



## **Guidance -Greece**

Practical steps and recommendations to ensure compliance of  
EU funding with the Charter of Fundamental Rights

**Author Greek Council for Refugees-GCR**

**November 2025**



**Co-funded by  
the European Union**

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*This document has been prepared with the support of the European Union as part of the EU-funded project: FURI - EU Funds for Fundamental Rights (grant agreement number 101143162 - FURI – CERV 2023-CHAR-LITI).*

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# Guidance for Greek Authorities

Ensuring Fundamental Rights Compliance in the Management of EU Funds (2028-2034)

## Part I: Introduction and Strategic Context

### 1.1. Introduction: Background and Rationale

The European Union's cohesion policy and Home Affairs Funds represent a powerful instrument for fostering social inclusion and reducing disparities. However, the effective management of these funds is not merely a matter of financial regularity. It is a legal imperative to uphold the Union's core values, which include human dignity, freedom, equality, the rule of law and human rights, including the rights of persons belonging to minorities<sup>1</sup>.

This Guidance has been prepared under the "EU Funds for Fundamental Rights (FURI)" project. It draws on research across six Member States<sup>2</sup> which identified recurrent risks where EU-funded projects have contributed to non-compliance with the **Charter of Fundamental Rights of the European Union** (the Charter) and the **UN Convention on the Rights of Persons with Disabilities (UNCRPD)**.

#### Examples of Common Risk Patterns

- **Trans-institutionalisation:** Investing in smaller residential settings that replicate institutional cultures.
- **Segregation:** Funding educational or housing infrastructure that physically separates marginalized groups (Roma, persons with disabilities) from the mainstream community.
- **Access to Asylum:** Challenges in ensuring that border management funding aligns fully with the principle of *non-refoulement*.

<sup>1</sup> Article 2 of the [Treaty on European Union](#).

<sup>2</sup> Namely, [Bulgaria](#), [Czechia](#), [Greece](#), [Hungary](#), [Poland](#), and [Romania](#). For more, see Bridge EU, *1.1 Billion Euros, 63 Projects, Six Countries, One Pattern: How EU funds violate fundamental rights*, May 2025, available at: <https://furi.gcr.gr/wp-content/uploads/2025/05/FURI-EU-Synthesis-Report.pdf>. The full list of projects identified by the FURI consortium is available at: [https://furi.gcr.gr/wp-content/uploads/2025/05/FURI-EU-Synthesis-Report\\_project-examples-1.pdf](https://furi.gcr.gr/wp-content/uploads/2025/05/FURI-EU-Synthesis-Report_project-examples-1.pdf).

For Greek authorities, these findings underscore a critical administrative reality: while the legal framework governing the 2021-2027 period strengthened fundamental rights safeguards, challenges persist in their effective implementation. This *implementation gap* creates not only legal liability but significant financial risk, as non-compliance with the Charter of Fundamental Rights can trigger the suspension of payments and financial corrections.

This Guidance aims to serve as a technical tool to bridge this gap. It translates legal obligations into actionable administrative safeguards, aiming to assist Managing Authorities in preventing errors, ensuring the regularity of expenditure, and maximizing the impact of EU investments for the benefit of all.

## 1.2. Objective, Scope, and Target Audience

**Objective:** To provide legally sound, operational direction for aligning EU-funded activities with fundamental rights requirements throughout the 2028-2034 programming period. The goal is to move from **Target Audience:** This guidance is primarily intended for:

- **Managing Authorities** responsible for drafting National and Regional Partnership Plans (NRP Plans).
- **Sectoral Ministries** (Migration and Asylum, Social Cohesion and Family, Education, Citizen Protection).
- **Audit and Control Bodies** responsible for verifying the legality of expenditure.
- **Monitoring Committees** and independent bodies (Greek Ombudsman, GNCHR).

**Legal Scope:** The principles herein apply to all funds under shared management governed by the European Commission's proposal for a [Regulation establishing the European Fund for economic, social and territorial cohesion, agriculture and rural, fisheries and maritime, prosperity and security](#) (henceforth "**European Fund Regulation**" or "**EFR**"). This includes the European Regional Development Fund (ERDF), European Social Fund Plus (ESF+), and new frameworks for the Union's support in the areas of [asylum, migration and integration](#), the [Schengen area, integrated border management and the common policy on visas](#), and of [internal security](#).

**Timeframe:** This document is forward-looking, aimed to inform the strategic planning and implementation of the 2028-2034 programming period. It draws critical lessons from the persistent challenges observed during the 2014-2020 and 2021-2027 funding cycles,<sup>3</sup> with the aim of strengthening compliance in the next one (2028-2034).

## Part II: The Binding Legal and Policy Framework (2028-2034)

The management of EU funds operates within an ecosystem of responsibilities. Breaching a fundamental right is not just a violation of EU and international law; it constitutes a breach of the **Horizontal Conditions** for EU funding, rendering related expenditure ineligible.

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### 2.1. The New "European Fund" Regulation (2028-2034): A Unified

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<sup>3</sup> As identified by the [FURI](#) project.

## Conditionality Framework

In July 2025, the European Commission (EC) proposed a paradigm shift for the 2028-2034 programming period, by bringing together funds with pre-allocated national envelopes under ‘one single rulebook’: the [Regulation establishing the European Fund for economic, social and territorial cohesion, agriculture and rural, fisheries and maritime, prosperity and security](#) (henceforth the “Fund” or “European Fund”).

This new framework integrates all shared management funds (formerly ERDF, ESF+, AMIF, BMVI, CAP, etc.) into single **National and Regional Partnership Plans (NRP Plans)**. For national authorities, this means fundamental rights compliance is no longer checked against separate national programmes but is a central pillar of the entire National Plan.

### **A. Partnership and multi-level governance (Article 6)**

The Fund Regulation reinforces the **Partnership Principle**, ‘which implies close cooperation between public authorities, economic and social partners and bodies representing civil society’<sup>4</sup>.

