

Obligations on States Parties regarding the National Implementation and Monitoring: Challenges for the Implementation at National and EU Level



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Introduction

Background: from standard-setting to implementation

'The struggle for human rights will be won or lost at the national level' (Jack Donnelly)

Introduction

Content

- ❑ National Level
- ❑ EU Level

Three-pillar structure

- ❑ Focal point(s) and coordination mechanism (Article 33 (1) CRPD)
- ❑ Independent mechanism(s) (Article 33 (2) CRPD)
- ❑ Civil society (Article 33 (3) CRPD)

National Level

Focal point(s)

'States Parties, in accordance with their system of organisation, shall designate one or more focal points within government for matters relating to the implementation of the present Convention.' (Article 33 (1) CRPD)

- ❑ Obligation
- ❑ One or more focal points
- ❑ First time in an international human rights treaty

National Level

Functions

- ❑ State reporting
- ❑ Measures to implement the CRPD
- ❑ Disability rights policies
- ❑ Participation of civil society
- ❑ Contact point (national and international)

Options

- ❑ Ministry of Social Affairs
- ❑ Sub-focal points Eg. UK, Belgium

National Level

Coordination Mechanism

'[The States Parties] shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.' (Article 33 (1) CRPD)

- ❑ No obligation
- ❑ First time in an international human rights treaty
- ❑ Vertical and horizontal cooperation

National Level

Options

- ❑ Focal point (or lead focal point) = coordination mechanism
Eg. Austria, Belgium, Italy, Lithuania, UK
- ❑ Distinct coordination mechanism Eg. France, Germany, Spain
- ❑ No coordination mechanism Eg. Slovenia

Much more than a coordination mechanism ...

National Level

Independent mechanism(s)

'States Parties shall ... designate or establish ... a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States parties shall take into account the [Paris Principles].'
(Article 33 (2) CRPD)

- ❑ Designation or establishment
- ❑ One or more independent mechanisms
- ❑ OPCAT

National Level

Functions

- ❑ Promotion: awareness raising, training, education, research
- ❑ Protection: complaints handling, *amicus curiae* (national and international), assistance, representation
- ❑ Monitoring: evaluation, opinions, data collection, general inquiries, follow-up

National Level

Paris Principles

- ❑ Independence: creation by law, governmental involvement and funding
- ❑ Pluralism: representation (or appointment) of and cooperation with civil society, including NGOs, trade unions and concerned social and professional organisations, as well as universities and qualified experts as well as governmental departments in advisory capacity.

Application to the independent mechanisms:
interpretative questions

National Level

Framework

- Option 1: NHRI and/or equality body
Eg. Germany, UK, Belgium
- Option 2: Ombudsman institution
Eg. Latvia, Spain
- Option 3: Other body
Eg. Austria, Slovenia, Spain, Denmark

No standard model ...

National Level

Civil society

'Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process' (Article 33 (3) CRPD)

- 'Nothing about us without us'

National Level

Multilevel involvement

- ❑ Focal point(s) and/or coordination mechanism
Eg. Spain, Denmark, France
- ❑ Advisory boards (Article 4 (3) CRPD)
Eg. Austria, Czech Republic, Germany, Latvia, Slovenia, Belgium
- ❑ Independent mechanism(s)
 - > Representation: Eg. Austria, Italy, Spain
 - > Appointment: Eg. Germany, UK
 - > Cooperation: Eg. Belgium, Germany
- ❑ Capacity building

National Level

Danemark

- ❑ Article 33 (1) CRPD: Ministry of Social Affairs + Inter-ministerial Committee of civil servants on disability matters
- ❑ Article 33 (2) CRPD: Danish Institute for Human Rights (DIHR) + Danish Disability Council + Parliamentary Ombudsman

Slovenia

- ❑ Article 33 (1) CRPD: Ministry of Labour, Family and Social Affairs
- ❑ Article 33 (2) CRPD: Council for Persons with Disabilities of Slovenia

EU Level

Preliminary remarks

- European Union = Supranational organisation
- Field in which both the EU and Member States have competences
- 'National' implementation and monitoring

Code of conduct

EU Level

Focal point(s) and coordination mechanism

Focal Point: Commission (DG Justice)

Coordination mechanism?

Disability High-Level Group

- ▣ National experts
- ▣ State Report

EU Level

Independent mechanism(s)

EU institutions and Member States

Framework

- ❑ Commission
- ❑ Ombudsman
- ❑ EU Fundamental Rights Agency
- ❑ European Disability Forum
- ❑ European Parliament's Petition Committee

Conclusion

Most complete monitoring system ever in an international human rights treaty

Not a destination but an ongoing process of learning by doing

Conclusion

Thank you for your attention!

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