United Nations Convention on the Rights of Persons with Disabilities

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• Centre for Disability Law and Policy
• European YEARBOOK of Disability Law
• DOTCOM
Overview:

- Introducing the UN Convention on the Rights of Persons with Disabilities
- Article 27 on employment
- Irish ratification- where are we at/CRPD impact
- How to prepare


- Disability is a human rights issue.

- With the introduction of the UNCRPD a UN treaty became both specifically relevant to and enforceable by individuals on account of their disability status.

- The Convention does not create any new rights but interprets existing rights from a disability perspective.
158 signatories to the Convention since its opening for signature
147 ratifications and accessions to the Convention
92 signatories to the Optional Protocol since its opening for signature
82 ratifications and accessions of the Protocol

Convention marks a ‘Paradigm shift’

From object to subject

medical model → social model of disability

Disability is a result of societal barriers

Provides an authoritative model for governments to use in shaping national law and policies

The Convention has encouraged worldwide domestic law reform
Article 2 – Definitions

Article 3 - General principles

The principles of the present Convention shall be:

A. Respect for inherent **dignity**, individual **autonomy** including the freedom to make one’s own choices, and independence of persons;

B. **Non-discrimination**;

C. Full and effective **participation** and **inclusion** in society;

D. Respect for difference and acceptance of persons with disabilities as part of **human diversity** and humanity;

E. **Equality** of opportunity;

F. **Accessibility**;

G. Equality between men and women;

H. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.
• Article 4 - General obligations

• Article 5 - Equality and non-discrimination

  Article 8 - Awareness-raising  Article 9 - Accessibility  Article 10 - Right to life  Article 11 - Situations of risk and humanitarian emergencies  Article 12 - Equal recognition before the law  Article 13 - Access to justice  Article 14 - Liberty and security of person  Article 15 - Freedom of torture or cruel, inhuman or degrading treatment or punishment  Article 16 - Freedom from exploitation, violence and abuse  Article 17 - Protecting the integrity of the person  Article 18 - Liberty of movement and nationality  Article 19 - Living independently and being included in the community

• Articles 24 to 28 and Article 30 of the CRPD fall under the canon of economic, social and cultural rights, with Article 27 of the Convention focused on employment.

• Articles 33–39 govern reporting and monitoring of the Convention

• Articles 40–50 govern ratification, entry into force, and amendment of the Convention.

• Optional Protocol
The Conventions merges civil and political rights with the full spectrum of social, cultural, and economic measures in one international treaty.

A vision of seeing the persons, in their whole entirety, at the centre of any provision, indicating the realisation of the need to be both protected from discrimination but also supported through affirmative action towards participation.
1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment ...

b) Protect the rights of persons with disabilities, on an equal basis with others . . .

c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

g) Employ persons with disabilities in the public sector;

h) Promote the employment of persons with disabilities in the private sector

i) Ensure that reasonable accommodation is provided

j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.
Drafting/ Negotiation archives

- Quotas
- Alternative employment
- Wording of reasonable employment
• Frequent misconceptions/negative stereotypes

• The UN however demonstrate that there is empirical evidence, shows that persons with disabilities have:
  - high performance ratings
  - and retention rates,
  - as well as better attendance records than their colleagues without disabilities.

• In addition, the cost of accommodating workers with disabilities can be minimal, with most requiring no special accommodation at all.

• Studies have shown that there are other benefits to employers of persons with disabilities, such as improved workforce morale and increased customer goodwill.

- Reasonable Accommodation: individual provision

- Quotas: structural provision targeted at groups

- Public sector serves as a model

- In Ireland- 2005 Disability Act, Part , Section 47(4): 3% quota
Current focus is the Assisted Decision-making (Capacity) Bill 2013.

Ratification hinges on this.

http://prezi.com/kdzylebddmwi/?utm_campaign=share&utm_medium=copy&rc=ex0share

third stage - called Committee stage (first stage is publication and the second stage is the Minister's speech and opportunity for opposition to make statements)= substantive stage where amendments will be made- early November.