- ✓ **Mandatory inclusion:** Partnership with the actors foreseen under article 6(1) EFR – which include fundamental rights bodies and civil society organisations– is mandatory and has to be organised in accordance with the Commission Delegated Regulation (EU) No 240/2014, which also applies to the NRPs.<sup>5</sup>
- ✓ **Balanced representation:** In line with currently applicable provisions of the [Common Provisions Regulation](#) (CPR), national authorities are required to involve the partners in a *balanced* manner, meaning the imbalance of the Greek Monitoring Committee for Migration and Home Affairs Funds<sup>6</sup> would need to be addressed.
- ✓ **Scope: Partners need to be involved from the outset, meaning:** a) in the preparation of NRP and its chapters, b) in the implementation of the NRP, and c) in its evaluation, including through their participation in monitoring committees.<sup>7</sup> The only permissible derogation regards the BMVI and ISF Funds.<sup>8</sup>

### **B. The "Horizontal Principles": Mandatory Design Requirements (Article 7)**

Under Article 7 of the proposed EFR, national authorities must design all measures in the NRP Plan in a manner that strictly adheres to the principles of the rule of law and to fundamental rights.

- ✓ **Active Prevention of Segregation:** The Regulation explicitly mandates that Member

<sup>4</sup> Recital 2 of [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.

<sup>5</sup> Recital 24 of the EU Fund Regulation proposal.

<sup>6</sup> See relevant sections of the [FURI report on Greece](#).

<sup>7</sup> Article 6(2) EU Fund Regulation proposal.

<sup>8</sup> Which are replaced by newly proposed Regulations establishing the [Union support for the Schengen area, for European integrated border management and for the common policy on visas for the period from 2028 to 2034](#), and the [Union support for internal security](#) for the same period.

States take appropriate steps to prevent discrimination based on racial or ethnic origin or disability during the implementation of the Plans. This creates a direct legal basis to reject funding for projects that segregate Roma communities or persons with disabilities.

- ✓ **Accessibility:** Accessibility for persons with disabilities must be taken into account throughout the preparation and implementation of the Plans.

### **C. The "Horizontal Conditions": The New Enforcement Mechanism (Articles 8 & 9)**

The concept of "Enabling Conditions" has been replaced by "**Horizontal Conditions**" that apply continuously throughout the funding period. For national authorities, this means that fundamental rights compliance must be a continuous and active consideration, not a one-off check at the programming stage. Non-compliance triggers a mandatory block on payments for the specific measures affected.

#### **1. The Charter Horizontal Condition (Article 8)**

- ✓ **Requirement:** Greece must put in place and maintain '*effective mechanisms*' to ensure compliance with the Charter. This goes beyond mere distinct checks; it requires a systemic assurance of compliance.
- ✓ **Self-Assessment:** The NRP Plan must include a "self-assessment" of compliance with this condition.
- ✓ **Financial Consequence:** If the Commission determines the condition is not fulfilled, it **shall not make payments** for the specific measures affected until the condition is fulfilled. If the breach persists for more than one year, the Commission **shall reduce** the financial contribution proportionately.

#### **2. The Rule of Law Horizontal Condition (Article 9)**

- **Requirement:** Authorities must ensure respect for the rule of law (as defined in Article 2 [Regulation 2020/2092](#)) throughout the Fund's implementation.
- **Link to Country Reports:** The Commission's assessment will explicitly rely on the *Rule of Law Report* and *European Semester* recommendations. Deficiencies identified in these reports regarding the Greek justice system or anti-corruption frameworks could directly trigger payment suspensions.

## **2.2. The EU Charter of Fundamental Rights**

The Charter is legally binding on Member States whenever they are implementing Union law, which *de facto* includes implementation of EU funds. It provides a comprehensive catalogue of rights that must be respected in all EU-funded projects. The following, non-exhaustive, list is particularly relevant to the challenges identified in [Greece](#) under the FURI project:

- **Article 1** (Human dignity) and **Article 4** (Prohibition of torture and inhuman or degrading treatment or punishment) can be directly engaged in cases of substandard and ‘detention-like’<sup>9</sup> conditions in EU-funded reception facilities.
- **Article 6** (Right to liberty and security) can be engaged in the case of de facto detention – termed as “restriction of liberty” in the Greek legal framework<sup>10</sup>– in Greece’s Closed Controlled Access Centres (CCACs). It can also be engaged in cases of administrative detention imposed for the purpose of return where there is no reasonable prospect for the return to be carried out (e.g. due to readmissions to Türkiye remaining suspended).
- **Article 18** (Right to asylum) and **Article 19** (Protection in the event of removal, expulsion or extradition), are engaged in the case of pushbacks at Greece’s borders, which have been found to be ‘systematic’ by the European Court for Human Rights (ECtHR)<sup>11</sup>.
- **Article 21** (Non-discrimination) is a cross-cutting principle that prohibits discrimination, amongst others, on grounds of disability or ethnic origin. It forms part of the legal basis for challenging the funding of segregated schools, housing, and services for persons with disabilities and Roma, and may also potentially engage Greece’s (segregated) reception system.
- **Article 24** (The rights of the child), particularly the principle of the child’s best interests, can be engaged by the prolonged confinement of unaccompanied minors in inadequate reception facilities.<sup>12</sup>
- **Article 26** (Integration of persons with disabilities) requires the recognition and respect for the right of persons with disabilities to access measures that ensure their independence and participation in community life. This article reinforces the (long-overdue) move away from institutionalisation towards (genuine) inclusion in the community.
- **Article 47** (Right to an effective remedy and to a fair trial) requires that individuals whose rights have been violated have access to an effective legal remedy. This is crucial for ensuring accountability for rights violations, including those occurring in the context of EU-funded projects.

### 2.3. The UN Convention on the Rights of Persons with Disabilities (UNCRPD) and its General Comments

The UNCRPD is an integral part of the Greek and EU and legal order. It provides the most detailed and authoritative standards for disability rights. The General Comments (GCs) issued by the United Nations Committee on the Rights of Persons with Disabilities (CRPD) offer legally authoritative interpretations of the Convention’s articles and are indispensable tools for ensuring compliance with the rights protected under it. Of particular relevance for the use of EU Funds in Greece are the following:

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<sup>9</sup> European Ombudsman, *Decision on how the European Commission monitors fundamental rights compliance in the context of EU funds granted to Greece for border management (case 1418/2023/V5)*, 7 November 2023, available at: <https://www.ombudsman.europa.eu/en/decision/en/200015>.

