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Technical Assistance for Strengthening Fundamental Rights Sector Coordination

# COMPARATIVE STUDY ON RIGHTS OF PERSONS WITH DISABILITIES (FINLAND-ITALY-BULGARIA)



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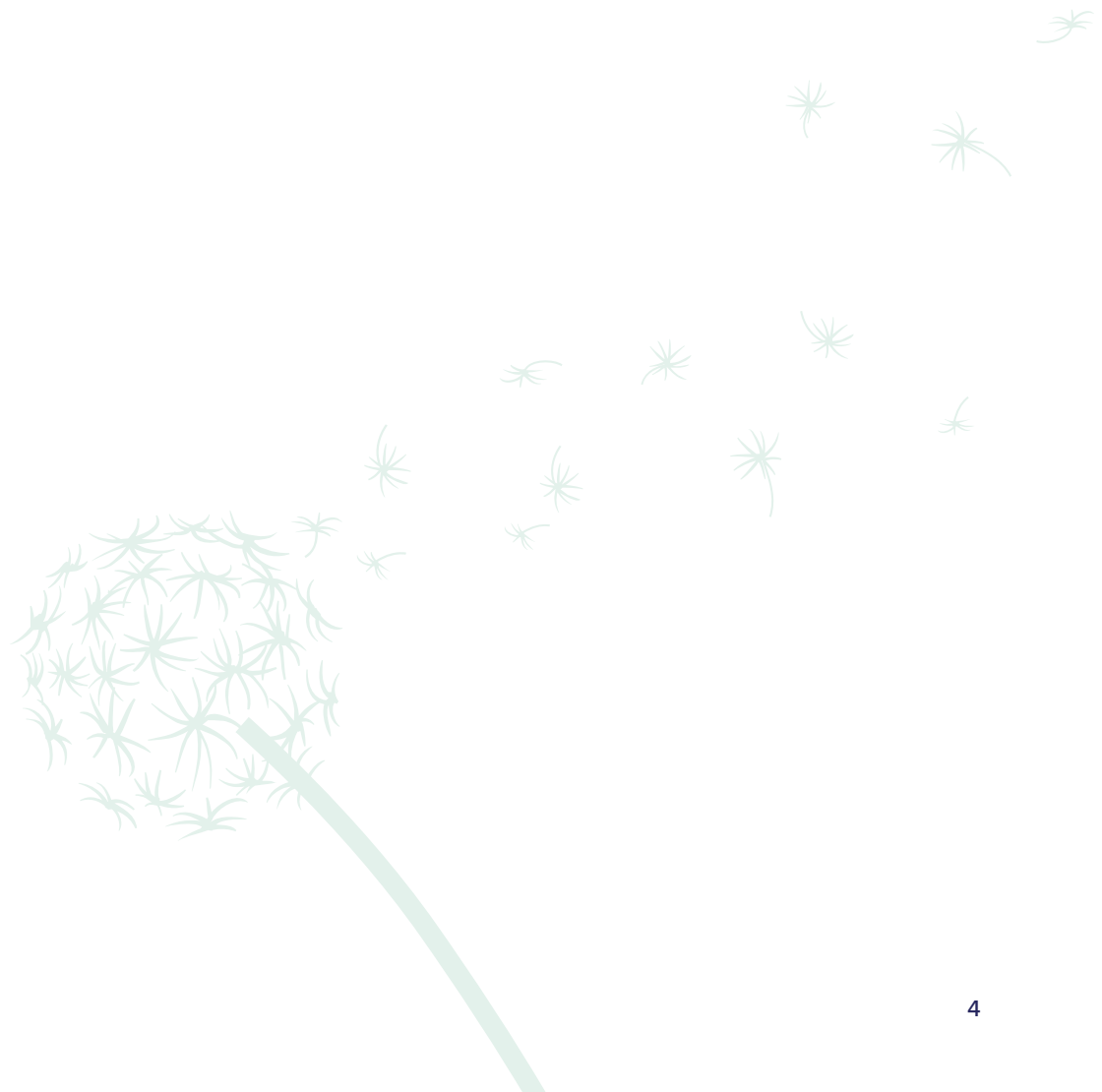
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## LIST OF ABBREVIATIONS

ATM	Automated Teller Machine
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
DPO	Disabled Persons' Organizations
EELN	European Equality Law Network
EU	European Union
EPSR	European Pillar of Social Rights
FRA	Fundamental Rights Agency
ICF	International Classification of Functioning
ICT	Information And Communications Technology
IPDA	Integration of Persons with Disabilities Act
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PDA	Persons with Disabilities Act
PWD	Persons with Disabilities
TFEU	Treaty on the Functioning of the European Union
UNCRPD	UN Convention on the Rights of Persons with Disabilities
VANE	Advisory Board for the Rights of Persons with Disabilities



## Introduction



This comparative report focuses on the initiatives of the European Union (EU) in the area of the rights of persons with disabilities (PWD), with a view to comparing the progress of, and identifying best practices from, three EU Member States, namely, Finland, Italy and Bulgaria, against this backdrop. The report takes the UN Convention on the Rights of Persons with Disabilities (UNCPRD) as the basis of the EU initiatives, and focuses on the existing legislation, institutional mechanisms and implementation modalities, including legal provisions on access to justice, across the three countries with a view to outlining the major achievements and challenges in terms of the rights of PWD as they are addressed in the UNCPRD and the Chapter 23 of the EU *acquis communautaire* on Judiciary and Fundamental Rights. The particular areas of concern in the comparison of the three Member States include the national legal, policy and institutional frameworks as they are set out by the Convention, with a specific focus on the issues of accessibility and independent living across the three country contexts. The selection of the latter two areas of focus rests on an objective (i) to reflect the EU-level binding initiatives, which predominantly concentrate on the issue of accessibility; and (ii) to observe the comparative practices of three countries, as in the case of independent living and community integration of PWD, where an increasing emphasis can be found in the studies of EU Fundamental Rights Agency (FRA) and other bodies working on disability. It is important to note that while the rights of PWD constitute an increasing area of common action at the EU level, the lack of data and comparative studies in this respect reflects the challenges posed by the diversity of national practices and puts a significant limitation on this study.

This brings the second important dimension of the present report to the fore, namely, the selection of the three Member States as the cases of the present study. Finland, Italy and Bulgaria have been selected based on the objective of providing an overview of the diversity of the national regulations, institutional structures and implementation issues in terms of the rights of PWD, driven by their distinct welfare regimes, legal structures, as well as their different positions in the history of European integration. These three Member States have different social, political, economic and cultural trajectories, as well as unique histories within the EU itself. While it is beyond the scope of this study to examine the respective positions of the three countries in the welfare regime typologies and legal traditions, it is important to note that they are usually considered as exemplifying distinct models.

Italy is a founding Member State of today's EU and is generally considered as a member of the "conservative-corporatist" cluster of welfare regimes (Esping-Andersen 1990), illustrating a significant place assigned to the family in the protection of the vulnerable groups, and constituting a significant example to observe the reflections of the legal obligations of the EU through time. Finland, on the other hand, joined the EU at a considerably later stage of European integration in the 1990s, exemplifying the "social-democratic" welfare model (Esping-Andersen 1990), with its much stronger emphasis on the empowerment of the individual and more universalist social protection system. Finally, Bulgaria is a relatively new Member State that joined the EU in 2007 in the historically most contested enlargement round of the EU towards Central and Eastern Europe, which has significant repercussions and lessons to be learnt for Türkiye as a candidate country whose status has been the most widely debated and contested through its lengthy path towards the EU. Bulgaria is considered as an example of the "post-communist" welfare regime, facing significant challenges in terms of reforming its social protection and social assistance system (Cerami and Stanescu 2009), which makes it a remarkable case for comparison.

Within the EU, around 87 million people have some form of disability, and problems of accessibility in education, employment, services, products and information, as well as discrimination and exclusion are frequently reported. The European Commission states that only half of PWD are employed as against 75% of persons without disabilities, only 29% attain a tertiary degree as against 44%, 28% are at risk of poverty or social exclusion as against 18%, while 52% feel discriminated against.<sup>1</sup> The rapidly aging population of Europe makes disability an urgent issue to tackle with, as disability rates are significantly related with age, and a significant proportion of the elderly report facing difficulties in participating in the society due to physical and other barriers as well as discrimination.

<sup>1</sup> European Commission, Employment, Social Affairs and Inclusion, <https://ec.europa.eu/social/main.jsp?catId=1137>

This study first explores the UN Convention on the Rights of Persons with Disabilities (UNCRPD), which forms the basis of most EU interventions concerning the rights of PWD. It then delves into the EU legal and policy framework in the field, with a view to laying the ground for the implications of this for the current legislation, institutional mechanisms and implementation modalities in Finland, Italy and Bulgaria, focusing on the issues of accessibility and independent living.

## The UN Convention on the Rights of Persons with Disabilities



The major international instrument for the protection and promotion of the rights of PWD, to which the EU is also a party, is the UN Convention on the Rights of Persons with Disabilities (UNCRPD) (A/RES/61/106),<sup>2</sup> which was adopted, along with its Optional Protocol, on 13 December 2006 and entered into force on 3 May 2008. The UNCRPD is the first comprehensive human rights treaty of the 21<sup>st</sup> century and is the first human rights convention which is open for signature by regional integration organizations. It is also significant as the first international human rights treaty to which the EU has become a party following its formal ratification in 2011. The UNCRPD provides the basis of the EU measures and policies in this field, and therefore it requires further examination for the purposes of the present study.

