

The United Nations Convention on the Rights of Persons with Disabilities: Implications for EC Discrimination Law

By

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1. Background

1.1 The emergence of the CRPD

- The Ad Hoc Committee
- Adoption by the General Assembly
- Opening for signatures
- Entry into force

1.2 Purpose of the CRPD

- Article 1
- Existing rights
- Specificity, implementation methods
- New rights?

1.3 Role of and Relevance for the EC

- Article 44
- Legal Bases
- Negotiations
- Conclusion

2. The Non-Discrimination Provisions

2.1 General Provisions

- Articles 3 and 4 – general principles and obligations
- Article 5 (2) and Article 2 -- discrimination
- Article 5(3) and Article 2 – reasonable accommodation
- Article 5(4) – positive action

2.2 Specific Provisions

- Article 24 -- education
- Article 27 -- employment
- Article 13 -- access to justice
- Article 14 -- liberty and security of the person
- Article 23 -- respect for home and the family
- Article 25 -- health
- Article 28 -- adequate standard of living and social protection
- Article 29 -- political and public life
- Article 30 -- culture, recreation, leisure and sport

2.3 Related General Provisions

- Article 9 -- accessibility
- Article 21 -- expression, opinion and information
- Article 19 -- community living
- Article 12 -- legal capacity

- 2. 4 Multiple Discrimination Provisions
 - Article 6 -- women
 - Article 7 -- children
 - Reporting Guidelines – ethnicity etc

3. Implications for the EC

3.1 Definition of Disability

- Article 1 and Article 31
- Directive 2000/78/EC
- Chacón Navas*
- Proposed Goods and Services Directive

3.2 Definition and Scope of Prohibited Discrimination

- Indirect discrimination?
- Accessibility?
- Inclusion?
 - segregated employment (Directive 2000/78/EC)
 - segregated education (*DH v Czech Republic*, EctHR, 2007)
 - segregated living (*Olmstead v LC*, US Supreme Court, 1999)

3.3 Material Scope

- Directive 2000/78/EC
- Race and Gender Directives
- Proposed Goods and Services Directive

4. Influence in Areas Beyond Strict Legal Competence

- Awareness-raising – Article 8
- Open Method of Co-ordination
- Structural funds
- Development aid – Article 32

5 Monitoring and Implementation

5.1 Statistics – Article 31

- Collection, disaggregation, dissemination
- Comparability
- Indicators

5.2 Organisational Mechanisms – Article 33

- Governmental focal point
- Independent monitoring mechanism

5.3 Involvement and Consultation

- Articles 4 and 33

6. Conclusion

Further Reading

O Arnadottir and G Quinn (eds), *The United Nations Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Martinus Nijhoff, Leiden, 2009)

A Kanter (ed), *Syracuse Journal of International Law and Commerce* (Special Issue on the United Nations Convention on the Rights of Persons with Disabilities) vol 34, 2007

R Kayess and P French, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' 8 (2008) *Human Rights Law Review* 1

F Megret, 'The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights' 30(2008) *Human Rights Quarterly* 494

G Quinn and L Waddington (eds) *European Yearbook on Disability Law and Policy* (Intersentia, 2009)

L Waddington and A Lawson, *Disability Non-Discrimination Law in the European Union* (a European Network of Legal Experts on Non-Discrimination thematic report)

<http://www.non-discrimination.net>

UN Enable Website

<http://www.un.org/disabilities/>

EU and disability

<http://ec.europa.eu/social/main.jsp?catId=429&langId=en>

Academic Network of Experts on Disability

<http://www.disability-europe.net>