<sup>10</sup> Art. 40 [L. 4939/2022](https://eur-lex.europa.eu/eli/L/4939/2022).

<sup>11</sup> In *A.R.E. v. Greece* (Application no. 15783/21) and *G.R.J. v. Greece* (Application no. 15067/21).

<sup>12</sup> For instance, see GCR, RSA and Equal Rights Beyond Borders, “Press Release: ECtHR - Greece condemned anew for 39 unaccompanied children”, 1 July 2025, available at: <https://gcr.gr/en/news/item/i-anagki-prostasias-ton-asynodeyton-paidion-paramenei-epikairi-edda-nees-katadikes-tis-elladas-gia-39-asynodeyta-paidia/>.

**Article 19: Living Independently and Being Included in the Community (interpreted through General Comment No. 5 and the CRPD's Guidelines on Deinstitutionalization)**

Article 19 UN CRPD establishes the equal right of all persons with disabilities to live in the community, and to have access to equal opportunities with others. [General Comment \(GC\) No. 5](#), in conjunction with the CRPD's [Guidelines on deinstitutionalization](#), provide crucial clarifications that directly challenge common misconceptions of "deinstitutionalisation".

**Defining an 'Institution':** GC No. 5 clarifies that an institution is not defined by its size, but rather by a set of '*defining elements*'.<sup>13</sup> These include the isolation and segregation of residents from community life, lack of control over their day-to-day decisions, and the imposition of rigid, non-negotiable routines. Critically, the Committee explicitly states that this definition covers all forms of residential care, including "small group homes" with fewer than ten residents. This means that many models presented as "community-based alternatives," such as Supported Living Homes (SLHs) in Greece, may in fact constitute institutions if they share these characteristics.<sup>14</sup>

**State Obligations:** Article 19 is not a call to improve institutions; it is a mandate to replace them. States Parties have an immediate obligation to adopt a clear strategy and plan for deinstitutionalisation, with concrete timelines and adequate funding. This requires a fundamental shift in resource allocation: EU funds (such as ERDF and ESF+) must be redirected from building, renovating, or maintaining any form of institutional setting towards developing a comprehensive range of community-based support services. This includes personal assistance, accessible and affordable housing within the community, and ensuring that mainstream services (transport, healthcare, education) are fully accessible. The practice of "transinstitutionalisation" –that is to say moving people from large institutions to smaller, equally segregated group homes– is a violation of Article 19 UNCRPD.

**Caveat:** As the structural changes needed to ensure compliance with Art. 19 UN CRPD can require significant amounts of time and resources, an argument could be made for ongoing investments in SLHs, as a means to improve the quality of living conditions therein "today", as opposed to waiting for the system to be ready to genuinely fulfil the responsibilities arising under this Article. This might be the case, *as long as* ongoing investments in SLHs form part and parcel of a clear, time-bound and properly resourced roadmap for the gradual transition to independent living and the parallel phase out of institutional living arrangements (which can include SLHs). Alternatively, ongoing investments can risk consolidating a system of less overt institutionalised care.

**Article 24: Inclusive Education (interpreted through General Comment No. 4)**

Article 24 establishes the right to an inclusive education at all levels.<sup>15</sup> [General Comment No. 4](#) provides a clear framework for understanding and implementing this right,

<sup>13</sup> CRPD, Guidelines on deinstitutionalization, including in emergencies, 9 September 2022, available at: <https://tinyurl.com/vb2e7mre>, para. 14.

<sup>14</sup> See [FURI report on Greece](#), pp.25-26 and Annex VII.

<sup>15</sup> CRPD, [General Comment No. 4](#) on Article 24 - the right to inclusive education, para. 8.

distinguishing it from other models of education that maintain elements of segregation.

**Defining Inclusive Education:** GC No. 4 defines inclusive education as a process of systemic reform of the mainstream education system to accommodate all learners<sup>16</sup>. It explicitly contrasts this with:

- **Segregation**<sup>17</sup>: The education of students with disabilities in separate environments, such as "special schools," which is considered a form of discrimination.
- **Integration:** Placing students with disabilities in mainstream schools without making the necessary structural changes to curriculum, teaching methods, and school culture. The student is expected to adapt to the system, rather than the system adapting to the student. Crucially, the CRPD flags<sup>18</sup> that '*integration does not automatically guarantee the transition from segregation to inclusion*'.

**State Obligations:** The core obligation arising under Article 24 is that of transforming the general education system to make it ***inclusive***.<sup>19</sup> This requires a twin-track approach: ceasing the development and maintenance of segregated systems and investing resources in building the capacity of mainstream schools. EU funds should therefore be used for making school buildings accessible (ERDF), training all teachers in inclusive pedagogy (ESF+), providing reasonable accommodation, and funding support services like classroom assistants within the mainstream setting (ESF+). The continued funding for the operation of segregated Special Schools and Special Vocational Education and Training Workshops (SVETWs) in Greece is in direct tension with this obligation.

**Caveat:** The same caveat applicable to independent living applies in this case as well. If no concrete roadmap for the full transition of children with disabilities to mainstream education exists, ongoing investments in segregated educational environments, no matter how indispensable may seem "today" for children's access to some form of education, risk consolidating a segregated system of education, in violation of (amongst others) Art. 24 UN CRPD and Art. 21 of the Charter (*non-discrimination*).

### **Article 5: Equality and Non-discrimination (interpreted through General Comment No. 6)**

Article 5 guarantees equality and non-discrimination for all persons with disabilities. [General Comment \(GC\) No. 6](#) clarifies that the Convention requires a move from a formal model of equality to a substantive one.

**Substantive Equality:** This concept acknowledges that treating persons with disabilities

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<sup>16</sup> CRPD GC no. 4, para. 9.

<sup>17</sup> As noted by the CRPD, "[s]egregation occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular impairment or to various impairments, in isolation from students without disabilities". CRPD, GC no.4, para. 11.