The UNCRPD defines persons with disabilities as “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” (Article 1). This definition builds on the one that has been provided by the International Classification of Functioning, Disability and Health (ICF), which is a major framework for describing and organizing information on functioning and disability, aiming to provide a standard language and a conceptual basis for the definition and measurement of health and disability.<sup>3</sup> The ICF, which was approved for use by the World Health Assembly in 2001, takes a broad definition of disability, approaching it as a multi-dimensional concept involving the following aspects:

- the body functions and structures of people, and impairments thereof (functioning at the level of the body);
- the activities of people (functioning at the level of the individual) and the activity limitations they experience;
- the participation or involvement of people in all areas of life, and the participation restrictions they experience (functioning of a person as a member of society); and
- the environmental factors which affect these experiences (and whether these factors are facilitators or barriers).

What these definitions demonstrate is that disability is not solely, even primarily, a health problem, but a multi-dimensional and complex issue, which reflects the interaction between the individual and the society in which s/he lives, and which demonstrates that the major problems experienced by PWD is not caused by their disability, but by the difficulties they encounter in accessing resources such as education, health, employment, as well as social and legal support mechanisms. Importantly, these difficulties in access translate into high levels of poverty, discrimination and social exclusion among PWD (Lang 2009, Waddington and Lawson 2009).

The Convention builds on the recognition that the barriers against the participation of PWD as equal individuals in society continue to exist today, and that the PWD continue to face human rights violations across the world. Furthermore, it underlines that the PWD face deeper inequalities and discrimination when intersecting with their sex, age, race, ethnic origin, language, religion, political opinion, property, birth or any other social status. It underlines that women and girls with disabilities, in particular, face a greater risk of violence, harassment, abuse and neglect, while children with disabilities need to enjoy their human rights and fundamental freedoms on an equal basis with children without disabilities. While it is beyond the scope of the study to provide a detailed examination of the UNCRPD, it would be important to take a closer look into its main provisions with a view to understanding the general framework it draws for the rights of PWD. Article 3 sets the general principles of the Convention as follows:

<sup>2</sup> United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, [https://www.un.org/disabilities/documents/convention/convention\\_accessible\\_pdf.pdf](https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf)

<sup>3</sup> See [https://www.cdc.gov/nchs/data/icd/icfoverview\\_finalforwho10sept.pdf](https://www.cdc.gov/nchs/data/icd/icfoverview_finalforwho10sept.pdf)

- 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.

On the basis of these principles, the Convention is built on the understanding that disability is an evolving concept, resulting from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society. It stipulates, in its Preamble, that discrimination on the basis of disability is a violation of human dignity and worth, underlining the need for the promotion and protection of the human rights of all PWD, including those who need more intensive support. Recognizing the greater risks faced by women and girls with disabilities mentioned above, the Convention advocates for the incorporation of a gender equality perspective into all efforts promoting the full enjoyment of PWD of fundamental rights and freedoms. It stipulates the importance of the individual autonomy and independence of PWD, including their freedom to make their own choices. It also underlines the importance of the accessibility to the physical, social, economic and cultural environment, health and education, information and communication, in enabling PWD to fully enjoy all human rights and fundamental freedoms.

Article 4 of the Convention defines the general obligations that states parties are required to undertake in order to ensure and promote the full realization of all human rights and fundamental freedoms of PWD, including appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention; mainstreaming of disability in all policies and programmes; research and development of universally designed goods, services, equipment and facilities; as well as training of professionals and staff working with PWD. Article 5 requires states parties to recognise that all persons are equal before and under the law, and to prohibit all discrimination on the basis of disability. Article 9 regulates the accessibility provisions, and requires states parties to take appropriate measures to ensure the access of PWD to physical environment, transportation, information and communications and other facilities and services, and to develop and monitor the implementation of minimum standards and guidelines for the accessibility of public facilities and services. Article 13 stipulates for PWDs' access to justice, and tasks states parties to ensure this principle on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants in all legal proceedings. States parties are also tasked with the duty to promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 19 contains measures that require the states parties to ensure the independent living and inclusion of PWD in the community, including choosing their place of residence and where and with whom to live, as well as having access to in-home, residential and other community support services to prevent isolation from the community. Article 20 entails measures to ensure personal mobility with the greatest possible independence for PWD, including facilitating their access to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries. In its further provisions, the Convention identifies the measures to be undertaken by the states parties to ensure the rights and freedoms of PWD, including those pertaining to freedom of expression and opinion (Article 21), respect for privacy (Article 22), respect for home and the family (Article 23), education (Article 24), health (Article 25), habilitation and rehabilitation (Article 26), work and employment (Article 27), adequate standard of living and social protection (Article 28), participation in political and public life (Article 29), and participation in cultural life, recreation, leisure and sport (Article 30).

Finally, the Convention contains specific measures and mechanisms to ensure its implementation. Article 33(1) requires states parties to designate one or more focal points within government for matters relating to the implementation of the Convention in order to facilitate related action in different sectors and at different levels, while Article 33(3) requires them to involve PWD and their representative organizations in the monitoring process. Article 34 stipulates the establishment of a Committee on the Rights of Persons with Disabilities, initially consisting of 12 experts to be elected by states parties (taking into account equitable geographical distribution,

representation of different forms of civilization and legal systems, balanced gender representation, and participation of experts with disabilities), which would increase to 18 after sixty ratifications of the Convention. Article 35 requires states parties to submit to the Committee a comprehensive report on measures taken to implement the Convention and progress made in this respect, first, two years after its entry into force, and every four years thereafter. The Committee is an independent entity monitoring the implementation of the Convention, which has been given by the Optional Protocol the authority to examine individual complaints in cases of states parties' violation of the Convention.

It is important to underline that the series of crises the world has faced for the last couple of decades, including economic and financial crises, environmental degradation, ageing and demographic change, natural disasters and pandemics all have entailed negative effects on individuals with disabilities. These make it all the more important to pay particular attention to the protection and promotion of the rights of PWD, which this study aims to explore in the context of the EU. On the basis provided by the UNCRPD, the EU has adopted numerous initiatives in this respect.

## EU Legal and Policy Framework on the Rights of PWD



The EU and all its Member States are party to the UNCRPD, and collaborate to improve the social and economic conditions of PWD through the Treaty on the Functioning of the European Union (TFEU) and the EU Charter of Fundamental Rights. The Union signed the Convention in 2007 and ratified it with the Council Decision of 26 November 2009. As the first international organization to become a party to the Convention, the UNCRPD entered into force for the EU on 22 January 2011. Accordingly, the Commission is responsible for the implementation of the Convention in the areas of EU competence, and represents the Union in relevant bodies established by the Convention. In areas of shared competence between the EU and Member States, the Commission and Member States are to determine the appropriate arrangements for the representation of the Union in relevant bodies in advance. The Commission and the Member States, moreover, are to work in close cooperation in monitoring, reporting and voting arrangements regarding the Convention. As indicated above, all EU Member States have ratified the Convention, while 22 of them have also ratified its Optional Protocol establishing an individual complaints mechanism. For the Union, to become a party to the Convention means to ensure the compliance of all EU-level legislation, policies and programmes with the provisions of the Convention on the rights of PWD. For the signatory Member States, the UNCRPD requires actions promoting the accessibility of education, employment, transport, public buildings and infrastructure; guaranteeing the right to vote and improving political participation; and ensuring full legal capacity for all PWD.

Disability is also a central element of the European Pillar of Social Rights (EPSR), underlining, as one of its 20 principles, that people with disabilities have the right to income support that ensures living in dignity, services that enable them to participate in the labour market and in society, and a work environment adapted to their needs.<sup>4</sup> Importantly, the UNCRPD also provides the guidance for the EU Strategy for the Rights of Persons with Disabilities 2021-2030, and the preceding European Disability Strategy 2010-2020.

Within the scope provided by the Treaties, EPSR and EU Strategies, the legal and policy framework of the EU on disability rests on a diverse array of initiatives, including primary and secondary legal sources. The TFEU,<sup>5</sup> in its Article 10 commits to combat discrimination based different grounds. Likewise, Article 21(1) of the Charter of Fundamental Rights of the European Union<sup>6</sup> prohibits discrimination based on disability, and Article 26 particularly focuses on the integration of PWD through an emphasis on their right to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

<sup>4</sup> European Pillar of Social Rights in 20 Principles, <https://ec.europa.eu/social/main.jsp?catId=1606&langId=en>  
<sup>5</sup> OJEU, 2016/C 202/01, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016ME/TXT&from=EN>  
<sup>6</sup> OJEU, 2012/C 326/391, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT>

As for secondary sources, the Directive (EU) 2019/882, also known as the European Accessibility Act,<sup>7</sup> aims to improve the functioning of the internal market for accessible products and services by addressing the diversity of regulations across the Member States. The Directive takes as its basis the UNCRPD's definition of disability and aims to improve their access to products and services tailored to their needs in order to ensure their full and equal participation in society. It regulates the accessibility requirements for certain products and services that are considered to be most important for PWD, while having diverging accessibility requirements across EU Member States, including computers and operating systems, ATMs, ticketing and check-in machines, smartphones, digital television and telephony services and equipment, audio-visual media services, passenger transport services, banking services, e-books and e-commerce. The Directive aims to benefit both businesses in terms of reducing their costs by imposing common accessibility rules, facilitating their cross-border trading processes and offering them more market opportunities for their accessible products and services; and PWD in terms of providing more accessible products and services at more competitive prices in the market, reducing barriers when accessing transport, education and the labour market, and availing of more job opportunities where accessibility expertise is needed. It is important to note that the Directive also applies to persons, other than the PWD, experiencing functional limitations, including the elderly persons, pregnant women and passengers travelling with luggage.

