

My dignity is not respected. It is not just a matter of accessing services or social care or any other kind of rights. I-

t all starts right there. In the dignity. That is inherent to every human being. It is important that right there in the first article of the convention, there is a claim about the inherent dignity of persons with disabilities. This can no longer be challenged. It is something that is foundational to the whole convention itself.

We talk here about a paradigm shift. We hear that often.. The convention raises a paradigm shift in how we deal with disability. I'd like to pause a little bit. Around this concept. To try to tell you what I do understand by this paradigm shift. So, the first idea, as I mentioned, is the recognition of inherent dignity of all persons with disabilities.

It is also this idea that persons with disabilities are not just objects of charity. They are not objects of social protections. They are subjects of rights. With that inherent dignity comes the recognition of a new status for persons, with disabilities. They are capable of making decisions. They are entitled to information. They must give their free consent and they are able to make contributions for society.

So, what we need to do is no longer to protect people with disabilities. But to provide them with the supports they need.

. In order to access and exercise their rights. So this is quite an important shift. And sometimes difficult to understand.

In its entire meaning. Persons with disabilities must have access to the support. What is required from the state. What

is required from society is the provision of those support. So that they can make their decisions. So that they can

have a life project of their own. And they can follow up on that project and exercise those rights.

So this entails a paradigm shift in terms of how we conceptualize disability. We know that there has been different approaches, different models to understand disability.

Not very long ago, still in our days in many countries and many places

in the world, we see disability as the problem of the person with disability. It is something that this person lacks or

something that doesn't work well in the body of that person. And needs to be fixed. This very individualized and pathologized

model of conceptualizing disability leads us to see disability as a personal tragedy. It is a problem of the person.

And it is tragic that person is living that condition. It is her problem. It is not society's problem. We continue

living as usual. We continue organising our institutions, our societies as usual. And either the person fits with that

way of organising society. Or she is out. But it is her fault ultimately. It is her problem.

This view of disability, of conceptualizing disability, has been challenged by first of all persons with disabilities th-

emselves. Some of them who have been scholars of disability studies. And they have shown us that in fact this is a wrong-way to see this issue. What happens is that society creates a lot of barriers. In keeping things organised as they have-always been in doing things the way we always have done. And not being open to the idea of change of accommodation, of -inclusion. We create obstacles, barriers, to participation. Of some people. Who have some particular needs or particular-characteristics. Who differ somehow from the norm, what we consider the norm. Actually when we start looking at what th-is norm is, we see it is a very narrow concept. And many of us actually have problems sometimes in fitting that norm. So disability is not so much this scholars have shown us in the person. It is actually very much in society. That create-s those barriers. And places some people at the margins of society. And hinders them from participating as equals in our world. These ideas have evolved. And brought us to the human rights model of understanding disability. Where we see those barri-ers as actually violations of fundamendal human rights. So the human rights models that emerges from this social model, recognizes that in fact we are all different. I often say that myself, being a person, short person, I sometimes have problems in sitting in some chairs. I have to si-t the whole day in a chair in a conference. By the end of the day, my legs are hurting me bad. Apparently you' d say, yo-u have no disability. But do I fit nicely that norm on which the idea of chairs in conferences are based? We all have di-fferent needs, we have different disabilities, we all have different contributions we can make to society. And the human rights model recognizes the humin diversity. Recognizes what is unique in each of us. What makes us more s-strong, what makes us, and, more able to do great things, is actually our ability to recognize that diversity. And exchan-ge with those who are different from us. If we exchange only with those who are equal, we get a poor vision of the world-. The human rights model is something else. By recognizing human diversity, it also emphasizes the conditions that are n-eeded to promote access. And exercise of rights for each of us. So, what do we need to get to the point of accessing and-exercising our rights? And the focus is really on the participation of persons with disabilities. What is important is not to find an excuse to-put the person aside. Is to find a way to provide opportunities for participation. So, the focus is really on creating -the conditions, making the supports available, to enable participation on equal terms. For everyone. I can give you an example from the field of education. For many years, in schools, students were said to be all the same-

. All had to have the same characteristics. That's why they came to school. Were able to come to school. And so difference was not even recognized. We lived in an era of homogeneity. Then we evolved to an idea of integration. And this idea of integration concealed that heterogeneity was something we could find among our students. We had students with different abilities. Some students are more different than others. And they might need some adaptations. And in this case, disability and difference is seen as something that challenges us. But if we really think about this challenge, maybe there is still some, not so positive connotation attached to us. Something that challenges us can be difficult to deal with. Something that somehow obliges us to move, forces us to do things we were not so inclined to do initially.

The human rights approach with this idea of diversity recognizes that everybody is different. But different is seen as a resource. Something that we can all gain from. That stimulates mutual development and mutual learning. So difference is no longer a challenge. It is an opportunity for growth and development for everybody. This is a more positive way to look at it. So what we have seen happening in the education field is what actually we would like to see happening across whole society. In terms of moving from this idea of homogeneity to an idea of human diversity.