<sup>18</sup> *Ibid.*

<sup>19</sup> "**Inclusion** involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences". *Ibid.*

the same as others is not enough to achieve equality. It requires States to take positive measures to address structural and historical disadvantages. This includes the duty to provide *reasonable accommodation*, which is defined as necessary and appropriate modifications to ensure persons with disabilities can enjoy their rights on an equal footing with others<sup>20</sup>. Funding segregated systems, even with the justification that they are "for the protection" or in the "best interest" of persons with disabilities, is incompatible with the principle of substantive equality, particularly when such an assessment is made by non-disabled people.

**Articles 4(3) & 33(3): Participation of Persons with Disabilities (interpreted through General Comment No. 7)**

These articles establish the fundamental principle of "*Nothing About Us Without Us*." [GC No. 7](#) provides detailed guidance on the obligation of States to closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.

**State Obligations:** This is not a passive duty to inform, but an active obligation to engage in meaningful dialogue at all stages of policy and programme development, implementation, and monitoring. This includes the design of the National Regional Partnership agreement (NRP) and its chapters for the next programming period (2028-2034), the criteria for calls for proposals, and the composition of Monitoring Committees. The consultation must be timely, transparent, and accessible, and States must provide the necessary support, including funding, to enable effective participation.

## 2.5. Other Key Legal Instruments

**[Racial Equality Directive \(2000/43/EC\)](#):** This Directive prohibits direct and indirect discrimination based on racial or ethnic origin in key areas, including social protection, education, and access to goods and services, including housing. The practice of housing Roma communities in segregated settlements or providing them with separate services through structures like "Roma Branches" constitutes a potential breach of this Directive and of Article 21 of the Charter.

**Council of Europe Convention on preventing and combating violence against women and domestic violence ([Istanbul Convention](#))**: Ratified by Greece and the EU, this Convention requires states to take comprehensive measures to prevent violence against women, protect victims, and prosecute perpetrators. These obligations must be reflected in EU-funded projects that provide services to vulnerable populations, particularly migrant and refugee women, who face heightened risks.

**EU Directives on [Violence Against Women](#) and [Victims' Rights](#)**: The new Directive on combating violence against women and the Victims' Rights Directive (2012/29/EU) establish minimum standards for victim support, protection, and access to justice. Any EU-funded project providing services in these areas must fully comply with these standards.

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<sup>20</sup> Article 2 [UN CRPD](#). Indeed, as noted by the CRPD (GC no.6, para. 3) the '*denial of reasonable accommodation constitutes discrimination*'

## 2.5. National Strategic Frameworks: Aligning EU Funds with Greece's Commitments

Adherence to the international and EU legal framework is not only an external obligation but also one embedded in Greece's Constitution<sup>21</sup> and is essential for Greece to achieve the goals of its own national strategies. EU funds should be a primary tool for implementing these domestic commitments and to ensure fundamental rights compliance as a prerequisite for national policy implementation in the following fields:

**National Strategy for the Rights of Persons with Disabilities 2024-2030**: This strategy aims to enhance the "visibility" and "inclusion" of persons with disabilities, with the end goal of creating a society where *"all citizens, without discrimination or exclusion, will enjoy equal rights and opportunities in practice"*<sup>22</sup>. Using EU funds for projects that perpetuate segregation or institutionalisation directly contradicts its purpose.

**National Strategy for Roma Social Inclusion 2021-2030**: This strategy sets out four key pillars, including enhancing equal access to housing, education, and employment, and combating discrimination. EU-funded projects that result in the ghettoization of Roma communities or the provision of second-tier services undermine the very foundation of this strategy.

**National Strategy on the Social Inclusion of asylum applicants and beneficiaries of international protection**: While a strategic framework exists, its practical application has historically lagged behind other national policies. The 2028-2034 programming period presents a critical opportunity to bridge this implementation gap. EU funds must be mobilised to transform this strategy from a policy document into a concrete mechanism, ensuring that beneficiaries of international protection have effective, non-discriminatory access to *inter alia* language learning, vocational training, and housing.

## Part III: Guiding Principles and Operational Safeguards

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Translating the legal framework into daily practice requires clear, operational principles and robust safeguards integrated throughout the EU funding cycle. This section aims to provide Greek authorities with the tools to move from legal theory to compliant action, addressing the systemic misinterpretations of key concepts or too narrow assessments of fundamental rights risks that have historically led to the funding of non-compliant projects in both Greece and other EU member states.

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<sup>21</sup> Article 28 of the Greek [Constitution](#) specifies that international Conventions, such as the 1951 Geneva Refugee Convention and the UNCRPD, *"are an integral part of Greek domestic law and take precedence over any other conflicting legal provision"*.

<sup>22</sup> Hellenic Republic, *A Greece with All for All: National Strategy on the Rights of Persons with Disabilities 2024-2030*, September 2024, available in Greek at: <https://amea.gov.gr/strategy/strategy-2024-2030>, p.4.

### 3.1. Core Principles for EU Funding in Greece: From Theory to Practice

A fundamental challenge identified in Greece and other Member States is the misinterpretation of terms like "support" and "transition" to justify practices that are incompatible with fundamental rights. "Support" for persons with disabilities has been used to justify their exclusion in segregated settings<sup>23</sup>, while "transition" has been used to legitimize the move from one form of institution to another.<sup>24</sup> In other cases, such as in the use of BMVI or ISF, the assessment of relevant projects' fulfilment of horizontal principles and enabling conditions seems to have been too narrow, failing to account for the fundamental rights breaches taking place in the ecosystems in which such projects operate, or for the documented use of EU-funded assets in border practices (pushbacks) that breach core Charter rights and International Refugee Law principles.

The current section attempts to provide clear, rights-based definitions to correct these misunderstandings and establish unambiguous principles for funding decisions.