The Directive (EU) 2016/2102, also known as the Web Accessibility Directive,<sup>8</sup> regulates the accessibility requirements of websites and mobile applications of public sector bodies, with a view to supporting the convergence of national measures and end the different practices in the internal market. The Directive defines 'accessibility' to include principles and techniques to observe when designing, constructing, maintaining and updating websites and mobile applications so as to make them more accessible for PWD. It takes the UNCRPD provisions on promoting the accessibility of ICT for PWD as its basis, and underlines the principle of 'universal design' in line with the Convention, requiring the design of products, environments, programmes and services to be used by all people, to the greatest extent possible, without the need for adaptation or specialised design. The four principles of accessibility for websites and mobile applications upheld by the Directive (Article 4) include perceivability (i.e., information and user interface components must be presentable to users in ways they can perceive); operability (i.e., user interface components and navigation must be operable); understandability (i.e., information and the operation of the user interface must be understandable); and robustness (i.e., content must be robust enough to be interpreted reliably by a wide variety of user agents, including assistive technologies).

The regulations on the rights of passengers with disability or reduced mobility, on the other hand, regulate the rights of PWD in main modes of transport, including air, road, rail and water transport vehicles within the EU.<sup>9</sup> Accordingly, persons with disability or reduced mobility have the right to access passenger transport services like anybody else, to be informed on the specific facilities at the time of buying their tickets, and to have free assistance at terminals and on-board vehicles.

A further initiative concerns accessibility standardization across the EU Member States, in order to support the implementation of the accessibility of built environment and ICT, and enable organizations to adopt a 'design for all' approach, with a view to removing barriers for PWD and other individuals experiencing functional limitations.<sup>10</sup> More recently, on 6 September 2023, the Commission proposed a Directive for the creation of a standardised European Disability Card, and an enhanced European Parking Card for PWD,<sup>11</sup> to ensure their right to free movement across the EU. The European Disability Card will serve as recognised proof of disability throughout the EU, granting equal access to special conditions and preferential treatment in public and private services, including transport, cultural events, museums, leisure and sports activities. The European Parking Card, on the other hand, will replace national parking cards for PWD and will be recognised throughout the EU. The proposal will be negotiated by the European Parliament and the Council, to lead to a legal act requiring the Member State governments to provide the cards in both physical and digital formats, as well as to recognise and implement the cards within 1,5 years.

7 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0882>

8 Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (Text with EEA relevance), [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2016.327.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.327.01.0001.01.ENG)

9 Rights for travellers with disability or reduced mobility, [https://europa.eu/youreurope/citizens/travel/transport-disability/reduced-mobility/index\\_en.htm](https://europa.eu/youreurope/citizens/travel/transport-disability/reduced-mobility/index_en.htm)

10 Accessibility Standardization, <https://ec.europa.eu/social/main.jsp?catId=1485&langId=en>

11 See <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=10652>

As indicated above, the Strategy for the Rights of Persons with Disabilities 2021-2030,<sup>12</sup> adopted in March 2021, provides the current framework for the implementation of UNCRPD across the EU. It builds on the results of the European Disability Strategy 2010-2020 aiming to achieve a barrier-free Europe and to empower PWD so that they enjoy their rights and fully participate in society and economy. The Strategy aims to continue the progress at the level of the EU and the Member States in all areas underlined by the UNCRPD, towards ensuring that all persons with disabilities in Europe enjoy their human rights, have equal opportunities, participate equally in society and economy, decide where, how and with whom they live, move freely across the EU, and no longer experience discrimination. The Strategy underlines the importance of coordinated action with Member States, and the duty of the latter to design their national policies in line with the UNCRPD standards and EU rules. It identifies actions and flagship initiatives in areas including 'Accessibility,' 'Enjoying EU rights,' 'Decent quality of life and independent living,' 'Equal access and non-discrimination,' 'Promoting the rights of PWD globally,' 'Efficiently delivering the Strategy,' 'Leading by example,' and 'Awareness, governance and measuring progress.'

It is important to note that, under the 'Equal access and non-discrimination' action, the Strategy points to the need to promote PWDs' access to justice, highlighting the practical and legal barriers in this respect hindering PWD (particularly those with intellectual or psychosocial disabilities as they are restricted in or deprived of their legal capacity) from acting as witnesses, defending their rights as victims, suspects or accused persons, as well as participating in professional roles such as judges, lawyers and prosecutors. The Commission thus underlines its commitment to the digitalization of judicial systems to improve access to justice; to pay particular attention to women with disabilities and PWD living in institutions; and to focus on the upscaling training of legal professionals on EU disability legislation including the UNCRPD. The specific actions described in this respect include: (i) a study on the protection of vulnerable adults in cross-border situations; (ii) a study on procedural safeguards for vulnerable adults in criminal proceedings; (iii) guidance to Member States on PWDs' access to justice; and (iv) measures to support Member States in boosting the participation of PWD as professionals in the justice system and collect good practices on supported decision-making.

Furthermore, under the 'Enjoying EU Rights' priority, the Commission stresses the importance of promoting the PWDs' exercise of electoral rights, and expresses its commitment to support their full electoral participation (both as voters and as candidates) and accessibility of European elections, including a discussion on inclusive democracy to ensure that candidate lists reflect the diversity of European societies,

The flagship initiatives promoted by the Strategy include the establishment of a European resource centre called 'AccessibleEU,' launching of the EU Disability Card, preparation of guidance for Member States to improve independent living, establishment of a framework for Social Services of Excellence for PWD, as well as the establishment of the Disability Platform. The latter was launched in 2021 with the aim to bring together UNCRPD focal points, PWD organizations and the Commission, and to provide a forum to exchange information on the implementation of UNCRPD. The AccessibleEU, on the other hand, was launched in 2022 as an EU-funded project to be implemented between 2023-26, and acts as a resource centre on accessibility of built environment, transport, ICT and accessibility policies.

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<sup>12</sup> Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030  
<https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8376&furtherPubs=yes>

# National Reflections of the EU Legal and Policy Framework



As indicated above, EU initiatives in the area of the rights of persons with disabilities primarily rest on the UNCRPD. In this respect, one of the core issues that draws attention at the EU level is “accessibility,” as defined in the Article 9 of the Convention, requiring states parties to take appropriate measures to ensure the access of PWD to the physical environment, transportation, information and communications, and other facilities and services. This is also reflected in the two recent directives focusing on different aspects of accessibility. Another issue that comes to the fore, which is also reflected in the various studies and reports of the EU Agency for Fundamental Rights (FRA), concerns “the right to live independently and be included in the community,” as set out in the Article 19 of the Convention and Article 26 of the EU Charter. A key aspect of independent living concerns ‘deinstitutionalization,’ referring to a shift in PWD’s living arrangements “from institutional and other segregating settings to a system enabling social participation where services are provided in the community according to individual will and preference” (FRA 2018: 14). As such, it focuses on the degree to which the PWD are able to exercise choice and control over their lives, and requires the development of services in the community to prevent the need for institutional care.

This section examines the three EU Member States that are selected as the cases of this study in terms of (i) their general legal, policy and institutional frameworks, including provisions for access to justice, (ii) their measures supporting the accessibility and (iii) those that contribute to the independent living of PWD. It should be noted that these aspects are not mutually exclusive and there are significant elements across the three dimensions that overlap with each other. Nevertheless, the division along the themes are pursued for the purpose of clarity and simplification.

## Finland

### *Legal, policy and institutional framework*

In Finland, the Convention and its Optional Protocol (Treaty Series 26 and 27/2016) entered into force on 10 June 2016, after the country signed the CRPD and the Optional Protocol on 30 March 2007. The disability policy in Finland is founded upon the understanding of disability as a condition arising from the interaction between barriers in the environment and the individual (CRPD 2020), which is reflected in the measures adopted and implemented to promote the rights of the PWD. The coordinating mechanism required by the Article 33(1) of UNCRPD in Finland is the Advisory Board for the Rights of Persons with Disabilities (VANE),<sup>13</sup> which aims to promote the national implementation of the Convention and to take into account the rights of PWD in all aspects of government and all administrative sectors. Vane is also responsible for the preparation of action plans for its term of office, defining the key national objectives and priorities in the implementation of the Convention, the methods to implement them, as well as the follow-up mechanisms. VANE operates under the Ministry of Social Affairs and Health, and consists of representatives of ministries, disability organizations, PWD and their families, labour market organizations, research organizations, and regional and local government representatives. VANE is also involved in awareness-raising efforts, annually organizing conferences and seminars on the rights of PWD, and publishing information on the Convention on its website (CRPD 2020).

