



EU Disability Policy

**European Commission
DG Justice**

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Outline

- **EU disability policy**
- **Legal basis**
- **The UN Convention on the Rights of Persons with Disabilities**
- **EU Disability Strategy 2010-2020**
 - Objectives
 - Key areas, actions and tools
- **Useful weblinks**

EU Legal basis

Treaty on the Functioning of the EU (TFEU)



- **Art. 10:** „In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, **disability**, age or sexual orientation.“ (*Mainstreaming*)
- **Art. 19:** „the Council [...] may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, **disability**, age or sexual orientation “ (*specific legislation*)

EU Legal basis

Other legal bases can be relevant:

- Internal market (Art 114 TFEU)
- Transport (Art. 90-100 TFEU)
- State Aid (107-109 TFEU)
- Employment (145-150 TFEU)
- Social Policy (151, 153 TFEU)
- Education (Art. 165 TFEU)
- Public health (Art. 168 TFEU)





The EU Charter of Fundamental Rights

Does **NOT GIVE** additional competence to the EU
but

Has to be respected in the implementation of EU law

- **Article 21:** Discrimination on the grounds of disability shall be prohibited
- **Article 26:** The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community



UN Convention on the Rights of Persons with Disabilities (UNCRPD)

*"The UN Convention constitutes a relevant and effective **pillar for promoting and protecting the rights of persons with disabilities** within the European Union, to which both the Community and its Member States attach the greatest importance"*



The EU and the UNCPRD

- 13 December 2006: adopted by UN General Assembly
- 30 March 2007: the European Community **signs** the UN Convention
- 3 May 2008: entry into force
- 26 November 2009: Council Decision on the conclusion of the Convention by the European Community
- **22 January 2011: entry into force for the EU**
- All MS signed, 25 have ratified it (IE, FI, NL not yet)

UN Convention on the Rights of Persons with Disabilities (UNCRPD)



**Human Rights approach to disability
=> Paradigm shift**

“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”
(Article 1 UN CRPD)



UN Convention on the Rights of Persons with Disabilities (UNCRPD)

**Human Rights approach to disability
=> Paradigm shift**

"objects" of charity,
medical treatment and social
protection



"subjects" with rights,
capable of claiming those
rights and making decisions
for their lives based on their
free and informed consent
as well as being active
members of society



EU competence with regard to the UNCRPD

- ⇒ The term 'State Parties' applies to **regional integration organisations** within the limits of their competence
- ⇒ Such organisations must **declare the extent of their competence** under the Convention
- ⇒ Must inform the UN of any substantial modification



EU competence with regard to the UNCRPD

- The rights recognised cover almost all policy fields: accessibility, employment, education, health, independent living, participation in culture and sport, civil rights
- **Mixed competences** between EU and MS
- Annex II Decision 2010/48: **list of acts** on accessibility, independent living and social inclusion, work and employment, personal mobility, access to information, statistics and data collection and international cooperation
- **Declaration of competence** can be updated as competences evolve



Support & Coordinate and supplement

Exclusive
customs union
competition
trade...*

Health
Culture
Education
Youth
Sport
Tourism ...*

Shared
internal market
social policy
environment
consumer protection
transport
freedom, security and justice
Research
development cooperation ...*

*not
exhaustive

EU Competences

Justice



EU competence with regard to the UNCRPD

- ⇒ the EU cannot act in relation to all CPRD areas
 - some articles concern only Member States
 - most UNCRPD fields concern matters of shared competence
- ⇒ EU and MS together can fulfil the obligations laid down by the Convention in a coherent manner



The EU as a party to the UNCRPD

Code of Conduct between the Council, the Member States and the Commission setting out internal arrangements for the implementation by and representation of the EU (2010/C 340/08)

Adopted on 2 December 2010

Detailed arrangements for:

- **the Commission's role as focal point**
- **Coordination with MS** via Council working group
- preparation of and participation in meetings of the bodies created by the Convention (representation of the Union's position, close cooperation), voting arrangements
- monitoring, reporting



European Disability Strategy 2010-2020

Adopted on 15 November 2010

Objectives:

- To empower people with disabilities to enjoy their full rights
- To create a barrier-free Europe for all

> It provides a strategic and multiannual framework to facilitate the implementation of the UNCRPD by the EU and support Member States in their implementation

Three main documents:

- Communication on a European Disability Strategy 2010-2020
- List of Actions 2010-2015
- Background document with facts and figures



Areas of action

- **Accessibility** of goods and services
- **Participation** as equal citizens in Europe, independent living, and quality community-based services
- **Equality** and combating discrimination
- **Employment** in the open labour market
- Inclusive **education and training**
- **Social protection** to combat poverty and social exclusion
- Equal access to **health** care services and facilities
- **External action** including **EU enlargement**, neighbourhood and international development programmes

> List of Actions (2010-2015)



Independent Living and De-institutionalisation

Art. 19 CRPD > Equal right to live in the community with freedom of choices

Obligation to ensure that:

- (a) Persons with disabilities have the **opportunity to choose their place of residence** and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- (b) Persons with disabilities have **access to a range of in-home, residential and other community support services**, including personal assistance necessary to support living and inclusion in the community, and to **prevent isolation or segregation** from the community;
- (c) **Community services and facilities for the general population are available on an equal basis to persons with disabilities** and are responsive to their needs.



