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Overview

1. Introducing the CRPD
2. The EU’s relationship with the CRPD
3. The European Disability Strategy 2010-2020 and progressing CRPD Implementation
4. EU disability equality law and the CRPD
5. Concluding reflections

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1. Introducing the CRPD

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“A treaty of 1sts!”

- 21st Century and speed of ratifications
- Involvement of beneficiaries
- EU as a State Party
- Conception of discrimination and equality
- Articulation of certain rights
- State Party implementation and monitoring mechanisms

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General Underpinning Provisions

Purpose – Article 1
“to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”

General principles – Article 3
- Respect for inherent dignity, individual autonomy and independence
- Non-discrimination
- Full and effective participation and inclusion
- Respect for difference and acceptance of persons with disabilities as part of human diversity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities

General obligations – Article 4
(1) ensure and promote full realisation of all human rights without discrimination on the basis of disability) through a number of specified commitments);
(2) Principle of progressive realisation for economic, social and cultural rights;
(3) “to closely consult with and involve” disabled people through their representative organisations;
(4) Non-derogation
(5) Application in federal states.

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Conception of discrimination and equality
Reasonable accommodation requirement
Multi-dimensionality

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Substantive Rights
Types of right
-legal capacity, independent living, accessibility, personal mobility
Level of detail
Disregard of (non-existent) dichotomies

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State Party Implementation and Monitoring Mechanisms

- Involvement – Article 4(3)
- Statistics and data collection
- Focal point – Art 33(1)
- Monitoring framework including independent mechanism and disabled people
- Article 33(2) and (3)
- International monitoring mechanisms

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2. The EU ‘s relationship with the CRPD

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History

- Pre-CRPD – shaping its terms
- Signature and formal conclusion of Convention but not yet Optional Protocol

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Status of CRPD in EU Law

- Mixed agreement
  - Declaration of competences
  - Code of conduct
- Between primary and secondary law
- Interpretive tool
- Strategic driver

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3. The European Disability Strategy 2010-2020 and progressing CRPD Implementation

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Main Objectives

- Barrier-removal
- Empowerment and full participation
- Implementation of CRPD

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8 Areas for Action

Accessibility, Participation,
Equality, Employment,
Education and Training, Social Protection,
Health, External Action

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General Instruments Supporting CRPD and Strategy Implementation

Awareness-raising (see CRPD Art 8)
Financial support – eg NGOs, structural funds, public procurement
Statistics, data-collection and monitoring – eg Dotcom
- CRPD, Art 31
- Reporting Guidelines

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Governance Structures

CRPD, Art 33
Focal point – Commission
Monitoring framework including independent mechanism and disabled
people’s organisations
Annual Work Forum
Disability High Level Group

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4. EU disability Equality law and the CRPD

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4.1 Material Scope

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CRPD

“all discrimination” – Article 5(2)
“all human rights and fundamental freedoms in the political, economic, social,
cultural, civil or any other field” – Article 2

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EU Secondary Law

Directive 2000/78/EC – employment and occupation
Proposed Directive 2008
Transport legislation, eg
- Regulation 181/2011, on rights of passengers in bus and coach transport
- Regulation No. 1177/2010, on rights of passengers travelling by water
- Regulation 1107/2006, on rights of disabled persons and persons with reduced mobility travelling by air

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EU Primary Law

Charter for Fundamental Rights, Article 21
Interpretation and application of existing EU law
Actions of EU institutions
Structural funds debate and potential housing discrimination?

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4.2 Personal Scope

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CRPD

Article 1
Concluding Observations on Spain

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EU Law

Directive 2000/78/EC

"Grounds of disability"
Coleman v Attridge Law
Meaning of disability
Chacon Navas
Danmark and Jette Ring cases (pending)
Proposed Directive 2008

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Transport Regulations

Air Regulation, Article 2(a) –
“… any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers”
4.3 Reasonable Accommodation

CRPD

- Included in definition of discrimination – Article 2
- Prohibition of discrimination – Article 5(2)
  “… States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided” – Article 5(3)

EU Law

- Directive 2000/78/EC, Article 5
  - implementation challenges
  - not explicitly within discrimination prohibition
- Proposed Directive 2008
- Charter of Fundamental Rights, Article 21

4.4 Multiple Discrimination

CRPD

- Disabled women – Article 6
- Disabled children – Article 7
- Protection of disabled people “from discrimination on all grounds” – Article 5(2)
- Multiple or aggravated discrimination – preamble (p)
- “on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status”
- Concluding Observations Spain

EU law

- Proposed Directive 2008
- Separate directive?
4.5 Mainstreaming

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CRPD

“To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes” - Article 4(1)(c)
Statistics and data-gathering – Article 31

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EU Law

Treaty on the Functioning of the EU – Article 10
Charter of Fundamental Rights, Article 26
Europe 2020 targets
Challenges – eg Open Method of Co-ordination for employment and social inclusion/protection

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5. Concluding Reflections

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Potential Challenges
References