The Constitution of Finland (731/1999) stipulates that public authorities shall promote the opportunities for the individual to participate in societal activity and to influence the decisions that concern him/her (CRPD 2020). The Constitution also provides for equality and prohibits differential treatment on the grounds of sex, age, origin, language, religion, conviction, opinion, health, disability or any other reason. The provisions on equality are further elaborated in the Act on Equality between Women and Men (609/1986) and the Non-Discrimination Act (1325/2014). The latter applies to both public and private activities, but not to activities concerning private or family life or practicing of religion. Beyond the state authorities, the duty to promote equality also extends to teaching and education providers, schools and employers, the latter of which have an obligation to prepare a plan on measures to promote equality when they employ at least 30 persons. Accordingly, an authority,

<sup>13</sup> Advisory Board for the Rights of Persons with Disabilities VANE, <https://vane.to/en/frontpage>

education provider, employer and provider of goods and services must ensure equal opportunities for PWD in gaining access to education, work, goods and services, and in dealing with authorities, if necessary, by making reasonable accommodations (CRPD 2020). The Non-Discrimination Act specifically tasks employers to improve PWD's access to employment and training, and to take any reasonable steps to help a person with disabilities to gain access to work or training, to cope at work and to advance in their career.<sup>14</sup>

The compliance with the Non-Discrimination Act is supervised by the Non-Discrimination Ombudsman in respect of all grounds of discrimination and discrimination based on multiple grounds. It is reported that disability is among the top grounds of discrimination for which the Ombudsman is contacted, mostly for issues pertaining to working life (CRPD 2020). Furthermore, the National Non-Discrimination and Equality Tribunal is responsible for monitoring all grounds for discrimination contained in both the Non-Discrimination and Equality between Women and Men Acts. It can issue prohibitions or orders, impose fines to enhance its prohibitions and orders, and confirm reconciliation between parties (CRPD 2020).

The Finnish legal framework for access to justice is well-developed and contains several specific measures to facilitate PWDs' access to justice. The Constitution stipulates everyone's right to have his/her case dealt with appropriately and without delay by a court or other authority, as well as the right to be heard and to receive a reasoned decision. The Code of Judicial Procedure (1290/2003) provides to the appointment of a guardian for a party during legal proceedings, if that party is incapable of looking after his/her interests due to illness, mental impairment or other comparable reasons; while the Criminal Procedure Act (689/1997) contains provisions on legal counsel in criminal cases, including the appointment of a public defender for suspect if s/he is incapable of defending him/herself, and the organization of interpretation if a party uses sign language or if this is needed due to a sensory or speaking impediment. Likewise, the Administrative Judicial Procedure Act (586/1996) regulates the appointment of a guardian and personal counsel for the parties incapable of looking after their interests in judicial proceedings due to illness, mental disorder, diminished health or any other comparable reason. The Legal Aid Act (257/2002), furthermore, stipulates that legal aid should be provided by the state to persons who need expert legal assistance and who are unable to meet the costs of proceedings, and does not consider disability benefit as income in the assessment of a person's economic situation. The Finnish law requires that an individual assessment is conducted to identify vulnerability and special measures that may be required in order to protect the party in legal proceedings. It is noted that the police extensively take into account PWD in their operations and training, including the assessment of needs for protection in case a PWD falls victim to a crime (CRPD 2020).

A further relevant legislative act currently in force in Finland is the Disability Services Act (380/1987), which generally provides services on the basis of individual needs arising from the specific type of disability or illness, and which therefore rests on a tailor-made approach. The Act, for instance, stipulates the provision of home alterations and assistive devices in the home by municipalities based on the individual needs of PWD. It is underlined that the legislation will be reformed so as to take into account the person's relationship with the larger society and their prospects of inclusion in the definition of disability, and not the medical, diagnosis-based definition, in order to better address the individual needs of PWD (CRPD 2020).

The provision and funding of services, including those for PWD, is mainly the responsibility of the municipalities since the adoption of the Local Government Act (410/2015) in 2015. In addition to municipal tax revenues, municipalities receive state subsidies to offer basic services to all citizens (FRA 2018). The Act requires municipalities to establish a Disability Council, constituted of PWD, their families and representative organizations, in order to ensure PWD to participate and exert influence in the decisions concerning themselves. The Councils are expected to influence the planning, preparation and monitoring of the activities of the municipality concerned in matters of importance for PWD (CRPD 2020). In 2018, the Advisory Board for the Rights of PWD organised a conference for the municipal disability councils, focusing on participation and disability services, where municipal councils presented good practices (FRA 2019).

Finland is one of the four Member States pointed out by FRA, which have adopted strategies or action plans on the implementation of UNCRPD in 2018, with its National Action Plan on the UN CRPD for 2018-2019 (FRA 2019), identifying 82 long-term and short-term measures. This document has been underlined as a best practice showing how PWD can be involved in the development of such policy documents (FRA 2019). The action plan was prepared with the participation of disabled persons' organizations (DPOs), labour market organizations and ministries. Moreover, DPOs and PWD were consulted to identify the areas that the Action Plan would focus

<sup>14</sup> Disability:IN, Global Directory: Finland. Available at: <https://disabilityin.org/country/finland/>

during the implementation period, which were then incorporated into the latter as four cross-cutting themes, namely, participation, equality, awareness and knowledge, and accessibility. It is important to underline that DPOs are regularly involved in major legislative and policy reform processes in Finland, particularly those concerning social welfare and health care, although their inclusion varies across administrative sectors and issues (CRPD 2020).

## Accessibility

In terms of accessibility as required by the Convention, the Land Use and Building Act (132/1999) stipulates the creation of an operating environment satisfying the needs of different population groups, including PWD. Construction projects, in this regard, must ensure that the building and its surroundings are designed and built as required by their purpose, number of users and number of floors, so that accessibility and usability are taken into account particularly for children, the elderly and PWD. Still, as significant accessibility problems have been reported in terms of the built environment, a new Government Decree on the Accessibility of Buildings (241/2017) was adopted in 2017, specifying accessibility requirements of all spaces within buildings and requiring specific facilities for the use of persons with mobility and functional restrictions (CRPD 2020).

In terms of transport services (including bus, rail, air and water transportation), regulations in Finland are based on directly applicable EU legislation mentioned above, while an Act on Transport Services (320/2017) regulates taxi transportation and aims to ensure that the services provided to customers with functional impairments are appropriate, and that the special needs of the passengers are taken into account (CRPD 2020). The Information Society Code (917/2014), on the other hand, contains obligations concerning audio-subtitling and subtitling services for persons with visual and hearing disabilities. The Code also contains standards of accessibility for the subscriptions of telecommunication companies subject to public service obligation (CRPD 2020).

A 'Digital Transport and Communication Services to be Made Accessible' Action Plan was launched by the Ministry of Transport and Communications for the period 2017-2021, aiming to implement the principle of universal design, to prevent exclusion and to promote the multichannel nature and technology neutrality of services. Furthermore, a new Act on the Provision of Digital Services came into force in April 2019 to implement the EU Accessibility Directive.

In terms of accessibility, a further important aspect concerns measures to promote the personal mobility of PWD, as set out by the Article 20 of the Convention. In this respect, Finland comes to the fore with some notable provisions. For instance, the Disability Services Act requires municipalities to organise reasonable transport services for PWD to enable them to manage their daily life functions. These include transports that are part of daily life and necessary for the work, studies, recreation and participation in society of PWD (taken here as persons with severe disabilities). Furthermore, the Act stipulates that, in addition to travel that is necessary for work and studies, PWD must have the opportunity to conduct at least 18 one-way trips a month that are part of daily life and related to recreational activities and errands. In addition to individual transport services, a further provision concerns support for purchasing a car to enhance the mobility of PWD, including car alterations and devices (CRPD 2020).

## Independent Living

The Finnish Constitution stipulates the duty of the public authorities to promote the right of everyone to housing and the opportunity to arrange their own housing, and to guarantee adequate social and health care for all. The adequacy of services is taken to mean services that create conditions for every person to act as a full member of society. The Disability Services Act provides for the organization of specialised services for PWD, with the objective to promote the preconditions for a person with disability to live as an equal member of society. As indicated above, services and supportive measures organised accordingly must take into account the individual support needs of the service recipient. The same Act also stipulates that municipalities must ensure that their general services are suitable for PWD, and reimburse PWD for costs incurred by necessary supportive measures and assistive devices, machines and equipment needed to manage daily functions, as well as additional clothing costs and special food (CRPD 2020).

Specialist services and support measures offered by municipalities to persons with severe disabilities include transport services, day activities, personal assistance and service housing, and to others than those with severe

disabilities include rehabilitation, counselling and adaptation training. The personal assistance is defined in the Act as the necessary assistance for persons with severe disabilities to enable them in their daily functions, work and studies, hobbies, participation in society and social interaction. It is important to note that the Act stipulates at least 30 hours of personal assistance for the purposes of hobbies, participation in society and social interaction, which should be organised by the municipality in different ways (i.e. reimbursing the costs of hiring a personal assistant, providing service vouchers, acquiring assistance services from a public or private service provider, organizing the service itself or together with other municipalities), and taking into account the preferences and needs of the PWD themselves. It is also underlined that the most common way to organise assistance is the PWD to employ the personal assistant him/herself with 64% of the relevant group, which has led to the national recognition of personal assistance as a profession since 2009, and the provision of a vocational qualification awarding the title of personal assistant since 2018. Moreover, a nationwide network for personal assistance, assistenti.info, serves as a cooperation network between municipalities, service providers and PWD organizations, and organises annual events to exchange good practices in this respect (CRPD 2020).

Furthermore, the Social Welfare Act (734/1992) provides for activities to promote the employment of PWD and their exemplary employment as free social services. The Act on Special Care for Persons with Intellectual Disabilities (519/1977), amended in 2016, lays down the provision of special care to persons with intellectual disabilities in order to promote their ability to manage daily functions, independent living and integration in society, as well as to secure the care and any assistance needed. The care services offered by the Act, as well as associated transport services, are free of charge (CRPD 2020).

