

5	Equality and non-discrimination	127
5.1	EU legislation on equal treatment between persons stalls	127
5.2	Discrimination on all grounds persists in the EU	129
5.3	Discrimination hinders full participation in society ...	131
5.4	Member States adopt measures to counter discrimination	134
5.4.1	Countering discrimination on the ground of age	134
5.4.2	Countering discrimination on the ground of disability	135
5.4.3	Countering discrimination on the grounds of sexual orientation and gender identity ...	137
5.5	EU deploys EU structural funds in countering discrimination	137
	Outlook	139

UN & CoE

15 January – European Court of Human Rights (ECtHR) rules in *Eweida and Others v. United Kingdom* that it is unlawful to prohibit wearing a religious symbol at work where it poses no health and safety hazard and to refuse services – including in the exercise of public authority – to homosexual couples on grounds of religious beliefs

29 January – European Committee of Social Rights finds 22 states in breach of the prohibition of discrimination in employment (Article 1.2 of the European Social Charter, ESC) and 12 states in violation of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on grounds of sex (Article 20)

January

12 February – ECtHR rules in *Vojnity v. Hungary* that the complete removal of a father's access rights on the grounds that his religious convictions were detrimental to his son's upbringing, without any evidence that those practices exposed his son to a risk of actual harm, amounts to a violation of the prohibition of discrimination (Article 14 of the European Convention on Human Rights, ECHR), read in conjunction with the right to respect for private and family life (Article 8)

19 February – In *X and Others v. Austria*, the ECtHR finds that not allowing same-sex partners to adopt their partner's child is discriminatory when national law allows unmarried different-sex partners to do so

February

1 March – United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) issues observations on Austria, Cyprus, Greece and Hungary

15 March – Parliamentary Assembly of the Council of Europe (PACE) Committee on Equality and Non-discrimination issues a report on discrimination on the grounds of sexual orientation and gender identity

March

24 April – PACE issues a resolution on safeguarding human rights in relation to religion and belief, and protecting religious communities from violence

April

May

26 June – PACE adopts resolution 1945 (2013) *Putting an end to coerced sterilisations and castrations*, as it considers that these acts constitute grave violations of human rights

June

10 July – Committee of Ministers of the Council of Europe adopts a recommendation on gender equality and media

26 July – CEDAW issues observations on the United Kingdom

July

August

4 September – Council of Europe Commissioner for Human Rights intervenes on his own initiative in *Valentin Câmpeanu v. Romania* concerning access to justice for persons with disabilities

13 September 2013 – UN Committee on the Rights of Persons with Disabilities issues *Concluding observations on Austria*

September

16 October – Committee of Ministers of the Council of Europe issues a recommendation on ensuring full inclusion of children and young persons with disabilities into society

October

7 November – ECtHR rules in *Vallianatos and Others v. Greece* that by excluding same-sex couples living in Greece from registering a civil union, without giving any convincing and weighty reasons capable of justifying the exclusion, the Greek State violates rights protected by the prohibition of discrimination (Article 14) in conjunction with the right to respect for private and family life (Article 8) of the ECHR

7 November – In *E.B. and Others v. Austria*, the ECtHR rules that Austria discriminated against four gay men when it refused to delete from their criminal record convictions under its discriminatory age of consent law

November

6 December – European Committee of Social Rights finds eight EU Member States in breach of the rights of elderly persons (Article 23 of the ESC) on the grounds that they failed to have sufficiently comprehensive legislation prohibiting discrimination on the ground of age

11 December – Committee of Ministers of the Council of Europe issues a recommendation on ensuring full, equal and effective participation of persons with disabilities in culture, sports, tourism and leisure activities

December

EU

January

February

March

11 April – In *HK Danmark, acting on behalf of Jette Ring v. Dansk Almennyttigt Boligselskab DAB and HK Danmark acting on behalf of di Lone Skouboe Werge v. Pro Display A/S16*, the CJEU interprets and clarifies the concept of disability under the Employment Equality Directive in line with Article 1 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)

16 April – European Commission issues a proposal on disclosure of non-financial and diversity information by certain large companies and groups

16 April – European Parliament adopts a Resolution on transposition and application of Council Directive 2004/113/EC implementing the principle of equal treatment between men and women

24 April – European Commission issues a proposal on promoting free movement of citizens and businesses by simplifying the acceptance of certain public documents in the EU

25 April – CJEU rules in *Asociația ACCEPT v. Consiliul Național pentru Combaterea Discriminării* that homophobic statements by a shareholder of a football club may put a burden on the club to prove that it does not have a discriminatory employment policy

April

30 May – European Commission refers Slovakia to the CJEU for not paying disability benefits to severely disabled persons living in other EU Member States, as well as in Iceland, Liechtenstein, Norway and Switzerland

May

24 June – Council of the European Union issues guidelines to promote and protect the enjoyment of all human rights by LGBT and intersex persons in the foreign policy of the EU

June

4 July – European Parliament adopts a resolution on the impact of the crisis on access to care for vulnerable groups

4 July – CJEU rules in *Commission v. Italy* that Italy failed to fulfil its obligations under the Employment Equality Directive by not implementing Article 5 on the duty to provide for reasonable accommodation of persons with disabilities

July

August

11 September – European Parliament issues a resolution on endangered languages and linguistic diversity in the European Union

26 September – CJEU rules in *HK Danmark v. Experian A/S* that the practice of age-related contribution levels in an occupational pension scheme could be objectively justified, but national courts have to decide if they are an appropriate and necessary measure to achieve the legitimate aim

26 September – CJEU rules in *Dansk Jurist-og Økonomforbund v. Indenrigs-og Sundhedsministeriet* that Article 6 (2) of the Employment Equality Directive is applicable only to retirement or invalidity benefits under an occupational social security scheme. It also rules that Articles 2 and 6 (1) of the directive must be interpreted as precluding a national provision under which a civil servant who has reached the age at which he is able to receive a retirement pension is denied, solely for that reason, entitlement to availability pay intended for civil servants dismissed on grounds of redundancy

September

October

7 November – CJEU rules that lesbian, gay, bisexual and transgender (LGBT) persons may be perceived as a particular social group for the purpose of the Qualification Directive, making them eligible for asylum in the EU if punishment for homosexual acts is applied in their home countries

November

10 December – European Parliament adopts the EU financial package on rights and equality for 2014–2020

11 December – European Parliament adopts a resolution on women with disabilities, focusing on the discrimination generated by the intersection of gender and disability

12 December – CJEU rules in *Frédéric Hay v. Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres* that employees entering into a civil partnership with a same-sex partner in a Member State where homosexual marriage is not possible must be granted the same benefits as those granted to their colleagues upon marriage

17 December – European Parliament adopts general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund

December

5

Equality and non-discrimination



The EU benefits from a solid legal framework with which to counter discrimination, especially on grounds of racial or ethnic origin. The European Commission's proposal for a Horizontal Directive, designed to provide comprehensive protection against discrimination on all grounds equally, remains stalled. Discrimination often excludes those affected, erecting barriers that prevent some from participating in society on an equal and non-discriminatory footing. FRA survey results have shown, for example, that many lesbian, gay, bisexual and transgender (LGBT) persons fear holding hands with a partner in public; one in five Jews face discrimination or harassment; and women in the EU regularly experience harassment at work. EU Member States and EU institutions recognise that barriers to full participation exist. Some are adopting measures to tackle the issue, also drawing on EU funds to address discrimination and unequal treatment.

5.1 EU legislation on equal treatment between persons stalls

The EU enjoys a solid legal framework with which to combat discrimination,¹ but the principle of equal treatment does not yet cover European society in all its diversity.² To rectify this, the European Commission proposed, in 2008, a directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, known as the Horizontal Directive.³ Five years have passed since this proposal was made, with little progress to report in the intervening period. The year 2013 was no different. The Council of the European Union continued to examine the proposal in the framework of the Working Party on Social Questions. The Council says "there is still a need for further work on the proposal",⁴ although work done under the Irish Presidency clarified the scope of the proposal in the fields of education and social protection, and elaborated some of its provisions.⁵

The European Commission is also continuing to work on the European Accessibility Act. The initiative was originally intended for adoption in September 2012.⁶ Preparatory work continued in 2013 for the act, which aims at improving access for persons with disabilities and elderly persons to the market

Key developments in the area of equality and non-discrimination

- The legislative package for the EU Structural Funds is adopted. It includes thematic ex ante conditionality on Roma inclusion and general ex ante conditionality on Member States' administrative capacity for the implementation and application of Union anti-discrimination law and policy.
- The new EU programme for Rights, Equality and Citizenship was adopted in December 2013 for the period 2014–2020. The programme will promote fundamental rights, combating all forms of discrimination and fighting racism. It will also continue to provide funding for Roma inclusion.
- Discussions on the proposed Horizontal Directive continue to stall.
- The European Accessibility Act, covering access to goods and services for persons with disabilities and elderly persons, is still under preparation.
- The European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE Committee) argues that the EU lacks a comprehensive policy to protect fully the fundamental rights of LGBT and intersex persons.

in goods and services. It intends to harmonise accessibility requirements across the EU Member States.