Likely amendments...
Example of Impact of the CRPD at EU level


joined cases of Ring and Skouboe Werge (see judgment here).

compare with:

Chacón Navas
National Disability Strategy (2004):

Disability Act 2005
Education for Persons with Special Needs Act 2004
Citizens Information Act 2007
Six sectoral plans
Stakeholder Group

NDS implementation plan (2013)
<table>
<thead>
<tr>
<th>Objective 3(a) People with disabilities have access to jobs</th>
<th>Outcome</th>
<th>Key Performance Indicators</th>
<th>Lead Department</th>
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<tr>
<td>Employment of persons with disabilities</td>
<td>Comprehensive employment strategy published</td>
<td>Strategy agreed by the NDSIG</td>
<td>NDA and Christy Lynch as drafters in collaboration with the Departments of Social Protection; Health; Jobs, Enterprise and Innovation; and Education and Skills</td>
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<td>Ensure a co-ordinated approach to support persons with disabilities to progress into employment through a comprehensive employment strategy.</td>
<td>More persons with disabilities can access work Services at local level are co-ordinated and joined up access across agency boundaries to deliver more seamless supports to persons with disabilities.</td>
<td>Strategic approach across Departments of Education and Skills; Social Protection; Jobs, Enterprise and Innovation and Health to ensure planning for work from the earliest stage</td>
<td>Departments of Social Protection; Jobs, Enterprise and Innovation; Health; and Education and Skills</td>
</tr>
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</table>
• Publication of a comprehensive employment strategy for people with disabilities

• Ensure a co-ordinated approach to support persons with disabilities to progress into employment

• Subject to the provision of appropriate links by relevant Departments and agencies, the Department of Jobs, Enterprise and Innovation will, through its website, highlight the supports that are available to facilitate the employment of people with disabilities in the open labour market, or to retain in the workforce employees who acquire a disability. through a Comprehensive Employment Strategy.

• The Department through the Equality Tribunal, will ensure that employment rights and entitlements are safe-guarded and enforced for people with disabilities.

• Works to ensure achievement of minimum of 3% of employees in the public sector are those with disabilities and effective support policies in place, including career progression policies.
HOW to ensure compliance:

- Determine if the social-benefit system inadvertently contains disincentives to work.
- Promote vocational rehabilitation and other inclusive policies
- Facilitate collaboration among the Government, employers and employees to make the business case for inclusive disability policies (KANCHI, ILO FORUM)
- Conduct a compliance test to check that Irish law and policy (Acts, Strategies) are CRPD compliant
- Connect with DPOs similar to the way in which the EDF and the ETUC have
- Address all aspects and all involved
- Support organizations of persons with disabilities in their efforts to advocate an inclusive and equal work environment.
Key Policy Documents from Ireland


- New Directions Review of HSE Day Services and Implementation Plan 2012 - 2016 (HSE, February 2012)

- Time to Move on From Congregated Settings (HSE, June 2011)

- National Housing Strategy for People with Disabilities 2011-2016 (Department of Environment, October 2011)

- National Review of Autism Services (HSE, February 2012)

- Respite/Residential Care with Host Families in Community Settings (HSE, February 2012)

- National Disability Act (2005)

- National Disability Strategy 2004 (& Sectoral Plans for 6 Govt Departments)

- Social Partnership Agreement: Towards 2016

- Public Service Agreement (Croke Park 2010)

- Quality and Fairness (Health Strategy, 2006)

- Vision for Change (2006)

- The Equal Status Act 2000-2012 outlaws discrimination against disabled people in accessing goods and services, accommodation and education.
The Employment Equality Acts 1998-2011 cover nine protected grounds against discrimination, one of which is disability. The Acts covers all issues related to employment, including: advertising; equal pay; access to employment; vocational training and work experience; and terms and conditions of employment. Employees in both the public and private sector are covered.

- Roll-out of the National Advocacy Service (2011)
- HIQA National Quality Standards: Residential Services for People with Disabilities (www.hiqa.ie)
- Children First (2011) (Department of Children and Youth Affairs)

International Policy Documents

- Easy-to-read UN Convention on the Rights of Persons with Disabilities
- European Disability Strategy 2010-2020