In terms of independent living, Finland comes to the fore as one of the few Member States where significant progress has been made towards deinstitutionalization, meaning that the transition from institutional to community-based settings for PWD has been underway, and a strong commitment to close institutions is observed (FRA 2018). The main responsibility for implementing the national policy on deinstitutionalization rests with the Ministry of Social Affairs and Health, while municipalities play a key role in implementing and funding the transition to community living (FRA 2018). The country has identified the target of complete closure of institutions by 2020 and made good progress to achieve this, while it is also underlined that people with intellectual disabilities, the elderly and those having more severe impairments continue to stay in institutions. On the other hand, it is important to note that persons with intellectual disabilities are a significant focus for the Finnish Government, which started a housing programme in 2012 for this group with the objective that no person with disabilities would live in an institution after 2020. In this regard, support in finding housing suitable to individual needs and building special housing in ordinary residential areas are stated as priorities (CRPD 2020). However, it is underlined that many PWD moved from institutions to group homes, and therefore important barriers remain to fully realise the goal of independent living in the community. Still, the CRPD underlines the importance of putting clear and identifiable targets with specific deadlines in this respect (FRA 2018).

A good practice example concerning the promotion of the independent living of PWD in Finland is the Friend Card, aiming to increase opportunities for PWD to participate in leisure and cultural events with the support of a friend. Within this scope, a friend or a support person to a PWD gets free entry to activities such as theatre, concerts, cinema, trips and sports and cultural events. The Friend Card is currently available for all persons with intellectual disabilities.

## Italy

### Legal, policy and institutional framework

Italy signed the UNCRPD and the Optional Protocol on 30 March 2007, while it ratified both on 15 May 2009. It is reported that Italy's ratification of the Convention in 2009 promoted the involvement of PWD and led to the implementation of new legislative measures to meet the requirements of the Convention. The National Observatory on the Conditions of PWD (*Osservatorio nazionale sulla condizione delle persone con disabilità*, OND) was established within this scope, as the national monitoring body required under Article 33(2) of the UNCRPD (FRA 2018). The Observatory was chaired by the Minister of Labour and Social Policies until March 2018 (OHCHR 2019), and focuses on the inclusion of PWD in line with the Convention, as well as the protection of vulnerable groups, currently debating how to build inclusive welfare practices to provide better support for PWD (OECD 2022). It is important to note that Italy also has created a position of Minister for Disabilities to coordinate policies on PWD and ensure the protection and promotion of the rights and effective participation of PWD in line

with the Convention, which has since 2018 been chairing the Observatory (OHCHR 2019). The OND consists of 40 members and a maximum of 10 permanent guests, representing government bodies and associations of PWD. It has advisory and technical functions to support the development of national disability policies, including the promotion of the implementation of the Convention, preparation of two-year action plans for the promotion of rights and integration of PWD, promotion of statistical data collection and conducting studies and research on PWD, and preparation of reports on the implementation of disability policies (OHCHR 2019).

In Italy, local and regional authorities play a key role in the development and implementation of disability policies, which is also underlined as a barrier to the uniform implementation of the national policy across the country. Significant differences are observed due to a strong system of regional autonomy and the lack of an effective nation-wide monitoring system (OECD 2022). In this respect, the need for convergence is underlined to overcome the difficulties and gaps in the way citizens are treated (CRPD 2015b). The distribution of competences across four levels of governance, including the state, regions, provinces and municipalities, is found to lead to different degrees of commitment among public authorities, and therefore to different levels of investments in terms of budgetary and staff allocations (FRA 2018).

The Italian Constitution guarantees equal dignity for all citizens (Article 3), stressing that all citizens have the same legal status and are equal before the law. The non-discrimination principles for PWD are laid down in the Framework Law 104/92 (see below), and Law No. 68/99 concerning the Rules for the Right to Work for PWD, establishing the principle of equal treatment and job conditions, prohibiting discrimination based on disability and introducing specific measures for this purpose. It is argued that these two pieces of legislation constitute the two main axes of the Italian disability policy (OHCHR 2019). In addition, Law No. 67/06 on Measures for the legal protection of the victims of discrimination establishes a legal protection framework for PWD who are victims of direct or indirect discrimination (CRPD 2015b). The Department for Equal Opportunities of the Council of Ministers is responsible for promoting and coordinating human rights, equal opportunities and fair treatment. Since 2010, the racial and ethnic discrimination contact centre of the Department has been extended to other forms of discrimination, including disability. In 2009, the Charter on Equal Opportunities and Equality at Work was adopted, consisting of a declaration to be signed by enterprises to join the fight against discrimination at work based different grounds (CRPD 2015b).

The Italian legal normative framework defines the terms 'disabled', 'handicapped' and 'non-autonomy', and identifies benefits, allowances, facilitations, service access criteria and assessment modalities for each definition (CRPD 2015b). The Framework Law for assistance, social integration and rights of the handicapped (104/92) defines a "handicapped person" as someone having a permanent or a progressive physical, mental or sensory impairment that determines difficulties in learning, social relations and work integration, in such a way as to determine a process of social disadvantage or marginalization. It is argued by the report of Italy to the CRPD that this notion, while stressing the limitations of functions, having negative impacts on the life of PWD, does not include any reference to the environment in which the PWD lives and interacts. It is thus underlined that the Italian government is working to incorporate the ICF definition of disability in its legal system (CRPD 2015b). The concept of 'non-autonomy,' on the other hand, is used in the Framework Law for the creation of an integrated system of social services and measures (328/00), in order to conduct a multidimensional assessment of the level of economic benefits for personal assistance, access to home care, reimbursement for hospitalization etc. according to the needs of the individuals. This assessment is carried out by the Regions, which have their own norms and standards, as well as their own territorial teams, pointing to differences in implementation as mentioned above. The multidimensional nature of the assessments, on the other hand, underline that not only the physical and psychological conditions of individuals, but also their activities, family context and environment are taken into account. Again, one can observe a tendency to individually evaluate the needs for assistance, influenced by the number of resources available and the level of functional loss. However, it is underlined that the Italian law does not provide a uniform definition of 'non-autonomy', and the Regions have their own definitions and lists of activities that imply challenges or difficulties for PWD, as well as different evaluation instruments and resources (CRPD 2015b).

The Framework Law of 1992 aims to provide protection to PWD through four specific areas of intervention: (i) to ensure respect for human dignity, as well as the rights to freedom and autonomy of PWD, promoting their integration in the family, school, work and society; (ii) to prevent and remove obstacles to human development, the highest possible level of autonomy and participation in social life, and the enjoyment of civil, political and patrimonial rights; (iii) to pursue both functional and social rehabilitation and provision of services for the prevention, treatment and rehabilitation of PWD, promoting their legal and economic protection; and (iv) to

prepare intervention plans to overcome marginalization and social exclusion of PWD (OHCHR 2019, CRPD 2015b).

Article 24 of the Italian Constitution provides the right for everybody to take legal action in defence of his/her own legitimate interests. Various normative acts provide access to justice for PWD in relation to specific fields, including the legislative decree 216/03, which incorporated PWD among protected categories in terms of equal treatment at work; and Law 67/06 which stipulates the general terms of the ownership of legal actions taken by PWD and acknowledges associations and organizations' legitimate right to act for the legal protection of PWD. Moreover, a Constitutional Court judgement (341/99) recognises the right for persons with hearing impairments to be assisted for free by an interpreter in penal procedures. However, it should be noted that this right to be assisted for persons with hearing impairments, which is also provided in civil proceedings, is not generalised for all PWD, which is pointed as a general need for the Italian legal framework (CRPD 2015b).

## Accessibility

Accessibility is regulated by different legal instruments in Italy. The accessibility of the physical environment and transport is regulated by the Presidential Decree 503/96 and the Ministerial Decree 236/89, with the objective to remove physical barriers and introduce technical prescriptions based on minimum requirements. These Decrees also govern the criteria to make vehicles and transportation infrastructure, including tramway, carlines, metro lines, railways, ferry services etc. to be accessible. The Law 4/04 recognises and protects the right of all citizens to access all information sources and related services, particularly the right to access computer and IT services of public administration and public services of the PWD. The provisions of the Law apply to public administration, as well as private companies that provide public services, regional city-controlled companies, public care and rehabilitation organizations, and information services providers (CRPD 2015b).

In addition, the Ministerial Decree 30/4/08 contains technical regulations on the accessibility of didactic and training instruments in favour of students with disabilities, and introduces editorial guidelines for study books and software for this group, which are annually reviewed. The legislative decree 216/03 prohibits workplace discrimination, including career opportunities and remunerations, vocational guidance opportunities and vocational training. Legislative decree 165/01 stipulates that equal opportunities shall be guaranteed with the absence of any form of discrimination, both direct and indirect. Law No. 4/04 establishes the principle of non-discrimination in access to IT instruments and new technologies (CRPD 2015b).

It is important to note that the Italian family, as the major unit of society, is found to be an important obstacle for the social inclusion of the PWD, due to the social stigma that it attaches to disability, and tendency to keep PWD at home and out of public view. In this respect, it is argued that accessibility is a significant challenge in the country, where public transportation and infrastructure are still inadequate, making Italy one of the worst performers among EU Member States in terms of accessibility.<sup>15</sup>

## Independent Living

In terms of independent living, Italy is singled out by the FRA 2018 study as the country that has the longest standing legislative commitment to deinstitutionalization, with the Law of 1978 stipulating the closure of asylums and psychiatric hospitals, mostly covering persons with psychosocial disabilities, but also some with intellectual or physical disabilities. A more recent Law of June 2016 (Law No. 122) particularly focuses on the provision of assistance to persons with severe disabilities deprived of family support, and gives deinstitutionalization a new impetus by underlining the need to ensure the well-being, full inclusion and autonomy of PWD and to prevent any institutionalization. The Law also stipulates for funds to support individual deinstitutionalization processes, develop innovative residential solutions such as co-housing, and increase the autonomy of PWD. The Law is also distinguished by avoiding an approach to support based on traditional healthcare assistance, and allowing PWD to live in their own homes or in residential services managed by associations, imposing a particular limit of 10 persons for the latter. Italy, therefore, comes to the fore with specific legal guarantees for transition to independent living (FRA 2018).

