# JCHR Inquiry report

Scope of the [inquiry](http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news-parliament-2015/brexit-human-rights-launch-16-17/): any impact of the UK’s proposed withdrawal from the EU on the human rights framework and protection of human rights in the UK

This submission focuses on disability. We recognise that the extent to which the UK will remain obliged to respect EU laws on many of the issues addressed below will depend on the nature of the Brexit arrangements. Membership of the EEA would mean that EU laws relating to employment, transport and research, for instance, would continue in place. The concerns set out below assume a hard Brexit in which the UK would not be obliged to retain any of the relevant laws.

Please also note that, in order to highlight the link to the human rights of disabled people, relevant provisions of the UN Convention on the Rights of Persons with Disabilities are mentioned where appropriate.

## 1. Employment

(CRPD, Articles 27 and 5 in particular)

Although EU employment protections and rights are as relevant to disabled people as they are to any other workers, the focus here will be purely on disability-specific issues. The Employment Equality Directive (Directive 2000/78/EC) requires that disability discrimination, harassment and victimisation be prohibited in employment and occupation. This has led to the strengthening of domestic law in a number of respects and without it there is a possibility that UK governments could remove rights currently set out in the Equality Act 2010.

The most obvious disability-specific piece of EU law in the employment field is the Employment Equality Directive (2000/EC/78).

It also seems that employment of disabled people in the UK has been boosted by projects and activities supported by European social funds. According to an article by Richard Howitt (chair of the European Parliament’s All-Party Disability Rights Group) on 11 March 2016 (at

<http://www.theguardian.com/social-care-network/2016/mar/11/brexit-could-undermine-the-rights-of-disabled-people>)

“Last year, 87,000 British disabled people were helped towards employment by European social funds …”.

## 2. Personal Mobility and Transport

(CRPD Articles 20, 9 and 5)

In the words of the Papworth Trust briefing on disability prior to the Referendum:

“Airline companies must not deny disabled people booking or boarding air travel. Disabled people travelling by air are entitled to receive assistance of an established standard at airports and when boarding and cannot be charged extra for this.[[1]](#footnote-1)

Airline companies have to give preferential treatment to passengers with disabilities in the event of denied boarding or cancellation or long delay of flights.[[2]](#footnote-2) …

Passengers with disabilities (and a travelling companion) travelling by sea or inland waterway have to be provided with non-discriminatory access conditions. Assistance to passengers with disabilities has to be provided free of charge, subject to 48-hour notification. Quality standards for such assistance have to be laid out by larger terminal operators and carriers. Any loss of or damage to assistive devices must be compensated.[[3]](#footnote-3)”

Similar provisions apply in relation to travel by rail and coach. However, the air and inland sea and waterway regulations are highlighted here because they confer rights on UK disabled people which are not embedded in domestic law – these forms of travel are not covered by the Equality Act 2010. If EU law ceased to apply in the UK, these rights would disappear.

For disabled car drivers travelling in other EU countries, EU membership gives mutual recognition of disabled parking entitlements under the Blue Badge scheme.[[4]](#footnote-4)

The proposed European Accessibility Act Directive would apply to transport services, requiring ticketing machines etc to be accessible.

## 3. Healthcare

(CRPD Articles 25, 5 and 9)

Packaging of medicinal products is required by EU law to include information in Braille.[[5]](#footnote-5)

UK citizens currently have some entitlements to medical treatment in other EU countries under the EU Directive on cross-border healthcare. This allows people from one Member State (eg the UK) to receive specialised medical treatment in another Member State if it is unavailable or difficult to obtain in their home country.[[6]](#footnote-6) This is likely to be of particular relevance to disabled people.

In Watts v Bedford Primary Care Trust, the Court of Justice of the EU ruled that UK patients who had to wait longer than medically advisable for NHS treatment would be able to recover the cost of treatment in another Member State.

Removing freedom of movement might impact particularly negatively on disabled people because of their reliance on personal assistants who appear to be drawn disproportionately from other EU Member States (although it is difficult to find clear evidence on this). However, a House of Lords Briefing Note has indicated that people from other EU countries currently make up about 4.95% of the staff in NHS trusts and Clinical Commissioning Groups, and about 5% of social care staff.

## 4. Accessibility Generally

(CRPD Article 9)

The new EU Public Procurement Directives of 2014 make accessibility a mandatory criterion for all public tenders above a certain financial threshold.

Accessibility requirements (and requirements not to discriminate on grounds of disability) are now embedded in the EU Structural and Investment Funds Regulations.

The EU Directive on the accessibility of the websites of public sector bodies was adopted by the European Council in July 2016.

The proposal for a European Accessibility Act is currently being considered by the European Parliament. It would provide a mechanism by which to require manufacturers of certain goods to ensure compliance with functional accessibility requirements (in line with guidance provided in detailed technical standards). It would also provide a mechanism for defining what ‘accessibility’ means whenever it is required in other EU legislation (eg the legislation mentioned above). The Equality Act 2010 does not apply to manufactured goods and is not clearly linked to accessibility standards.

## 5. Human Rights Infrastructure

(CRPD Articles 29, 31 and 8)

The EU is a party to the CRPD and its European Disability Strategy is oriented to supporting Member States to implement the CRPD. This support takes a range of forms, including funding (eg through the Social and Structural funds and research), through collecting data and statistics and through a number of mechanisms which support dialogue and exchange of good practice – eg the Disability High Level Group, the annual Work Forum and training events on disability rights for lawyers, judges, disabled people’s organisations and academics from across the EU.

Disabled people’s organisations in the UK would no longer be able to apply for EU social fund money. They currently play an active part in European disabled people’s organisations but this would also be likely to stop.

UK researchers in disability rights have benefited from EU funding and played a lead role in EU research networks on disability. For example, the Centre for Disability Studies at Leeds has provided academic leadership for the EU Academic Network of Experts on Disability[[7]](#footnote-7) since its inception in 2007.

Independent Living

(CRPD Article 19)

There are indications that EU Social Funds have supported a range of projects in the UK (as well as elsewhere) which have enhanced and strengthened the rights to independent living for disabled people. There is, however, currently a lack of evidence on the extent to which EU funding has been significant in this area.

 Inclusive Education

(Article 24)

There are indications that EU Social Funds have supported a range of projects in the UK (as well as elsewhere) which have enhanced and strengthened access to inclusive education for disabled people. There is, however, currently a lack of evidence on the extent to which EU funding has been significant in this area.

1. Regulation (EC) No 1107/2006 [↑](#footnote-ref-1)
2. Regulation (EC) No 261/2004 [↑](#footnote-ref-2)
3. Regulation (EU) No 1177/2010 amending Regulation (EC) No 2006/2004 [↑](#footnote-ref-3)
4. Recommendation 98/376/EC [↑](#footnote-ref-4)
5. Directive 2004/27/EC amending Directive 2001/83/EC [↑](#footnote-ref-5)
6. Directive 2011/24/EU [↑](#footnote-ref-6)
7. <http://www.disability-europe.net/> [↑](#footnote-ref-7)