



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.2.2007
COM(2007) 77 final

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**

(presented by the Commission)

EXPLANATORY MEMORANDUM

In response to the Commission's recommendations, the Council authorised the Commission to negotiate, in respect of matters for which the Community is competent, the draft United Nations Convention on the Rights of Persons with disabilities¹.

Negotiations were concluded at the eighth session of the Ad Hoc Committee established to negotiate the Convention held in New York from 14 to 25 August 2006. During this session the decision was taken to supplement the Convention with an Optional Protocol dealing with individual communications and an inquiry procedure. Both instruments were approved at the resumed eighth session of the Ad Hoc Committee on 5 December 2006.

The United Nations General Assembly adopted both texts on 13 December 2006. They will be open for signature as from 30 March 2007 in New York.

One of the most important negotiating directives given by the Council to the Commission was preparing for the accession of the Community to the Convention and its Protocol, given Community competence for certain aspects of the instruments in question. The draft Convention and Protocols resulting from the Commission's negotiations provide that regional integration organisations, and hence the European Community, may become members.

As regards the other aspects of the negotiations, the objectives set by the Council in its directives were also attained.

The Commission ensured that the provisions of the Convention are in line with relevant EU legislation and jurisprudence, for example the definitions of discrimination as well as the non discrimination in employment. In this respect, it is worth noting that denial of reasonable accommodation is now internationally recognised as a form of discrimination. Disability is defined against a set of criteria which both reflect the social model of disability and the recent ECJ jurisprudence on the definition of disability (case C-13/05).

As some States have stated that they will sign the instruments as soon as they have been opened for signing in New York, the European Community should be in a position to sign as well. To that end, the Presidency of the Council must designate the persons empowered to sign the Convention on the Rights of Persons with Disabilities and its Optional Protocol on behalf of the European Community.

The proposal for a Council decision presented by the Commission contains a sole Article authorising the President of the Council to designate the persons empowered to sign, on behalf of the European Community, the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

¹ Decision of 24 May 2004

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 13 and 95, read in conjunction with the second sentence of the first subparagraph of Article 300(2) thereof;

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the Community, the accession of the Community to the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol.
- (2) Negotiations were successfully concluded and the resulting instruments will be open for signing by the States and, within their areas of competence, by regional integration organisations at the United Nations headquarters in New York on 30 March 2007.
- (3) The Member States having stated that they will sign the instruments as soon as they are open for signature in New York, the European Community should also be able to sign,
- (4) Subject to its possible conclusion at a later date, the Convention and its Optional Protocol should be signed on behalf of the Community;

HAS DECIDED AS FOLLOWS:

Sole Article

- (1) Subject to its possible conclusion at a later date, the President of the Council is authorised to designate the persons who are empowered, on behalf of the Community, to sign the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.
- (2) The text of the Convention and its Optional Protocol, are attached to this Decision.

Done at Brussels,

*For the Council,
The President*