#### A) *Deinstitutionalisation (DI) vs. Transinstitutionalisation*

**Principle:** EU funds must be used exclusively to support genuine deinstitutionalisation, which entails the closure of all institutional settings, regardless of their size, and the concurrent development of a comprehensive range of community-based services that enable independent living. In this context, the following should be taken into consideration:

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p><b>ERDF:</b> Investments in making mainstream public infrastructure (transport, public buildings) and general housing stock accessible and available to persons with disabilities.</p>	<p>Any project involving the construction, renovation, expansion, or operational costs, including staff costs, of residential facilities that exhibit the defining elements of an institution (e.g. segregation, lack of personal choice, rigid routine), as established under the CRPD's <a href="#">GC No. 5</a> and its <a href="#">Guidelines on deinstitutionalization</a>. This prohibition explicitly includes both large-scale institutions, and "small group homes," such as Supported Living Homes (SLHs) that function as congregated living arrangements, though the <b>caveat</b> of part 2 can apply.</p>

<sup>23</sup> For instance, projects BG16RFOP001-5.002 and BG16RFOP001-5.001, in the case of Bulgaria, aimed at supporting de-institutionalisation through the creation of smaller institutions. See [FURI report on Bulgaria](#), pp. 11-12.

<sup>24</sup> For instance, in the case of Hungary, project EFOP-2.2.2-17-2017-00028 on transition from institutional care under which people were moved from large institutions to smaller ones that replicated a similar institutional model. See [FURI report on Hungary](#), pp. 52-54.

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p><b>ESF+:</b> Funding for the development and provision of individualized, user-controlled community-based services, such as personal assistance, peer support networks, and inclusive community activities. The universal expansion of Greece's "personal assistant" programme (under Greece's Partnership Agreement) is a prime example and solid foundation towards a compliant and effective use of EU Funds.</p>	

### ***B) Desegregation vs. Ghettoization***

**Principle:** EU funds must actively promote desegregation and must not, under any circumstances, be used to create, maintain, or reinforce spatial or educational segregation for any group, including Roma and persons with disabilities.

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p><b>ERDF:</b> Funding for integrated social housing projects dispersed throughout mainstream residential areas, or urban regeneration projects that connect previously isolated neighborhoods to the wider community.</p>	<p>Projects that involve building or renovating housing exclusively for Roma within or adjacent to existing segregated settlements are prohibited. Similarly, funding for the construction, refurbishment, or operational costs of segregated "special schools" or "special classrooms" is non-compliant, as can be funding for reception facilities located in remote or isolated areas, to the extent that residents lack effective, physical access to mainstream public services (such as public schools, healthcare, and markets).</p>
<p><b>ESF+:</b> Funding for measures that support the inclusion of Roma children in mainstream schools, such as transport, after-school support, and anti-bias training for teachers. Funding for community centres and social services must ensure they are located in accessible, integrated areas and are designed to serve the entire population.</p>	

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p><b>AMIF:</b> Funding for projects that promote community-based reception, such as the prior ESTIA accommodation scheme, or adequate, affordable social housing that facilitates interaction with the host society, rather than reinforcing spatial segregation through remote accommodation centres.<sup>25</sup></p>	

### C) Access to Asylum vs. illegal means of deterrence

**Principle:** The use of EU funds for border management must be fully compliant with the fundamental right to asylum and the principle of *non-refoulement*, as enshrined in the EU Charter and international law. Legitimate security objectives, which form an integral part of a country's sovereign responsibilities, go hand-in-hand and cannot override fundamental rights obligations.

**High-Risk Funding:** Given the documented risks regarding fundamental rights compliance at the borders,<sup>26</sup> investments in surveillance technology carry a high risk of being deemed ineligible expenditure if effective monitoring safeguards are not in place. This is not to say these investments do not intrinsically hold the potential to serve both sovereign considerations and fundamental rights respect (e.g. through search and rescue operations). As with most tools, the defining factor is how/towards what purpose they are used in practice.

**Mandatory Safeguards:** The approval of such funding could be made conditional upon: a) a prior, independent, and public *Fundamental Rights Impact Assessment* to identify and mitigate risks, based on documented pushback cases,<sup>27</sup> and b) The establishment and funding of a *robust and constitutionally independent monitoring mechanism*, in accordance with the [UN Paris Principles](#), with the resources and mandate to effectively investigate allegations of fundamental rights violations at the country's borders. To be effective, the monitoring mechanism must include:

- ✓ **Unannounced Field Visits:** The power to conduct ad-hoc, unannounced inspections of all border and reception facilities, including "grey zones" or informal detention sites.
- ✓ **Unfettered Access to Data:** Full access to operational logs, surveillance footage (e.g. from EU-funded drones/cameras), and registration files.
- ✓ **Confidential Interviews:** The authority to interview third-country nationals and border staff in private, without the presence of law enforcement officers.

<sup>25</sup> Also see the European Commission's [Toolkit on the Use of EU Funds for the Integration of People with a Migrant Background: 2021-2027 Programming Period](#), p.36.

<sup>26</sup> See [FURI report on Greece](#), pp. 17-18, Annex IV and sources therein.

<sup>27</sup> *Inter alia* based on the ECtHR's Rulings in [A.R.E. v. Greece](#) (Application no. 15783/21) and [G.R.J. v. Greece](#) (Application no. 15067/21), as well as findings of the [Recording Mechanism of Informal Forced Returns](#) established under the Greek National Commission for Human Rights (GNCHR) and the Sreious Incident Reports (SIRs) issued by the Fundamental Rights Office of Frontex, amongst others.

- ✓ **Public Reporting:** A mandate to publish periodic reports on findings and recommendations, to which national authorities are legally obliged to respond.

**D) “Safe third Country” (STC) concept vs. effective access to asylum**

**Principle:** EU funding must support asylum procedures that provide *effective* access to protection. According to Article 38(4) of the [Asylum Procedures Directive](#) and Article 59(9) of [Regulation 2024/1038](#) replacing it, if a third country does not permit an applicant to enter its territory, Member States are obliged to ensure access to an in-merit examination of their asylum claim.

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p>Projects supporting the <i>in-merit</i> examination of asylum applications. Resources should be prioritized for reducing backlogs of cases where return to a "safe third country" is not feasible, ensuring applicants do not remain in legal limbo.</p>	<p>Operational support (e.g., staff salaries under AMIF) for Asylum Units that systematically issue inadmissibility decisions based on the "Safe Third Country" concept for nationalities whose return is suspended or factually impossible (e.g., due to non-cooperation by the third country). As established by the Court of Justice of the European Union (CJEU) in case <a href="#">C-134/23</a>, a Member State <b>cannot</b> dismiss an asylum application as "inadmissible" based on the "Safe Third Country" concept if that third country has suspended the admission or readmission of applicants.</p>

**E) Reception vs. Detention:**

**Principle:** EU funding for reception infrastructure must strictly adhere to the distinction between accommodation and detention. Under CJEU jurisprudence ([FMS, C-924/19 PPU](#)), placement in a facility constitutes detention if residents cannot leave legally in any direction without forfeiting their asylum claim or facing sanctions. Reception facilities must not function as *de facto* prisons.

