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FRA opinions
30 January – In Enver Sahin v. Turkey (No. 23065/12) the European Court of Human Rights (ECHR) rules that Turkish courts failed to adequately assess the suitability of reasonable accommodation offered by a university to a student with a disability, in violation of Article 2 Protocol 1 (right to education) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights (ECHR).

February

March

9 March – CRPD Committee adopts General Comment No. 6 on Article 5 (equality and non-discrimination) of the CRPD.

23 March – Human Rights Council adopts a resolution on equality and non-discrimination of persons with disabilities and the right of persons with disabilities to access to justice.

29 March – In Mental Disability Advocacy Center (MDAC) v. Belgium (No. 109/2014), the European Committee on Social Rights finds that Belgian education policy violates the right of children with intellectual disabilities to social integration (Article 15 (1) of the European Social Charter (ESC)) and social protection (Article 17 (2) of the ESC).

April

16 April – CRPD Committee publishes concluding observations on the initial report of Slovenia.

May

June

1 June – Parliamentary Assembly of the Council of Europe adopts a resolution on detainees with disabilities in Europe.

July

16 July – UN Special rapporteur on the rights of persons with disabilities publishes a report on the right to health.

August

September

21 September – CRPD Committee adopts General Comment No. 7 on Article 4.3 and 33.3 (participation with persons with disabilities in the implementation and monitoring) of the CRPD.

October

17 October – CRPD Committee publishes concluding observations on the initial report of Malta.

19 October – CRPD Committee publishes concluding observations on the initial report of Bulgaria.

25 October – In Delecotille v. France (No. 337646/13), the ECtHR finds no violation of Article 12 (right to marry) of the ECHR, stating that any limitations on the right to marry resulting from domestic legislation of Contracting States could not restrict this right in a manner which would impair its very essence and cannot be arbitrary or disproportionate.

29 October – CRPD Committee publishes concluding observations on the initial report of Poland.

30 October – In S.S. v. Slovenia (No. 40938/16), the ECtHR finds no violation of Article 8 (right to respect for family life) of the ECHR by the withdrawal of the parental rights of the applicant suffering from paranoid schizophrenia as the measure had been motivated by an overriding requirement pertaining to the child’s best interests.

November

December
Eu

January

18 January – Court of Justice of the EU (CJEU) rules in case C-279/16 that Article 2 (2)(b)(i) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as precluding national legislation under which an employer may dismiss a worker on the grounds of his intermittent absences from work, even if justified, in a situation where those absences are the consequence of sickness attributable to a disability suffered by that worker, unless that legislation, while pursuing the legitimate aim of combating absenteeism, does not go beyond what is necessary in order to achieve that aim, which is a matter for the referring court to assess.

February

March

23 March – European Ombudsman finds that a complaint that the European Parliament’s positive action scheme for persons with a disability is unfair did not reveal any maladministration.

April

May

June

July

16 July – European Ombudsman issues recommendations stemming from her strategic inquiry OI/4/2016/EA against the European Commission on whether the treatment of persons with disabilities under the Joint Sickness Insurance Scheme complies with the CRPD.

25 July – Following a request for a preliminary ruling from the Finnish Supreme Administrative Court, the CJEU rules in case C-679/16 that a benefit such as personal assistance does not fall within the concept of ‘sickness benefit’, and that the home municipality of a severely disabled resident of a Member State cannot refuse to grant that person personal assistance on the ground that he is staying in another Member State in order to pursue his higher education studies there.

August

September

19 September – In Bedi v. Bundesrepublik Deutschland and Bundesrepublik Deutschland in Prozessstandschaft fur das Vereinigte Konigreich von Grossbritannien und Nordirland (C-312/17), the CJEU rules that the prohibition of indirect discrimination precludes a provision in a collective agreement that requires the payment of bridging assistance to cease once a worker becomes entitled to early payment of a retirement pension for severely disabled persons, as this puts workers without disabilities in a position to earn more income than their counterparts with disabilities.

October

1 October – EU ratifies the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled.

November


29 November – European Parliament adopts a resolution on the situation of women with disabilities.

December

14 December – In its joint inquiry into complaints 1337/2017/EA and 1338/2017/EA on the accessibility for visually impaired candidates of selection procedures organised by the European Personnel Selection Office (EPSO), European Ombudsman finds that while EPSO has made efforts to improve accessibility of its selection procedures, the delay in fulfilling its commitment to deliver a new online application form meeting accessibility requirements constitutes maladministration.
Ten years after the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) entered into force, the convention reached ratification by all EU Member States in 2018. At EU level, the provisional agreement by the European Parliament and the Council on the proposed European Accessibility Act marked a milestone in action to implement the CRPD. Alongside steps to guarantee the rights of persons with disabilities in the EU funding instruments for the Multiannual Financial Framework 2021-27, this illustrated how the CRPD is influencing EU law and policy in concrete ways. Nationally, gaps still remained in both CRPD implementation and monitoring. Nevertheless, initiatives in a number of Member States to involve persons with disabilities and their representative organisations in decision-making processes indicated gradual progress in attaining one of the CRPD’s key goals.