How does the CRPD define disability? Interestingly enough it does not. In a very precise way.

In the preamble it already says, it is an evolving concept. This notion it is something that is socially. And that evolves through time. As we provide support. And support becomes more available or a part of what we consider a minimum to live in society.

And it also already acknowledges disability evolves from the different persons. No longer disability is aimed at a person. Disability is something that emerges in the interaction of the individual with its environment.

And hinders their full and effective participation in society.

Article 1 says that persons with disabilities include those who have long term physical, mental, intellectual or sensory impairments. Which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. So this idea of interaction, and this idea of participation is something that gives us the measure of how rights are being accessed or not.

It is a matter of participation.

A person for example that uses a wheelchair may not find a job. And before we would say, okay, she cannot find a job because she has a disability and it is difficult for her to access and maintain a job. Now we understand that this person -

may have difficulties in finding or maintaining a job, because of the attitudinal barriers of employers. Of lack of accessibility in transportation. To access, to get to the, job. Or even physical barriers in the workplace.

Unfortunately, I don't know about your countries. In my country this is still very much a reality. A blind child may flunk in school not because he's unable to learn but because there are no books in braille to study from. In my country, - where we have a wonderful law around inclusive education. 98% of children with disabilities in regular schools, we still - have problems in providing the support needed for the success for the children in schools. The problems, that arrives late in the year, are still a reality.

The focus is very much on the types of discrimination that people face. And on impact. Of that discrimination in their lives.

In my research, again as sociologist, I try to always work with all types of disability. And I get very often the question. You did this research. What type of disability did you study? Blind people? People in wheelchair? Deaf people.

There is still this very strong idea that each disability is unique, has a specific kind of life and so on.

And, I have to explain over and over again. Although there are specificities of course, discrimination cuts across all groups.

There are nuances according to the type of disability. As well as according to the gender of the person. As well as according to the social class. According to the race or ethnic identity of that person. According to the fact that lives in - a rural or urban area. Discrimination is there. And when we focus on discrimination, this brings us much more directly - to understand what are the human rights implications of those barriers that are placed over and over again on the lives - of these people.

So, to talk about the structure of the convention. I usually draw this diagram. That has 4 squares. Each square corresponds to some part of the convention. For general principles is a square. A square for rights and freedoms. Another square - for specific groups. And for other provisions, necessary to ensure the exercise of rights. And all these squares are brought together by some round arrows. To emphasize the idea that actually although I break the convention in these 4 blocks, all these blocks are interrelated of course. We cannot talk about rights and freedoms without thinking about the specific groups. Or about the general principles. Or about everything is related in the convention.

As in human rights in general. Human rights are interrelated, always. General principles. Are defined in article 3. And they are extremely important. I always say that they are some a lense -

through which we should read all the other articles.

What are those general principles? Respect for inherent dignity and individual autonomy of the person. Non discrimination. Full and effective participation and inclusion in society. Respect for difference. Equality of opportunity. Accessibility. Equality between men and women. And respect for evolving capacities of children with disabilities. These are the principles that should guide us in assessing, interpreting and putting in place the different rights and different articles of the convention.

Participation and inclusion are extremely important. Without them, it is not possible to promote empowerment of individuals. And participation and inclusion are treated in different ways in the convention. They are a general principle. They should guide us, like I said, in implementation and assessing all the other rights. It is also a general obligation and it is a right. Right to be included in community. Right to be included in education. In cultural and political life, etc, etc.

It is very important to understand that therefore participation and inclusion are not just in itself.

They are also a means to achieve social justice. Social equality. Social equity for persons with disabilities.

We doubt participation and inclusion, persons with disabilities are invisible in society. And invisibility does not do much for promoting rights or advancing rights. Because this brings us back to the idea this is just a minority group. It concerns just a handful of persons. It is not really important to take into account this group. Participation is really very important.

Non discrimination, it is also a fundamental principle. And fundamental human rights. And includes direct and indirect discrimination when actions are not specifically directed to treat differently persons with disabilities. But the way in which they are written. Or the way in which we organise a service. Do not take into account the needs of persons with disabilities. I always give the example of my university. It is a new building. Beautiful building. It has some concerns about accessibility. We have elevators in the building. We have wheelchair accessible restrooms. And then we get to the classrooms. And there is 2 steps that the professor has to climb to get to the podium where he teaches. Where he gets to the computer. Or the blackboard. And the tables are rigid. They do not move around. So, although all the building was apparently designed to welcome persons with for example physical impairments, the classrooms were designed as if there was no student in a wheelchair. As if there was no professor in a wheelchair ever coming to the classroom. This is quite b-

izar. How is this possible?

Indirectly, there is some form of discrimination. In this case as well. And then the concept of reasonable accommodation - which will be dealt with more extensively in relation to work later on during these days.

