

# Procedure file

Basic information		
NLE - Non-legislative enactments Decision	<a href="#">2008/0171(NLE)</a>	Awaiting final decision
UN Convention on the Rights of Persons with Disabilities: conclusion of the Optional Protocol		
See also <a href="#">2008/0170(NLE)</a>		
Subject		
4.10.06 People with disabilities		
6.40.13 Relations with/in the context of international organisations: UN, OSCE, OECD, Council of Europe, EBRD		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>EMPL</b> Employment and Social Affairs		06/10/2008
		PPE-DE <a href="#">JELEVA Rumiana</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>FEMM</b> Women's Rights and Gender Equality		22/10/2008
		Verts/ALE <a href="#">BREYER Hiltrud</a>	
Council of the European Union European Commission	Commission DG	Commissioner	
	<a href="#">Employment, Social Affairs and Inclusion</a>	ANDOR László	

Key events			
02/09/2008	Legislative proposal published	<a href="#">COM(2008)0530</a>	Summary
31/03/2009	Vote in committee		Summary
02/04/2009	Committee referral announced in Parliament		
03/04/2009	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0230/2009</a>	
23/04/2009	Debate in Parliament		
24/04/2009	Results of vote in Parliament		
24/04/2009	Decision by Parliament	<a href="#">T6-0313/2009</a>	Summary
02/12/2009	Additional information		Summary

Technical information
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Procedure reference	2008/0171(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
	See also <a href="#">2008/0170(NLE)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 218-p6a
Stage reached in procedure	Awaiting final decision
Committee dossier	EMPL/6/66577

### Documentation gateway

Legislative proposal		<a href="#">COM(2008)0530</a>	02/09/2008	EC	Summary
Committee draft report		<a href="#">PE415.259</a>	18/12/2008	EP	
Amendments tabled in committee		<a href="#">PE418.418</a>	05/02/2009	EP	
Committee opinion	FEMM	<a href="#">PE418.159</a>	24/02/2009	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0230/2009</a>	03/04/2009	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0313/2009</a>	24/04/2009	EP	Summary

### Additional information

National parliaments	<a href="#">IPEX</a>
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## UN Convention on the Rights of Persons with Disabilities: conclusion of the Optional Protocol

**PURPOSE:** to conclude, on behalf of the European Community, an Optional Protocol of the UN Convention on the Rights of Persons with Disabilities.

**PROPOSED ACT:** Council Decision.

**BACKGROUND:** the UN Convention on the Rights of Persons with Disabilities (see [CNS/2008/0170](#)) and this Optional Protocol were adopted by the UN General Assembly on 13 December 2006. On the basis of negotiating directives adopted by the Council, the Commission conducted the negotiation of the Convention on behalf of the European Community, leading to this proposal for a Council Decision on the signing, on behalf of the European Community, of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol. The Council Decision dated 27 March 2007 ([ST07404/07](#)) authorised the Community to sign the Convention on the Rights of Persons with Disabilities and issued a declaration on the Optional Protocol (Annex II of the Decision) stating that the Council of the European Union shall reconsider the question of signing the Optional Protocol to the Convention by the European Community as soon as possible. The Commission finally signed the Convention on 30 March 2007.

On 3 May 2008, the Convention and its Optional Protocol entered into force. Since the Optional Protocol has not yet been signed, its accession should be proposed. Two proposals, one for concluding the Convention, the other for acceding to the Optional Protocol, are therefore required.

**CONTENT:** the Optional Protocol of the Convention on the Rights of Persons with Disabilities establishes that all State Parties, including the European Community, shall recognise the competence of the Committee on the Rights of Persons with Disabilities to receive and consider communications from or on behalf of individuals or groups of individuals who claim to be victims of a violation by that State Party of the provisions of the Convention.

In this respect, the Protocol establishes a specific procedure for receiving possible communications from these persons and for ensuring that the State criticised for not respecting the rights of persons with disabilities can give an appropriate response.

The Protocol defines the powers and competences of the Committee in question, including the power to bring any communications submitted to it confidentially to the attention of the State Party. It can also call on the State concerned to take interim measures to avoid possible irreparable damage to the victim or victims of the alleged violation and to submit explanations clarifying the matter within six months. The State concerned may also be called upon to define measures taken to remedy the situation.

Furthermore, if the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to submit specific observations. The Committee may also be required to conduct an

inquiry regarding this State, in terms of the violations highlighted, which may even include a visit to the territory of the State.

Note, however, that a State Party may, at the time of signature or ratification of the Protocol or accession thereto, declare that it does not recognise the competence of the Committee provided for in the Protocol with regards to inquiries, following a communication that would have been submitted to it (articles 6 and 7 of the Protocol).

Legal basis and mixed powers of the EC and Member States: articles 13, 26, 47(2), 55, 71(1), 80(2), 89, 93, 95 and 285 in conjunction with the second sentence of the first paragraph of Article 300(2), and the first subparagraph of Article 300(3) of the Treaty establishing the European Community are chosen as the legal basis. This requires consultation of the European Parliament.

It is also important to note the application of the principle of subsidiarity to this text, owing to the mixed nature of the powers assigned by the UN Convention and its Optional Protocol. As both Community and Member States' powers are concerned, joint conclusion/ratification of the Convention by the Community and the Member States is required.

Lastly, note a declaration of the European Community on the competences transferred to the Community by the Member States, under the Treaty establishing the European Community, in the areas covered by the Convention, a series of powers are devolved to the Community to enable the implementation of the principles set out in the Convention. The declaration cites, in this case, the list of all Community texts applicable in this area. The only reservation of the European Community concerns Article 27.1 of the Convention regarding non-discrimination in employment. In accordance with Council Directive 2000/78/EC on equal treatment in employment and occupation, the Member States shall be given the possibility to provide that the Directive, in so far as it relates to discrimination on the grounds of disability, shall not apply to the armed forces. Therefore, the Committee established by the Optional Protocol would not have any powers in this particular area.

## UN Convention on the Rights of Persons with Disabilities: conclusion of the Optional Protocol

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The Committee on Employment and Social Affairs adopted the report drawn up by Rumiana JELEVA (EPP-ED, BG) on the proposal for a Council decision concerning the conclusion, by the European Community, of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, calling on the European Parliament to approve unamended, under the consultation procedure, the conclusion of the aforementioned Protocol.

The committee also calls on the Member States and the Commission to report every three years to the Council and to Parliament on the status of implementation of the Optional Protocol in accordance with their respective fields of competence.

## UN Convention on the Rights of Persons with Disabilities: conclusion of the Optional Protocol

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The European Parliament adopted by 388 votes to 0, with 8 abstentions, a legislative resolution approving unamended, under the consultation procedure, the proposal for a Council decision concerning the conclusion, by the European Community, of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities.

The resolution calls on the Member States and the Commission to report every three years to the Council and to Parliament on the status of implementation of the Optional Protocol in accordance with their respective fields of competence.

## UN Convention on the Rights of Persons with Disabilities: conclusion of the Optional Protocol

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision concerning the conclusion, by the European Community, of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis ? Treaty/EC/Art.13, Art.26, Art.47(2), Art.55, Art.71(1), Art.80(2), Art.89, Art.93, Art. 95, Art. 285, Art. 300(2) first para and (3) first para. - became Art 19, Art 31, Art 53 (1), Art 62, Art 91 (1), Art 100(2), Art 109, Art 113, Art 114, Art 338, Art 218(6)(a) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

