Disability-discrimination: UN Convention on the rights of persons with disabilities (CRPD) and EU law

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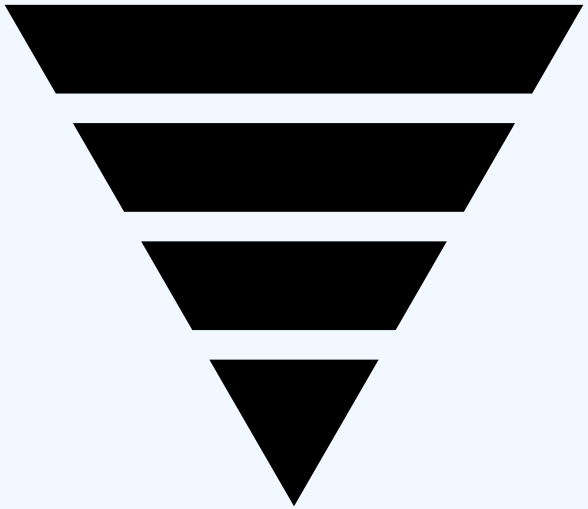
Overview: different obligations and level of protection

- UN Convention on the Rights of Persons with Disabilities, adopted in 2008 and in force since 2008 – ratified by the European Union and all its Member States
- European Union law
- National laws
- Regional laws (in Federal countries)



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

Disability-discrimination under the CRPD



- Articles of the Convention, in particular Articles 2, 3, 4 and 5
- General comment No. 6 (2018) on Article 5: Equality and non-discrimination
- Concluding observations on States Parties

Article 3 CRPD – General principles

The principles of the present Convention shall be:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 2 CRPD – Definitions

“Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the **purpose** or **effect** of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes **all forms of discrimination, including denial of reasonable accommodation**;

Article 4 CRPD – 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:

a) To **adopt all appropriate legislative, administrative and other measures** for the implementation of the rights recognized in the present Convention;

b) To take all appropriate measures, including legislation, to **modify or abolish existing laws, regulations, customs and practices** that constitute discrimination against persons with disabilities;

c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

e) To **take all appropriate measures to** eliminate discrimination on the basis of disability by any person, organization or private enterprise;

Article 5 CRPD – 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.
4. **Specific measures** which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Other articles

- **Article 6 on women and girls with disabilities**: multiple discrimination
- **Article 23 on respect for home and the family**: eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships
- **Article 24 on education**
- **Article 25 on health**, including “prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance”
- **Article 25 on work and employment**
- **Article 28 on adequate standard of living and social protection**

General Comment no 6 – definitions and duties

- Direct discrimination
- Indirect discrimination
- Denial of reasonable accommodation
- Harassment
- Multiple and intersectional forms of discrimination
- Discrimination by association

The concept of reasonable accommodation

Article 2 CRPD

“Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

Also under articles 5 (equality), 14 (liberty and security), 24 (education) and 27 (employment) CRPD.

The concept of reasonable accommodation

Examples

- Making existing facilities and information accessible to the individual with a disability;
- Modifying equipment;
- Reorganizing activities;
- Rescheduling work;
- Adjusting curricula learning materials and teaching strategies;
- Adjusting medical procedures; or
- Enabling access to support personnel without disproportionate or undue burden.



The concept of reasonable accommodation

- **Intrinsic part of the duty of non-discrimination**
- ***Ex nunc* duty** (contrary to accessibility that is an *ex ante* duty)
- Positive legal obligation to provide a reasonable accommodation which is a modification or adjustment that is necessary and appropriate where it is required in a particular case to ensure that a person with a disability can enjoy or exercise her or his right
- Duty ensures that those required accommodations do not impose a **disproportionate or undue burden** on the duty bearer.