10.1. The CRPD and the EU: progress on key legislative files

Falling between the end of the reporting cycle for the EU’s first review by the CRPD Committee and the start of preparations for the second review, 2018 was an opportunity to focus on key legislative initiatives to implement the CRPD. Significant progress was made in two long-standing areas of focus for EU action to implement the convention: accessibility and independent living.

10.1.1. Concrete steps forward in improving accessibility

Nearly three years after it was proposed by the European Commission, on 8 November the European Parliament and the Council came to a provisional agreement on the draft European Accessibility Act (EAA). The provisional agreement reflects the intense negotiations between the EU institutions. Both the Council and the European Parliament made suggestions for elements to add and take out of the draft legislation, as FRA detailed in the 2018 Fundamental Rights Report.

“The European Accessibility Act establishes the world’s largest market for accessible products and services. This will have a positive impact on the lives of more than 80 million Europeans with disabilities. It will also make it easier and more attractive for businesses to sell accessible products and services in the European Union and abroad.”

Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills and Labour Mobility, Making key products and services accessible across the EU: Statement following the provisional agreement between the EU institutions, 8 November 2018

The agreed text sets common accessibility requirements for products and services including: computers, smartphones, banking services, payment and self-service terminals, e-books and e-readers, access to audiovisual media services, and the 112 emergency number. However, it retains some of the exclusions that emerged during the negotiations. It does not cover household appliances or the physical accessibility of transport services, for example, while the provisions concerning the built environment are not binding on Member States. Instead, to make the built environment progressively more accessible, Member States are encouraged to align their diverging requirements as much as possible. In addition, microenterprises providing services do not need to meet the Act’s minimum requirements. This prompted criticism from civil society organisations that the EAA
“leaves out the real world environment where persons with disabilities live.” The agreed text now moves forward for final adoption by the European Parliament and Council. Section 10.2.4 looks at accessibility-related developments at the national level, many of which go beyond the scope of the proposed EAA.

Other actions also focused on the accessibility of information and communication. September marked the transposition deadline for the Web Accessibility Directive, which was adopted in 2016. The directive outlines accessibility requirements to make the websites and mobile apps of public sector bodies more accessible. Importantly, it also requires regular monitoring and reporting on accessibility by Member States. This is reflected in the Portuguese law transposing the directive, for example, which provides for the creation of an Observatory of Websites and Mobile Applications’ Accessibility to assess whether public bodies are complying with the new standards. Persons with disabilities can file a complaint if they come across inaccessible websites or mobile apps. The law transposing the directive in Greece also provides for regular reporting. It requires the Minister of Digital Policy, Telecommunications and Media to submit to parliament an annual report setting out the compliance of public sector bodies with the directive. Before its submission, the report must be open for public consultation for at least 15 days.

Several Member States took the opportunity to go beyond the minimum standards set out in the directive in their transposition legislation. The Swedish parliament approved a proposed law that will see digital services provided by the public sector through technical solutions offered by a third operator be subject, to the extent possible, to the same standards as those provided by public bodies. It will also cover private actors engaged in professional activities with public funding, including: preschools, schools, and the healthcare and social care sectors. Similar proposals to include private schools and day-care services were made during parliamentary discussions of the proposed transposition legislation in Denmark. However, these suggestions were rejected and do not feature in the bill adopted by the parliament unanimously in May.

Another step to realise earlier commitments was the Council’s decision in February approving the conclusion of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled. This followed on from the 2017 ruling by the Court of Justice of the EU that the EU has exclusive competence to conclude the treaty. Subsequent to the Council’s decision, the EU ratified the treaty on 1 October 2018; it will enter into force for the EU as of 1 January 2019. A directive and regulation to implement the treaty’s provisions by introducing a new mandatory exception to copyright rules are already in place: Member States had to transpose these instruments into national law by October 2018.

### FRA ACTIVITY

#### Making FRA publications accessible for persons with intellectual disabilities

The CRPD requires that information is made accessible to persons with disabilities, irrespective of their type of impairment. As part of FRA’s efforts to ensure that its work is accessible, the agency published a number of easy-read reports in 2018.

FRA released easy-read versions of its series of three reports on different aspects of deinstitutionalisation for persons with disabilities across the EU in March. They look at:

- what the EU and the 28 Member States have agreed to do to move people with disabilities from living in institutions to living in their local community with support;
- the money that is needed to make this move; and
- the lives of people with disabilities who are living independently in their local community.

In December, the agency published easy-read country reports presenting the results of FRA’s fieldwork on drivers and barriers of deinstitutionalisation in Bulgaria, Finland, Ireland, Italy and Slovakia. Each report is available in English and the respective national language.