Civil society organisations continued to engage closely in developing the Accessibility Act. In January, the European Disability Forum published a position paper calling for a wider legal basis for the act, which takes into account the potential benefits for social inclusion and equality of viewing persons with disabilities as consumers.⁷ There were several consultations with stakeholders, including users and industry. Contributions were received from EU-level non-governmental organisations (NGOs) and industry organisations.

A coalition of organisations acting on behalf of the railway sector and passengers also issued a joint statement highlighting the relevance of EU funding for projects enhancing transport accessibility⁸ (for more information on the role of EU funding in countering discrimination, see [Section 5.5](#)) The Accessibility Act is included in the European Commission's work programme for 2014, with March 2014 as a target adoption date.⁹

The EU lacks a comprehensive policy to protect fully the fundamental rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) argues. The LIBE Committee called on the European Commission, EU Member States and relevant agencies to work jointly on a comprehensive policy to protect fully the fundamental rights of LGBTI persons, the so-called EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity.¹⁰ Ministers of 11 EU Member States also signed a joint statement on the occasion of the 2013 international day against homophobia, calling for a comprehensive EU-wide approach to LGBT issues.

According to the European Commission, adopting a targeted approach would be more efficient than developing a comprehensive approach in the fight against homophobia. Fully implementing the Employment Equality Directive and the Victims' Directive, as well as adopting the Horizontal Directive, would offer legal protection against homophobic and transphobic discrimination, the Commission argues. In terms of concrete action, following the publication of the FRA survey on LGBT discrimination, the European Commission brought together 14 interested Member States to discuss and exchange existing best practices in those areas the survey identified as displaying the greatest problems.

A significant step in strengthening protection against discrimination on the grounds of disability was taken in jurisprudence relating to the Employment Equality Directive. In *HK Danmark, acting on behalf of Jette Ring v. Dansk Almennyttigt Boligselskab DAB* and *HK Danmark acting on behalf of di Lone Skouboe*

Werge v. Pro Display A/S, the Court of Justice of the European Union (CJEU) updated its interpretation of the concept of disability as a limitation, which results in particular from physical, mental or psychological impairments that, in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers.¹¹

FRA ACTIVITY

Assessing equality and non-discrimination in the European Union: a patchwork of standards

The European Commission requested that FRA provide an opinion on the situation of equality in the EU 10 years on from initial implementation of the equality directives. The Commission, under Article 17 of the Racial Equality Directive, is required to report to the European Parliament and the Council on the implementation of both the Racial Equality Directive and the Employment Equality Directive, taking into account FRA's views.

Published in October, the FRA opinion argues that people continue to face discrimination in their daily lives, despite considerable progress nationally and EU-wide in policies and laws beyond the area of employment.

The opinion also shows that, although the EU made no discernible progress on adopting the Horizontal Directive on non-discrimination, this did not, however, prevent national systems from broadening the scope of their protection. A number of Member States adopted legal measures to extend protection across a range of grounds, leading to a patchwork of standards across the EU.

Another important aspect of equality and non-discrimination is the awareness people have of their rights. A large body of FRA evidence shows that people lack rights awareness. The opinion therefore emphasises the need for national and local authorities to intensify rights awareness activities. These should bring EU antidiscrimination legislation to the public's attention and focus on targeting persons most at risk of discrimination.

The opinion also argues that Member States should ease access to justice to ensure equality in practice, by broadening the mandate of equality bodies to deal with complaints where this is not already the case. In addition, the rules should be relaxed to enable civil society organisations to take cases forward on behalf of those who have been discriminated against.

For more information, see FRA (2013), Opinion of the European Union Agency for Fundamental Rights on the situation of equality in the European Union 10 years on from initial implementation of the equality directives, available at: http://fra.europa.eu/sites/default/files/fra-2013-opinion-eu-equality-directives_en.pdf

By aligning the Employment Equality Directive with Article 1 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the CJEU distanced itself from its previous jurisprudence, which relied on a medical approach to disability.¹² It adopted instead a social model approach that more closely mirrors that of the CRPD. Moreover, the decision exemplifies the move within the CJEU to interpret existing EU law in line with the Union's international legal obligations.

5.2 Discrimination on all grounds persists in the EU

The Horizontal Directive's lack of progress makes it clear that policy makers are failing to acknowledge fully the extent and gravity of discrimination in the EU. FRA evidence and national human rights bodies' data testify to persistent and widespread discrimination. (See ► [Chapter 6](#) on racism, xenophobia and related intolerance and ► [Chapter 7](#) on discrimination against Roma.)

The FRA survey on minorities and discrimination¹³ confirms that migrants and members of minority groups regularly face discrimination. The findings show that in the 12 months preceding the survey half the Roma respondents suffered discrimination because they are Roma. Sub-Saharan Africans (41 %) experienced the second-highest rate of overall discrimination, and a third of North Africans report being discriminated against. Eight in 10 of those who experienced discrimination did not report their most recent experience to any organisation, mainly because they believed that nothing would happen even if they were to report the incident.

"The EU was founded after Europe [...] lived through the atrocities during World War II. All of us have a duty in ensuring that no one is discriminated against, or being subject to violence because of their ethnicity, religious beliefs, gender or sexual orientation. Too few are standing up against intolerance today. We need political leaders who do not flirt with populism and xenophobia."

Cecilia Malmström, 'Crimes against the foundation of society', 12 November 2013, available at: <http://blogs.ec.europa.eu/malmstrom/>

Jewish persons in the EU still experience discrimination on various grounds, as FRA's survey on antisemitism ► shows (See [Chapter 6](#) on racism, xenophobia and related intolerance).¹⁴ Over one third of Jewish persons experienced discrimination in the 12 months preceding the survey, whether on the grounds of their ethnic background, gender, sexual orientation, age, religion or belief, disability or any other reason. About one in five respondents felt they were discriminated against or harassed on the grounds of their religion or beliefs. In addition, about one in 10 respondents indicated that they felt discriminated against or harassed on

the grounds of both ethnicity and religion, which is the most common combination of grounds. The most common settings where discrimination was felt were the workplace and when looking for work.

About two thirds of those who experienced physical violence or threats of violence did not report the most serious incident to the police or to any other organisation. Of those who said that they felt discriminated against in the 12 months before the survey because they were Jewish, more than eight in 10 did not report the most serious incident to any organisation. The main reason for not reporting was a lack of confidence that reporting the incident would improve the situation.

Women in the EU also regularly face sexual harassment at work, as the findings of FRA's survey on violence against women show (for more information on this ► survey, see [Chapter 9](#) on rights of crime victims). Of those women who have experienced sexual harassment at least once since the age of 15, 32 % indicated a colleague, a boss or a customer as the perpetrator(s). This shows the need for employers' organisations and trade unions to promote awareness of sexual harassment at work. Under-reporting is again a characteristic of the experience of discrimination, with only 13 % of women reporting to police the most serious incident of non-partner violence.

Despite low reporting levels, evidence from equality bodies and research institutes can give an idea of the prevalence of given types of discrimination. Evidence from **Belgium**,¹⁵ **Bulgaria**,¹⁶ **Croatia**,¹⁷ **France**,¹⁸ **Germany**,¹⁹ **Greece**,²⁰ **Italy**,²¹ **Ireland**²² and **Sweden**²³ shows that ethnic and/or racial discrimination was the most frequently reported type in 2012, particularly in the area of employment. In **Germany**, research conducted by experts on migration and integration²⁴ shows that visible minorities such as persons with a Turkish migrant background and persons of African, Asian or Latin American origin, as well as Muslims, are especially vulnerable to discrimination on the labour market, at public offices and authorities or while seeking accommodation.

Relatively high levels of discrimination on the ground of age were identified in **Belgium**,²⁵ **Denmark**²⁶ and **France**.²⁷ Age and disability were the most commonly reported grounds of discrimination in the **Czech Republic**.²⁸ Equality bodies in **Poland**²⁹ ranked disability and gender discrimination as the most frequent grounds of discrimination.

