

Fundamental rights protection of persons with disabilities living in institutions

Justice that Works Conference, Validity Foundation (21 November 2024, Budapest)

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Outline

1. FRA's work on **disability**
2. **Children and women with disabilities** who are victims of violence – An insight to FRA relevant work and findings
3. FRA's project on 'Fundamental rights protection of **persons with disabilities living in institutions**'

1

FRA's work on disability

FRA and disability

- FRA mandate / Socio-legal analysis
- EU Charter of Fundamental Rights and the rights of persons with disabilities
- EU accession to the CRPD
- FRA as part of the EU CRPD Monitoring Framework

What FRA does:

- Examines where legal and social barriers exist
- Identifies practices to empower people with disabilities
- Develops human rights indicators

Selected FRA reports on disabilities

- Involuntary placement and involuntary treatment of persons with mental health problems (2012)
- Legal capacity of persons with intellectual disabilities and persons with mental health problems (2013)
- Violence against children with disabilities: legislation, policies and programmes in the EU (2015)
- From institutions to community living report series (2017)
 - *Part I: commitments and structures*
 - *Part II: funding and budgeting*
 - *Part III: outcomes for persons with disabilities*
- Implementing the UN Convention on the Rights of Persons with Disabilities: Human rights indicators (2018)
- Political participation of people with disabilities – new developments (2024)

2

1. Children and women with disabilities who are victims of violence

Violence against children with disabilities in institutions

Main focus of the research

Methodology: Desk research in 28 EU MS and 132 interviews with national bodies implementing the CRPD.

Key findings:

- Prevalence of violence for children with disabilities
- Institutionalisation is another factor increasing vulnerability and risk of abuse

FRA Opinions

- ✓ Advancing deinstitutionalisation efforts
- ✓ Strengthening the monitoring of institutions
- ✓ Collecting disaggregated data

Mapping Child Protection Systems in the EU – Update 2023

*Chapter (5) for identification and reporting procedures for children in need of protection
Chapter (6) for monitoring, deinstitutionalisation, prevention of violence & access to justice*

Violence against women surveys

1st Survey conducted in 2012 – 2013 (report published in 2014)

- 42.000 women between 17 and 74 interviewed in 28 EU MS
- Main findings on women with disabilities:
 - ❖ *Higher prevalence of violence / various types*
 - ❖ *Link to women's age*
 - ❖ *Sexual violence during childhood*

2nd Survey conducted in 2023

- Covering 8 EU MS
- In cooperation with EIGE and Eurostat
- Key findings to be published on November 25, 2024
- Main results report to be expected in 2025

3

Fundamental rights protection of persons with disabilities living in institutions

What?

FRA's project on the 'Fundamental rights protection of persons with disabilities living in institutions' :

- Examines how duty bearers mitigate the risk of violence of persons with disabilities in institutions and how they respond to cases when these occur.
- Complements FRA's activities as member of the EU Framework for the UN Convention on the Rights of Persons with Disabilities (CRPD).
- Supports FRA's work on victims' rights.

Responds to the EU Disability Strategy's call on FRA to *“to examine the situation of persons with disabilities living in institutions in relation to violence, abuse and torture.”*

Why?

Institutional care persists in the EU.

- There are still at least 1.438.696 persons living in institutions.
- The number of people in institutions did not substantially change over the past 10 years.
- Only small number of people live in small-scale / community-based services.
- The number of children in residential care has slightly decreased; persons with intellectual disabilities and complex needs are most likely to still live in institutional settings.

Why? (cont.)

Persons with disabilities are at **higher risk of violence and abuse**.

- Persons with disabilities in institutional settings particularly vulnerable (social isolation, power asymmetries, depersonalisation and lack of ability to seek outside help).
- Persons with disabilities face considerable barriers when they try to report violations and access justice.

Why? (cont.)

Lack of comparative & EU wide evidence on:

- Experiences of persons with disabilities in institutions.
- Availability and function of formal complaints procedures.
- Possibilities to safely access informal complains systems (anonymous suggestion boxes, residents' councils, etc.) external (third-party) complaints services.
- Monitoring by regulatory bodies & independent authorities.

How? - Research Methodology

Desk research through FRA's research network in Member States (FRANET)

- Covering all 27 Member States and 3 FRA observer countries (AL, MK, RS)
- Core areas explored through the desk research:
 - ✓ safeguards and accountability standards regulating the provision of institutional care in national **legal and policy frameworks**, incl. accreditation standards, privatisation of care, case law and drivers for change
 - ✓ **monitoring** carried out by public regulators and independent bodies, its regularity, findings and recommendations
 - ✓ the availability and function of formal, informal and independent **complaints mechanisms**
 - ✓ Victim support in terms of cooperation between competent actors and access to information and specialised services.

How? - Research Methodology (cont.)

Fieldwork research through FRA's research network in Member States (FRANET):

- Covering 10 Member States (DE, IE, HR, IT, LV, MT, PL, PT, SI, SK)

Interviews with national stakeholders (policy makers, service providers, human rights bodies, CSOs and DPOs) aim at:

- getting insights on **challenges, gaps and promising practices** arising through practice & experience in the field
- assessing the **effectiveness** of existing reporting channels, monitoring and complaints mechanisms, means of cooperation and coordination between relevant actors, and access to support services
- identifying **drivers for change** and **ways forward**

Interviews persons with disabilities aim at:

- anchoring the **overall analysis and the report outcomes** to the lived experiences of persons with disabilities in institutions

How? - Research Methodology (cont.)

Additional activities

- **Cooperation with the European Network for Victims Rights:**
 - ✓ Questionnaire shared with experts from Member States
 - ✓ Responses received by 15 countries
 - ✓ Added value: focused on access to protection & support for victims of violence, not covered in detail by the FRANET desktop research
- **FRA in-house research**
- **Ongoing stakeholder engagement**

Results will feed into ...

Legal and policy framework

EU

- Victims' rights directive revision / Victims' rights strategy
- EU Disability Strategy
- EU Framework for monitoring the Convention on the Rights of Persons with Disabilities
- EU funds – human rights compliance & deinstitutionalisation

UN

- Convention on the Rights of Persons with Disabilities (CRPD)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) / Subcommittee on prevention of torture (OPCAT)
- CRC, CEDAW etc
- Special rapporteurs on disability, older people etc

Legal and policy framework (cont.)

CoE

- European Convention on Human Rights
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment / Committee for the Prevention of Torture (CPT)
- Mainstreaming disability and victims' rights aspects throughout CoE work

Thank you!

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