But just very briefly, means all appropriate modifications that do not impose disproportionate or undue burden, to ensure that people with disabilities can exercise their rights. Who defines what does impose a burden and what does not? Who is involved in this decision? Are persons with disabilities involved in this decision? So, this would give us much to talk about.

Accessibility, another important principle, is of course extremely important for empowerment and inclusion. It is a general principle and a right on its own. It should be ensured several articles that deal with the issue of accessibility. So that reminds us to access justice, we need to put in place accessibility to be able to live in the community as others - , we need to put in place accessibility, we need to create accessible communities. We need to improve the communication - and information systems so they are inclusive and accessible to all. In education, health, employment, social protection - , and so forth.

And dignity. Again, just before I start with the rights on freedoms. Dignity as a principle is extremely important. Of course.

I often provide this example. If someone comes to me and says: I'm hungry, can you give me some food? There are so many ways I can respond to this person. Imagine. I can throw some food in a plate and put the plate on the floor. There you go. You have your food. I can invite the person to come to the cafeteria. Or I can put a table with a nice tablecloth. With candles. With my best china. And serve the person with my best manners. In all these 3 ways I'm feeding the person.

I'm satisfying her hunger. But the dignity inherent in treating is quite different. Often, when we are dealing with poor people, or people that we somehow look at as inferior to us. We think that anything goes. Just anything goes. As long as this basic need is satisfied. But it is not that. I think the convention very clearly says that we need to consider - how we provide services. How we provide participation. Inclusion. How we are in terms that dignify the person. Dignify the interaction we have with that person as well.

So, rights and freedoms are the big block of the convention of course. Equal recognition before the law. We are going to spend some time talking about this today. Right to life. So important.

Liberty and security of persons. So many countries in the world. And my own country had that kind of law. We don't hav-

e it anymore. But, so many countries that accept the interruption of pregnancy. Based on the fact, if there is a kind of disability. And do not accept it for other children. For other circumstances. Not here discussing the right of women to have an abortion. What does it say about the value of life? Of persons with disability. Compared to other persons. Freedom from exploitation, violence and abuse. A recent study I conducted in my country. And just, the outcomes of this study, are similar to what we see in many other countries. The rates of violence experienced by women with disabilities are 3 times higher than those among women in general. Domestic violence is in the family where they face most violence. Most persons with disabilities in my country live within the family. Because there are not so many social housing or homes or other provisions for people, with disabilities. We think, they are so well, they are so protected in their families. But these families are extremely burdened with the care they have to provide. And the lack of support. And what does it make to their relationships? We are just now discovering and understanding. Respect for home and the family. Right to education, health, work, social protection. And adequate standard of living. I did some research on this topic recently. There are countries like Morocco where there is nothing. No social pension at all. The rates of poverty are tremendous. And so on. Special groups. Children with disabilities. Girls and women with disabilities. And this article is really important for us to understand the intersecting vulnerabilities that women and girls with disabilities face. We need still more research to reveal the extension of that type of intersecting discrimination. And other provisions that are necessary to ensure the exercise of rights. Such as awareness raising. It is something that people talk about constantly. How they are looked at. In the streets. How the lack of knowledge and lack of information there is about persons with disabilities. What they need and what they are and what they are capable of. The situations of risk and humanitarian emergencies, personal mobility. Habilitation and rehabilitation, which are important. So people can develop to their full potential as well. Prevent other consequences in terms of medical issues. Statistics and data collection is still lacking tremendously. At national level. And European level. We still need more discriminated information, segregated by disability. So that we can compare and bring awareness and raise awareness about the lack of rights of persons with disabilities in many countries. International cooperation and monitoring. We'll talk more about monitoring later on. Implementation and monitoring. It is dealt with in article 33. There are several important innovations that this convent-

ion brought about. So, first it says that the convention says that the state parties shall designate one or more focal points within the government. Responsible for the implementation and coordination of the policy. And then, also that state parties shall maintain, strengthen, designate or establish a framework. That should include one or more independent mechanisms, to promote, protect and monitor implementation of this convention. And very importantly, the convention calls upon the participation of persons with disabilities and their representative organisations. To participate in this process. It says, civil society in particular persons with disabilities and their representative organisation shall be involved and participate fully in the monitoring process. Again, this idea of participation. Having a voice in the process of monitoring is extremely important. It was the outcome of the struggle of the disability community during the negotiations of the convention. This idea of nothing about us without us, meaning that persons with disabilities and their organisation should always be involved in all political processes that affect their lives.

Finally, the optional protocol. That some state parties have signed and ratified as well. Which evolves 18 articles. And basically it allows individuals or groups to submit complaints to the CRPD committee when all the national remedies have been exhausted. The committee may consider these communications from the individuals themselves. Or on their behalf, whenever there is a situation of discrimination or violation of right by the state party. The protocol also encompasses the idea that the members of the committee can develop inquiries in the countries to examine, investigate some information related to the serious violation of rights.