*All of FRA’s easy-read publications are available on the agency’s website.*

### 10.1.2. Negotiations to ensure EU funds support deinstitutionalisation continue

A second set of significant developments illustrate how the rights of persons with disabilities are integrated into non-disability specific legislation. The European Commission published its proposals for the regulations governing the European Structural and Investment Funds (ESIF) for the 2021-2027 period in May. ESIF are the EU’s main financial instruments for investing in job creation and a sustainable and healthy European economy and environment. They are also a crucial source of funding for efforts to promote independent
living for persons with disabilities, including through the transition from institutional to community-based support, as FRA research has consistently shown. However, evidence indicates that in a number of cases EU funds have been used to construct new institutions or renovate existing ones. This has prompted a strong focus in negotiations on the rules governing the next funding period on how to prevent a misuse of the funds.

The Commission proposals for the common provisions regulation and the specific regulations for the individual funds include several encouraging steps to ensure that the funds support deinstitutionalisation. Firstly, the draft common provisions regulation replaces the ex-ante conditionalities from the current programming period with so-called ‘enabling conditions’. While fewer in number, these conditions are more focused and aligned with EU priorities and policy objectives. In addition, rather than serving as a precondition at the onset of the funding period, as was the case with the ex-ante conditionalities, they should be fulfilled and applied throughout the implementation period and monitored regularly. Importantly, the proposed thematic enabling conditions applying to the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF) retain the specific provision on the transition from institutional to community-based ‘care’ included as an ex-ante conditionality in the 2014-2020 period.

Secondly, the proposal for the common provisions regulation strengthens the role of monitoring committees. Their functions explicitly include examining the fulfilment of enabling conditions throughout the programming period. Supplementing the existing requirement for monitoring committees to include a range of actors including civil society organisations and disabled persons’ organisations, the new draft regulation includes a reference to fundamental rights bodies such as national human rights institutions, equality bodies and ombuds institutions. This, however, requires allocating to these different actors the necessary financial and human resources to ensure they have the institutional capacity to perform this role. In this regard, Member States and relevant national authorities could find it useful that the European Commission, with the contribution of agencies such as FRA, provides technical assistance to build the capacities of monitoring committees.

At the level of individual funds, the ESF+ proposal contains a strengthened commitment to promoting deinstitutionalisation. Article 6 on equality between men and women and equal opportunities and non-discrimination states that ESF+ “shall support specific targeted actions […] including the transition from residential/institutional care to family and community-based care”. By covering all EU Member States, this goes beyond the current regulation, which focused on countries with identified needs for deinstitutionalisation activities. However, the proposed ERDF regulation no longer includes transition from institutional to community-based support as an investment priority. Civil society organisations have called for this to be reinstated, along with an explicit prohibition on investments in services and infrastructures that lead to segregation or social exclusion of persons with disabilities, including funding the renovation or construction of institutions.

Following the publication of the Commission’s proposals, the legislative procedure moves to the European Parliament and Council. A large number of European Parliament committees provided opinions on the draft proposals, many of which highlighted the need to add additional references to persons with disabilities and strengthen provisions on accessibility.

The co-legislators indicated that they would like to achieve adoption of the package in early 2019.

10.2. The CRPD in EU Member States: bringing people with disabilities into decision-making processes

Ten years after the entry into force of the CRPD, 2018 saw the convention reach full ratification in the EU when, on 20 March, Ireland became the last Member State to ratify it. Ireland, a further five Member States (Bulgaria, Czechia, the Netherlands, Poland and Romania), and the EU itself have not, however, ratified the Optional Protocol to the CRPD, which allows the CRPD Committee to handle complaints and set up inquiries relating to CRPD implementation.

While the ratification of the convention by all Member States and the EU itself represents a major milestone, gaps persist between the promise of the convention and reality on the ground.

The agency’s past Fundamental Rights Reports have highlighted the role of two drivers of legal and policy changes in EU Member States to implement the CRPD: guidance from the CRPD Committee, and the growing body of national and European case law referring to the convention. These factors continued to spur reform processes in 2018.
Guidance from the CRPD Committee came particularly in the form of two general comments looking at equality and non-discrimination (Article 5 of the convention); and participation of persons with disabilities in the implementation and monitoring of the convention (Articles 4 (3) and 33 (3) of the convention). Both address core, cross-cutting principles that underpin all other convention rights. Protecting against discrimination on the grounds of equality has been a recurrent theme of Member State action on the rights of persons with disabilities (see Chapter 3). However, the requirement to ensure the full and active participation of persons with disabilities in decision-making processes represents one of the most important advances of the CRPD. The involvement of persons with disabilities in these processes at the national level in 2018 indicates gradual progress in realising this obligation. Nevertheless, as the concluding observations on the four Member States reviewed by the CRPD Committee in 2018 signal, more work is needed (see Table 10.1).