The concept of reasonable accommodation

Key elements:

- **Identifying and removing barriers** that have an impact on the enjoyment of human rights for persons with disabilities, in dialogue with the person with a disability concerned;
- **Assessing whether an accommodation is feasible** (legally or in practice)
- **Assessing whether the accommodation is relevant** (i.e., necessary and appropriate) **or effective** in ensuring the right
- **Assessing whether the modification imposes** a **disproportionate or undue burden on the duty bearer**; the determination of whether a reasonable accommodation is disproportionate or unduly burdensome requires an assessment of the proportional relationship between the means employed and its aim, which is the enjoyment of the right concerned;

The concept of reasonable accommodation

Key elements:

- **Ensuring that the reasonable accommodation is suitable** to achieve the essential objective of the promotion of equality and the elimination of discrimination against persons with disabilities **- case-by-case approach** taking into account factors such as, the financial costs, resources available (including public subsidies), the size of the accommodating party (in its entirety), the effect of the modification on the institution or the enterprise, third-party benefits, negative impacts on other persons and reasonable health and safety requirements.
- Ensuring that the **persons with a disability do not bear the costs**.
- Ensuring that the **burden of proof rests with the duty bearer** who claims that his or her burden would be disproportionate or undue.

Disability Discrimination under the EU legal framework

EU Framework

Treaty on the EU

- Article 2: EU values include **equality, non-discrimination and human rights**, “including the rights of people belonging to minorities”
- Article 3(3): the Union “shall **combat social exclusion and discrimination**, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.”

EU Framework

Charter of Fundamental Rights of the European Union

- **Article 20 on Equality before the law**
- **Article 21 on non-discrimination**, including on the grounds of disability: ”Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”
- **Article 26 on integration of persons with disabilities**: “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.”

Employment Equality Directive (2000)

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

- Prohibits discrimination based on disability (and religion or belief, age, and sexual orientation) in the field of employment and occupation
- Covers: conditions for access to employment, self employment or education; access to vocational guidance or training; employment and working conditions, including dismissals and pay; membership and involvement in organisation of workers or employers.
- Includes: direct and indirect discrimination, harassment and instruction to discriminate.

Employment Equality Directive (2000)

- Requires employers to provide **reasonable accommodation** to persons with disabilities in recruitment, employment and training

Article 2(2)(b)(ii): as regards persons with a particular disability, the employer or any person or organisation to whom this Directive applies, is obliged, under national legislation, to take appropriate measures in line with the principles contained in Article 5 in order to eliminate disadvantages entailed by such provision, criterion or practice.

Proposed Equal Treatment Directive (2008)

Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

In 2008, the European Commission proposed **a new Horizontal Equal Treatment Directive** to extend protection against discrimination based on disability, age, religion or belief, and sexual orientation beyond employment, including education, access to goods and services, and social protection.

This directive has been **blocked** in the Council of the EU since 2008.

Directives on standards for equality bodies (2024)

In May 2024, the EU adopted **new** Directives on standards for equality bodies, to strengthen their independence and effectiveness.

The rules require equality bodies to offer accessible, inclusive services, provide reasonable accommodation for persons with disabilities across all activities, ensure sufficient independence and resources, and proactively promote equality and advise public institutions on anti-discrimination measures.

EU countries had until 19 June 2026 to transpose the Directives into national law.

In July 2026, the European Commission launched infringement procedures against 22 countries for failing to notify complete transposition.

Directives on standards for equality bodies (2024)

***Article 13* – Accessibility and reasonable accommodations for persons with disabilities**

Member States shall ensure accessibility and provide reasonable accommodations for persons with disabilities to guarantee their equal access to all services and activities of equality bodies, including assistance to victims, complaint handling, alternative dispute resolution, information and publications, as well as prevention, promotion and awareness-raising activities.

Case law of the Court of Justice of the EU

C-631/22 [Ca Na Negreta] - Denial of reasonable accommodation: The 2024 judgment highlights that the concept of discrimination "includes all forms of discrimination, including denial of reasonable accommodation".

Case C-38/24 [Bervidi] - Discrimination by association*:* The Court ruled in 2025 that EU discrimination law prohibits indirect discrimination "by association" on grounds of disability, extending protections to employees who face workplace disadvantages because they care for a dependent with a disability, even if they are do not have a disability themselves.