Most complaints reported to the equality body in **Estonia** related to discrimination on the ground of sex.³⁰ In addition, discrimination against pregnant women and parents is considered direct discrimination on the grounds of sex in Estonia.³¹ Evidence of discrimination against pregnant women on the labour market was

FRA ACTIVITY

Highlighting discrimination and hate crime against lesbian, gay, bisexual and transgender (LGBT) persons

Recognising the lack of robust and comparable data on respect for, protection of and fulfilment of the fundamental rights of LGBT persons, in 2010 the European Commission, following calls from the European Parliament, asked FRA to collect comparable survey data on hate crime and discrimination against LGBT persons in all EU Member States. In response, FRA developed the EU survey of discrimination against and victimisation of lesbian, gay, bisexual and transgender persons (EU LGBT survey).

The online survey of over 93,000 LGBT people across the EU reveals widespread bullying and harassment that start early on in school and carry over into work, housing, social services and access to other goods and services. Without proper intervention, such behaviour may turn into hate crime. About 80 % of the respondents recalled negative comments or bullying at school and close to 50 % said they had felt personally discriminated against or harassed because of being LGBT.

The results show that LGBT persons in the EU suffer from not being able to be themselves at school, at work or in public. Many, therefore, cover up their identity, guarding their actions and living in isolation and even fear. Others, choosing to act as themselves, may experience discrimination and even violence. Member States differ in how LGBT persons perceive and experience violence, harassment and discrimination. This also holds for the perception of widespread negative attitudes towards LGBT persons, and whether LGBT persons avoid certain locations or behaviours for fear of being assaulted, threatened or harassed because of being LGBT. The survey's headline findings are:

- Almost half (47 %) of the respondents said that they felt personally discriminated against or harassed on the grounds of sexual orientation in the year preceding the survey.
- Over 80 % of respondents in every Member State recall negative comments or bullying of LGBT youth at school.
- Two thirds (67 %) of all respondents said they often or always hid or disguised that they were LGBT during their schooling before the age of 18.
- Two thirds of respondents across all Member States are scared of holding hands in public with a same-sex partner. For gay and bisexual male respondents, this figure reached 74 % and 78 %, respectively.
- One in five of those respondents who were employed and/or looking for a job in the 12 months preceding the survey felt discriminated against in these situations in the past year. This figure rises to one in three for transgender respondents.
- Of those respondents who had a paid job during the past five years, nearly half (43 %) experienced negative comments or conduct at work because of being LGBT. More than half (55 %) of transgender respondents had experienced such hostility and one in five (18 %) said this behaviour happened often or always.
- Of the respondents who had visited a café, restaurant, bar or nightclub in the year preceding the survey, one in five (18 %) felt personally discriminated against at that location because of being LGBT.
- A quarter (26 %) of all EU LGBT survey respondents had been attacked or threatened with violence in the previous five years.
- About three in 10 of all transgender respondents said they were victims of violence or threats of violence more than three times in the past year.
- A majority of respondents who had experienced violence (59 %) in the past year said that the last attack or threat of violence happened partly or entirely because they were perceived to be LGBT.
- Fewer than one in five (17 %) reported the most recent incident of hate-motivated violence to the police.
- More than four in five respondents said that casual jokes about LGBT persons in everyday life were widespread.
- Almost half of the respondents believe that offensive language about LGBT persons by politicians was widespread in the Member State where they live.

For more information, see FRA (2013), EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey: Results at a glance, available at: http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf; data available through data explorer tool at: <http://fra.europa.eu/DVS/DVT/lgbt.php>

identified in research conducted by the Equal Treatment Commission in the **Netherlands**³² and the Equality Ombudsman in **Sweden**.³³

Rulings by the European Court of Human Rights (ECtHR) in 2013 also emphasise the reality of discrimination in

the EU. In January, the ECtHR handed down judgments relating to the expression of religious belief in the workplace and discrimination. In *Eweida and Others v. the United Kingdom*,³⁴ the issue related to wearing visible symbols of religion at the workplace. The case related to four applicants.

Concerning the first applicant, the court held that the plaintiff's right to manifest her religious beliefs by visibly wearing a cross at work had been infringed by her employer, as there was no evidence that the wearing of the small cross would encroach on the interests of others. Concerning the second applicant, the court ruled that there had been no violation of the right to freedom of religion, as forbidding the visible wearing of a cross was justified for health and safety reasons for those working on hospital wards.

With respect to the third and fourth applicants, the issue related to the conflict between a person's religious beliefs and their refusal to provide a service to someone because of their sexual orientation. Here, the ECtHR ruled that the right to manifest religious beliefs cannot be to the detriment of other groups, particularly if it results in discrimination. The plaintiffs' employers had equal opportunity policies in place that required employees to act in a way that did not discriminate against others. The court ruled that, even though the right to manifest religious belief at work is protected, that right must be balanced against the rights of others.

In November, the ECtHR ruled in *Vallianatos and Others v. Greece*³⁵ that by excluding same-sex couples living in Greece from registering a civil union – a legal form of partnership available to opposite-sex couples – the Greek State violated rights protected by the prohibition of discrimination (Article 14) in conjunction with the right to respect for private and family life (Article 8) of the European Convention on Human Rights (ECHR).

At the end of 2013, the court had pending six conjoined cases regarding the refusal of the Italian authorities to register homosexual marriages contracted abroad and the inability of same-sex couples to contract marriage or any other type of civil union in Italy.³⁶

S. A. S. v. France,³⁷ another pending case, relates to a complaint made by a practising Muslim woman who argued that, by forbidding her to wear a full-face veil in public, her employers had breached ECHR articles on the prohibition of torture and inhuman and degrading treatment (Article 3); the right to respect for private and family life (Article 8); freedom of thought, conscience and religion (Article 9); freedom of expression (Article 10); freedom of assembly and association (Article 11); and the prohibition of discrimination (Article 14).

Case law at the national level also dealt with the issue of discrimination; a number of rulings clarified an important Racial Equality Directive concept on genuine and determining occupational requirements.³⁸ These requirements allow for differences in treatment based on a characteristic related to racial or ethnic origin, which do not constitute discrimination by reason of the nature of the particular occupational activities concerned or of the context in which they are carried

out. As in the case of other such specific measures, genuine and determining occupational requirements are subject to the requirements of objectivity, legitimacy and proportionality.

The Labour Court in **Belgium**, for example, ruled in January that a general requirement made by an employer for employees not to wear religious symbols does not constitute a genuine occupational requirement as defined by the Anti-Discrimination Act.³⁹

In **Germany**, the Federal Labour Court decided in a case where the complainant challenged his dismissal after his employer had learned that he was infected with HIV. The court ruled that dismissal solely on the grounds of HIV infection violates the General Equal Treatment Act. The court reasoned that HIV must be considered a disability in the sense of the act and of the CRPD.

In **Romania**, the national equality body published a decision in the case of *R. S. I. v. S. C. CDI Oilfield Service SRL and S. C. Adecco Resurse Umane SRL*.⁴⁰ The claimant was a mechanic with a hearing disability dismissed for failing an evaluation test carried out by a human resources company hired by his employer. The claimant complained that his employer did not inform the human resources company about his hearing impairment and that, since he was not informed about the test, he did not ask for an interpreter. The equality body established direct discrimination on the grounds of disability with regards to dismissal, as the employer did not accommodate the first evaluation test to the disability of the complainant.

5.3 Discrimination hinders full participation in society

Discrimination often results in exclusion from active participation in many areas of life, erecting barriers that prevent many people from participating in society on an equal and non-discriminatory footing. This happens to ethnic, religious, national or sexual minorities or migrants, for instance, in the areas of healthcare, education, employment and housing, as FRA evidence consistently shows.⁴¹

Examples include transgender persons in some EU Member States, who often have to meet a complex and lengthy set of legally prescribed criteria before gender markers in official documents can be changed, as FRA has documented.⁴² Such criteria include proof of a medical or psychological diagnosis of transsexuality or gender dysphoria/transgenderism. Without such documentation, transgender persons may face difficulties when they want to participate in simple daily activities that require identity documents.

Other barriers to participation stem from stigmatisation and negative stereotyping, leading to fear of verbal or physical attack. Nearly half of all respondents in the EU LGBT survey considered offensive language about LGBT people by politicians to be fairly or very widespread in the country where they live.⁴³ Similarly, FRA's survey of Jewish persons in the EU shows that, on average, more than half the respondents consider antisemitic comments made in the media and by politicians to be a problem in the country where they live.⁴⁴

The survey data also show that many people avoid certain events, places or locations in their local area or neighbourhood because they fear being harassed or attacked. Nearly half of Jewish respondents who have been a victim of an antisemitic incident in the past 12 months say they avoid certain places because they do not feel safe there as a Jew. Similarly, half the LGBT survey respondents said they avoid certain places or locations for fear of assault, threat or harassment because they are LGBT.