So in this monitoring process, there are several ways for the civil society to participate.

I'm now showing a diagram that tries to present in a schematic way how the process evolves.

After the state party has ratified the convention, within 2 years, it must present an official report.

To the committee on the rights of persons with disabilities.

This official report should already involve persons with disabilities and their organisation, the civil society should be consulted during the process of writing the official report. And the official report goes to the committee. At the same time, simultaneously, civil society can develop its own report. Some call it the shadow report. I don't like that. I don't think it should be in the shadow. It should be the alternative report. Or parallel report. I call it the parallel report. The civil society can also develop its parallel report and send it to the committee. And the committee will rea-

d both reports. Sometimes there are several parallel reports. There are many. And so, the committee will read the official report and all these reports. And will issue a list of issues. With some questions to the state party. Please provide us more detail about this. Or can you explain better this. What do you mean? What have you done in this area? Can you be more precise? So the parallel reports actually help the committee to raise all these issues. And the state parties often when they provide their reports tend to talk about what they have done in the law. What the changes that have happened at this level. We have the law, a new policy. We all know that in most countries there is a big gap between what the law says and what happens in reality. So, this parallel reports should bring forward the reality on the ground. And in Portugal we have been involved in this process, in this observatory human rights that are coordinated. We work with many organisations. We have an advisory board made of 17 big federations or national organisations from all areas of disability. And we were actually able to write, to develop a very strong parallel report. That brought both views. The issues that were raised by the organisations. And then, the data from the research that could actually sustain some of those statements that were made. It was quite a very strong report.. We worked with the 17 organisations. And we sent out in the country. And we collected more signatures. All together we had 100 something organisations subscribing the report. It was quite impressive. It was the only parallel report. There was just 1 from Portugal. So the list of issues actually picked up many of the issues that we had raised in the parallel report. This list of issues goes to the state party. And the state party has to provide written answers. Write a second report. - And is invited to what's called the constructive dialogue. In this session there will be a dialogue where the committee will ask questions, and the government will answer those questions. And again, as civil society, at the observatory, we wrote another report. We provide our answers to those list of issues. Again, the committee had both visions and both perspectives of the list of issues it had sent. Finally, based on all those reports, based on that constructive dialogue that took place during that session, the committee issues the concluding observations. Which actually are some recommendations, or issues that the committee points the state needs to work on. Until it presents the next report. In the next report, the state has to say what it has done to address those issues that were collected. This is the process. It is actually very interesting process for all the disability organisations involved. IDA, the Int-

International Disability Alliance that now has an office in Geneva. It offers a lot of support. They have a lot of experience. They helped us in preparing the report. They reviewed our reports and helped to prepare the representatives from the Portuguese civil society that went to Geneva. In both sessions gave presentations to the committee. It is really a great support that they provided us.

So this map shows us the impressive acceptance of the convention. It is a world map. We can see that, except for a handful of countries, almost everywhere in the world the states have signed and they have ratified the convention. It is a very wide acceptance of the convention. But, we are pretty sure, we don't understand, it is still the flavor of the week. - Sometimes soon another flavor will come. Strawberries or chocolate. A new convention. We need to take advantage of this - moment we are living now. I'm showing a picture of a volcano with all that lava going out. This is sort of how I felt when I heard that we had a convention. This is wonderful. Such an energy. We need to take advantage of this moment. And we know that so many people are working around these issues in the world. That it also energizes us and gives us the strength and motivation to continue. And we are convinced that the landscape will never be the same again. And it will be hopefully a much more inclusive world. We all are counting on you too. For that to happen. Thank you very much.

(applause)

- Thank you very much. It is unusual to be in a conference when we are ahead of time. We have more time than we had envisaged. We have up to 40 minutes. If you can raise your hands and I'll come to you. Before you ask your question. Can you identify who you are and what organisation you are from. That would be great. So, thank you.

- Steven. Private practice in the UK. I have some problems with understanding some of the terms. You said, disability is not defined. But it includes. It must include short term? If it includes short term, how short is that? And who decides?

That was one question. If I can ask another. In article 4.2. There is a requirement to spend money. And what it actually says, it is difficult to know how a state would know how much it has to spend. They have to take measures to the maximum of the available resources and where needed in the framework of international cooperation. Given the states of the economies in Europe. I wonder what maximum available resources means. And what anyone is supposed to know what it means.

- Thank you for your questions. In terms of the first one. When I said that it does not define precisely, it is because -

of that word. It doesn't say, it is confined to. It means just long term. So, this way of putting it was actually to allow different definitions that were already in place in various places in the world.

By using a more flexible term such as including instead of disability is, means just this. We allow that in certain countries, if there is already that understanding of disability as also encompassing situations of short term impairment, that would still be included in the definition, in the convention. So it allows some flexibility in how different countries define precisely what is disability.

As for the second comment. In terms of the maximum of available resources that should be spent to the available resources.

