

# Implementation and Monitoring of the UN CRPD at State and EU Level

## Obligations and Challenges

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Alexander HOEFMANS  
Research Group on Constitutionalism  
& Fundamental Rights, VUB  
Human Rights Advisor Belgian Ministry of Justice

	Country	Convention Signature Date	Protocol Signature Date	Convention Ratification Date	Protocol Ratification Date
1.	Austria	30-3-2007	30-3-2007	26-9-2008	26-9-2008
2.	Belgium	30-3-2007	30-3-2007	2-7-2009	2-7-2009
3.	Bulgaria	27-9-2007	18-12-2008		
4.	Croatia	30-3-2007	30-3-2007	15-8-2007	15-8-2007
5.	Cyprus	30-3-2007	30-3-2007	27-6-2011	27-6-2011
6.	Czech Republic	30-3-2007	30-3-2007	28-9-2009	
7.	Denmark	30-3-2007		24-7-2009	
8.	Estonia	25-9-2007			
9.	Finland	30-3-2007	30-3-2007		
10.	France	30-3-2007	23-9-2008	18-2-2010	18-2-2010
11.	Germany	30-3-2007	30-3-2007	24-2-2009	24-2-2009
12.	Greece	30-3-2007	27-9-2010		
13.	Hungary	30-3-2007	30-3-2007	20-7-2007	20-7-2007
14.	Ireland	30-3-2007			
15.	Italy	30-3-2007	30-3-2007	15-5-2009	15-5-2009

16.	Latvia	18-7-2008	22-1-2010	1-3-2010	31-8-2010
17.	Lithuania	30-3-2007	30-3-2007	18-8-2010	18-8-2010
18.	Luxembourg	30-3-2007	30-3-2007	26-9-2011	26-9-2011
19.	Malta	30-3-2007	30-3-2007		
20.	Netherlands	30-3-2007			
21.	Poland	30-3-2007			
22.	Portugal	30-3-2007	30-3-2007	23-9-2009	23-9-2009
23.	Romania	26-9-2007	25-9-2008	31-1-2011	
24.	Slovakia	26-9-2007	26-9-2007	26-5-2010	26-5-2010
25.	Slovenia	30-3-2007	30-3-2007	24-4-2008	24-4-2008
26.	Spain	30-3-2007	30-3-2007	3-12-2007	3-12-2007
27.	Sweden	30-3-2007	30-3-2007	15-12-2008	15-12-2008
28.	United Kingdom of Great Britain and Northern Ireland	30-3-2007	26-2-2009	8-6-2009	7-8-2009
	(Source: UN Enable)			19 (+1)	16 (+1)

## 1. Transcending the legalistic approach of human rights

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- Classic objectives and ingredients

...but

- Personifying human rights

→ *a functional and pragmatic approach*

→ *proliferation of human rights instruments?*

- Paradigm shifts

→ *conceptual*

→ *structural*

## 2. Obligations to facilitate implementation and monitoring

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- ❑ Structural framework of implementation and monitoring
- ❑ Goals:
  - organise yourself internally as efficiently and transparently as possible for effective implementation
  - creating visibility and involvement for PWD and representative organisations in their relations with government
- ❑ Attention for all actors concerned:
  - 33, §1 political and administrative level
  - 33, §2 independent monitoring framework
  - 33, §3 civil society

## Article 33 (1) CRPD: Focal Point

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- ❑ *"States Parties, in accordance with their system of organisation shall designate one or more focal points within government for matters relating to the implementation present Convention[...]"*
- ❑ Double purpose:
  - *legitimate place on the political agenda*
  - *administrative tool to advance the rights of PWD*
- ❑ Mapping exercises, mainstreaming, national action plans,...
- ❑ Applying the human rights approach?

## Article 33 (1) CRPD: Focal Point Trends

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- **Austria:** Federal Ministry of Labour, Social Affairs and Consumer Protection (BMASK);
- **Belgium:** Directorate-General for Strategy and Research of the Ministry of Social Affairs;
- **Czech Republic :** Ministry of Labour and Social Affairs;
- **Denmark:** Ministry of Social Affairs;
- **France:** /
- **Germany:** Federal Ministry for Labour and Social Affairs (BMAS);
- **Hungary:** Ministry of National Resources;
- **Italy:** Directorate-General for Inclusion, Social Rights and Social Responsibility of the Ministry of Labour and Social Policies;
- **Latvia:** Ministry of Welfare;
- **Lithuania:** Ministry of Social Security and Labour;
- **Portugal:** /
- **Romania:** Directorate-General for the Protection of Persons with Disabilities of the Ministry of Labor, Family and Social Protection (DGPPH);
- **Slovenia:** Directorate for Persons with Disabilities of the Ministry of Labour, Family and Social Affairs;
- **Spain:** Directorate-General for the Coordination of Sectoral Policies on Disability of the Ministry of Health, Social Policy and Equality;
- **Sweden:** Family and Social Services Division of the Ministry of Health and Social Affairs;
- **United Kingdom:** Office for Disability Issues (cross-governmental body).