Table 10.1: CRPD Committee reviews in 2018 and 2019, by EU Member State

<table>
<thead>
<tr>
<th>Member State</th>
<th>Date of submission party’s report (combined second and third periodic report, unless stated)</th>
<th>Date of publication of list of issues (prior to reporting on combined second and third periodic report, unless stated)</th>
<th>Date of publication of concluding observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT</td>
<td>1 October 2019</td>
<td>12 October 2018</td>
<td></td>
</tr>
<tr>
<td>BE</td>
<td>2 August 2019</td>
<td>March 2019</td>
<td></td>
</tr>
<tr>
<td>BG</td>
<td>23 July 2014 (initial report)</td>
<td>21 September 2017 (initial report)</td>
<td>22 October 2018</td>
</tr>
<tr>
<td>CZ</td>
<td>28 October 2019</td>
<td>March 2019</td>
<td></td>
</tr>
<tr>
<td>DE</td>
<td>24 March 2019</td>
<td>21 September 2018</td>
<td></td>
</tr>
<tr>
<td>DK</td>
<td>April 2020</td>
<td>April 2019</td>
<td></td>
</tr>
<tr>
<td>EE</td>
<td>4 December 2015 (initial report)</td>
<td>April 2019 (initial report)</td>
<td></td>
</tr>
<tr>
<td>EL</td>
<td>1 June 2015 (initial report)</td>
<td>April 2019 (initial report)</td>
<td></td>
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<tr>
<td>ES</td>
<td>3 May 2018</td>
<td>12 April 2017</td>
<td></td>
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<tr>
<td>HU</td>
<td>30 April 2018</td>
<td>12 April 2017</td>
<td></td>
</tr>
<tr>
<td>MT</td>
<td>10 November 2014 (initial report)</td>
<td>24 April 2018 (initial report)</td>
<td>17 October 2018</td>
</tr>
<tr>
<td>NL</td>
<td>12 July 2018 (initial report)</td>
<td>25 April 2018 (initial report)</td>
<td>29 October 2018</td>
</tr>
<tr>
<td>PL</td>
<td>24 September 2014 (initial report)</td>
<td>12 October 2018</td>
<td></td>
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<tr>
<td>SE</td>
<td>1 October 2019</td>
<td>10 October 2017</td>
<td></td>
</tr>
<tr>
<td>SI</td>
<td>18 July 2014 (initial report)</td>
<td>10 October 2017</td>
<td></td>
</tr>
</tbody>
</table>

Note: Shaded cells indicate review processes scheduled for 2019.
Source: FRA, 2019 [using data from OHCHR]
Developments in the implementation of the Convention on the Rights of Persons with Disabilities

FRA ACTIVITY

Identifying drivers and barriers of deinstitutionalisation for persons with disabilities

In December, FRA published the final reports stemming from its multiannual project on the right to independent living. This final set of publications focused on drivers and barriers of deinstitutionalisation processes, drawing on the findings of qualitative fieldwork in five EU Member States (Bulgaria, Finland, Ireland, Italy and Slovakia). FRA held interviews and focus groups with a wide range of actors involved in deinstitutionalisation processes at the national and local level, including: staff and managers of institutional and community-based services, staff of other services available to the public, national and local officials and policy-makers, disabled persons’ organisations, persons with disabilities and their families, and members of the local community.

FRA published:
- the report From institutions to community living for persons with disabilities: perspectives from the ground;
- a summary of the report in English, Bulgarian, Finnish, Italian and Slovakian;
- national case study reports presenting the findings from the five countries where fieldwork took place in English and the respective national language;
- easy-read national case study reports in English and the respective national language;
- an infographic presenting the five essential features of successful deinstitutionalisation; and
- a video highlighting some of the main findings of the research.

For more information, see the project webpage on FRA’s website.

In terms of policy areas, steps to achieve the right to live independently and be included in the community, as set out in Article 19 of the CRPD, remained a focus of national legal and policy reforms. In December, FRA published the results of its fieldwork on drivers and barriers of deinstitutionalisation for persons with disabilities (see FRA activity box). The five essential features of successful deinstitutionalisation processes identified in the research offer a framework to look at some key national developments (see Figure 10.1).
10.2.1. Setting a framework for action through disability strategies

Disability strategies can be a powerful statement of commitment, if supported by clear objectives, timelines, resources and monitoring provisions, as previous Fundamental Rights Reports attest. Four Member States adopted strategies or action plans linked to CRPD implementation in 2018 (see Table 10.2). Among these, the Finnish National Action Plan on the CRPD for 2018-2019 showcases some of the ways persons with disabilities can be involved in preparing and developing such policy documents (see promising practice). 28

In cases where strategies are not in place, disabled persons’ organisations (DPOs) and persons with disabilities took action to demand them. In September, 60 organisations, including the Danish Institute for Human Rights and Disabled People’s Organisations Denmark, sent a letter to the Minister of Children and Social Affairs, encouraging the minister to produce a national disability action plan. 29 The letter calls for an action plan that would cover all types of disability, is based on the CRPD, contains measurable goals and produces a body of statistical data in the area of disability. In Poland, persons with disabilities staged a long-term protest in parliament over gaps in support for persons with disabilities and their families. In response, the Ministry of Family, Labour and Social Policy published a roadmap towards building a support system for persons with disabilities and announced that it will be discussed and consulted with persons with disabilities and DPOs. 30