More recently, the Law No. 227 of 22 December 2021 entitled "Delegation to the Government in matters of disability" aims to promote the rights and independent living of PWD in full compliance with the Convention

<sup>15</sup> Disability:IN, Global Directory: Italy. Available at: <https://disabilityin.org/country/italy/>

through legislative decrees to be adopted by 30 June 2024 in the following areas of intervention: (i) definition of the condition of disability and the revision, reorganization and simplification of sector regulations; (ii) assessment of the condition of disability and revision of basic assessment processes; (iii) multidimensional assessment of disability and the realization of the individual, personalised and participatory life project; (iv) computerization of evaluation and archiving processes; (v) re-qualification of public services in terms of inclusion and accessibility; (vi) establishment of a national disability guarantor; and (vii) strengthening of the Office for policies in favour of PWD set up at the Presidency of the Council of Ministers. The reform centres around the personalised and participatory life project for PWD, aiming to guarantee the self-determination of the person and enabling him/her to play the leading role in all stages of life. The life project is promoted as an alternative to institutionalization, and favours the individuals' integration into the community and full participation in social life. The reform envisages a move to deinstitutionalization and promotion of the autonomy through (1) the strengthening of social services; (2) the simplification of access to social and health services; and (3) the reform of the procedures for recognizing the condition of disability.<sup>16</sup>

The second Biannual National Action Plan for the promotion of the rights and integration of PWD 2014-2016 identifies points of action that relate to policies, services and organizational models to support the PWD's independent living and inclusion in the community. The Plan was based on an assessment of the implementation of the first Plan through a participatory approach that involved representatives of the government, DPOs, CSOs and experts on disability, under the responsibility of the National Observatory on Disability.

At the national level, the Ministry of Health and the Ministry of Labour and Social Policies share responsibility for deinstitutionalization policies, playing monitoring and coordination roles. At the local level, municipalities are responsible for the organization of social services, although they often delegate authority to other intermediate authorities. Many services, in this respect, are provided through cooperatives, after public tendering processes (FRA 2018).

An example of good practice from Italy concerns a social agriculture project run in the Tuscany region by a families' association. The project aims at school leavers with autism, and provides a mentorship and tutorship scheme by local farmers to enable young people to learn about food production and sales techniques and then produce their own jams, preserves and dried tomatoes. The project has led to the establishment of a small social enterprise, where appropriate machinery has been purchased via a private donation, and which also cooperates with a well-known local restaurant that serves their products. This type of cooperative enterprise, involving both public and private financial resources, is singled out as a significant move towards deinstitutionalization of young people by developing their skills, independence and self-confidence (FRA 2018). Italy also comes to the fore with the use of 'training apartments' for PWD, which are operated by disability services with the aim to bridge the gap between institutional and community-based services. These apartments mirror community-based settings and allow PWD to learn everyday skills such as shopping and cleaning (FRA 2018).

## Bulgaria

### *Legal, policy and institutional framework*

Bulgaria signed the UNCRPD on 27 September 2007, and the Optional Protocol on 18 December 2008, while it ratified the Convention on 22 March 2012 and has so far not ratified the Optional Protocol. The Constitution stipulates that all persons are born free and equal in dignity and rights, and the citizens are equal in law, while it prohibits any restriction of rights on the basis of race, ethnicity, gender, origin, religion, beliefs, education, political affiliation, personal or social status or property status. While disability is not a specified ground in this list, the Constitution furthermore tasks the State to guarantee the life, dignity and rights of the individual and to create the conditions for the free development of both the human personality and civil society. There is also a provision in the Constitution stating that "old people without relatives and unable to make their own living, and persons with physical and mental disabilities, shall enjoy the special protection of the state and society" (CRPD 2015a: 4).

Furthermore, the Protection against Discrimination Act (86/30.09.2003) prohibits all forms of discrimination and regulates the methods of its prevention. The Act aims to give every person the right to equality in law, in treatment, and in the opportunities for participation in society, as well as effective protection against discrimination. The Act

<sup>16</sup> Italia Domani, Piano Nazionale di Ripresa and Resilienza, Legal Framework for Disability. Available at: <https://www.italiadomani.gov.it/en/Interventi/riforme/riforme-settoriali/legge-quadro-per-le-disabilita.html>

prohibits direct or indirect discrimination based on sex, race, nationality, ethnicity, human genome, citizenship, origin, religion or faith, education, political affiliation, personal or social status, disability, age, marital status, property status or any other features, established by a law or by an international treaty to which Bulgaria is party.<sup>17</sup> According to the Act, special measures in favour of PWD do not constitute discrimination, as long as such measures are necessary, and special protection of PWD does not constitute discrimination (CRPD 2015a). Since 2005, the Commission for Protection against Discrimination has been operating as an independent specialised state body to ensure prevention and protection against discrimination, equal opportunities and to monitor compliance between Bulgarian and international anti-discrimination standards. The Commission is also responsible for issues related to the construction and maintenance of the built environment as objects of discrimination. The general principles of the Convention are implemented and applied by the Commission and the Ombudsman of the Republic of Bulgaria within the competences assigned to them by law (CRPD 2015a).

PWD is defined in the recent Persons with Disabilities Act (PDA) of December 2018 as ‘persons with a physical, mental, intellectual or sensory insufficiency, which in interaction with the environment may hinder their full and effective participation in social life,’ while the same Act defines ‘persons with long-term disabilities’ as those ‘with a long-term physical, mental, intellectual or sensory insufficiency, which in interaction with the environment may hinder their full and effective participation in social life, and who were medically certified as having a disability of 50 percent or more type and degree.’ These definitions have improved on the previous definitions contained in the preceding Integration of Persons with Disabilities Act (IPDA) of 2004 in line with the requirements of the Convention, while it is underlined that particularly the definition of long-term disability still reflects a medical approach to disability (EELN 2019).

The state policy on the protection of the rights and integration of PWD in Bulgaria is part of the more general policy of protecting and promoting human rights and fundamental freedoms, and is implemented by the Council of Ministers, the Minister of Labour and Social Policy, the district governors and local authorities, as well as DPOs and labour organizations (CRPD 2015a). However, there are reports that particularly local stakeholders are not fully involved in the national policy-making processes on PWD, and the perspective of independent and local-level actors are largely missing from national policy design (FRA 2018).

It is argued that Bulgaria is in the state of developing legislation to ensure non-discrimination and equal opportunities and to ensure the integration of PWD in all areas of public life, and significant challenges remain in terms of the practical implementation of the UNCRPD, which are recognised by the Bulgarian authorities as well, including the identification of key areas in need of legal reform, the establishment of an effective monitoring mechanism for the implementation of the Convention, capacity-building among government officials and experts, and the involvement of civil society in the process of implementation (CRPD 2015a).

The coordinating mechanism under Article 33 in Bulgaria, as the Minister of Labour and Social Policy, was first specified very recently, in the Persons with Disabilities Act (PDA) of 5 December 2018, replacing the IPDA of January 2004. The new act also creates the Council for Oversight as the monitoring framework (FRA 2019), comprised of 9 members (consisting of the Ombudsman, the Protection Against Discrimination Commission, DPOs and academia), to observe and report on compliance with the UNCRPD (EELN 2019). The new Act also creates the National Council for PWD within the government, representing the state, DPOs, labour organizations and municipalities to promote cooperation and coordination in formulating disability policies (EELN 2019). Furthermore, District Councils are created by the Act to assist and support District governors in the implementation, analysis and development of strategies, plans, measures and other tools related to the implementation of disability policy at the district level. The Act entitles District governors to carry out the state policy for PWD on a territorial level, as well as ensure the accessibility of the architectural environment, including the state-owned buildings and facilities.<sup>18</sup>

The new PDA of 2018 provides the basic rights of PWD, and aims to promote, protect and guarantee the complete and equal rights and freedom of PWD; to create conditions for their social inclusion; to improve the respect of their immanent human dignity; and to grant support to PWD and their families. It introduces an individual approach and a comprehensive individual assessment of the needs of PWD, along with individualized support mechanisms, emphasizing personal choice, independence, accessibility and full participation. It provides support for PWD in the areas of healthcare, education, employment, housing, urban environments, transport,

<sup>17</sup> Protection Against Discrimination Act, available at [https://adsdatabase.ohchr.org/IssueLibrary/BULGARIA\\_Law%20on%20protection%20against%20discrimination.pdf](https://adsdatabase.ohchr.org/IssueLibrary/BULGARIA_Law%20on%20protection%20against%20discrimination.pdf)

<sup>18</sup> European Committee of the Regions, Bulgaria Social. Available at <https://portal.cor.europa.eu/divisionpowers/Pages/Bulgaria-Social.aspx>

culture, information, sports, public life and justice, at the same time as envisaging rehabilitation, social services, labour support, accessible information, reasonable accommodation, access to justice, personal mobility and assistance (EELN 2019).