Here again, it is a quite open way of living the issue. It does not precisely define what are, as you mentioned, what is the maximum, what should be considered a maximum and minimum.

For me here, what is raised is again the issue of who defines that? Who is going to be heard in terms of defining what is the appropriate amount of resources. Or, what is the maximum or what is the minimum.

And while problematic this kinds of flexible, open ways of putting the ideas.

What this allows also, if we look at it from another perspective. It allows us to participate in that definition. And, there is where I see a great scope for political participation of disability organisations, participation of researchers that can for example do research and compare how much is being spent in an area and another area of policy. And with this sort of analytical and databased, evidence based information. To be able to come up with an alternative to criticize, to show what is wrong. And should not be like that.

So, at the same time, what these 2 examples show us, is that the fact that the convention was discussed and negotiated within a short period of time, it also meant that there was a lot of agreements that were needed to get to.

And that, if you have the time and curiosity to look at some preliminary versions of the articles, you can see that there was some, firm statements around certain issues. And then the final text, we ended up with a more flexible and more negotiated outcome. If I may say so.

- Thank you very much. I want to add 1 or 2 points. In relation to the definitions. If you look at the draft in history.-

There was a big debate when they drafted the convention. Whether or not to include the definition at all. There is a compromised position. Some persons with disabilities wanted some level of definition. In so that state parties couldn't g-

et away with fulfilling the obligations. You can see there was a real debate amongst the different parties involved and - the drafting of the convention. On the second point about the general obligations. It is important to note in the convention there are 2 sets of rights. They are subject to different requirements. So, those rights that are socio-economic require progressive realisation. And one of the interesting things about the convention. Unlike the international political rights and the international socio-cultural rights in the 1960s where you had the rights separated out. In this convention, in a lot of the articles, you have both sets of rights. There are arbitrary words, challenged in the convention. It is look at that.

Okay, so, our next. Is there another question? Yes.

Thank you very much.

- I'm from Iceland. Thank you very much for your lecture. I have a comment on a question.

About the concept of disability. I want to mention that in the preamble it states in E, that disability is an evolving concept. It is not defined for all. Secondly, when speaking about the rights, political and economical and social and cultural rights. You have to look at the context of, in between the articles. Article 5 of the convention is an article on equality and non discrimination. So, although countries should implement progressively socio economical rights, they still have a duty, not to discriminate. You have to look at those 2 articles together when explaining this. It is just a brief comment I wanted to make.

- Thank you very much. Actually, it will be worthwhile knowing. The first inquiry was in the UK. It is interesting to see the comments that will be published next year. Any other questions?

Thank you.

- From the Open University in England.

Thank you very much for the presentation. Very useful. I just wanted to ask what your thoughts were in the paradigm shifting education you talked about moving to diversity. How long do you think there will be an extra box, inclusion, into that model?

- I think, the third situation would correspond to a situation of inclusion. And, in theory in some countries we have that. I gave you the example of my country. Where we have this law that closed all special schools. That has had the result that 98% of all children with disabilities in regular schools. But if you ask me to what extent we are really on the ground operating as seeing diversity as an opportunity, we are not 98% there, for sure.

It takes much longer. Because it requires much deeper change than just changing the text of a law. Which is something th-

at might be an easier process to achieve. It requires also a lot of support. It requires a mindset in everybody.

And of course, there is the issue raised about the lack of resources, austerity.

That shows very clearly how much austerity affected.

A couple of days ago there was a report from the national council of education, stating that we have had a

sharp increase in the number of students with disabilities in regular schools.

And yet the staff located to providing-

support to these children has decreased. So how can this work?

- Next question.

- Declan. From Cloisters Chambers, UK.

Article 1 talks about the aim to ensure the full and equality of freedom etc.

Do you see the convention as giving any greater rights than the rights in the substratum of human rights instruments?

Which are mentioned and referred to in the convention.

One way of looking at the convention is that it articulates what these rights mean in relation to the rights of persons with disabilities.

Sometimes people believe that it adds additional rights.

And, if the theory I put forward is correct. It might explain why when it comes to economic and other rights, the way in-

which it is articulated in the convention is as weak as it is in the substratum of human rights. But I was interested to

see whether you felt that this added something, or simply a new prism, a new way of looking at these existing rights. -

But doesn't go beyond that.

- As I see it, human rights is also an evolving concept. And therefore, every time we write a declaration or every time -

we write a new convention, we are better articulating what do human rights mean.

And I think that this convention does that, in relation to persons with disabilities. Explaining and articulating how, w-

hat is the meaning of rights in this context. What does it require? What does it entail? And therefore, it does not add,-

it enriches. It enlarges the theory itself. Making it more relevant to persons with disabilities. And to human kind for-

that matter too. It is a matter of going deeper into the meaning of human rights. That's what every convention has don-

e in the past as well. As this one does.