CRPD Committee's recommendations

In 2025, during its second review of the EU, the UN Committee on the Rights of Persons with Disabilities, called on the EU to:

- Ensure that legal protection against discrimination, including the denial of reasonable accommodation, covers all areas of EU competences and all modalities of EU action.
- Strengthen explicit legal protection of persons with disabilities against multiple and intersectional forms of discrimination, in all areas of life.

Situation in EU Member States

Unequal protection against disability-discrimination across the EU

- Since 2019, EDF identified **significant legal improvements in 8 countries**: Belgium, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, and Slovakia.
- The law of most EU countries prohibits discrimination based on disability in many areas of life, going beyond the requirement of EU law.
- In 2 countries (Estonia and Poland) this protection is limited to employment and training only.

Unequal protection against disability-discrimination across the EU

However, protection is **often limited by three key gaps in national law**:

- Reasonable accommodation is not adequately recognised or defined.
- The denial of reasonable accommodation is not treated as a form of disability-based discrimination.
- The duty to provide reasonable accommodation is not extended beyond employment.

Positive developments: Constitutional reforms

Inclusion of disability as protected ground in the Constitution: Malta

In July 2026 the Constitution of Malta was amended to include disability as a protected ground. Alleged discrimination on the grounds of disability can now be redressed through a human rights action under the Constitution.

Constitutional recognition of reasonable accommodation: Belgium

In 2021, Belgium added a specific article on disability to its Constitution which also covers the right to reasonable accommodation: “Every person with a disability has the right to full inclusion in society, including the right to reasonable accommodation.”

Positive developments: Extending protection beyond employment

Legal reform for better protection: Greece

In 2023, Law 5023/2023 extended the equal treatment legal framework (as already established in the field of employment) to the areas of social protection, social insurance, healthcare and social provisions, including financial assistance, as well as to education and the provision of goods and services, including housing. Measures to safeguard non-discrimination in the respective areas can be further specified by means of a presidential decree.

Positive developments: Improving definition and scope of reasonable accommodation

Defining reasonable accommodation and treating its denial as discrimination: Italy

In 2024, Decree-Law 62/2024 introduced a CRPD-aligned definition of reasonable accommodation and clarified that refusal to provide reasonable accommodation amounts to direct discrimination. It also established a National Guarantor Authority for the Rights of Persons with Disabilities and sets out a specific procedure for requesting accommodation.

Extending reasonable accommodation beyond employment: Lithuania

In 2025, an amendment to the Law on Equal Opportunities established the obligation to ensure reasonable accommodation for persons with disabilities and extended this duty beyond employers to other public and private institutions. Service providers and employers, as well as educational, healthcare and other organisations, must now ensure specific accommodations that a person with a disability may need.

Reasonable accommodation by association: Belgium (Brussels)

The Brussels Equality, Non-Discrimination and Promotion of Diversity Code of 4 April 2024 now covers "reasonable accommodation by association." The protection extends not only to the person with a disability but also to persons treated unfavourably because of their association with a person with a disability (for example, a family member, carer or colleague), where the treatment is linked to the need for reasonable accommodation.

Positive developments: Inaccessibility as a form of discrimination?

Supreme Court recognising inaccessibility as indirect discrimination: Finland

In a 2025 Supreme Court decision on disability discrimination, the Finnish Supreme Court held that organising an event in an inaccessible location amounted to indirect discrimination. The Court awarded compensation under the Non-Discrimination Act, even though the criminal charge of discrimination was dismissed. The ruling shows that the threshold for proving discrimination under the Criminal Code is higher than under the Non-Discrimination Act, but that compensation can still be granted for inaccessibility as a form of discrimination.

Resources

- **Upcoming – stay tuned**: EDF briefing on equality and non-discrimination
- FRA, Factsheet ‘Reasonable accommodation for persons with disabilities ECtHR and CJEU case-Law’ (2025)
- EDF, Human Rights Report on Equality and Non-Discrimination (2018)
- CRPD Committee, General comment No. 6 (2018) on Article 5: Equality and non-discrimination

EUROPEAN DISABILITY FORUM

Thank you!