

Implementing the United Nations Convention on the Rights of Persons with Disabilities (CRPD)

An overview of legal reforms in EU Member States

FRA FOCUS

Many people with disabilities often face legal and societal barriers that prevent them from taking an active and full part in society. The UN Convention on the Rights of Persons with Disabilities (CRPD) has helped galvanise efforts to advance the rights of people with disabilities across the EU since it entered into force in 2008.

A new Focus paper by the EU Agency of Fundamental Rights (FRA) outlines how Member States across the EU have reformed their laws and policies to meet their obligations under the CRPD. By bringing together examples of such reforms, it also highlights how the adoption of international commitments can drive wide-ranging processes of change at the national level.

Key facts

- To date, the CRPD has been ratified by 25 EU Member States and the EU itself.
- The CRPD is driving wide-ranging legislative changes in and across the EU, and this momentum is likely to continue thanks to the convention's in-built monitoring mechanism.
- Despite lack of progress on the proposed equal treatment Directive, some EU countries have extended protection against discrimination on the grounds of disability beyond employment and occupation, the areas already covered by EU law.
- Legal capacity remains one of the areas with the largest number of reforms at the national level linked to CRPD ratification.
- Many Member States are taking steps towards more inclusive education systems.
- Legal reforms have also affected legislation on involuntary placement and involuntary treatment with most Member States reforming their legal frameworks before, and after, the CRPD entered into force.
- European and national jurisprudence is increasingly drawing on the CRPD, acting as an additional driver of reform.

Introduction

The UN Convention on the Rights of Persons with Disabilities (CRPD) was adopted in December 2006 and entered into force in May 2008¹.

CRPD

Article 4 – General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake

The paper is divided into two sections. The first section highlights some of the building blocks of CRPD implementation, in particular national actions plans in the area of disability and the involvement of disabled persons’ organisations (DPOs) in the development of laws and policies. The second presents an overview of national legislative changes linked to specific articles of the CRPD which lie at the heart of the convention and have been a focus of attention from the UN Committee on the rights of persons with disabilities:

These articles also reflect areas of FRA work as well as some of the issues on which reforms to EU Member States’ legal frameworks have centred.

1 Laying the foundations for CRPD implementation

1.1 National action plans and strategies in the area of disability

A large majority of Member States, as well as the EU itself, have sought to give overarching direction to their efforts to implement their human rights obligations – including under the CRPD – by adopting action plans covering the rights of people with disabilities. Although not an obligation under the convention, the CRPD Committee has highlighted that such policy documents are “an excellent method of bringing laws, policies and practices in line with the United Nations Convention on the Rights of Persons with Disabilities”.

These action plans can take many forms; they range from general strategies for the implementation of human rights to action plans

containing commitments for the progressive achievement of specific rights set out in the CRPD.² By setting goals and allocating time and resources for their implementation, these strategies reflect a structural commitment.

- Equality and non-discrimination (Article 5)
- Accessibility (Article 9)
- Legal capacity (Article 12)
- Independent living (Article 19)
- Education (Article 24)
- Employment (Article 27)
- Participation in political and public life (Article 29)
- Involuntary placement and treatment (Articles 14, 15, 17 and 25)

Several Member States include the rights of people with disabilities in broader action plans to promote fundamental rights. The Greek National Action Plan for Human Rights, adopted in March 2014, includes actions focused on social inclusion, employment support, accessibility and inclusive education for people with disabilities. Similarly, the Polish National Action Plan for Equal Treatment covering the period 2013–2016 sets out a number of measures related to equal treatment for people with disabilities in the labour market, education and healthcare systems, as well as in the accessibility of goods and services.

Table 1 Overview of national strategies relevant to the CRPD

Country	STRATEGY
AT	National Action Plan on Disability 2012-2020 (Nationaler Aktionsplan Behinderung)
BG	National Strategy for Equal Opportunities for Disabled People 2008-2015 (Стратегия за осигуряване на равни възможности на хората с увреждания 2008-2015 г.)
CY	National Disability Action Plan for the implementation of the UN Convention on the rights of persons with disabilities 2013-2015 (Εθνικό Σχέδιο Δράσης για την Αναπηρία. Για την εφαρμογή της Σύμβασης του ΟΗΕ για τα δικαιώματα των ατόμων με αναπηρίες)

Source: FRA (2015).

Other Member States have put in place national strategies specifically concerning people with disabilities. Many of these strategies have the explicit aim of setting an overall direction for CRPD implementation.

For example, the Cypriot National Disability Action Plan 2013-2015 for the implementation of the CRPD sets out.

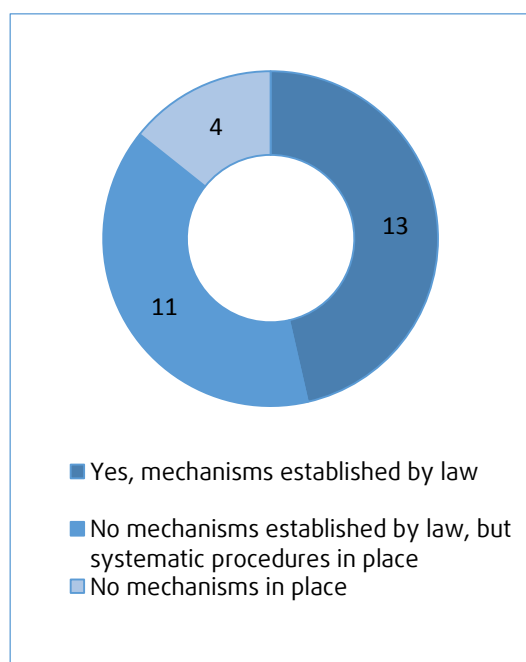
Table 2 Overview of national strategies relevant to the CRPD

Country	STRATEGY
AT	National Action Plan on Disability 2012-2020 (Nationaler Aktionsplan Behinderung)
BG	National Strategy for Equal Opportunities for Disabled People 2008-2015 (Стратегия за осигуряване на равни възможности на хората с увреждания 2008-2015 г.)