<table>
<thead>
<tr>
<th>Member State</th>
<th>Strategy or action plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>LT</td>
<td>Action plan regarding social participation in society of people with hearing loss 2018-2020 (Dėl Klausos negalią turinčių asmenų socialinio dalyvavimo visuomenėje 2018-2020 metų veiksmyų plano patvirtinimo)</td>
</tr>
<tr>
<td>NL</td>
<td>Programme Unlimited participation: Implementation of the UN Convention on the Rights of Persons with Disabilities (Programma Onbeperkt meedoen - Implementatie VN verdrag handicap) Action plan for accessibility of construction (Actieplan Toegankelijkheid voor de bouw)</td>
</tr>
<tr>
<td>UK – Scotland</td>
<td>A Fairer Scotland for Disabled People: employment action plan</td>
</tr>
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</table>

Promising practice

Involving persons with disabilities in policymaking

The Finnish National Action Plan on the CRPD for 2018-2019 was prepared in the framework of the Advisory Board for the Rights of Persons with Disabilities with participation of representatives from DPOs, labour market organisations and ministries. In addition, DPOs and persons with disabilities were consulted to identify the focus areas to be promoted during the implementation period. The plan emphasises four cross-cutting themes: participation, equality, awareness and knowledge, and accessibility.


On the initiative of the Civil Coalition in Hungary, the Thematic Working Group responsible for the Rights of Persons Living with Disabilities of the Human Rights Roundtable held six meetings in 2017 and 2018 on the better implementation of CRPD in five areas: education, social and supporting services, civil and political rights, employment, health care. Following these meetings, the Thematic Working Group adopted a package of proposals to promote the rights of persons with disabilities, which was forwarded to the National Disability Council and the Inter-ministerial Committee on Disability issues. These consultations enabled the proposals of NGOs to be reflected in the new action plan to the National Disability Programme.

For more information, see the website of the Human Rights Working Group.

Table 10.2: Strategies and action plans relevant to the CRPD adopted in 2018, by EU Member State

Source: FRA, 2019
Developments in the implementation of the Convention on the Rights of Persons with Disabilities

DPO-led advocacy also extended beyond disability-specific action plans. In February, the Belgian National High Council for people with disabilities, which works at the federal level on issues affecting the lives of persons with disabilities, issued an own-initiative opinion on the country’s 2017 National Reform Plan. The opinion set out the High Council’s concerns about challenges faced by persons with disabilities in the areas of employment, education, pensions and poverty.

10.2.2. Improving attitudes towards persons with disabilities

Changing long-standing beliefs that persons with disabilities should be ‘looked after’ and ‘cared for’ is a key component of achieving independent living. Several Member States took action to cement the rights-based approach to disability enshrined in the CRPD. This was often prompted by or in cooperation with civil society organisations.

Following a request from the European Centre for the Rights of Children, the Romanian Audiovisual Council agreed that all television and radio stations will carry a public interest message promoting inclusive education. The segments highlight that children with disabilities have the same rights as other children to study in any school. A civil society project funded by the Swedish Public Inheritance Fund has a wider scope. It aims to ensure that a disability perspective is incorporated in work to implement the 2030 Agenda for Sustainable Development (for more information on the 2030 Agenda, see Chapter 1). Through short films and manuals, it targets municipalities, county councils and businesses working with the 2030 Agenda, as well as helping to increase the capacity of persons with disabilities to bring their lived experience to these discussions.

In the most serious cases, negative attitudes towards persons with disabilities can be expressed as hate speech. In January, the Lithuanian parliament amended the Law on the Provision of Information to the Public to include disability as a ground. The amendment prohibits publishing in the media information which instigates hatred, ridicule, humiliation, discrimination or violence towards a group of people or a person belonging thereto. For more information on hate crime and hate speech see Chapter 4.

10.2.3. Working towards CRPD implementation at the regional and municipal level

FRA’s fieldwork in five Member States underlined that much of the work to achieve independent living is done at the local level. This requires cooperation between the various actors involved in planning and implementing the necessary steps at the local level, as well as between different levels of government. Under Article 4 (3) of the CRPD, this must include persons with disabilities and their representative organisations. The 2017 Fundamental Rights Report showcased several initiatives to strengthen the role of municipalities in CRPD implementation. This emerging trend of ‘going local’ continued in 2018.