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<p>Development of <i>open, community-based accommodation</i> and reception centers that guarantee actual freedom of movement and facilitate interaction with the local society, in line with the <a href="#">Reception Conditions Directive</a></p>	<p>Construction or renovation of "Closed Controlled Access Centres" (CCACs) or similar facilities located in remote areas with prison-like security infrastructure (e.g., extensive barbed wire, surveillance, detention-like turnstiles) where freedom of movement is</p>

Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
and its recast ( <a href="#">Directive 2024/1346</a> ). <sup>28</sup>	systematically restricted. Such conditions risk amounting to "deprivation of liberty" under Article 6 of the Charter, which requires an individualised detention order and cannot be imposed as a blanket reception policy.

### 3.2. Integrating Safeguards into the EU Funding Cycle (2028-2034)

To be effective, the core principles outlined above must be operationalised at every stage of the funding cycle. The Commission's proposed European Fund Regulation (2028-2034) introduces requirements that national authorities must leverage to ensure fundamental rights are not just a theoretical commitment but a hard condition for payment.

#### 1. Programming Stage: The National and Regional Partnership Plan (NRP Plan)

In the next funding cycle, Operational Programmes are replaced by the National and Regional Partnership Plan (NRP Plan). This document is the blueprint for all spending and must be compliant with the Charter from day one.

- **Mandatory Self-Assessment:** Under *Article 22(2)(o)* of the proposed [European Fund Regulation](#), the NRP Plan is legally required to include a 'self-assessment of the compliance with the Charter horizontal condition'. National authorities should not treat this as a box-ticking exercise but as a diagnostic tool to identify structural risks (e.g., gaps in community-based care services, obstacles to accessing asylum) and program specific remedies.
- **Addressing Country-Specific Challenges:** Article 22(2)(p) requires the Plan to specify how implementation will ensure compliance with the Rule of Law conditionality, while also addressing challenges identified in the annual *Rule of Law Report* and the *European Semester*. This *inter alia* links funding directly to [article 2](#) TEU<sup>29</sup> and to the values enshrined therein, as well as to instances of '*fail[ure] to prevent, correct or sanction arbitrary or unlawful decisions by public authorities, including by law-enforcement authorities*'<sup>30</sup>. It implies that unresolved systemic issues, such as those regarding the non-investigation of Charter breaches at the borders<sup>31</sup> and the concomitant lack of effective remedies<sup>32</sup>) have to be addressed during preparation of the entire Plan.

<sup>28</sup> In particular Articles 7 and 8 [Directive 2013/33/EU](#) and Articles 9 and 10 [Directive 2024/1346/EU](#) on freedom of movement and detention respectively.

<sup>29</sup> *Inter alia* see Article 9(1) of the proposed European Fund Regulation.

<sup>30</sup> Article 3(b) [Regulation \(EU, Euratom\) 2020/2092](#). To be noted, said Regulation remains in force and continues to apply under the proposed European Fund Regulation.

<sup>31</sup> As arising in ECtHR Rulings, such as in [Safi and Others v. Greece](#) (Application 5418/15), [A.R.E. v. Greece](#) (Application no. 15783/21), and [F.M. and Others v. Greece](#) (Application 17622/21).

<sup>32</sup> In breach of article 47 of the Charter, which the CJEU has Ruled '*is of the essence of the rule of law*'. [CJEU C-64/16](#), para. 36

- **Explicit Objectives:** The Plan must move beyond generic labels. For example, instead of "social infrastructure," the Plan should explicitly cite **Specific Objective 3(c)(iv)** ("facilitating access to services... including long-term care") and define it strictly in terms of *community-based* services to prevent the funding of new institutions.

## 2. Defining Selection Criteria

The most critical filter for preventing human rights violations is the *selection criteria* used to choose which projects get funded. Under the proposed [EFR](#) the Monitoring Committee remains empowered to act as a fundamental rights guardian at this stage.

- **Approval of Criteria (Article 56):** Under Article 56(2)(b), the Monitoring Committee *must* approve the methodology and criteria for the selection of operations. The Regulation explicitly mandates that these criteria '*shall be non-discriminatory, inclusive [...] ensuring accessibility of persons with disabilities, ensuring gender equality, and take account of the Charter of Fundamental Rights*'.
- **The "Ineligibility" Clause:** To support compliance at the national level, the Monitoring Committee should approve an exclusion list. For instance: "*Projects involving the construction or renovation of segregated settings (educational or residential) are ineligible for selection.*" This translates the abstract obligations into a concrete administrative rule that Managing Authorities must follow.

## 3. Project Selection and Assessment

When Managing Authorities select operations, they are bound by **Article 51(1)(a)** to apply the criteria approved by the Monitoring Committee.

- **Charter Conformity Check:** Reviewers must be instructed that "compliance with applicable law" (a standard selection criterion) includes primary EU law (the Charter). A project that violates the Charter (e.g., by segregating Roma or by supporting asylum procedures that fail to provide effective access to the applicant) is, by definition, legally ineligible.
- **Risk Assessment Checklist:** Authorities should integrate a "Fundamental Rights Risk Assessment" into the technical evaluation. If a project involves "high-risk" activities—such as border surveillance technology or closed reception centres—the assessment must verify the existence of independent monitoring safeguards before approval.

## 4. Implementation and Reporting

The new framework translates fundamental rights from a "principle" into a "financial trigger."

- **Continuous Conditionality (Article 8):** The **Charter Horizontal Condition** is not a one-off check. If the Commission finds that the mechanisms to ensure Charter compliance are not effective during implementation (e.g., if a complaints mechanism is non-functional or if authorities consistently fail to comply with Court Rulings), it can withhold payments for the affected measures and under conditions reduce the Union's financial contribution to the Member State with regards to the measure concerned.
- **Suspension Powers:** Greek authorities must be aware that **Article 67(1)(b)** allows the Commission to suspend payments in cases of serious non-compliance with obligations, which includes the obligation to prevent discrimination (Article 7).

