

The fundamental rights of persons with intellectual disabilities and persons with mental health problems

Article 21 and Article 26 falling under the Equality Chapter of the Charter of Fundamental Rights of the European Union prohibit discrimination on the ground of disability, and recognise and respect the right to integration of persons with disabilities.

About 80 million people with a disability live in the European Union (European Commission Disability Strategy 2010-2020)

Policy context

According to the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), persons with disabilities “include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

The first FRA disability project

The first project of the European Union Agency for Fundamental Rights (FRA) in the area of disability is carried out in the spirit of the CRPD. The project aims to assess the fundamental rights situation of some of the most vulnerable groups of persons with disabilities, namely those with intellectual disabilities and those with mental health problems.

- Persons with an **intellectual disability** are sometimes described as ‘mentally disabled’ or are said to have a ‘learning difficulty’. These terms refer to the effects of permanent conditions, which are characterised by a significantly lower than average intellectual ability, resulting in limitations in intellectual functioning.
- **Mental health problems** can affect a person’s thoughts, body, feelings, and behaviour. These problems can be severe and seriously interfere with a person’s life. Mental health problems include depression, bipolar disorder, attention-deficit/hyperactivity disorder, anxiety disorders, and eating disorders.

Key issues

Stigma and social exclusion

Persons with intellectual disabilities and persons with mental health problems (hereafter persons with disabilities) are often treated in a similar way by society. They face stigmatisation and social exclusion. For centuries, they were kept away from mainstream society and, still today, it is estimated that more than a million adults and children with disabilities are living in institutions in the European Union.

As well as sometimes being denied the right to choose where and how to live, these individuals may be denied basic rights that other EU citizens enjoy, such as the right to vote.

For these reasons, the FRA has chosen to look at the fundamental rights situation of these two groups of individuals.

“Even if I cannot speak, it does not mean I have nothing to say”

(Interviewee with an intellectual disability in a FRA study)

‘Subjects’ with rights, not ‘objects’ of charity

The UN CRPD represents a paradigm shift in the way disability is conceptualised: persons with disabilities are no longer considered unable to play an active role in society. Nor are they viewed as in need of ‘fixing’ to fit in. Instead, their capacity is recognised and emphasis is placed on society’s need to adapt to facilitate the full participation of these individuals.

One in every four European adults is affected by mental health problems (European Commission, 2008)

The UN CRPD was written with and by persons with disabilities, in line with the slogan of the disability movement: “Nothing about us without us”.

This emancipatory philosophy guides the FRA work in the area of disability.

The voice of persons with disabilities

Recognising and emphasising the ability and capacity of persons with disabilities, the FRA disability project sets out to collect the views of these individuals on key aspects of their lives. Data is collected through in-depth interviews and focus groups, ensuring the active participation of user-researchers and self-advocates.

The rights to choose how and where to live, to be treated equally and to make decisions that have legal consequences

The FRA research will focus on areas that have been identified together with persons with disabilities, research partners and decision-makers as being of particular importance.

Focus areas include:

- › **access to justice** (Article 13 UN CRPD);
- › **accessibility** (Art 9 UN CRPD);
- › **independent living** (Article 19 UN CRPD);
- › **involuntary treatment and involuntary placement** (Articles 14 and 15 UN CRPD);
- › **legal capacity** (Article 12 UN CRPD);
- › **political participation** (Article 29 UN CRPD).

The FRA will publish a guide on how to conduct inclusive research in 2012.

The law

The FRA research will look at the legal provisions in the 27 EU Member States in the focus areas listed above. Reference will be made to the relevant UN and European standards, as well as to EU law. The situation in the different EU Member States will be compared.

The lives

The research will also look at how the rights of persons with disabilities are respected in practice in each of the 27 Member States.

In addition, fieldwork will be carried out in nine Member States – Bulgaria, France, Germany, Greece, Hungary, Latvia, Romania, Sweden and the United Kingdom – in early 2011. Focus groups will bring together persons with disabilities and actors who impact heavily upon their lives, such as carers and personal assistants.

The research results will be published in the course of 2011 and 2012.

Evidence-based advice

The research results will feed into policymaking both within the EU institutions – such as the European Commission and the European Parliament – and at national level. The results will assist the many actors involved in ensuring that the UN CRPD is implemented.

In this way, law, policy and the effective implementation of the UN CRPD will be shaped by evidence gained from the ground, and the voices of persons with disabilities will be at the forefront of decision-making.

Persons with disabilities are at the centre of the project, but many other actors will help shape, execute and evaluate it.

Further information

For a copy of this factsheet in Easy Read format, please contact disability@fra.europa.eu or phone +43 158030 869.

An overview of FRA activities in the field of disability is available online at:
fra.europa.eu/fraWebsite/disability/disability_en.htm