To promote accessibility, the German Federal Ministry of Labour and Social Affairs launched the Inclusive Social Space Initiative in July. It includes organising two regional conferences each year between 2019 and 2021 to discuss issues such as barrier-free mobility, accessible housing, care institutions and cultural services with stakeholders at the municipal level. A cross-cutting theme will be how persons with all types of impairment can participate in the planning and design of inclusive social space. On the same topic, a local example is the city of Konin in Poland, which appointed a universal design officer responsible for monitoring and issuing opinions on the accessibility of new building projects and public infrastructure for persons with disabilities.

Promising practice

Counteracting negative stereotypes of persons with disabilities

In Italy, the civil society organisation Disability Pride Italia has organised a street parade to raise awareness of the rights of persons with disabilities each year since 2016. The event is an opportunity to increase the visibility of persons with disabilities, as well as to counteract negative stereotypes and prejudices. Events are organised alongside the street parade to highlight different elements of the CRPD. Similar events take place in other Member States.

For more information, see the website of Disability Pride Italia.
At a more systematic level, Finland has had legislation requiring municipalities to establish a disability council since 2015. Persons with disabilities, their families and representative organisations must be represented in the councils. In December, the Advisory board for the rights of persons with disabilities – the coordinating mechanism under Article 33 (1) of the CRPD – organised its annual conference for the municipal disability councils. It focused on participation and disability services, with representatives of the councils presenting good practices from their work.

10.2.4. Ensuring the availability and accessibility of services for persons with disabilities

One of the biggest barriers to achieving independent living is the lack of appropriate services for persons with disabilities. In some cases, a range of individually tailored, freely-chosen specialist support is not available. In others, general services – including those available to the public – are not accessible for persons with disabilities. DPOs have a role to play in the design, delivery and monitoring of such services.

Several Member States took steps to address the lack of personalised support in 2018. In Slovakia, amendments to the Act no. 447/2008 Coll on financial benefits to compensate severe forms of disability were approved in June and entered into force on 1 July. The most important changes include the increase in benefits to pay for personal assistance, and that personal assistance cannot be linked to the type and degree of disability or the beneficiary’s income. Personal assistance is the only type of community support service specifically mentioned in Article 19 of the CRPD, and access to it is particularly important for achieving independent living. Activities in Ireland focused on a broader range of services as part of actions under the Service Reform Fund. Using funding allocated in late 2017 to reform disability services, 2018 provided the opportunity for consortia including people with disabilities, family members, services providers and community groups, to apply for grants. In addition, consultations with service users and providers aimed to develop reasonable and sustainable plans to reconfigure services.

Access to services is also an area where jurisprudence is helping to clarify how CRPD principles translate into service provision at the national level. In January, the Czech Constitutional Court ruled on a case concerning a person with a severe impairment whose family argued that regional and municipal authorities had failed to take targeted and concrete steps towards securing accessible social services for him. The Constitutional Court rejected the conclusion of the Supreme Administrative Court that the Act on Social Services does not give rise to any right on the part of individual persons to provision of services. Instead, it concluded that the Act “imposes a duty on the regions to ensure that within their territory persons in difficult social circumstances have access to adequate social services and grants these persons, including people with disabilities, the corresponding right to have access to these social services. This right is reflective of more general fundamental rights, such as the right to an independent way of life and to participate in society (Article 19 of the CRPD)”.

“They can move out into normal society but societies are not ready for people to live in. Basically from the transport service to accepting people into the workforce and suitable accommodation […] lots of things are not suitable to integrate people with disabilities as equal members of society.”

Ireland, person with a physical disability interviewed as part of FRA’s fieldwork research

Other Member States introduced measures to make services more accessible. They focused in particular on where these services are provided: namely public and private buildings. As the requirements on physical accessibility in the EAA are not obligatory, this also highlights how Member States can extend their domestic legislation beyond the minimum standards set out in EU law.

A few examples show the range of possible approaches to increasing the accessibility of buildings. They also indicate how accessibility measures often incorporate a number of exceptions. Cyprus and Estonia took steps in the form of regulations. Amendments to the Cypriot Streets and Buildings Regulation introduced a requirement for designers to ensure that designs submitted for approval are accessible and safe for all, including persons with disabilities. However, compliance with the regulations is optional for protected areas of historical buildings and monuments, residences and blocks of flats of up to four housing units. The Netherlands adopted an action plan on accessibility in housing and public buildings, aimed in particular at raising awareness within the building industry. Its provisions apply first on a voluntary basis, but formal regulations may follow at a later stage should voluntary participation not result in sufficient progress. The Latvian approach consisted of developing guidelines on the accessibility of public buildings. The guidelines summarise legal provisions
on environmental accessibility for persons with disabilities and relevant expert recommendations.47

Here, too, jurisprudence is giving guidance on what implementing the CRPD means in practice. The Latvian Supreme Court assessed the case of a wheelchair user who could not enter three different medical facilities due to a lack of appropriate ramps.48 In its ruling, the court stated that, according to Article 111 of the Constitution of Latvia and the CRPD, the state and its bodies must ensure access to medical care to persons with disabilities and that such access is in line with the principle of personal independence. It awarded compensation of EUR 427 for the claimant’s suffering and humiliation, and upheld the ruling that the health inspectorate had to issue a decision to require the facilities to adjust the buildings.