“Systematic barriers such as negative cultural attitudes, insufficient capacity-building for potential candidates and limited financial resources impede women’s equal participation in public life.”

United Nations, Committee on the Elimination of Discrimination Against Women (2013), Concluding observations on the seventh periodic report of Greece adopted by the Committee at its fifty fourth session, 11 February–1 March 2013, paragraph 24, available at: www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.C.GRC.CO.7.doc

The European Institute for Gender Equality launched its report on the state of gender equality in the EU (excluding Croatia) in June.⁴⁵ Using the Gender Equality Index, a statistical tool to measure achievements in the area of gender equality over time, the key finding shows that Member States have not managed to overcome gender gaps. On a scale where 1 stands for no gender equality and 100 for full equality, EU Member States scored 54 on average. The EU is still far from being a gender-equal society.

The biggest gender gap is within the area of power, where the EU scores a mere 38, the results show. This means that women are greatly under-represented in decision-making positions, despite the fact that they make up nearly half the workforce and account for more than half of tertiary-level graduates. The second-largest gap identified is in time spent on unpaid caring and domestic activities, where the average score is 38.8, meaning that women spend considerably more time on such activities than men.⁴⁶

For persons with disabilities, evidence collected by FRA in 2013 highlights that the lack of accessible information, the absence of training for public authorities, physical barriers preventing access to and effective use of buildings and services, and the absence of mechanisms

through which the voices of persons with disabilities can reach decision makers all serve to create obstacles to participation.⁴⁷

Promising practices

Addressing the under-representation of women in decision-making posts

Acknowledging the under-representation of women in decision-making posts, an Italian project aims to increase knowledge and understanding of the gender dimension in business leadership and economic growth. The two-year project, run by the Department for Equal Opportunities at the Italian Ministry of Labour and Social Affairs (*Ministero del Lavoro e delle Politiche Sociali*) and Bocconi University, will examine the gender balance on the boards of directors and audit committees of publicly owned Italian companies.

The project, which is supported by the European Commission, will further analyse the consequences of the presence of women on the board of directors of public and private companies. Entitled Women Mean Business and Economic Growth – Promoting Gender Balance on Company Boards, the project will suggest ways to increase the number of women employed in high-level positions.

The project will also promote the exchange of good practices and the beneficial effects of female leadership on economic growth and business.

For more information, see: www.pariopportunita.gov.it/index.php/primopiano/2396-qwomen-mean-business-and-economic-growth

The Promociona project aims to increase the number of women executives in steering committees and management boards of businesses in Spain, helping them break through the glass ceiling that women often face at work. To do so, training and development programmes will focus on nurturing and retaining female talent within companies, thereby enabling businesses to recruit and groom women to occupy senior management jobs. Starting in 2013, the project will run until the end of 2015, with funding from the European Economic Area Financial Mechanism.

For more information, see: www.eeagrants.spain.msssi.gob.es/docsRelevantes/pdf/folleto_programa_igualdad.pdf

Persons with disabilities also face legal hurdles that prevent them from participating in political and social life. This is particularly the case for those with psychosocial or intellectual disabilities who have been deprived of legal capacity, that is the law's recognition of a person's right to make decisions for him- or herself. This happens despite the CRPD Committee's insistence that State Parties to the Convention "ensure that persons

Table 5.1: Right to political participation of persons with psychosocial disabilities and persons with intellectual disabilities, by EU Member State

EU Member State	Exclusion	Limited participation	Full participation
AT			X
BE	X		
BG	X		
CY		X	
CZ		X	
DE	X		
DK	X	X	
EE	X	X	
EL	X		
ES		X	X
FI		X	X
FR		X	X
HR			X
HU		X	
IE	X		X
IT			X
LT	X		
LU	X		
LV			X
MT	X	X	
NL			X
PL	X		
PT	X		
RO	X		
SE			X
SI		X	
SK	X		
UK			X

Notes: Data as of December, 2013.

An EU Member State can be represented in more than one column, as persons with psychosocial disabilities and persons with intellectual disabilities may be treated differently according to the national law of the respective Member State, or because different laws specify different restrictions on the right to political participation.

Source: FRA, 2013

with disabilities, including persons who are currently under guardianship or trusteeship, can exercise their right to vote and participate in public life.”⁴⁸

FRA ACTIVITY

Increasing the participation of persons with disabilities in political and social life – legal capacity and participation in elections

In July 2013, FRA published a report that underlines the gap between the promise of Article 12 of the CRPD, on equal recognition of persons with disabilities before the law, and the reality that persons with disabilities currently face in the EU. The report, *Legal capacity of persons with mental health problems and persons with intellectual disabilities*, shows that, in a majority of EU Member States, legal frameworks allow some persons with disabilities to be deprived of their legal capacity in certain circumstances, despite the shift outlined in the CRPD from substituted to supported decision making. These national legal frameworks are, however, undergoing a transformation, as legal capacity is reframed in terms of the support that persons with disabilities may need to make decisions.

To support reform processes at the national level, FRA brought together legal experts from government ministries across the EU Member States in October to discuss how to give supported decision making a clear and effective legislative basis. The seminar, organised by FRA in partnership with the Irish Department of Justice and Equality, the Irish Human Rights Commission and the Irish Equality Authority, focused on the steps that must be taken to build a coherent legislative agenda to move successfully to supported decision making.

FRA’s preliminary findings on the political participation of persons with disabilities indicate that many of them confront legal and practical barriers to exercising the right to vote. This can deprive them of the opportunity to participate in an essential component of democratic societies. FRA’s work in this area consists of developing [indicators on the political participation of people with disabilities](#) to measure the extent to which they are enabled to participate in political life, particularly through voting and standing for elections.

For more information, see: FRA (2013), Legal capacity of persons with intellectual disabilities and persons with mental health problems, available at: <http://fra.europa.eu/en/publication/2013/legal-capacity-persons-intellectual-disabilities-and-persons-mental-health-problems>; and FRA (2013), Political participation of persons with disabilities, available at: <http://fra.europa.eu/en/project/2013/political-participation-persons-disabilities>

Only a minority of EU Member States have lifted all restrictions on the right to vote of people deprived of legal capacity. [Table 5.1](#) indicates that laws in

the large majority of Member States continue to tie the right to vote to legal capacity. Half of the EU-28 automatically exclude persons deprived of their legal capacity from the right to vote (exclusion). Legislation in several other Member States provides for a case-by-case assessment of the ability of a person to vote (limited participation).

“It is important to recognise the legal capacity of persons with disabilities in public and political life. This means that the person’s decision-making ability cannot be used to justify any exclusion of persons with disabilities from exercising their political rights.”

CRPD Committee (2013), Draft General Comment on Article 12 of the Convention: Equal recognition before the law, 25 November 2013, paragraph 44, available at: www.ohchr.org/EN/HRBodies/CRPD/Pages/DGCArticles12And9.aspx

5.4 Member States adopt measures to counter discrimination

EU Member States adopted measures in 2013 to enable them to counter discrimination more effectively. **Poland**, for example, adopted a national action plan for equal treatment covering 2013–2016.⁴⁹ In the **United Kingdom**, the Department for Culture, Media and Sport and the Government Equalities Office published a policy on *Creating a fairer and more equal society*.⁵⁰ The policy aims at preventing discrimination, including discrimination based on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. **Croatia**⁵¹ and **Greece**⁵² adopted similar action plans, with that of Greece covering human rights globally. **Estonia**⁵³ and **Finland**⁵⁴ organised campaigns promoting diversity and equality. In **Spain**,⁵⁵ the Ministry of Health, Social Services and Equality (*Ministerio de Sanidad, Servicios Sociales e Igualdad*) began mapping how discrimination is perceived and enacted, with a view to enabling the authorities to draft more effective antidiscrimination policies. In Spain as well, legislation relating to improving the quality of education irrespective of a person’s background came into force in December.⁵⁶

EU Member States also adopted measures targeting specific grounds of discrimination in 2013, particularly regarding age, disability, sexual orientation and gender identity.

5.4.1 Countering discrimination on the ground of age

Recognising that all human rights and fundamental freedoms apply to older persons, the draft recommendation by the Steering Committee for Human Rights of the Council of Europe on the promotion of the human

rights of older persons calls for increasing respect for older persons' autonomy and legal capacity in daily life. It also called for promoting the protection of older persons in societies where ageism is rising or in situations where they may be vulnerable.⁵⁷

Member States adopted measures to encourage employers to hire young or older people to counter high youth unemployment rates and discrimination on the ground of age. In the **Czech Republic**, the national action plan supporting positive ageing for the period 2013–2017,⁵⁸ prepared by the Ministry of Labour and Social Affairs, envisages the implementation of tools to support older workers. It introduces concepts of age management and increases the employment of older workers by creating job-share positions between older and younger workers.