- Thank you very much. It was my view, my understanding it didn't create new rights. It articulated the existing right-

s. And situations. Kind of drew out what that right meant for persons with disabilities and remove the barriers that pre-

vented them on an equal basis with others. If you look at a right like legal capacity on article 12. There is a massive -

debate on the notion of legal capacity. And psychiatrists who are in the view that it doesn't make sense. It is interpr-

eted that you cannot involuntarily treat somebody. There is a larger debate on the fragmentation. That human rights are articulated in a growing number of human rights sources of law. There is a debate there. That's where people may feel that the Crpd may be articulating new rights. To be fair, it is trying to set out and contextualize relating to people with disabilities. Any other questions?

- Good morning. I am Sophie from a law firm in Belgium. Thank you for your presentation. I would like to ask you a question about the open definition of handicap in the treaty. And the question is, whether there is requirements of seriousness of the extents to which participation must be hindered. Has this been a notion in the debate? Or is each hindering of the participation sufficient to speak of a handicap?

- Well I think that question comes back to the first one that was raised. I think it is really an open definition. There is no minimum requirement. The purpose was to leave it sufficiently wide and flexible to be able to accommodate specific definitions that were already in place in different parts of the world.

So, it is possible that in one country, for example just give you the example of my country. In Portugal, to access certain benefits, one has to have an impairment that needs to be above 60%.

Within a scale of measurement of impairments. That is in place. But it has been very challenged by the disability organisations. Because it is very outdated that measurements scale that is being used. It is very formatted according to a medical model. It does not take into account that interaction with the environment. The problem of measurement of disability. It looks at disability as isolated form.

It is that view that the problem is only in the person. Where is today we agree that a disability is the outcome of an interaction. The person, the body, and the environment. And a more accommodating environment, inclusive environment, can reduce the impairment. The same person in 1 environment is perhaps 90% impaired. And in another environment the same person can have a lower impairment. If the environment is more accessible. If it enables the person to function more independently. So, it is not just a matter of the person and the characteristics of his/her impairment. It is about that interaction.

And therefore, it would be impossible in the convention to have a definition of disability that would state disability is above 50% or 60% of impairment. Although, in certain countries, that's still in place. But it is something that needs to be reviewed, according to a human rights perspective.

- Thank you very much. Just 1 other point to make. The social model of disability. That's very much embedded in the con-

vention. If you look at the draft in history. Parties are committed to move away from a medical model that are the problem or the exclusion within the person. And the physical disability. That's in the definition. There is no definition perse. We have this evolving concept. That's what we ended up in article 1 of the convention.

So, anybody else?

Thank you.

- If I may abuse s a tiny bit. Could you tell us about the work that Anet does. We have a lot of academics. It would be a good tool.

- Thank you. Aned is a network of academics working on disability issues. And it has a role, working with European Commission and trying to again to raise the profile of disability issues within the work of the commission.

Many, many areas of policy with disability is related, are not the direct jurisdiction of the European Commission at national level. So, what the European Commission does is to try to influence and advice the states, the member states to develop policy that takes into account disability and disability rights.

So, Aned does work to fit into that role that the Commission plays with the national member states governments.

Annually we produce 3 outcomes. One will look at the reports and documents of the European semester. Which are a national

I report that each member state has to write to the Commission, stating what will be its economic and social policies for

the following year. And the Commission reads these reports and then provides some critics or guidelines or ideas about

what needs to be changed. And we read those documents from the government and we read it from a disability perspective.

We try to say whether there is an adequate level of concern with disability rights in those reports. Or what is lacking

. We look at what the government, I do that in relation to Portugal. I look at the report from the Portuguese government

and say, okay, in these areas of labor policies there is a lack of concern with the rights of persons with disabilities

. These policies do not, have nothing to say about how they are going to improve the employment of persons with disabilities.

Or the education standards. The idea is that the report touches upon it.

That is one outcome. The other outcome is

database which is called dot com. This database covers all areas of the convention around I guess the 11 or so topics.

Sometimes more than 1 article are included in 1 topic. And every year, the experts, Aned experts from each country need

to update. And that's a database mostly about the legal framework. What does exist in every country around education? What

are the laws? The policies? It is a description. That database is available online. If you lick dot com. And you can

choose the country. You can do a search by topic. You are interested in issues around employment. And you can do a comparison about what every country in Europe, what are their policies around employment and other areas.

So, all the areas of the convention.

So that's the second output. And every year, that database is updated. It should be really up to date. And the third out-

come is a specific, topic specific report. That is developed to search and study a particular area. For example, last y-

ear the topic was access to social protection. There is a guideline that is provided to each expert. National expert. An-

d according to that guideline we collect the data and analyse the data and provide a report. And then, someone in the A-

ned core research team does a synthesis report that tries to provide the information about what is the situation around -

social protection in particular, in all these countries. Every year is a new topic.

Not sure what's going to be the top-

ic for next year. But we have done in the past on education, on employment.