**Promising practice**

**Identifying accessible services and facilities**

The French civil society organisation Jaccede runs a website and app for collecting information on the accessibility of different establishments open to the public. Anyone can add information about how accessible shops, restaurants, hotels and other buildings are. In addition to France, it covers a number of cities in Europe and the rest of the world, and is available in five European languages. The organisation also organises events to enable members to meet, raise awareness among the general public and further develop the platform.

For more information, see Jaccede’s website.

**10.2.5. Providing tools to guide implementation of independent living**

Translating the principles of autonomy, choice and control into practice is challenging. Guidance, whether in the form of training or other tools, helps practitioners to apply law and policy to the realities they experience in their daily work. The Romanian National Authority for Persons with Disabilities published a methodology for restructuring residential centres for adults with disabilities in November, following a public consultation.49 It aims to instil a beneficiary-focused approach with individual development plans for every resident and a mapping of their specific needs. Specific annexes include questionnaires and templates for identifying individuals’ needs that can be used in deinstitutionalisation processes. The Croatian Ministry for Demography, Family, Youth and Social Policy in cooperation with the Faculty of Education and Rehabilitation Sciences provided guidance in the form of training on the sexuality of persons with disabilities.50 It organised trainings for employees of 24 social welfare institutions regarding improvement of rights of persons with disabilities, with an emphasis on the basic provisions of the CRPD and the measures set out in the national disability strategy.

Another source of guidance is the findings of monitoring activities. The Italian National Authority for the Protection of People who are Detained or Deprived of their Personal Freedom started in 2017 to monitor the respect of fundamental rights of people with disabilities living in hospital institutions. In

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**Figure 10.2: What people with disabilities say about moving to live in the community**

“*I’m a new girl now, I know what I want and everything.*”
(Claire, Ireland)

“*What is a good living situation? When you can decide things by yourself, that is a good living situation.*”
(Mikko, Finland)

“I have a life. […] Having a house feels like I won the lottery.”
(Romeo, Italy)

“We had no [financial] resources, no freedom to buy something, to go out; we stayed locked. And now we feel free!”
(Ivan, Bulgaria)

“I am particularly happy about being able to make my own plans, decisions and choices, especially over the weekends.”
(Paul, Slovakia)

Note: All names are pseudonyms.
Source: FRA, 2018
February 2018, it presented preliminary results of its monitoring work, which showed: a lack of consistent and structured statistical data concerning the people with disabilities accommodated in these facilities, their capacity and the types of assistance and services they provide; and very diverse regional regulations covering these facilities, including different definitions of disability. Each monitoring visit is followed by a report including recommendations on how to improve living conditions in the facility.

10.3. More work needed to make CRPD monitoring participatory

For the Members of the EU Framework to promote, protect and monitor implementation of the CRPD (EU Framework), 2018 was an opportunity to take stock of its ways of working and focus on activities to implement the Framework’s 2017-2018 work programme. In October, the European Ombudsman took on the rotating role as chair of the Framework; FRA remains the Framework’s secretariat.

In terms of activities, the Framework held its second meeting with the European Commission in its role as the EU’s focal point for CRPD implementation in April. The meeting was an opportunity to share updates on recent work as well as to ensure reciprocal participation in relevant events. One of these was the annual meeting between the EU Framework and the national monitoring mechanisms, held in May alongside the European Commission’s Work Forum. This year’s meeting focused on two important issues of mutual relevance: political participation in the context of the 2019 European Parliament elections and participation of persons with disabilities in the implementation and monitoring of the convention. The latter point allowed participants to discuss and share ideas for input to the finalisation of the CRPD Committee’s general comment on Article 4 (3) and Article 33 (3) of the convention. Looking ahead, the Framework worked on preparing its 2019-2020 work programme.

At the national level, 2018 saw a number of changes to the bodies designated under Article 33 of the convention. A bill in Bulgaria indicated for the first time which structures will fulfil functions under Article 33 (1) and 33 (2). It appoints the Minister of Labour and Social Policy to act as coordination mechanism, and creates the Council for Oversight as the monitoring framework. Amendments adopted in Lithuania in December will see the establishment of a new Commission for the monitoring of the rights of persons with disabilities, which will take over monitoring duties from the Office of the Equal Opportunities Ombudsperson as of 1 July 2019. In Estonia, the Chancellor of Justice will monitor CRPD implementation from 1 January 2019 onwards. Its budget will be increased to perform this task.