In terms of access to justice, the Civil Procedure Code of Bulgaria recognizes the right of minors and 'full interdicts' to perform procedural steps at court in person, but with the consent of parents or tutors, as well as to be represented by legal representatives. The Civil Procedure Code also entitles children with disabilities to legal aid and appeal in all proceedings affecting their rights or interests. Bulgaria also adopted several measures to reform the field of justice for children/ juvenile justice in 2011-2013 (CRPD 2015a). The National Strategy for Persons with Disabilities 2021-2030<sup>19</sup> (see below) contains the objective to ensure compliance with UNCRPD and promote effective access to justice for PWD by procedural and age-appropriate support measures to fulfil their role as direct and indirect actors and as witnesses in any procedural actions. A law adopted in 2012 to ensure compliance with UNCRPD provisions aims to develop measures to provide PWD (those with mental and psychosocial disabilities, particularly) performing specific legal actions with necessary support to exercise their rights independently, as well as to provide guarantees and precautionary measures to ensure their protection in risk situations.

The Bulgarian National Strategy for Persons with Disabilities 2021-2030 aims to enhance the PWD's opportunities for enjoying their rights and equal participation. It focuses on the social inclusion of PWD by securing an accessible environment through a comprehensive approach, particularly focusing on integrative education and employment (EELN 2021). The Strategy is built upon the principles of dignity, equality, full participation and individualised approach. The measures promoted in this respect include the accessibility of physical environment, transportation and communications; individual mobility, technologies to facilitate access to work places based on individual needs, and universal design. The Strategy also promotes integrative education through measures to secure equal access and support for students with special needs, and contains employment-related measures, such as career counselling, mentoring services, vocational education, workplace support, employer incentives, as well as capacity-building of companies for reasonable accommodation (EELN 2021).

Prior to the Strategy, and its preceding version for the period 2016-2020, the national policy for PWD was implemented via the long-term Strategy for Equal Opportunities for People with Disabilities 2008-2015, which was adopted in 2007 following the recommendations of the Council of Europe, that is, before the signing and ratification of the UNCRPD. Following the ratification of the Convention in 2012, the Strategy was updated to align with the Convention and the European Strategy for PWD (CRPD 2015a). The objective of the strategy was to ensure the effective implementation of the government's policy to improve the quality of life of PWD, through specific measures to remove psychological, educational, social, cultural, professional, financial and architectural barriers to social inclusion and full participation in society.

## Accessibility

The report of the Bulgarian government to the CRPD issued in 2015 mentions that accessibility standards for architectural environment are in a state of development, along with an ongoing process of adaptation of buildings and public facilities to the standards of the Convention (CRPD 2015a). The regulatory requirements for accessible environment, administered by the Ministry of Investment Planning, include creating the conditions for accessible living and built environment for PWD through the development of regulations, standards and norms for urban areas, buildings and facilities, and the adaptation of existing public service buildings. Minimum requirements have been introduced in terms of pedestrian spaces, accessible parking spaces and bus stops (CRPD 2015a).

The PDA stipulates a range of accessibility and reasonable accommodation measures regarding public environments, information and transportation, as well as personal mobility. Furthermore, it entitles judicial authorities to provide effective access to justice for PWD, including procedural and other support measures (EELN 2019).

The Road Transport Act establishes a system of effective, proportionate and dissuasive penalties for violations of the measures imposed at the national level for the implementation of regulations on the provision of accessible environments at bus stations for persons with disabilities and with reduced mobility. The Road Traffic Act sets

<sup>19</sup> Republic of Bulgaria, National Strategy for Persons with Disabilities 2021-2030. Available at <https://www.mlsp.government.bg/uploads/41/test/nshu-2021-2030-translated.pdf>

out the requirements for a card entitling the PWD to special parking spaces allocated to vehicles serving PWD. The card is issued by the municipality, and is valid across the country.<sup>20</sup> The Railway Transport Act regulates the right of carriers to receive compensation for reduced income as a result of free and discounted travel of students, senior citizens, PWD, veterans, mothers with many children and other persons defined by law. The relevant road, rail, air and maritime transportation regulations all have elements to facilitate the rights of persons with disability and /or reduced mobility (CRPD 2015a).

## Independent Living

The CRPD (2015) report of Bulgaria underlines the government's commitment to the rapid development of services and regulations to facilitate deinstitutionalization and community living for both children and adults, and emphasises that the services provided in the community as an alternative to institutional care have been steadily increasing over the last years. The FRA 2018 study, on the other hand, underlines that significant numbers of PWD in Bulgaria continue to stay in institutions, and the move towards community living has been considerably slower. The Ministry for Labour and Social Affairs and its Social Assistance Agency are largely responsible for opening, closing and monitoring institutions and community services, as well as for funding municipal social care strategies. At the local level, municipalities are expected to plan social care strategies and community-based services, whereas the funding for such services comes from the central government. While a policy was adopted in 2014 towards deinstitutionalization, successive changes of government delayed its implementation. In 2018, an Action Plan for the implementation of the National Strategy for Long-Term Care was adopted for this purpose. It is underlined that adults with mental/intellectual disabilities, as well as those with physical and sensory impairments, continue to remain in institutions (FRA 2018).

The PDA has specific provisions to evaluate PWD on an individual basis and determine the level of governmental support that they require.<sup>21</sup> It thus governs individual needs assessments, and on the basis of individually assessed needs, entitles PWD to financial assistance, appliances and tools. Persons with long-term disabilities are entitled to financial assistance to obtain a car, adapt housing, receive rehabilitation, and rent municipal accommodation, along with monthly assistance, which can be differentiated for different groups of PWD. Furthermore, the Act entitles PWD to social services, personal assistance and other support on the basis of individual needs assessments (EELN 2019). The PDA also has important provisions in the areas of education and employment. In terms of education, it entitles students with disabilities to support in schools, again on the basis of individual needs assessments, and tasks schools and education institutions to provide inclusive environments, including spatial adjustments. Regarding employment, it entitles PWD to job seeking and consultation services, and introduces employment quotas for persons with long-term disabilities.<sup>22</sup> Employers also have a duty to adjust the workplace to the needs of PWD upon hiring, and may receive public funding to provide reasonable accommodation, including accessibility and special equipment. The PDA also entitles specialised enterprises and cooperatives of PWD to subsidies and tax / social security alleviations. The Act also defines protected employment centres to promote the employment of persons with multiple and long-term disabilities (EELN 2019).

The Social Services Act of March 2019 aims to provide services to any person who needs support to prevent or overcome social exclusion, enforce their rights and improve their quality of life. Mostly focusing on assistance services, the law states that the right to assistance is to be provided for the elderly who cannot take care of themselves and to any other person in need of assistance. It tasks the municipalities to organise the provision of assistance in a way that allows for the complex provision of different types of social services in the home environment. The assistant helps the person who is using the service to cope with daily life, and assists them in their home environment, or accompanies them to a hospital or any other institution. The new Act also foresees the establishment of a National Map of Services by 2021, to be updated annually and to provide information on available services and on the needs of target groups throughout the country, so as to guide decisions on funding and opening/closing of services on a national scale. In terms of deinstitutionalization, it is important to note that the Act contains a specific target, to close all medical and social care homes for adults with disabilities by 2035. The Act is found to be important by introducing a new philosophy in terms of its focus on the individual needs, making it as a basis for the quality development of services (ESPN 2019).

20 Disability:IN, Global Directory: Bulgaria. Available at: <https://disabilityin.org/country/bulgaria/>

21 Disability:IN, Global Directory: Bulgaria. Available at: <https://disabilityin.org/country/bulgaria/>

22 Accordingly, employers with 55-99 employees must hire at least one person with a long-term disability; while those with 100 or more employees must hire at least two such persons per 100 (EELN 2019).

The services aiming to enable the independent living of PWD include (i) home-based services such as assistant/personal assistant, domestic social patronage (for domestic services including help with food delivery, home cleaning, payment of bills, submitting applications to authorities, maintaining personal hygiene, laundry, minor repairs, etc.), and public canteens (providing hot lunch meals, also at home), (ii) community-based social services, including those involving residential care, and (iii) specialised institutions on PWD and the elderly. It is underlined that in the ongoing reform of social services, a priority concerns closing existing specialist institutions and expanding the network of community-based and home-based social services for the PWD.<sup>23</sup>

A good practice example from Bulgaria is a project run by the Parallel World association with the aim to help young people with intellectual disabilities to become more effective self-advocates, focusing on enhancing their capacity to take greater control over their own lives and to approach public authorities about the issues that affect them. The association also works with the families of these young people to expand their understanding of independent living and rights protection, at the same time as raising the awareness of both public authorities and the general public of the equal rights of PWD (FRA 2018).

## Conclusions



The analysis above reveals different approaches and implementation mechanisms concerning the rights of the PWD across the three Member States that have been selected as the cases of this study, which, nevertheless, are bound by the common standards and principles driven by the EU in line with the commitment of both the Union and its Member States to ensure full realization of the rights and freedoms of the PWD as set out by the UN Convention. In particular, the fact that the Union is the first regional organization to become a party to the Convention, as well as the Convention being the first international human rights treaty to which the EU has become a party, means that the commitment to promote the rights of PWD is a remarkable area of consensus between the EU and its Member States, and implies less controversies than other fundamental rights areas, including women's rights. There are, therefore, important commonalities and efforts to improve the existing conditions of PWD across all three countries.

A first point to note is that, in all country contexts, a move towards a more individualised approach can be observed, supported by new legislation aiming to bring the countries into line with the UNCRPD, and promoting tailor-made solutions to the different needs of the different groups of PWD. There is a tendency to take into account the specific needs of PWD in the provision of services and assistance for this group, which is reflected in recent legislative and policy measures introduced by all three Member States to promote compliance with the Convention. It should be noted, however, that, different legal provisions and practices remain in terms of promoting access to justice for PWD, and an inclination towards the protection of specific groups of PWD (those with mental disabilities, hearing impairments, children with disabilities, etc.) can be observed in national contexts, rather than a generalised approach taking into account the different needs associated with all types of disability.