Social protection. Accessibility. So, severa-

l reports. And you can find also those reports if you look at Aned website.

- Great. Any more questions? Any more observations? Practice from their own country?

- I just wanted to share a thought. About this idea of the minimum requirement. The definition of disability.

What is clear, I think, from the directive, is that it could never be a subjective test. Whether somebody is a disabled -

person or not. I am a disabled person. Is not going to be adequate. On the other hand, the convention has to apply across-

s a range of countries and cultures and situations. Perhaps a completely objective approach would run against the princi-

ple of inclusion of persons with disabilities in the definitional process. But there is a middleground. Which is that yo-

u have a kind of intersubjective country by country definition of disability.

Which includes the contributions of all pa-

rts of society in that process. It seems to me that's more consistent with the overall aim of the convention. And it av-

oids to a certain extent the problem of self assertion by anybody which would undermine the principles in the convention-

.

It would cease to be. Many people of legal rights for operational or cynical reasons involved. I'm interested to hear your thoughts on that theory.

- I don't know.

I'm going to share with you a personal story. I was living for some years in a foreign country. And so I lived 7 years -

in Canada and the United States. And my family, I brought my family with me.

And when I came back to Portugal, my youngest daughter was 14 years old.

And she had then whole her education, school education in English. We had always spoken Portuguese at home. So she was fluent in oral Portuguese. But when she got to highschool, she had a lot of trouble with written Portuguese. She lacked vocabulary that was out of the ordinary oral language that we used at home.

In the school manuals, the books she was supposed to be reading, she found words that she could not understand.

When she was reading a page, there were several words she could not understand. By the end of the page, she couldn't make sense of what she was reading at all.

But the teachers could not understand this. Because when she was speaking in classroom she would apparently like other children. She didn't have an accent. It was difficult. She was struggling to follow the classes. I went there and talked to the teacher. And said, she needs some special accommodation. She doesn't have fluent Portuguese. She has a vocabulary of a 6-7 years old and she is 14 years old studying more complex subjects. It doesn't work.

And she couldn't understand. Finally I said, look, do you have kids with special needs in this school? Do they have a special educational plan? Why don't you write a special education plan for her? Her face was shocked. What are you suggesting? Your child is not disabled. So for this woman, a special education plan could only apply if my child had a diagnose. She didn't have a diagnose, she couldn't have special accommodation. This is a good example of what human rights are and should be. And the accommodation. It is according to everybody's needs. Why do we need to have a label in order to have that access to accommodating needs? Or to adjusting a situation. Even if it is temporary. Why does it have to be long term and a certain degree of impairment? In a particular context and time, the person needs a particular accommodation, why is that not provided if she doesn't have a label of a certain disability? That's why I have, I know this has a lot of complexities. When it comes to pensions. How do you determine who gets the pension and who does not get? But you say, we have to find a common ground where the person has a voice in that process. In my country, people have no voice. In that process. It is a very medicalized process. Only the doctors decide what is the degree of impairment. If you don't follow that script and if you don't enter those categories, you are out of the benefits or the support. I think we need to find new ways of doing this. Although I don't know how exactly we would. But it seems to me that the involvement of the person is fundamental in this process. It is not happening enough. In my experience, in my country.

- I don't have an answer either. I do my PhD in disability law and policy. Tried to write coherent sections. It is controversial. There is no consensus on what is a disability. I think to be fair, the kind of compromise situation in the convention that allows for that measure of flexibility and evolution of the understanding of disability. It is a desirable outcome.

I think, to greater extent, the committee in the concluding observations and general comments could give guidance on those definitions. Back to you, Declan.

- Thanks. It seems to me, the convention in article 1, doesn't shift away from the concept of impairment. It doesn't. - It simply doesn't shift away from a qualified concept of impairment. It doesn't shift away from physical, mental, intellectual or sensory impairment. So, whilst we are talking about a move away from a medical model, the argument shifts to the concept of what an impairment is. An impairment in itself is not caused by the social environment.

Under the convention. This is quite clear. Because you have that type of impairment, which in interaction with various barriers. You have that tension between the barriers, but at the heart of this, the concept of impairment. Which simply I think means to make something worse. So there is a value judgement based in that. So, something that has moved away from a normal expectation. I emphasize it. It is an unhappy conclusion I think for some people. That actually or still deal with medicalized model. The example that you gave would not be a disability discrimination example. Although it raises some interesting questions about reasonable accommodation in other areas. I wonder what your thoughts are on that point on that concept of impairment. And how that was viewed or is viewed within the convention.

- I think, actually, the terminology around it, why it wasn't clear in the convention. A number of organisations developed across the world, when they were in the ad hoc committees, they wanted some kind of terminology in the convention that would ensure state parties wouldn't avoid the responsibilities around those rights. It is a compromise. It is an ongoing conversation. Maybe we can have the discussion at the tea break.