Turning to the functioning of Article 33 (2) frameworks, recent Fundamental Rights Reports have indicated several recurring challenges, including: ensuring a clear legal basis, providing sufficient financial and human resources, establishing and maintaining independence, and adequately involving persons with disabilities and their representative organisations. These issues continued to dominate developments in 2018:

- **Legal basis:** After a multi-year discussion process between the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection and the Independent Monitoring Committee, the federal monitoring committee has a new legal basis. It now has an independent budget and independent personnel. In addition, the Association for the Support of the CRPD Monitoring Committee was founded to enhance the monitoring committee’s independence, as well as undertake administrative tasks previously carried out by the ministry.

- **Resources:** the Slovenian monitoring body reported that it is still yet to receive its own funding and staff. More positively, the Croatian Ombudsperson for persons with disabilities established its first regional office in November.

- **Independence:** in April, the president of the Romanian Senate’s Committee for equal opportunities criticised the politicisation of the Council for monitoring implementation of the CRPD. He also expressed concern about the lack of work done by the council and insufficient cooperation with non-governmental organisations.

- **Involvement of persons with disabilities:** one of the first activities of the Irish monitoring body following the country’s ratification of the CRPD in March was to take steps to bring persons with disabilities into its formal structure. It opened a recruitment process for its advisory committee, indicating that at least half of the members will be persons with disabilities. The Scottish monitoring framework in the United Kingdom gives an example of how to involve DPOs in the CRPD Committee review process. It organised a conference with two DPOs. Over 120 persons attended, including many persons with disabilities, and gave their view on the CRPD Committee’s concluding observations and how they should be followed up. The report of the event was sent to the Scottish Minister for Older People and Equalities along with a letter expressing disappointment that no one from the Scottish government attended.
Developments in the implementation of the Convention on the Rights of Persons with Disabilities

FRA opinions

EU Structural and Investment Funds (ESIF) play an important role in supporting national efforts to achieve independent living. The proposed regulations for the 2021-27 funding period include important fundamental rights guarantees, in particular the so-called enabling conditions and the stronger role for monitoring committees. Civil society, including disabled persons’ organisations and national human rights bodies, can play an important role in the effective monitoring of the use of the funds.

FRA opinion 10.1

*The EU and its Member States should ensure that the rights of persons with disabilities enshrined in the CRPD and the EU Charter of Fundamental Rights are fully respected to maximise the potential for EU Structural and Investment Funds (ESIF) to support independent living. In this regard, the EU legislator should adopt the new enabling conditions establishing the effective application and implementation of the EU Charter of Fundamental Rights and the CRPD, as laid down in the Common Provisions Regulation proposed by the European Commission for the Multiannual Financial Framework 2021-2027. To enable effective monitoring of the funds and their outcomes, the EU and its Member States should take steps to include disabled persons’ organisations and national human rights bodies in ESIF monitoring committees. Allocating human resources and adequate funding to these organisations and bodies, and earmarking EU resources for that purpose, will bolster the efficiency of the proposed enabling conditions.*

The EU and many Member States took steps to bring persons with disabilities into the law- and policy-making process, in line with their obligations under Article 4 (3) of the CRPD. However, persons with disabilities are still often not consulted or actively involved, as the convention requires. A lack of formal structures to ensure systematic participation, as well as a lack of human and financial capacity to participate in consultations, can contribute to persons with disabilities being excluded from the design, implementation and monitoring of efforts to implement the convention.

FRA opinion 10.2

*EU institutions and EU Member States should closely engage persons with disabilities, including through their representative organisations, in decision-making processes. To this end, Member States and EU institutions should strengthen the involvement of disabled persons’ organisations (DPOs), including by setting up advisory or consultation bodies. Representatives of persons with disabilities should be full members of such bodies, on an equal basis with others, and have access to the resources necessary to participate meaningfully.*

Six Member States and the EU have not ratified the Optional Protocol to the CRPD, which allows individuals to bring complaints to the CRPD Committee and for the committee to initiate confidential inquiries upon receipt of “reliable information indicating grave or systematic violations” of the convention (Article 6).

FRA opinion 10.3

*EU Member States that have not yet become party to the Optional Protocol to the CRPD should consider completing the necessary steps to secure its ratification to achieve full and EU-wide ratification of its Optional Protocol. The EU should also consider taking rapid steps to accept the Optional Protocol.*

Only one Member State had not, by the end of 2018, established a framework to promote, protect and monitor the implementation of the convention, as required under Article 33 (2) of the CRPD. However, the effective functioning of some existing frameworks is undermined by insufficient resources, limited mandates, and a failure to ensure systematic participation of persons with disabilities, as well as a lack of independence in accordance with the Paris Principles on the functioning of national human rights institutions.

FRA opinion 10.4

*The EU and its Member States should consider allocating the monitoring frameworks established under Article 33 (2) of the CRPD sufficient and stable financial and human resources. As set out in FRA’s 2016 Opinion concerning the requirements under Article 33 (2) of the CRPD within an EU context, they should guarantee the sustainability and independence of monitoring frameworks by ensuring that they benefit from a solid legal basis for their work. The composition and operation of the monitoring frameworks should take into account the Paris Principles on the functioning of national human rights institutions.*
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