

# **The EU and the CRPD**

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## ***Overview***

EU disability law and policy context  
Disability and the EU Charter of Fundamental Rights  
The CRPD in the EU  
Concluding Thoughts

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## ***EU Disability Law and Policy Context***

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### **Historical Overview**

Mid 1970s to mid 1990s – Action programmes  
1997 – Amsterdam Treaty (Article 13 TEC)  
2009 – Lisbon Treaty (Article 10 TFEU, CFR)

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### **Disability Action Plans and Strategies**

Disability Strategy 1996  
Disability Action Plan 2003  
EU Disability Strategy 2010-2020

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### **Non-Discrimination**

Article 13 (now Art 19 TFEU)  
2000 - Directive 2000/78/EC (employment and occupation)  
2008 – Proposal for a framework directive in non-employment fields

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### **Internal Market**

Article 95 TEC (now Art 114 TFEU) –  
Transport  
Digital television and telecommunications  
Physical infrastructure  
Public procurement

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## **Current Strategy**

CRPD influence

Areas for action

- + Accessibility,
- + Participation,
- + Equality,
- + Employment,
- + Education and training,
- + Social protection,
- + Health,
- + External Action

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## ***Disability and the EU Charter of Fundamental Rights***

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## **Historical Overview**

2000 – Initial proclamation

2007 – Amendments

2009 – Treaty of Lisbon

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## **Explicit Disability Provisions**

Article 21 – non-discrimination

Article 26 – social integration

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## **Effect**

Article 6 TEU

Article 51 CFR

European institutions

Member States

Direct effect?

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## ***The CRPD in the EU***

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### **Enabling Provisions**

Confirmation - Art 44 CRPD

International agreements – Art 218 TFEU (ex Art 300 TEC)

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### **Dates**

Before December 2006 – Ad Hoc Committee negotiations

30 March 2007 – signature

26 November 2009 – conclusion authorisation from Council

23 December 2010 – deposit of formal instrument of confirmation

22 January 2011 – entry into force for EU

Reservation – Art 27 CRPD, armed forces

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### **Legal Basis**

Article 13 TEC – non-discrimination (now Art 19 TFEU)

Article 95 TEC – internal market (now Art 114 TFEU)

Article 300(2) TEC – international agreements (now Art 218 TFEU)

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### **Status of CRPD in EU Law**

Integral Part of EU Law – no need for transposition action

Between primary and secondary EU law

--IATA v Department for Transport 2006

--Kadi and Al Barakaat International Foundation v Council of the EU 2008

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### **Mixed Agreement**


Meaning


Effect

--European institutions

--Member States (loyal co-operation)

Competences

 EU (exclusive)

 EU and MS (shared)

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## **EU Competence**

Statement – Article 44(1) CRPD

Council decision 2009 – Annex

Not static

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## **EU Exclusive Competence**

Council decision 2009 - explicit

- ✚ state aid
- ✚ common custom tariffs,
- ✚ EU public administration (eg recruitment, remuneration, training)
- ✚ common rules established in areas of shared competence

Council decision 2009 – illustrative Acts

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## **EU and MS Shared Competence**

Council decision 2009

- ✚ discrimination,
- ✚ equal pay for male and female workers,
- ✚ free movement of goods, persons, services and capital
- ✚ transport,
- ✚ taxation,
- ✚ internal market,
- ✚ agriculture
- ✚ Trans-European policy and statistics,

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## **EU policies Identified as Relevant to the CRPD**

2009 Council Decision - eg

- ✚ support for co-ordinated strategy on employment
- ✚ support for co-ordinated strategy on quality of education
- ✚ development co-operation policy with third countries

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## Areas of Mutual EU and MS Interest

Disability High Level Group, 1st report 2008

Beyond EU competence

Co-operation of 'added value'

Areas

- + accessibility
- + legal capacity
- + access to justice
- + independent living
- + adequate standard of living
- + voting rights
- + monitoring mechanisms
- + empowering of persons with disabilities

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## Direct Effect of CRPD Provisions?

ECJ/CJEU caselaw

- + Whether this was the negotiators express or implied intention; and
- + Whether provision sufficiently unconditional and precise to have direct effect

Unlikely

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## Interpretive Tool and Strategic Driver

Commission v Germany 1996

High Commissioner for Human Rights Study, para 58

EU Disability Strategy 2010-2020

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## *Concluding Thoughts*

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Substance

Mechanics

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## **References**

- Cremona, M, 'External Relations of the EU and the Member States: Competence, Mixed Agreements, International Responsibility, and Effects of International Law' EUI working paper, 22/2006
- De Burca, G, 'The European Union in the Negotiation of the UN Disability Convention', (2010) 35 *European Law Review* 174-196
- European Foundation Centre, 'Study on Challenges and Good Practice in the Implementation of the UN Convention on the Rights of Persons with Disabilities' VC/2008/1214, Brussels, 2010.
- High Commissioner for Human Rights, Study on Key Legal measures for the Ratification and Implementation of the Convention on the Rights of Persons with Disabilities (A/HRC/10/48),
- Hoefmans, A 'The EU Disability Framework Under Construction: New Perspectives through Fundamental Rights Policy and EU Accession to the CRPD', in L Waddington and G Quinn (eds), *European Yearbook of Disability Law* (vol 3, Intersentia, Antwerp 2012 forthcoming).
- Lawson, A, 'Reasonable Accommodation and Accessibility Obligations: Towards a More Unified European Approach?' (2011) 11 *European Anti-Discrimination Law Review* 11 – 21
- Waddington, L, 'Breaking New Ground: The Implications of Ratification of the UN Convention on the Rights of Persons with Disabilities for the European Community' in O M Arnardóttir & G Quinn (eds), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives* (Leiden, Martinus Nijhoff, 2009)
- Waddington, L and Lawson, A, 'Disability Non-Discrimination Law in the European Union: A Thematic Report' (European Commission, Brussels, 2009)
- Waddington, L, 'The European Union and the United Nations Convention on the Rights of Persons with Disabilities: A Story of Exclusive and Shared Competences' (2011) 18 *Maastricht Journal* 411
- Quinn, G, 'Disability Discrimination Law in the European Union' in H Meenan (ed), *Equality Law in an Enlarged European Union: Understanding the Article 13 Directives* (Cambridge, Cambridge University Press, 2007)