(source: OHCHR study on the Implementation of the CRPD in Europe, November 2011)

## Article 33 (1) CRPD: Coordination Mechanism

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- *"[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."*
- Double purpose:
  - *internal dimension*
  - *external dimension*
- Role may depend on the nature of the State system
- Joined-up governance?

## Article 33 (1) CRPD: Coordination Mechanism Trends

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- **Focal point = Coordination mechanism:** Austria, Belgium (partially), Czech Republic, Italy, Romania, United Kingdom
- **Separate Coordination mechanism:** Denmark, France (no information on focal point), Germany, Spain, Sweden
- **Advisory bodies:**
  - no coordination mechanism: Latvia, Portugal, Slovakia
  - supplementing focal points and coordination mechanism: Austria, Czech Republic, Romania

(source: OHCHR study on the Implementation of the CRPD in Europe, November 2011)

## 3. Obligations to facilitate monitoring

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- *“States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, **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 principles relating to the status and functioning of national institutions for protection and promotion of human rights.”*

## Article 33 (2) CRPD : Independent Mechanisms

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- Taking into account the Paris Principles:
  - *Independence*
  - *Pluralism*
  - *Mandate*
- National human rights institutions v. separate independent mechanisms
- Interaction with focal points, coordination mechanisms and civil society

## Article 33 (2) CRPD: Monitoring Framework Trends

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- **National Human Rights Institution:** Denmark, Germany, United Kingdom (+ Scotland and Northern Ireland)
- **Ombudsman:** Latvia, Lithuania, Denmark,
- **Equality body:** Belgium, UK (Northern Ireland)
- **Other institutions:**
  - **new:** Austria (Independent Monitoring Committee), Italy (National Observatory on the Situation of Persons with Disabilities), Slovenia (Council for Persons with Disabilities)
  - **existing:** Spain (Committee of Representatives of People with Disabilities), Hungary (National Council of Disability), Lithuania (Council for Disability Affairs)
- **Framework:** United Kingdom, Lithuania

(source: OHCHR study on the Implementation of the CRPD in Europe, November 2011)

## 4. CRPD ratification by the EU

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- ... Participation of the European Community in the negotiations
- ... The European Community signs the CRPD on 30th March 2007
- ... Council Decision of 26 November 2009 concerning the conclusion by the EC of the CRPD
- ... Conclusion of the Code of conduct on 15 December 2010
- ... Depositing the instruments of formal confirmation on 23 December 2010
- ... CRPD enters into force on 22 January 2011
- ... Future: conclusion of the Optional Protocol?

## Implementation and Monitoring challenges at EU level

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- Precedent since Lisbon Treaty
- EU as a "State Party" on equal footing?
  - *Council decision of 26 November 2009*
  - *Annex II*
  - *Appendix*
  - *Code of Conduct*
- Challenges to:
  - *Implementing the CRPD*
  - *Monitoring the CRPD*

## Article 33 (1) CRPD applied to the EU – functioning

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- Designation within “government” for implementation purposes
  - *the Commission as focal point*
  - *coordination mechanism?*
  - *Disability High Level Group?*
  
- Applying the Code of Conduct
  - *reporting procedure*
  - *common positions before CRPD bodies*
  - *EU member of the CRPD Committee*

## Article 33 (2) CRPD applied to the EU – framework

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- Maintain, strengthen, designate or establish
  
- Single institution v. framework
  
- Potential actors
  - *the Fundamental Rights Agency*
  - *the European Ombudsman*
  - *the Court of Justice of the EU*
  - *the European Parliament (Petitions Committee)*
  - *the European associations representing PWD*
  - *the European Commission*



## CRPD and the EU – a driver for change?

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- New dynamic to the Union's disability rights agenda?

- formally: no change in transfer of competences, nor in division of competences

- practically: internal and external dynamic

- 1) *internal leverage*

- 2) *external driver for change*

- 3) *global player*

- 4) *network of networks*

- Applying the human rights approach?