Promising practice

Providing the police with guidance on antidiscrimination

The National Union of Local Police Chiefs (*Unión Nacional de Jefes y Directivos de Policía Local*) and several NGOs working with migrants, Roma, LGBT people and those with intellectual disabilities in **Spain** published an antidiscrimination and equality guide for the police. The guide addresses discrimination on specific grounds, multiple discrimination and hate crime. It also explains where discrimination usually takes place, while providing statistical and sociological data on populations vulnerable to discrimination. The guide further describes specific cases of discrimination involving the police in Spain and provides information on the legal framework on non-discrimination at the international, European and national levels.

The aim of the guide is to raise awareness among the police by providing examples of good practices in the areas of police adjustment to diversity; countering hate crimes; participation of a diverse society in public security policies; and avoidance of ethnic profiling.

For more information, see: Spain, Programa de colaboración de la Open Society Foundations con la Plataforma por la Gestión policial de la Diversidad (2013), Guía para la Gestión Policial de la Diversidad, available at: http://gestionpolicialdiversidad.org/PDFactividades/guia_gestion_policial_diversidad.pdf

Bulgaria introduced subsidies for hiring those under 29 years of age.⁵⁹ In **Denmark**, the government adopted similar measures, setting up programmes aimed at integrating young people into the job market.⁶⁰ **Finland** launched the Youth Guarantee programme to ensure young people's access to education, training and employment and to prevent them from being excluded from society.⁶¹

The 'generation contract' in **France** guarantees that companies with fewer than 300 employees receive financial support when they recruit persons under 26 or workers with disabilities under 30 or keep in a post employees over 57 years of age.⁶² In **Spain**, the government introduced a requirement for profit-making enterprises with more than 100 staff members to pay compensation to the state's social benefits scheme if they collectively dismiss workers over 50 years of age.⁶³

Belgium and **Germany** built upon 2012 campaigns as part of the European Year for Active Ageing and Solidarity between Generations, adopting measures to ensure the non-discriminatory treatment of young and older people in employment. Measures included awareness-raising campaigns, such as the **Belgian Fifty-plus employees are a plus for every company**.⁶⁴ The **German Perspektive 50plus**⁶⁵ campaign aimed at raising awareness of demographic issues, activating older long-term unemployed people and integrating them into the job market.

Finally, the European Commission closed the infringement procedure on the forced retirement of judges in **Hungary**, which had lowered their mandatory retirement age from 70 to 62.⁶⁶ Hungary amended the relevant legal act.

5.4.2 Countering discrimination on the ground of disability

EU Member States continued to bring their legislation and policy frameworks in line with their legal obligations under the CRPD. New legislation was either adopted or presented in draft in **Austria**,⁶⁷ **Belgium**,⁶⁸ **Estonia**,⁶⁹ **Hungary**,⁷⁰ **Italy**,⁷¹ **Latvia**,⁷² the **Netherlands**,⁷³ **Portugal**⁷⁴ and the **United Kingdom**.⁷⁵

Croatia,⁷⁶ the **Czech Republic**,⁷⁷ **Hungary**⁷⁸ and **Latvia**⁷⁹ adopted reforms to remove or reduce restrictions for persons with psychosocial or intellectual disabilities who have been deprived of legal capacity. In the **Czech Republic**, the Civil Code that came into force on 1 January 2014 stipulates that a person's legal capacity may be partially limited, with courts deciding the scope of the legal capacity limitation, including whether or not the individual retains the right to vote.⁸⁰

Amendments to the **Latvian** Civil Law in force since 1 January 2013 envisage that "the person shall not be deprived of personal non-material rights", including the right to vote.⁸¹ Moreover, a draft Assisted Decision-Making Bill setting out a legal framework for supported decision-making was presented ► in **Ireland** (see [Chapter 10](#) on EU Member States and international obligations).⁸²

Hungary initiated reforms linked to the Concluding observations of the CRPD Committee.⁸³ The committee expressed concern that the definition of disability in the

Disability Act⁸⁴ excludes persons with psychosocial disabilities. Hungary subsequently amended the Disability Act, which as of 1 January 2014 covers persons with psychosocial disabilities.⁸⁵ In addition, the committee specifically called upon Hungary to “re-examine the allocation of funds, including regional funds obtained from the European Union”, to ensure that they are in full compliance with Article 19 of the CRPD.⁸⁶ This has ramifications for the use of the new Structural Funds to support the transition from institutional to community-based care, particularly in the light of the newly adopted ex ante conditionalities (for more on ex ante conditionalities, see [Section 5.5](#)).

Promising practice

Involving NGOs in improving accessibility of buildings for persons with disabilities

In the **Croatian** city of Vinkovci, the Committee for the Technical Examination of Buildings includes a member representing Bubamara, an NGO that works to protect persons with disabilities. The committee runs fieldwork tests of the accessibility of new buildings, a prerequisite for these to gain use permits. The test results feed back into the engineering works, allowing the removal of any obstacles encountered and preventing these in future construction projects. The committee also raises awareness within the construction industry of how to ensure that buildings are accessible for all. Several Croatian cities have now included NGO representatives on their technical building committees, a practice recommended by the Persons with Disabilities Ombudsman.

For more information, see: www.bubamara.hr/ and www.bd.undp.org/content/croatia/hr/home/presscenter/articles/2013/10/15/osobe-s-invaliditetom-i-lokalna-uprava-o-nepriputa-nosti-objekata/

Cyprus,⁸⁷ **Denmark**,⁸⁸ **Italy**,⁸⁹ **Latvia**,⁹⁰ **Lithuania**,⁹¹ **Slovakia**⁹² and the **United Kingdom**⁹³ introduced action plans in the area of disability. The **Italian** Ministry of Labour and Social Policy, for example, approved in February the country’s first National Action Programme for the promotion of the rights and integration of people with disabilities.⁹⁴ The plan identifies seven priority areas for the implementation of the CRPD and defines concrete measures to be implemented by national, regional and local authorities.

Other initiatives to enhance the participation of persons with disabilities focused on the accessibility of public buildings and information, as well as on assistance during the voting process. **France**, for example, requires an assessment of the accessibility of state and municipal buildings for persons with disabilities, following an interdepartmental circular sent out in January.⁹⁵ As of

2013, the **Austrian** Federal Parliament has a tool that reads its website’s contents aloud.⁹⁶

To help guarantee the secrecy of the ballot for persons with disabilities who require assistance to vote, the **Swedish** Parliamentary Electoral Committee proposed introducing a new provision to the Election Act that would include an explicit duty of confidentiality for individuals who assist voters.⁹⁷ In the **United Kingdom**, the parliamentary outreach service in conjunction with a not-for-profit organisation launched a campaign, Love Your Vote, to explain to persons with intellectual disabilities the parliamentary process, the electoral system, the voting process and how to lobby local representatives.

The Employment Equality Directive incorporates the duty of ‘reasonable accommodation’ for persons with disabilities. This is the employer’s duty to take appropriate measures, where needed, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer.⁹⁸

Croatian lawmakers amended the new Act on Professional Rehabilitation and Employment of Persons with Disabilities. Reasonable accommodation at the workplace is newly defined as “necessary and adequate accommodation and adjustments, which are not disproportionate or inadequate, so as to ensure the employment and work of persons with disabilities on an equal basis to others in each individual case, where necessary”.⁹⁹

In some countries, measures of reasonable accommodation have been applied to fields other than employment, such as education. In **Bulgaria**, for instance, the national programme for accessible schooling *Creating an accessible architectural environment 2013* aims to create a supportive environment for 400 children with intellectual disabilities who have been living in institutions that are now scheduled for closure. It also aims to give them easier access to 64 pilot kindergartens and elementary schools near their new accommodation, which consists of small, family-type centres and sheltered housing. This also relates to the inclusive education programme, under which 1,331 pupils with special educational needs received support to study in 84 pilot secondary schools.¹⁰⁰

The Flemish Government in **Belgium** approved a proposal for a decree on measures for students with specific education needs, which it submitted to the Flemish Parliament in November 2013.¹⁰¹ The proposal provides that children who are able to continue in regular education with the help of reasonable adjustments have the right to enrol or remain enrolled in regular schools. Those who are not able to follow regular education, because of what is required to obtain a degree, or for



whom the adjustments to attend regular school would be unreasonable, have access to special education.¹⁰²

5.4.3 Countering discrimination on the grounds of sexual orientation and gender identity

Several EU Member States addressed the legal situation of LGBT persons in 2013. **Malta**, for example, removed from its Civil Code obstacles relating to the civil status of persons who change their assigned sex.¹⁰³ **Poland** began parliamentary discussions on adopting a formal procedure of gender recognition.¹⁰⁴ In **Ireland**, the Department of Social Protection proposed a Gender Recognition Bill to recognise legally the acquired gender of transgender persons for all purposes, including dealings with the state, public bodies and civil and commercial entities.¹⁰⁵

Latvia adopted new Regulations on Civil Status, allowing, among other amendments, for legal change of gender.¹⁰⁶ According to the new law, the registry record shall be supplemented if the person has undergone partial or complete gender reassignment and the persons' gender record shall be changed according to the certificate issued by the healthcare institution or healthcare practitioner, which confirms the change of the gender.