## 5. Monitoring and Governance

- **Inclusive Partnership (Article 6):** The proposed [EFR](#) mandates a ‘*comprehensive partnership*’ that *must* include bodies responsible for ***fundamental rights, the rights of persons with disabilities, gender equality, and non-discrimination***. In line with the currently applicable framework, this further consolidates the legal basis for civil society organizations (CSOs) to be included in an active manner, with voting rights in Monitoring Committees.

### **Risk Assessment Checklist**

**Before approving a project, ask:**

#### **I. Housing & Living Arrangements**

- Does the project involve the construction or renovation or operational costs of a residential facility where residents will live together (e.g., group home, supported living home, shelter, reception facility)?
- Will the project result in the concentration of persons from a specific vulnerable group (e.g., persons with disabilities, Roma, asylum seekers) in a single building or geographical location?
- Is the proposed housing located in a segregated area, physically isolated from mainstream community services, transport, and infrastructure?
- Will residents be required to accept support services from a specific provider as a precondition for being granted access to this type of housing/accommodation?

**A "Yes" answer triggers a mandatory in-depth fundamental rights review.**

#### **II. Education**

- Does the project fund the construction, renovation, or operational costs of a segregated "special school" or "special classrooms"?
- Are the project's activities exclusively for students with disabilities or from a specific ethnic group, taking place separately from mainstream peers?
- Upon graduation, do graduates have the same rights as graduates of mainstream education (e.g. ability to continue with further studies or work)?
- Does the project fail to include a clear plan for transitioning students from segregated to inclusive mainstream educational settings?

**A "Yes" answer triggers a mandatory in-depth fundamental rights review.**

#### **III. Services and Support**

- Does the project fund services delivered within a residential institution rather than in the community?
- Are the support services (e.g., personal assistance, therapy) controlled by the service provider rather than the individual user?
- Are the services provided in a separate, "special" facility for a particular group, when they could be provided in an accessible mainstream setting?

**A "Yes" answer triggers a mandatory in-depth fundamental rights review.**

#### **IV. Migration and Asylum**

- Does the project involve border surveillance technology or infrastructure without an accompanying independent fundamental rights monitoring mechanism?
- Does the funded reception facility impose restrictions on residents' freedom of movement that are not based on an individualised assessment?
- Is the facility located in a remote area, hindering residents' access to legal aid, NGOs, and the local community?
- Does the project contribute to maintaining the operation of such a facility?

**A "Yes" answer triggers a mandatory in-depth fundamental rights review.**

## **Part IV: Thematic Guidance on High-Risk Areas**

This section applies the general principles of the **2028-2034 European Fund Regulation** to the specific challenges identified in Greece. It provides tailored guidance for Managing Authorities to ensure that funding decisions in high-risk sectors – Asylum, Disability, and Roma Inclusion– are legally robust and fully compliant with the Charter.

### **4.1. Asylum, Migration, and Integration**

**The Compliance Challenge:** Management of migration and asylum presents acute risks of fundamental rights non-compliance. Research highlights that EU funds, while intended to support migration management, face risks of being linked to operations that are in breach of the Charter.<sup>33</sup>

#### **A) Border Management (BMVI):**

Investments in border surveillance technology and infrastructure carry a high risk of being deemed ineligible expenditure if they facilitate operations that prevent access to asylum or violate the principle of *non-refoulement*.

1. **Conditional Funding for Surveillance:** To mitigate financial and legal risk, funding for surveillance technology must be conditional upon the establishment of a **National Border Monitoring Mechanism**. To be compliant, this mechanism must meet the independence criteria of the [UN Paris Principles](#) (functional autonomy, investigative powers) and have the mandate to investigate allegations of non-compliance at the borders.
2. **Fundamental Rights Impact Assessments: Fundamental Rights Impact Assessment:** Before launching calls for proposals, authorities should conduct an independent Fundamental Rights Impact Assessment. This must identify risks and propose mitigation measures to prevent the recurrence of violations documented by bodies such as the Frontex Fundamental Rights Officer and the ECtHR (e.g., *A.R.E. v. Greece*).

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<sup>33</sup> For more, amongst others, see the [AIDA report on Greece: 2024 update](#) and the [FURI report on Greece](#).

**B) Reception and asylum procedures (AMIF):**

**4.2. Persons with Disabilities**

**The Compliance Challenge:** Greece faces a challenge in shifting from a medical/institutional model to a rights-based social model. There is a specific risk of "trans-institutionalisation" –i.e. using EU funds to build smaller residential settings (like some Supported Living Homes) that replicate institutional routines, rather than fostering genuine independent living.

**Guidance for Managing Authorities:**

Area of Intervention	Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
Reception infrastructure	Development of <b>open, community-based accommodation</b> (e.g., apartments, small-scale housing units) integrated within urban fabrics, which guarantee freedom of movement and access to services.	Construction or renovation of " <b>Closed Controlled Access Centres</b> " (CCACs) or facilities in remote locations where residents are confined to a specific perimeter without individual detention orders. Such conditions risk violating <b>Article 6 of the Charter</b> (Liberty and Security).
	Reception centres designed to facilitate interaction with the local community.	
Asylum procedures	Support for the <b>in-merit examination</b> of asylum claims to reduce backlogs, particularly for applicants from countries where returns are not currently feasible.	Operational support (e.g., staff salaries) for Asylum Units that systematically issue " <b>Safe Third Country</b> " inadmissibility decisions for nationalities whose return cannot be reasonably enforced (e.g., due to lack of cooperation by a third country).
Child protection	<b>Supported Independent Living</b> apartments and foster care systems for unaccompanied minors, ensuring access to mainstream education and guardianship.	Facilities that result in the prolonged confinement of unaccompanied children in "protective custody" or similar regimes.