- I think, you are right in pointing the problems with this article. As I mentioned before. I think, although it is an important and crucial watershed to have this convention, there was much compromise we can read between the lines throughout the text. And here, you are right in saying the notion of impairment, we didn't get rid of this in this formulation.-

I agree with that. I also think that the convention is not the end of the story. It is perhaps the beginning of a new s-

tory. And the fact that we use the word include here, gives room actually for wider, broader definitions. And what we are going to do with this include. What are we going to include in this definition, is still open to discussion. And can be also improved and developed through time. We are not, and that's the good news. We are not closed by a very strict definition. We have an open definition that has some problems. We can continue working on this. And reflecting on this. And trying to find a better definition. It gives us that possibility I think.

The UN convention. There is an opportunity. A lot of experts - across the EU. Maybe you could share some of your experiences in terms of how your jurisdiction has implemented the CRPD. An opportunity to discuss the UNCRPD. Which is driving a worldwide law reform. It is open to the floor. If people want to ask questions to Paula. Or share examples of good practice. - Steven Levinson. I would like to ask Paula if, in relation to the specific provision that deals with women with disabilities, what exactly the politics of that was. Brought into existence. If you look at people of ethnic minority with people with a disability. They suffer from dual discrimination. They don't get a special provision. I wonder whether there is a reason for that.

Well, I'm not aware of the particular details that were involved in politics of getting this article. However, what I can say is that from my knowledge, and from the research that is available, there is very strong evidence that the interactions of disability and gender in the case of women and girls with disabilities really account for multiple forms of discrimination. And disadvantages. In my own country, when I had, and I can speak better about this reality. It is the one-

I have been studying more. When we dug into the data and we started examining these issues, we found astonishingly, women and girls with disabilities have less access to education, less access to jobs. And even less access to social benefits. In general. Which was something nobody was aware of. Until the moment we started looking at that data in detail.

Up until then, the persons with disabilities were always treated as a monolithic group. We discussed always issues in general terms. And when we did that analysis, these differences became very evident. And we know that these are not the only, this will not be the only axe of differentiation in societies. I mentioned it in my presentation. Issues of ethnic identity or belonging. Issues of class, of economic resources, social capital. All those will interfere in access in exercise of rights. But, this variable of gender is an important one across all society. Even when we address other issues, s-

uch as these ones I mention. It is really something that is crucial to understand how our societies are organised. It is not just in the field of disability. Inequalities exist. Society in general. We are still very unequal when it comes to gender. It makes a lot of sense to have an article that has attention for that. And should make think about other structures of inequality and the pressure that exists in society.

- We'll take 1 final question before Richard's talk.

- I would like to ask some questions about your last part of presentation.

Regarding the reporting process. It is very interesting, what do you think if the UNCRPD committee really covered all the aspects in the list of issues? And how is your country coping with recommendations. Do they really abide or not?

Thank you.

- Thank you very much for that question. So, this constructive dialogue between the committee and Portuguese state took place in April 2016, quite recent. And many people asked me. What's the point and what are really, are there penalties for the states that do not comply with their human rights obligations? Well, there aren't economic penalties or financial penalties. Such as the ones Portugal is facing in terms of the European Union, the deficit. There is a process of what is called name and shame the country. And again, I think it is the disability organisations, research and the activists want to advance human rights for people with disabilities can take advantage of. Because no country likes to be named and shamed. No state wants to be named and shamed. In the international scene, or even nationally. So they were trying, when the constructive dialogue took place, they wanted to come up with justifications for the gaps and try to come up with loss of information about all the policies they were about to develop, that would address all these issues. Again, there is a big scope there for work from civil society. And in terms of the observatory. What we are doing now. We are organising working groups and we are organising a conference for these coming months of December. We'll celebrate the 10 years of the convention. At the same time we'll pick up the main issues in that concluding, document of the concluding observations. And we will start mobilizing the Dpo's and all those interested. To work on these issues. And work on these issues, I mean, in terms of understanding what, where are the gaps. And also, in terms of discussing what needs to be done to address those gaps. How should we move from here? What we as civil society need to do. And so, we'll be, we are starting this work. And we intend to continue working along this, throughout these 4 years until the next assessment of the country. In order to continue putting pressure, to contribute with suggestions and proposals. In order to improve, -

not just at theory level but at the practice as well. Of those rights.

- Hello. I'm also from the university of Kassel. I have a follow-up question. You talked about the organisation of the - work of the different organisations. But, you work in working groups. And, but, are you working with officials? With governments together? Or, could you please briefly describe how this is going on? Or if it is going on? Thank you.

- So, we started by electing 4-5 issues. Independent living, education, article 12, access to services and benefits. And-

another one I can't remember right now. I know there are 5. And, we are setting in place working groups to analyse what were the recommendations of the committee regarding those topics. And what sort of proposals we can issue and develop.-

And present to the government. So when we have those proposals, the next step will be to involve the government, to exchange with the government, to present our proposals and to discuss and to work with them in order to bring about those changes we want.