Similarly, **Lithuania** simplified the procedure of legal gender recognition by obliging registry offices to change identity documents upon the submission of medical proof of gender-reassignment surgery.¹⁰⁷ The Lithuanian Gay League points out, however, that in 2013 a proposal was put forward envisaging fines for those organising protests that would seemingly contradict "constitutional moral values and Constitution established principles of family". If adopted, the proposal would apply to situations where LGBT persons would be seen to contradict the "morality of society."¹⁰⁸

The Senate in the **Netherlands** voted in favour of a law enabling transgender persons to change their legal sex without requirements such as sterilisation or genital surgery.¹⁰⁹

Civil society organisations acknowledged the limited progress made with regard to the legal recognition of a trans person's gender in some EU Member States. Still, they remained critical of legislative proposals that would necessitate sterilisation, divorcing or compulsory medical treatment.¹¹⁰

In **Belgium**,¹¹¹ **Denmark**,¹¹² **Finland**¹¹³ and **France**,¹¹⁴ national equality bodies and expert working groups focused on legislation concerning LGBT persons. The attention here is on gender recognition in civil matters, conditions for gender reassignment and developing proposals for legal reforms to better accommodate the needs of

LGBT persons. In **Cyprus**, the Ministry of Justice and Public Order not only submitted legislation penalising discrimination on the grounds of race, colour, religion, national or ethnic origin; it also submitted a bill amending the Criminal Code to the Parliament. The bill would penalise the public incitement of discriminatory acts or acts of hatred or violence against persons because of their sexual orientation or gender identity.¹¹⁵

Action plans and policy measures on countering discrimination grounded on sexual orientation and gender identity were also introduced or updated in **Belgium**, the **Netherlands**¹¹⁶ and **Portugal**.¹¹⁷

5.5 EU deploys EU structural funds in countering discrimination

The legislative package for the European Union Structural Funds for the period 2014–2020 was adopted in December 2013.¹¹⁸ These funds, totalling €325 billion, are the EU's principal investment tool for delivering Europe 2020 goals, including the reduction of social exclusion and creating economic growth and jobs.¹¹⁹

The regulations governing several specific funds make specific reference to furthering equality and non-discrimination. For the first time, the European Social Fund (ESF), which accounts for 23 % of the total Structural Funds budget, will include a specific focus on fighting discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, or those covered by Article 10 of the Treaty on the Functioning of the European Union, in addition to promoting employment and inclusion.¹²⁰

Of the more than €74 billion of ESF funds to be distributed over the seven-year financing period, at least 20 % will be allocated to social inclusion and €3 billion to the Youth Employment Initiative in regions with youth unemployment rates exceeding 25 %.¹²¹

Particularly important to the area of equality and non-discrimination is the inclusion of the requirement for EU Member States to show that they have the relevant legal and policy instruments and measures in place before they can apply for funding, including on antidiscrimination, gender and disability. The move to require such 'ex ante conditionalities' in these three areas reverses a previous Council of the European Union decision removing them.¹²²

Before funds can be allocated, the European Commission must assess that a number of criteria attached to each conditionality have been fulfilled. Regarding antidiscrimination, for example, EU Member States must meet certain criteria, including arranging that the bodies

that promote equal treatment shall be involved in programme preparation and implementation.¹²³ Particularly important in the context of disability, children and older people are the criteria for fulfilment attached to the objective of promoting social inclusion, combating poverty and any discrimination, which include “measures for the shift from institutional to community based care”. Table 5.2 presents a summary of the relevant ex ante conditionalities.

“The implementation of the priorities financed by the ESF should contribute to countering discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation by paying particular attention to those facing multiple discriminations; discrimination on the grounds of sex should be interpreted in a broad sense so as to cover other gender-related aspects in line with the jurisprudence of the Court of Justice of the European Union. The ESF should support the fulfilment of the obligation under the UN [CRPD] with regard inter alia to education, work and employment and accessibility. The ESF should also promote the transition from institutional to community-based care. The ESF should not support any action that contributes to segregation or to social exclusion.”

European Parliament (2013), Resolution of 20 November 2013 on the proposal for a regulation of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006, P7_TA(2013)0483, Strasbourg, 20 November 2013.

In addition, the Rights, Equality and Citizenship Programme was adopted in December for the period 2014–2020.¹²⁴ The programme will contribute to fighting discrimination on all the grounds listed in Article 21 of the [Charter of Fundamental Rights](#), namely sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. The funds available amount to €439,473,000, merging three programmes: Fundamental Rights and EU Citizenship,¹²⁵ Daphne III,¹²⁶ and two chapters of the Progress programme.¹²⁷

Table 5.2: Common provisions on European funds: selected general and thematic ex ante conditionalities

Area	Ex ante conditionality
Antidiscrimination	Administrative capacity to implement and apply EU antidiscrimination law and policy in the field of European Structural and Investment (ESI) funds
Gender	Administrative capacity to implement and apply EU gender equality law and policy in the field of ESI funds
Disability	Administrative capacity to implement and apply the United Nations Convention on the Rights of Persons with Disabilities in the field of ESI funds in accordance with Council Decision 2010/48/EC
Thematic objective	Ex ante conditionality
Promoting social inclusion, countering poverty and any discrimination	The existence and implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of persons excluded from the labour market in the light of the employment guidelines
Promoting sustainable and quality employment and supporting labour mobility ESF: Active and healthy ageing	Active ageing policies designed in the light of the employment guidelines

Source: Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No. 1083/2006, OJ L 347, 20/12/2013, pp. 320–469, Article 19 and Annex XI



Outlook

The European Commission's report on the implementation of the Employment Equality Directive and the Racial Equality Directive will give new impetus to EU Member States to ensure that they offer adequate protection against discrimination and unequal treatment. This could lead to a revision of national policies and instruments pertaining to equality and non-discrimination.

The impact of the economic crisis will continue to affect the ability of persons in vulnerable situations to participate fully in social life in a number of Member States. The reformed cohesion policy will make available up to €351.8 billion for delivering on Europe 2020 goals, which include reducing poverty and social exclusion.

However, the ability of all those living in the EU to participate fully and equally is also likely to be affected by the pace of progress on key legislative and policy developments, such as the Horizontal Directive and the Accessibility Act.

After meeting for the first time in 2013, the EU-level CRPD monitoring framework set up under the Convention's Article 33 (2) will build up its activities in 2014. In particular, it will prepare a work programme and take steps to ensure public access to key documents and information about the work of the framework, which is composed of the European Parliament, the European Commission, the European Ombudsman, FRA and the European Disability Forum representing civil society.

Index of Member State references

EU Member State	Page
AT	124, 127, 136
BE	129, 131, 135, 136, 137
BG	129, 135, 136
CY	124, 136, 137
CZ	129, 135
DE	129, 131, 135
DK	129, 135, 136, 137
EE	129, 134, 135
EL	124, 129, 131, 134
ES	132, 134, 135
FI	134, 135, 137
FR	129, 131, 135, 136, 137
HR	129, 132, 134, 135, 136
HU	124, 135, 136
IE	129, 135, 137
IT	124, 129, 131, 132, 135, 136
LT	136, 137
LU	n/a
LV	135, 136, 137
MT	137
NL	130, 135, 137
PL	129, 134, 137
PT	135, 137
RO	124, 131
SE	129, 130
SI	n/a
SK	124, 136
UK	124, 130, 134, 135, 136



Endnotes

All hyperlinks accessed on 30 April 2014.