- 1. Apply a Rights-Based Definition of 'Institution':** All funding decisions must be based on the definition provided in **the CRPD's General Comment No. 5 and its Guidelines on deinstitutionalization**. An institution is defined by its *characteristics* (lack of choice, rigidity

Area of Intervention	Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
Living arrangements (ERDF)	Individualised housing units dispersed in the community (e.g., purchasing or adapting standard apartments).	Construction or renovation of any residential care facility, regardless of size, if it isolates residents from the community or enforces a provider-led routine.
	Accessibility renovations for mainstream housing stock.	Investments in existing institutions without a decommissioning plan.
Support services (ESF+)	Personal Assistance schemes that are user-led, allowing individuals to choose their assistants and services independent of their housing situation.	Services tied to a specific residential facility (e.g., staff who only work inside a group home).

of routine, segregation), not just its size. Small group homes that enforce mandatory co-habitation are ineligible institutions.

2. **Transition in Education:** ESF+ funding must gradually cease for the operation of segregated "special schools." Instead, funds should be directed to a **Transition Plan** for the systematic **reallocation of special education staff and expertise into mainstream schools**. This ensures that valuable expertise is not lost but is repurposed to support inclusive learning environments (General Comment No. 4).

### 4.3. Roma Social Inclusion (ERDF, ESF+)

**The Compliance Challenge:** Investments in Roma inclusion must avoid the trap of "improving ghettos." Interventions that build services or housing *inside* segregated settlements often entrench isolation, violating the **Racial Equality Directive (2000/43/EC)** and Article 21 of the Charter.

#### Guidance for Managing Authorities:

- **Housing Desegregation:** ERDF projects must demonstrate a "segregation reducing" impact. Funding new housing within spatially isolated settlements is ineligible.
- **"Roma Branches" of Community Centres:** Funding for separate "Roma Branches" is permissible only as a strictly transitional measure aimed at providing immediate access to basic services (health, administrative support) for geographically isolated settlements. However, without a concrete, time-bound desegregation strategy to bridge users to mainstream services, these branches risk becoming permanent parallel structures and are thus ineligible for long-term funding.

## Part V: Recommendations for Enhanced Governance and Accountability

Ensuring fundamental rights compliance requires more than just well-designed projects; it demands a robust institutional framework of oversight and accountability. The following cross-cutting recommendations are designed to strengthen this framework in Greece for the 2028-2034 programming period.

### 5.1. Strengthening Oversight and Monitoring Mechanisms

Area of Intervention	Eligible for Funding (Compliant)	Ineligible for Funding (Non-Compliant)
<b>Housing (ERDF)</b>	<b>Integrated social housing</b> scattered within mainstream residential areas.	Construction of new housing units or infrastructure upgrades within existing, isolated settlements (entrenching segregation).
	<b>Rent subsidy schemes</b> to facilitate access to the private rental market.	
	Urban regeneration projects that physically connect settlements to the town grid.	Investments in existing institutions without a decommissioning plan.
<b>Education &amp; Services (ESF+)</b>	Measures supporting <b>transport</b> for Roma children to attend mainstream schools.	"Roma-only" schools or classes.
	<b>Mediators</b> to facilitate access to mainstream health and administrative services.	Permanent parallel social services.
	Anti-bias training for public servants and teachers.	

Effective monitoring is the cornerstone of accountability. The current system, however, has shown significant weaknesses, with both national and EU-level bodies failing to take decisive action in the face of systemic rights concerns.

### **Recommendation 1: Empower Monitoring Committees**

The mandate and capacity of Monitoring Committees must move beyond administrative oversight to active scrutiny of fundamental rights compliance.

- **Voting Rights for Civil Society:** Membership must strictly adhere to the *Partnership Principle (Article 6 EFR)*. Civil society bodies –including representative organisations of persons with disabilities (DPOs), Roma civil society, and refugee-led organisations– must be granted formal **voting rights** in all the Funds governed by the EFR. This ensures they can effectively scrutinize and, if necessary, object to selection criteria or implementation reports that fail to uphold the Charter.
- **Rights-Based Agenda:** Fundamental rights compliance should be a standing item on the agenda of every Monitoring Committee meeting, with mandatory reporting from Managing Authorities on the findings of the "Self-Assessment" (Article 22).

### **Recommendation 2: Proactive Suspension Mechanism**

**Financial Consequences for Non-Compliance:** National Audit Authorities and the European Commission must be prepared to trigger the suspension of payments (Article 67) for specific objectives where systemic violations are identified and where national authorities fail to take necessary remedial action within a reasonable timeframe. This also operationalises the Rule of Law Horizontal Condition (Article 9 EFR), sending a clear signal to implementing bodies that rights compliance is a hard condition for reimbursement.

## **5.2. Establishing Effective and Accessible Complaints Mechanisms**

### **Recommendation 3: Align with International Effectiveness Criteria**

**Recommendation 3: Align with International Effectiveness Criteria:** As required by the *EFR*, Greece must maintain an effective complaints mechanism for EU-funded projects. To

be considered "effective" and functionally independent, this mechanism must align with **the effectiveness criteria of the [UN Guiding Principles on Business and Human Rights](#) (Principle 31)**:

- **Legitimate:** Enabling trust from the stakeholder groups for whose use it is intended.
- **Accessible:** Known to all stakeholder groups and available in relevant languages (e.g., for asylum seekers).
- **Predictable:** Providing clear procedures and indicative timeframes for the resolution of complaints.
- **Equitable:** Ensuring aggrieved parties have reasonable access to sources of information and advice.
- **Transparent:** Keeping parties informed about the progress of their complaints and the outcomes of investigations.

### 5.3. Implementing the Partnership Principle and Building Capacity

#### **Recommendation 4: Structural Capacity Building**

The "compliance gap" is often exacerbated by a lack of technical knowledge regarding the practical application of the Charter.

- **Training for Officials:** A dedicated portion of the Technical Assistance budget should be allocated to mandatory, ongoing training for staff in Managing Authorities and Intermediate Bodies on the specific requirements of the **UNCPRD** and the **EU Charter**, moving beyond general awareness to operational checklists.
- **Support for Civil Society:** Financial support should be provided to civil society organisations to enable their professional and active participation in the Monitoring Committees, ensuring they have the resources to analyse complex technical dossiers and act as effective partners in the monitoring process.