Source: FRA (2015).

Other Member States have put in place national strategies specifically concerning people with disabilities. Many of these strategies have the explicit aim of setting an overall direction for CRPD implementation. For example, the Cypriot National Disability Action Plan 2013-2015 for the implementation of the CRPD sets out.

Figure 1 Do Member States have mechanisms in place to ensure consultation and involvement of DPOs in developing laws and policies which affect them?



Source: FRA, 2014. Situation as of April 2014.

Following their ratification of the CRPD, several Member States have established systematic mechanisms for people with disabilities to be consulted on legislative processes that affect them. In Malta, a consultative body for the rights of people with disabilities was established. Bringing together people with disabilities, service providers, activists, policy makers, academics and relevant professionals, the body was heavily involved in the preparation of the National Disability Policy in 2014. Taking a broader approach, the Estonian Code of Practice for Good Engagement establishes that government authorities must include interest groups who will be affected by any planned laws in the drafting process. In particular, the 2012 Cooperation Memorandum between the Estonian government and DPOs improves the involvement of people with disabilities in public decision-making processes.

2 Equality and non-discrimination

The principle of non-discrimination set out in Article 5 of the CRPD underpins many of the convention's subsequent standards. It prohibits all discrimination on the grounds of disability, as well as setting out the related obligation to provide reasonable accommodation when required to promote equality.

The CRPD Committee has reiterated the broad application of the principle of non-discrimination. In its concluding observations on Spain it called for an expansion of non-discrimination protection “to explicitly cover multiple disability, perceived disability and association with a person with a disability”. It also stated that denial of reasonable accommodation itself constitutes a form of discrimination. Moreover, the Committee’s concluding observations on Belgium called for a strengthening of protection against discrimination, including “discrimination by association”.

Under EU legislation the prohibition of discrimination on the grounds of disability and the duty to provide reasonable accommodation are, at the time of writing, restricted to the area of employment and occupation. However, FRA evidence shows that some Member States have broadened these obligations beyond the employment context.³ Such protection would extend across the EU were the proposed equal treatment directive, which sets out a prohibition on discrimination on the grounds of disability in all the areas of life covered by the Racial Equality Directive, to be adopted.

In many cases, national reforms have broadened the scope of non-discrimination protection to goods and services. The National Assembly of Slovenia, for example, adopted in 2010 the Act on equal opportunities for people with disabilities, which prohibits discrimination in access to goods and services available to the public. It also sets out the obligation to provide appropriate accommodations and to remove physical, information and communication barriers that prevent access by people with disabilities to goods and services.

Other Member States have extended non-discrimination protection still further. In Spain, for example, the Law on the Rights of People with Disabilities and their Social Inclusion, adopted in December 2013, foresees the adoption of reasonable accommodation mechanisms in the areas of: telecommunications and information society; transport; public good and services; relations with public administration; justice; cultural inheritance; and employment. Reforms passed in 2014 in Cyprus also significantly widened the duty to provide reasonable accommodation. Reasonable accommodation now covers: independent living; integrated education; healthcare; support with assistive equipment; access to housing and built

infrastructure; access to information; access to services of social and economic integration; provision of goods, services and facilities; accessible telephone services; and television broadcasts.

CRPD
Article 5 – Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided. [...]

In addition to specific legislation on equality and non-discrimination, these principles are also increasingly shaping legal reforms related to the other articles of the convention mentioned below. As FRA’s analysis illustrates, legislating from a non-discrimination perspective poses significant challenges for EU Member States, as it requires a paradigm shift in traditional approaches to many laws addressing people with disabilities.

2.1 Accessibility

Article 9 of the CRPD extends the scope of accessibility far beyond the traditional focus on the physical environment. States parties must ensure that people with disabilities have equal access not just to buildings but also to transportation, information and communications, and facilities and services open or provided to the public.



-
- ¹ FRA would like to thank Marie Fallon-Kund, study visitor, for her contribution to the preparation of this report.
- ² See Flynn, E. (2011), *From rhetoric to action: Implementing the UN Convention on the Rights of Persons with Disabilities*, Cambridge, Cambridge Law and Disability Policy Series. For more information on action plans relating to the right to political participation of persons with disabilities, see FRA (2014) [The right to political participation for persons with disabilities: human rights indicators](#), and Waddington, L. (2014), [Access to and accessibility of citizenship and political participation of people with disabilities in Europe: Introduction to two related 2013 ANED reports](#).
- ³ FRA (2011), [The legal protection of persons with mental health problems under non-discrimination law: Understanding disability as defined by law and the duty to provide reasonable accommodation in European Union Member States](#).