- 1 See: Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19 July 2000, pp. 22–26; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2 December 2000, pp. 16–22; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373, 21 December 2004, pp. 37–43.
- 2 European Commission (2011), *The principle of equal treatment between persons*, http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/c10935_en.htm.
- 3 European Commission (2008), *Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*, COM(2008) 426 final, Brussels, 2 July 2008.
- 4 See: Council of the European Union (2013), *Progress report on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*, Irish Presidency of the Council of the EU, 7 June 2013, <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%2010039%202013%20INIT>; Council of the European Union (2013), *Progress report on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*, Lithuanian Presidency of the Council of the EU, 22 November 2013, <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&c=true&sc=false&f=ST%2016438%202013%20INIT>.
- 5 See: Council of the European Union (2013), *Progress report on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation*, Irish Presidency of the Council of the EU, 7 June 2013.
- 6 European Commission (2011), *Roadmap, European Accessibility Act: Legislative initiative to improve accessibility of goods and services in the Internal Market*, Brussels, June 2011, http://ec.europa.eu/governance/impact/planned_ia/docs/2012_just_o25_european_accessibility_act_en.pdf.
- 7 European Disability Forum (EDF) (2013), *EDF position paper: Towards a European Accessibility Act*, Brussels, January 2013, p. 15, www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=31902.
- 8 Age Platform Europe, Community of European Railway and Infrastructure Companies, European Disability Forum and European Passengers' Federation (2013), *Towards better accessibility of transport services*, joint statement, January 2013, www.age-platform.eu/images/stories/joint_statement_on_European_Accessibility_Act.pdf.
- 9 European Commission (2014), *Commission actions expected to be adopted in 2014*, http://ec.europa.eu/atwork/pdf/forward_programming_2014.pdf.
- 10 European Parliament (2013), *Draft report on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity*, (2013/2183(INI)), 14 October 2013.
- 11 CJEU (2013), joined cases C-335/11 and C-337/11.
- 12 CJEU (2006), *Chacon Navas v. Eures Colectividades SA*, 11 July 2006. See also FRA (European Union Agency for Fundamental Rights) (2011), *The legal protection of persons with mental health problems under non-discrimination law: Understanding disability as defined by law and the duty to provide reasonable accommodation in EU Member States*, Luxembourg, Publications Office of the European Union (Publications Office).
- 13 FRA (2010), *EU-MIDIS: European Union Minorities and Discrimination Survey 2009*, Luxembourg, Publications Office.
- 14 FRA (2013), *Discrimination and hate crime against Jews in EU Member States: Experiences and perceptions of antisemitism*, Luxembourg, Publications Office.
- 15 Belgium, Centre for Equal Opportunities and Opposition to Racism (CEOOR) (2013), *Jaarverslag Discriminatie/Diversiteit 2012 / Rapport annuel Discrimination/Diversité 2012*, www.diversite.be/?action=publicatie_detail&id=161&thema=2&select_page=216.
- 16 Daskalova, N., Zhelyazkova, A. and Angelova, V., International Centre for Minority Studies and Intercultural Relations (2013), *Challenging racism at work*, www.imir-bg.org/imir/reports/CHALLENGING%20RACISM%20AT%20WORK.pdf.
- 17 Croatia, Office of the People's Ombudsman (2013), *Report on the occurrences of discrimination for 2012*, Zagreb, June 2013, www.ombudsman.hr/dodaci/lzvje%20C5%A1%C4%87e%20o%20pojavama%20diskriminacije.pdf.
- 18 France, Défenseur des droits (2013), *Annual activity report 2012*, www.defenseurdesdroits.fr/sites/default/files/upload/raa-Defender_of_Rights-2012_presso2.pdf.
- 19 Germany, Antidiskriminierungsstelle des Bundes (2013), *Diskriminierung im Bildungsbereich und im Arbeitsleben: Zweiter Gemeinsamer Bericht der Antidiskriminierungsstelle des Bundes und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages*, Berlin, www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Gemeinsamer_Bericht_2013.pdf?__blob=publicationFile.
- 20 Greece, Συνήγορος του Πολίτη, *Annual report 2012*, www.synigoros.gr/resources/docs/stp_ethsia_2012.pdf.
- 21 Italy, Ufficio Nazionale Antidiscriminazioni Razziali (2013), www.unar.it.
- 22 Ireland, Equality Authority (2013), *Equality Authority annual report 2012*, www.equality.ie/en/Publications/Annual-Reports/Annual-Report-2012-Final-online-web-version-pdf.pdf.
- 23 Sweden, Diskrimineringsombudsmannen, *Annual report 2012*, www.do.se/sv/Material/Arsredovisning-2012/.
- 24 Germany, Sachverständigenrat deutscher Stiftungen für Integration und Migration (SVR) (2013), *Migrants' experiences of discrimination*, Factsheet of the expert opinion: Discrimination experiences of persons with and without a migrant background including an East/West comparison, www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/factsheet_eng/Diskriminierungserfahrungen_Migrant_innen_Ost_West_Vergleich.pdf?__blob=publicationFile.
- 25 Belgium, (CEOOR) (2013), *Jaarverslag Discriminatie/Diversiteit 2012 / Rapport annuel Discrimination/Diversité 2012*, www.diversite.be/?action=publicatie_detail&id=161&thema=2&select_page=216.
- 26 Denmark, *Ligebehandlingsnævnet* (2013).
- 27 France, Défenseur des droits (2013), *Survey on the perception of discrimination by job seekers: Executive summary*, October 2013, www.defenseurdesdroits.fr/sites/default/files/upload/oit-synthese.pdf.