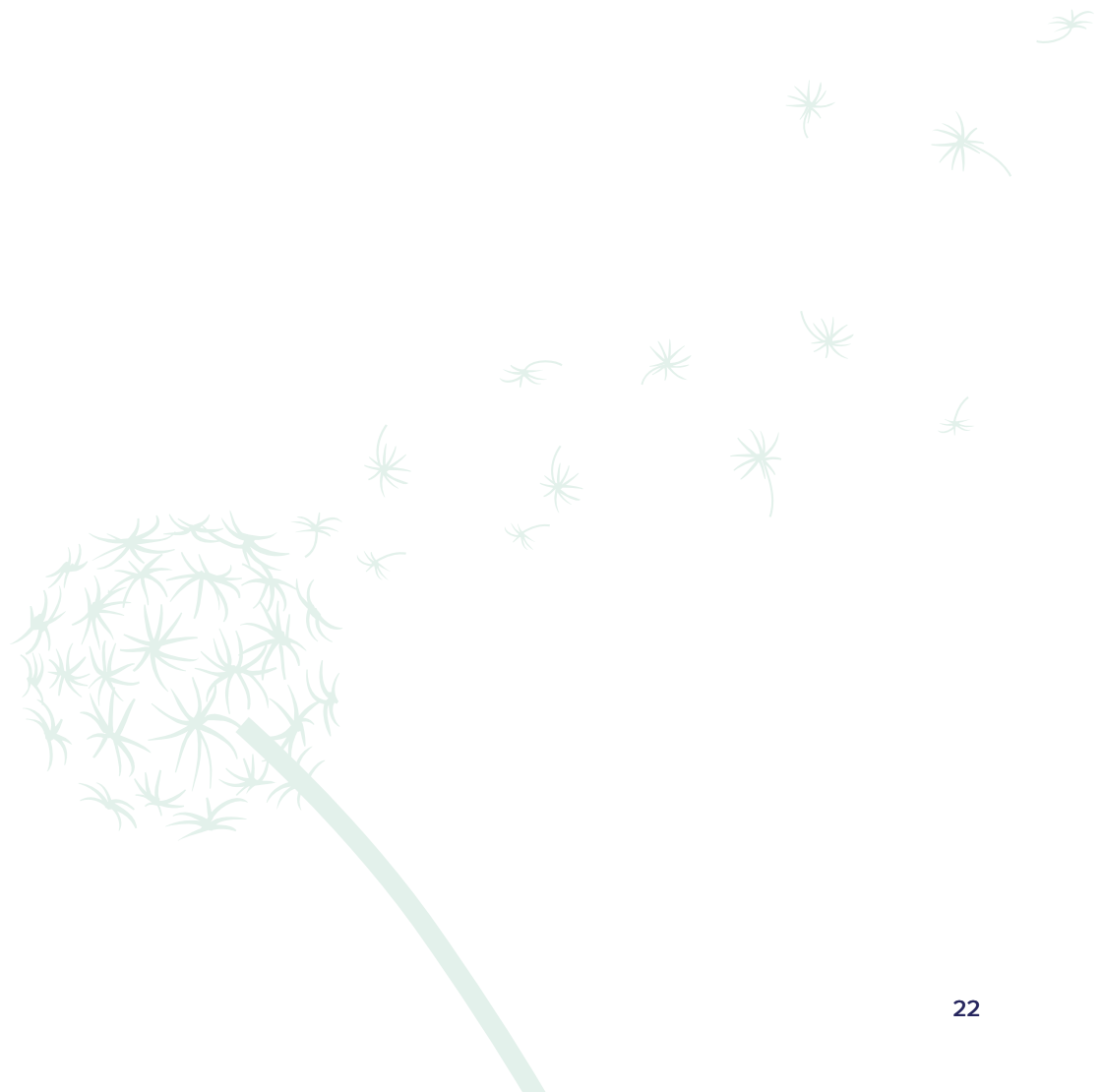
Secondly, it can be observed that particularly the EU-level binding initiatives have been guiding the Member States towards the same direction in terms of accessibility standards, which are either well-regulated, or starting to be so in light of the recent Directives, covering not only the built environment, but also information and communication technologies. Thirdly, a move towards supporting the independent living of the PWD can be observed across the three national contexts, albeit with different paces and intensities. In this respect, the importance of setting clear targets should be underlined, along with a commitment to provide a wide range of community-based services geared towards different needs. A further, perhaps more important point, however, is that the differences in the definition of disability, while displaying a tendency towards a more 'social' understanding, are largely retained, leading to different levels of benefits and services tied to different conditions of disability. While the social aspect is mostly in place in the legal definitions of disability in Finland, Bulgaria shows the persistence of the medical approach, and Italy lies somewhere in between, and is strongly marked by the differences across its regions and localities in this respect.

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<sup>23</sup> European Commission, DG Employment, Social Affairs & Inclusion, Bulgaria – Social programmes and services for supporting PWD and the elderly. Available at: <https://ec.europa.eu/social/main.jsp?catId=1103&intPagId=4440&langId=en>

This also brings to the fore the differences in coordination mechanisms and policy tools, whereby national coordination mechanisms more targeted and specialised on disability appear to engage in clear legislative reforms and action plans to ensure these are implemented more effectively. The nature and functions of coordination mechanisms are also key for systematic data collection, which is still lacking in country contexts, and which impedes the development of effective and evidence-based policies (FRA 2018).

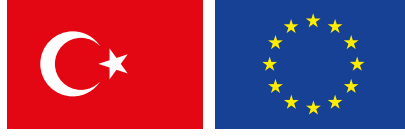
The analysis above also points to the fact that political commitment and mobilization of all relevant societal actors are key points that affect the process and outcomes in this respect. The impacts of the binding legal frameworks, including those set by the UN Convention and the EU Directives, are clearly observed in the three countries, with significant diversity and distinct societal dynamics over the two issues. Nevertheless, while pointing to different approaches and significant implementation problems across the three cases of the study, the examples highlighted here provide important lines of thought for the development of comprehensive institutional, legal and policy frameworks to promote the rights of PWD in Türkiye.



# REFERENCES



- Cerami, A. and S. Stanescu (2009) *Welfare State Transformations in Bulgaria and Romania*. in A. Cerami and P. Vanhuyse (eds.) *Post-Communist Welfare Pathways: Theorizing Social Policy Transformations in Central and Eastern Europe*. Hampshire: Palgrave MacMillan
- Committee on the Rights of Persons with Disabilities (CRPD) (2015a) *Consideration of reports submitted by States parties under article 35 of the Convention: Initial reports of State parties due in 2014, Bulgaria* (CRPD/C/BGR/1). Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/246/61/PDF/G1524661.pdf?OpenElement>
- Committee on the Rights of Persons with Disabilities (CRPD) (2015b) *Consideration of reports submitted by States parties under article 35 of the Convention: Initial reports of State parties due in 2011, Italy* (CRPD/C/ITA/1). Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/044/22/PDF/G1504422.pdf?OpenElement>
- Committee on the Rights of Persons with Disabilities (CRPD) (2020) *Initial report submitted by Finland under article 35 of the Convention, due in 2018* (CRPD/C/FIN/1). Available at: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29)
- Esping-Andersen, G. (1990) *The Three Worlds of Welfare Capitalism*. Cambridge: Polity Press.
- European Equality Law Network (EELN, European network of legal experts in gender equality and non-discrimination) (2021) *Flash Report: Bulgaria*. Available at: <https://www.equalitylaw.eu/downloads/5342-bulgaria-new-national-strategy-for-people-with-disabilities-2021-2030-71-kb>
- European Equality Law Network (EELN, European network of legal experts in gender equality and non-discrimination) (2019) *Flash Report: Bulgaria*. Available at: <https://www.equalitylaw.eu/downloads/4815-bulgaria-new-persons-with-disabilities-act-pdf-115-kb>
- European Social Policy Network (ESPN) (2019) *New Social Services Act finally adopted in Bulgaria*. ESPN Flash Report 2019/37. Available at: [https://knowledge4policy.ec.europa.eu/organisation/espn-european-social-policy-network\\_en](https://knowledge4policy.ec.europa.eu/organisation/espn-european-social-policy-network_en)
- FRA (2018) *From Institutions to Community Living for Persons with Disabilities: Perspectives from the ground*. Luxembourg: Publications Office of the European Union. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-from-institutions-to-community-living-ground-perspectives\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-from-institutions-to-community-living-ground-perspectives_en.pdf)
- FRA (EU Agency for Fundamental Rights) (2019) *Fundamental Rights Report 2019*. Luxembourg: Publications Office of the European Union. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-fundamental-rights-report-2019\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-report-2019_en.pdf)
- Lang, R. (2009) The United Nations Convention on the right and dignities for persons with disability: A panacea for ending disability discrimination? *Alter*, 3 (3): 266-285.
- OECD (2022) *Improving the disability assessment and social protection system in Italy: Inception Report*. Available at: <https://www.oecd.org/cfe/leed/Output%201.%20Disability-project-inception-report-final.pdf>
- OHCHR (2019) *Italy's contribution to the OHCHR's study requested by HRC RES 37/22 on the rights of persons with disabilities*. Available at: [www.ohchr.org](http://www.ohchr.org)
- Waddington, L. and A. Lawson (2009) *Disability and non-discrimination law in the European Union: An analysis of disability discrimination law within and beyond the employment field*. Brussels: European Commission.



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## Technical Assistance for Strengthening Fundamental Rights Sector Coordination