European Structural and Investment Funds

- **GOAL:** To use investments in a coherent and effective way to promote inclusion, equal opportunities, active participation in society and the economy, and accessibility of the physical environment, transport and new technologies.
- **European Structural and Investment Funds**
Regulations for the programming period 2014-2020 contain significant provisions that reflect the entry into force of the CRPD and aim to enhance the promotion of equality, non-discrimination, inclusion and accessibility for persons with disabilities through the ESIFs actions.



European Social Fund

- can support the development of a range of integrated services that would enable people to leave residential institutions and live in the community with appropriate support, and prevent placements into institutional care.
- Such services include early intervention, family support, foster care, personal assistance, rehabilitation, community-based residential support, independent living schemes and supported employment.
- The ESF can also support the capacity-building, training and requalification of social and health professionals in the transition from institutional to community-based care.



European Regional Development Fund

Investment in health, social and education infrastructure, housing, specialised services and care facilities, (childcare, elderly care and long-term care) to support shift from institutional to community based care

Accessible infrastructure



Tools I

- **Legislation:** anti-discrimination directive
- **Mainstreaming:** ensure that all relevant EU initiatives promote equal opportunities for people with disabilities
- **Cooperation** with Member States (Disability High-Level Group), civil society & Disable People Organisations (DPOs), international bodies (UN, CoE), EU institutions
- **Funding:** to DPOs, Research, Structural Funds
- **Awareness-raising:** Access City Award, For Diversity Against Discrimination Campaign



Tools II

- **Information exchange:** Work Forum, European Day conference
- **Reporting:** to the UN (article 35 UNCRPD), review of the Strategy, Disability High-Level Group report
- **Studies:** supported employment etc.
- **Data collection and monitoring:** indicators on Europe 2020 targets, DOTCOM online tool
- **Governance:** Commission is focal point for the implementation of the UN Convention at EU level, coordination with MS, EU monitoring Framework
- **Training:** within EU institutions (HR matters, ICT) and in the Member States (training of legal practitioners)



Work with civil society and DPOs

"Nothing about us without us"
art. 4(3) and 33.3 CRPD

- Consultation
- Information exchange
- Joint-organisation of events
- Co-financing of running costs and projects
- Involvement in the EU Framework to promote, protect and monitor the Convention



Academic Network of European Disability Experts (ANED)

Annual review of European Union law and policy with reference to disability

- disability-specific and mainstream instruments
- primary and secondary EU legislation
- soft-law instruments (recommendations of the Council, resolutions of the EP, action plans, standardisation mandates, strategies ...)

Country Reports



Academic Network of European Disability Experts (ANED)

Thematic reports

- employment
- social inclusion
- independent living
- education
- benefits
- Accessibility
- consumer protection



Academic Network of European Disability Experts (ANED)

DOTCOM Online tool

- database about national laws, policies, strategies and initiatives
- covers the EU Member States, Candidate countries and other associated countries (34 countries in total)



DOTCOM Online tool (ANED)

eight themes

A. UN Convention status

B. General legal framework

- **B1. Anti-discrimination legislation**
- **B2. Recognition of legal capacity**
- **B3. National disability strategy and action plan**

C. Accessibility



DOTCOM Online tool (ANED)

eight themes

D. Independent living

- **D1. Choice of living arrangements**
- **D2. De-institutionalisation**
- **D3. Quality of social services**
- **D4. Provision of assistive devices at home**
- **D5. Availability of personal assistance schemes**

E. Education

F. Employment

G. Statistics and data collection

H. Awareness and external action



Next steps

- EU report on implementation of the UNCRPD
- Progress report on Disability Strategy
 - Update of the list of actions after 2015



Useful weblinks

- European Disability Strategy 2010-2020: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF>
- Initial plan to implement the Strategy: List of Actions 2010-2015: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010SC1324:EN:NOT>
- United Nations Convention on the Rights of Persons with Disabilities: <http://www.un.org/disabilities/>
- *Council Decision 2010/48/EC (26/11/2009): Conclusion by the European Community of the UN CRPD*
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:023:0035:0061:EN:PDF>
- Sixth Disability High Level Group Report (2013) on Implementation of the UNCRPD (chapter on disability and development)
http://ec.europa.eu/justice/discrimination/files/dhlg_6th_report_en.pdf
- *Academic Network of European Disability Experts (ANED)* <http://www.disability-europe.net/>
- *"DOTCOM" – the on-line tool presenting instruments to implement UNCRPD in EU Member States* <http://www.disability-europe.net/dotcom>



Useful weblinks

- Study on the situation of women with disabilities in light of the UN Convention for the Rights of Persons with Disabilities (2009)
<http://ec.europa.eu/social/BlobServlet?docId=4363&langId=en>
- *Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care* (2009)
<http://ec.europa.eu/social/BlobServlet?docId=3992&langId=en>
- *Toolkit for using EU Structural and Cohesion Funds* (2009)
<http://ec.europa.eu/social/BlobServlet?docId=2740&langId=en>
- Mansell, J., Knapp, M., Beadle-Brown, J. & Beecham, J. (2007),
"Deinstitutionalisation and community living – outcomes and costs: Report of a European Study" (Report commissioned by the European Commission)
http://www.kent.ac.uk/tizard/research/research_projects/DECLOC_Volume_1_Exec_Summary.pdf
https://www.kent.ac.uk/tizard/research/DECL_network/documents/DECLOC_Volume_2_Report_for_Web.pdf
- Access City Award on: <http://ec.europa.eu/justice/access-city>