- 66 European Commission (2013), 'European Commission closes infringement procedure on forced retirement of Hungarian judges', Press release, IP/13/1112, 20 November 2013.
- 67 Austria, Parliament (2013), *Beschluss des Nationalrats vom 13. Juni 2013*, www.parlament.gv.at/PAKT/VHG/XXIV/BNR/BNR_00767/fname_310150.pdf.
- 68 Belgium, Residence Palace International Press Centre (2013), 'Diverse bepalingen inzake verkiezingen', Press release, 5 July 2013, www.presscenter.org/nl/pressrelease/20130705/diverse-bepalingen-inzak-e-verkiezingen.
- 69 Estonia, Sotsiaalministeerium (2013), email correspondence, 20 November 2013.
- 70 Hungary (2013), *A választási eljárásról szóló 2013. évi XXXVI. törvény*, Magyar Közlöny, No. 66/2013, http://njt.hu/cgi_bin/njt_doc.cgi?docid=159995.243493#foot1.
- 71 Italy (2003), *Decreto legislativo*, 9 July 2003, No. 216.
- 72 Latvia (2013), *Grozījumi Eiropas Parlamenta vēlēšanu likumā*, 31 October 2013.
- 73 Netherlands, Minister van Binnenlandse Zaken en Koninkrijksrelaties (2013), Letter sent to the House of Representatives No. 33829-1, 18 December 2013.
- 74 Portugal (2013), *Resolução da Assembleia da República 47/2013 pelo combate ao empobrecimento e à agudização da pobreza entre as mulheres*, 4 April 2013, <http://dre.pt/pdf1dsip/2013/04/06600/0197201973.pdf>.
- 75 United Kingdom (2013), Electoral Registration and Administration Act 2013, c. 6, <http://services.parliament.uk/bills/2012-13/electoralregistrationandadministration.html>.
- 76 Croatia, Parliament (2012), *Zakon o registru birača*, Narodne novine, No. 144/12, 14 December 2012.
- 77 Czech Republic, Parliament (2013), *Nový občanský zákoník*, February 2012, Section 55–65, <http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=6144>.
- 78 Hungary (2011), *Magyarország Alaptörvénye*, 25 April 2011.
- 79 Latvia (2012), *Grozījumi Civillikumā*, 29 November 2012.
- 80 Czech Republic, Parliament (2013), *Nový občanský zákoník*, 3 February 2012, Section 55–65, <http://aplikace.mvcr.cz/sbirka-zakonu/ViewFile.aspx?type=c&id=6144>.
- 81 Latvia (2012), *Grozījumi Civillikumā*, 29 November 2012.
- 82 Ireland (2013), Assisted Decision-Making (Capacity) Bill 2013 and Explanatory Memorandum, www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/8313/b8313d.pdf.
- 83 United Nations (UN), Committee on the Rights of Persons with Disabilities (2012), *Concluding observations on the initial periodic report of Hungary*, CRPD/C/HUN/CO/1, 22 October 2012.
- 84 Hungary, Parliament (1998), *A fogyatékos személyek jogairól és esélyegyenlőségük biztosításáról szóló 1998. évi XXVI. törvény*.
- 85 Hungary, Parliament (2013), *2013. évi LXII. törvény a fogyatékos személyek jogairól és esélyegyenlőségük biztosításáról szóló 1998. évi XXVI. törvény módosításáról*.
- 86 UN, Committee on the Rights of Persons with Disabilities (2012), *Concluding observations on the initial periodic report of Hungary*, CRPD/C/HUN/CO/1, 22 October 2012, para. 35.
- 87 Cyprus, Department for Social Inclusion of Persons with Disabilities (2013), *Εθνικό Σχέδιο Δράσης για την Αναπηρία. Για την εφαρμογή της Σύμβασης του ΟΗΕ για τα δικαιώματα των ατόμων με αναπηρίες 2013–2015*, Nicosia, Ministry of Labour and Social Insurance, Republic of Cyprus, July 2013.
- 88 Denmark, Kirke- og Ligestillingsministeriet (2013), *Handicappolitisk handlingsplan 2013: Et samfund for alle*, October 2013, www.sm.dk/data/Dokumentertilnyheder/2013/Handicappolitisk%20handlingsplan%202013_ACC.pdf.
- 89 Italy, Ministero del Lavoro e delle Politiche Sociali (2013), *Proposta di programma di azione biennale per la promozione dei Diritti e l'integrazione delle persone con disabilità*, www.lavoro.gov.it/AreaSociale/Disabilita/Documents/Programma_azione_disabilita.pdf.
- 90 Latvia, Ministru kabinets (2013), *Apvienoto Nāciju Organizācijas Konvencijas par personu ar invaliditāti tiesībām īstenošanas pamatnostādnes 2014.–2020.gadam*, 19 November 2013.
- 91 Lithuania, Socialinės apsaugos ir darbo ministerija (2013), *Del Nacionalinės neįgalųjų socialinės integracijos 2013–2019 metų programos įgyvendinimo 2013–2015 metais priemonių plano patvirtinimo*, No. A1-43, 5 February 2013.
- 92 Slovakia (2013), *Národný program rozvoja životných podmienok osôb so zdravotným postihnutím na roky 2014–2020*.
- 93 United Kingdom, Department for Business Innovation and Skills and Department for Education (2013), 'Government announces two new programmes for employers to take on young disabled people', Press release, 18 July 2013, www.gov.uk/government/news/government-announces-two-new-programmes-for-employers-to-take-on-young-disabled-people.
- 94 Italy, Ministero del Lavoro e delle Politiche Sociali (2013), *Proposta di programma di azione biennale per la promozione dei Diritti e l'integrazione delle persone con disabilità*, www.lavoro.gov.it/AreaSociale/Disabilita/Documents/Programma_azione_disabilita.pdf.
- 95 France (2013), *Circulaire relative à l'accessibilité aux personnes handicapées*, 3 January 2013, http://circulaires.legifrance.gouv.fr/pdf/2013/01/cir_36392.pdf.
- 96 Austria, Parliament (2013), *Barrierefreiheit: 'Leopold' liest Texte auf der Website*, www.parlament.gv.at/PAKT/AKT/SCHLTHEM/THEMA/2013/2013_08_19_Barrierefreiheit_Leopold.shtml.
- 97 Sweden, 2011 års vallagskommitté (2013), *E-röstning och andra valfrågor*, SOU 2013:24, p. 154.; www.regeringen.se/content/1/c6/21/48/78/89002b33.pdf.
- 98 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ 2007 L 303, Art. 5.
- 99 Croatia (2013), *Zakon o profesionalnoj rehabilitaciji i zapošljavanju osoba s invaliditetom*, Narodne novine, No. 157/13, <http://narodne-novine.nn.hr/default.aspx>.
- 100 Bulgaria, *Министерство на труда и социалната политика*, Letter No. 05-10 from 10 October 2013.
- 101 Belgium, Flemish Government (2013), *Ontwerp van Decreet betreffende maatregelen voor leerlingen met specifieke onderwijsbehoeften*, 21 November 2013, www.vlaamsparlement.be/Proteuss/showParlInitiatief.action?id=901710.
- 102 *Ibid.*; Belgium, Vlaams Minister van Onderwijs, Jeugd, Gelijke Kansen en Brussel (2013), 'Na 15 jaar discussie keurt Vlaamse regering het ontwerpdecreet rond inclusief onderwijs goed', Press release, 8 November 2013, www.vcov.be/vcov/Onderwijsflash/tabid/177/language/nl-NL/Default.aspx.
- 103 Malta, House of Representatives (2013), Act VII of 2013, the Civil Code (Amendment) Act, 14 June 2013.
- 104 Poland, Sejm (2013), *Results of voting on the draft proposal*, <http://sejm.gov.pl/sejm7.nsf/PrzebiegProc.xsp?nr=1469>.

- 105 Ireland, Department of Social Protection, (2013), *Gender Recognition Bill 2013*, www.welfare.ie/en/Pages/Gender-Recognition-Bill-2013.aspx.
- 106 Latvia, Ministru Kabineta (2013), *Noteikumi Nr. 761 'Noteikumi par civilstāvokļa aktu reģistriem'*, 3 September 2013.
- 107 Council of Europe (2013), Comments on the 10th report by Lithuania on the implementation of the European Social Charter (RAP/RCh/LTU/10(2013)), 11 April 2013.
- 108 Lithuania, LGL – National LGBT Rights Organization (2013), *For the recognition of family diversities: Fines for thousands*, www.lgl.lt/en/news/for-defiance-of-family-fines-for-thousands-are-suggested.
- 109 Netherlands, Eerste Kamer der Staten-Generaal (2013), *Wijziging vermelding van geslacht in de geboorteakte*, www.eerstekamer.nl/wetsvoorstel/33351_wijziging_vermelding_van.
- 110 Ilga Europe (2013), *Annual review of the human rights situation of lesbian, gay, bisexual, trans and intersex people in Europe 2013*, pp. 18, 37, 125, <https://dl.dropboxusercontent.com/u/15245131/2013.pdf>.
- 111 Belgium (2013), *Interfederaal actieplan tegen homofobe en transfobe discriminatie*, 10 June 2013, <http://igvm-iefh.belgium.be/nl/actiedomeinen/transgender/beleid/>.
- 112 Denmark, Justitsministeriet (2013), 'Information outlining the purpose and goals of the workgroup', press release, www.justitsministeriet.dk/sites/default/files/media/Arbejdsomraader/Ministeriet/Raad/K%20C3%20B8nsskifte%20Kommissorium%20-%20JM.pdf.
- 113 Information provided by the Finnish *Sosiaali- ja Terveysministeriö*.
- 114 France, Commission Nationale Consultative des Droits de l'Homme (2013), *Opinion on gender identity and rectification of gender in civil status*, 27 June 2013, www.cncdh.fr/sites/default/files/avis_cncdh_identite_de_genre_27_juin_2013_1.pdf.
- 115 Cyprus (2011), *ο περί της Καταπολέμησης Ορισμένων Μορφών και Εκδηλώσεων Ρατσισμού και Ξενοφοβίας μέσω του Ποινικού Δικαίου Νόμος του 2011[134(I)/2011]*, 21 October 2011.
- 116 Netherlands, *Tweede Kamer der Staten-Generaal* (2013), *Emancipatiebeleid: Brief van de minister van onderwijs, cultuur en wetenschap aan de voorzitter van de Tweede Kamer der Staten-Generaal*, <https://zoek.officielebekendmakingen.nl/kst-30420-180.html>.
- 117 Portugal, CIG (2013), Awareness-Raising Campaign, *Dislike bullying homofóbico*, www.dislikebullyinghomofobico.pt/.
- 118 Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No. 1083/2006, OJ L 347, 20 December 2013, pp. 320–469.
- 119 European Commission (2014), *Cohesion policy 2014–2020*, http://ec.europa.eu/regional_policy/what/future/index_en.cfm.
- 120 Regulation (EU) No. 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No. 1081/2006, OJ 2013 L 347, 20 December 2013, para. 19.
- 121 Regulation (EU) No. 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No. 1081/2006, OJ 2013 L 347, 20 December 2013.
- 122 Council of the European Union (2012), 2011/0276 (COD), Addendum 2 to Note 8207/12 ADD 2 Rev 1, Brussels, 20 April 2012; see also FRA Annual report 2012.
- 123 Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No. 1083/2006, OJ 2013 L 347, 20 December 2013, pp. 320–469, Art. 19 and Annex XI.
- 124 Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020; Text with EEA relevance, OJ 2013 L 354, 28 December 2013, pp. 62–72.
- 125 European Commission, DG Justice, *Fundamental Rights and Citizenship funding programme*, <http://ec.europa.eu/justice/grants/programmes/fundamental-citizenship/>.
- 126 European Commission, DG Justice, *Daphne III funding programme*, http://ec.europa.eu/justice/grants/programmes/daphne/index_en.htm.
- 127 European Commission, DG Employment, Social Affairs & Inclusion, *Progress programme (2007–2013)*, <http://ec.europa.eu/social/main.jsp?catId=327>.

