

# Fundamental rights of persons with intellectual disabilities and persons with mental health problems



June 2011



*“Even if I cannot speak, it doesn’t  
mean I have nothing to say”*

JAG client, Sweden

# Two groups of individuals

Deliberate decision to include two distinct groups of individuals:

- Persons with intellectual disabilities
- Persons with mental health problems/psychosocial disabilities

**Different groups, but often face similar reaction from society: discrimination, stigmatisation and social exclusion**

# Project background

- ❑ Discrimination based on disability is one of the thematic areas of FRA's Multi-annual Framework (2007-2012)
- ❑ UN Convention on the Rights of Persons with Disabilities (CPRD) ratified in 17 EU Member States and concluded by the European Union
- ❑ European Disability Strategy (2010-2020)

Social model of disability



*You must not go out  
on your own!*

*The person  
with a disability  
is the problem.*



*You don't need  
an education!*



*You are sick!*



*You should not have  
a relationship!*

**The “unable” model of disability**

# The enabling model of disability



I'm a great cook!

With the right kitchen tools!

I run my own business!



With an adapted computer.

The barriers are the problem.



I can go to a restaurant!



With a personal assistant, friends and/or by taxi.

I can drive!



With an automatic car!

Are you taking the rights approach?

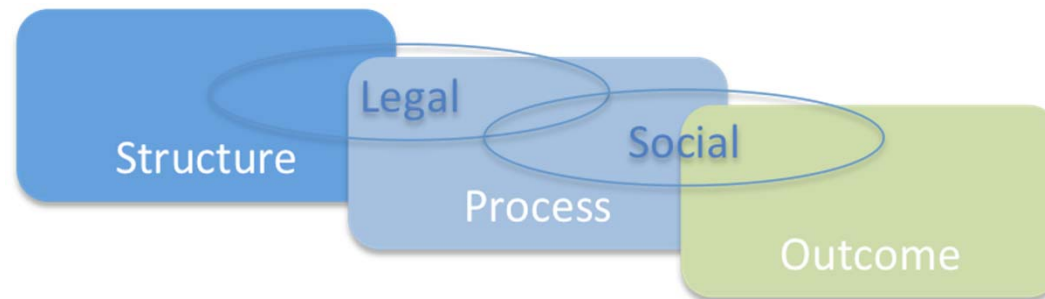
THE RIGHTS-BASED APPROACH TO DISABILITY

# Project's objectives

- Support the implementation of the European Disability Strategy 2010 – 2020
- Support the implementation of the CRPD in the European Union
- Support the implementation of the European Pact for Mental Health
- Promote transition from institutional to community-based care in the European Union

# Work methodology

- ❑ Socio-legal research: looking at law, policy and practice



- ❑ Linking up with key partners in the field  
(DPOs, European Institutions, Member States)

# Project methodology (2009 – 2012)

## ❑ Legal research

- Collection of data through FRA's Network of Legal Experts (FRALEX);  
*(June - December 2009)*
- Focus: national and international legal framework

## ❑ Social research

- Primary data collection regarding the situation “on the ground”  
*(July 2010 – November 2011)*
- Focus: independent living, situation in care institutions; legal capacity; and access to justice

## ❑ Networking

- Linking up with key partners in the field

# Legal research

- Anti-discrimination and equality framework
  - Incorporation of the CRPD in national law
  - Incorporation of the European Union acquis
- Protection of specific fundamental rights
- Involuntary placement and involuntary treatment
- Competence, capacity and guardianship

# First report



**The right to political participation of persons  
with mental health problems and persons  
with intellectual disabilities**

October 2010

**The rights of people with mental  
health problems and intellectual  
disabilities to take part in politics**



# Social research (1)

## □ Themes:

- independent living (Art. 19 CRPD)
- institutional living (Art. 14, 15, 16 CRPD)
- legal capacity (Art. 12 CRPD)
- access to justice (Art. 13 CRPD)

## □ Coverage:

- Background research in EU27 + overview international report
- Fieldwork in 9 countries (see the map on the next slide)



## Social research (2)

### □ Fieldwork (primary data collection)

- In-depth interviews with persons with mental health problems and persons with intellectual disabilities (*at least 20 per country*)
- Focus groups with interviewees
- Additional focus groups with those having impact on the lives of people with disabilities: policy makers, carers and service providers
- Peer-review meeting (*November 2011*)

### □ Photo voice

- Documentation of their every day experience by persons with disabilities

### □ Emancipatory reserach

- Advisory Board: ENUSP, Self-Advocates, ENIL, ECCL, EDF, Inclusion Europe
- Methodological toolkit

# Publications planned for 2011

- ❑ The legal protection of persons with mental health problems under non-discrimination law

*A comparative study of the definition of disability and of the duty to provide reasonable accommodation in European Union Member States.*

- ❑ International developments on the fundamental rights of people with intellectual disabilities and people with mental health problems

*A study on independent living, human rights in institutions, legal capacity and access to justice.*

*The report will be accompanied by 27 background reports describing situation in each of the Member States of the European Union.*

- ❑ Involuntary placement and treatment of persons with intellectual disabilities and persons with mental health problems

# Publications planned for 2012

- Comparative analysis of laws on competence, capacity and guardianship in the European Union
- Methodological toolkit on doing participatory research with people with intellectual disabilities or mental health problems
- 9 case studies analysing the situation on the ground in Bulgaria, Romania, Latvia, Greece, Hungary, United Kingdom, Sweden, France and Germany
- Comparative report on the fundamental rights of persons with intellectual disabilities and persons with mental health problems

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