Article 5: List of illustrative indicators on equality and non-discrimination

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<tr><th colspan="4">Article 5: List of illustrative indicators on equality and non-discrimination</th></tr>
<tr><th colspan="4">Equality and non-discrimination[a]</th></tr>
<tr><th>Attribute/type of indicator</th><th>Equality and protection from discrimination (disability based and others)</th><th>Provision of reasonable accommodation</th><th>Specific measures to achieve de facto equality</th></tr>
<tr><td rowspan="2">Structure</td><td colspan="3">5.1: National constitutional provisions adopted and legislation enacted recognizing the right to equality and non-discrimination of persons with disabilities, including the right to be provided with reasonable accommodation and the duty to adopt specific measures to achieve de facto equality[b]
5.2: Adoption of a national strategy and/or plan for equality of all persons with disabilities, in particular the groups more at risk of discrimination[c]
5.3: Legal or statutory requirement to collect and publish data disaggregated by disability across all sectors (health, employment, education, violence, access to justice, political participation, among others), including enrolment rate, employment rate, access to health services, victims of violence and complaints of discrimination lodged[d]
5.4: Legal requirement to establish a marker on all public spending to promote and protect the rights of persons with disabilities</td></tr>
<tr><td>5.5: Relevant thematic legislation enacted[e] explicitly prohibiting discrimination on the basis of disability and providing legal remedies for all forms of discrimination</td><td>5.6: Specific theme/target within national strategy/plan for equality of all persons with disabilities that ensures the availability of technical guidance,[f] financial incentives and budgetary resources for the provision of reasonable accommodation by public and private actors</td><td>5.7: Specific measures to achieve de facto equality, including affirmative action measures[g] adopted in legislation and/or policy plans, in particular for the groups more at risk of discrimination among persons with disabilities, including the existence or appointment of monitoring and enforcement mechanisms</td></tr>
<tr><td rowspan="2">Process</td><td colspan="2">5.8: Number and proportion of public sector staff designing, implementing and/or delivering services to the public trained on equality and non-discrimination under the Convention on the Rights of Persons with Disabilities, including on the obligation to provide reasonable accommodation, disaggregated by sector, agency and geographical location</td><td rowspan="2">5.11: Number of persons with disabilities benefiting from specific measures, in particular affirmative action measures, disaggregated by measure, sex, age, disability, geographical location and, if applicable, sector (public or private)[h]
5.12: Budget allocated to and spent on the implementation and monitoring of specific measures, including affirmative action measures</td></tr>
<tr><td></td><td>5.9: Budget allocated to and spent on the provision of reasonable accommodation within the public sector (e.g. in centralized reasonable accommodation funds)
5.10: Number of persons trained under State-run programmes directed at private actors (employers, service providers, etc.) on the obligation to provide reasonable accommodation and related procedures</td></tr>
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<tr><td></td><td colspan="3">5.13: Number of awareness-raising campaigns and activities for the dissemination of information directed at the general public on understanding the prohibition of discrimination on the basis of disability, anti-discrimination frameworks, the obligation to provide reasonable accommodation and specific measures to achieve de facto equality; and proportion of population who gained access to the campaigns and activities, disaggregated by age, sex, disability and geographical location
5.14: Number of consultation processes on the design, implementation and monitoring of laws, regulations, policies and programmes concerning equality and non-discrimination, including the rights of persons with disabilities, and proportion of persons with disabilities who participated in those processes, disaggregated by age, sex, disability and geographical location[i]
5.15: Proportion of complaints received alleging discrimination on the basis of disability and/or other grounds against persons with disabilities that have been investigated and adjudicated; proportion of those found in favour of the complainant; and proportion of the latter that have been complied with by the Government and/or duty bearer; each disaggregated by type of mechanism[j]</td></tr>
<tr><td rowspan="2">Outcome</td><td>5.16: Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law (Sustainable Development Goal indicators 10.3.1 and 16.b.1), disaggregated by sex, age and disability</td><td>5.17: Number and proportion of reasonable accommodation requests granted in the public sector, disaggregated by sex, age and disability</td><td></td></tr>
<tr><td colspan="3">5.18: Proportion of population living below the international poverty line, by sex, age, employment status and geographical location (urban/rural) (Sustainable Development Goal indicator 1.1.1) and disability
5.19: Proportion of population living below the national poverty line, by sex and age (Sustainable Development Goal indicator 1.2.1) and disability
5.20: Proportion of population living in households with access to basic services (Sustainable Development Goal indicator 1.4.1), disaggregated by sex, age and disability
5.21: Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and type of tenure (Sustainable Development Goal indicator 1.4.2) and disability
5.22: Average hourly earnings of female and male employees, by occupation, age and persons with disabilities (Sustainable Development Goal indicator 8.5.1)
5.23: Unemployment rate, by sex, age and persons with disabilities (Sustainable Development Goal indicator 8.5.2)
5.24: Proportion of people living below 50 per cent of median income, by sex, age and persons with disabilities (Sustainable Development Goal indicator 10.2.1)
5.25: Coverage by essential health services (defined as the average coverage of essential services based on tracer interventions that include reproductive, maternal, newborn and child health, infectious diseases, non-communicable diseases, and service capacity and access, among the general and the most disadvantaged population) (Sustainable Development Goal indicator 3.8.1), disaggregated by sex, age and disability
5.26: Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service and the judiciary) compared to national distributions (Sustainable Development Goal indicator 16.7.1)</td></tr>
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[a] Article 5 of the Convention on the Rights of Persons with Disabilities cuts across all rights of the Convention and is thus intimately linked to each. While the Convention establishes an autonomous right to equality and non-discrimination, violations of discrimination will most commonly be related to another article of the Convention (e.g. restricting the right of blind persons to open a bank account amounts to a violation of both article 12 and article 5).

[b] Legislation should contain the following elements at a minimum:

- A definition of discrimination on the basis of disability that is compliant with article 2 of the Convention
- Prohibition of discrimination against persons with disabilities on the basis of all prohibited grounds of discrimination, including actual or perceived disability
- A definition of discrimination on the basis of disability that includes direct/indirect discrimination, harassment, discrimination by association, multiple/intersectional discrimination and denial of reasonable accommodation, and that is compliant with the Convention
- Prohibition of discrimination on the basis of disability across all sectors and in all areas of life, including employment, education, health care, access to goods and services, and access to justice and political participation
- An obligation to provide reasonable accommodation that is recognized across all sectors and in all areas of life
- Provision for funding mechanisms to ensure the provision of reasonable accommodation
- Appointment of a national mechanism mandated to address discrimination on the basis of disability
- Availability of effective remedies against, and dissuasive sanctions for violations of, anti-discrimination legislation
- Broad recognition of legal standing of individual victims, groups and associations working to combat discriminatory practices
- State duty to adopt specific measures, including affirmative action measures, to achieve de facto equality of persons with disabilities

[c] For example, women and girls; children; older persons; persons who are deafblind; persons with intellectual disabilities; persons with psychosocial disabilities; lesbian, gay, bisexual, transgender and intersex persons with disabilities; persons with disabilities belonging to disadvantaged socioeconomic groups; migrants; indigenous persons; persons with albinism; persons with autism; persons belonging to a minority; persons living in remote and rural areas; and displaced persons with disabilities.

[d] Publication of data must respect the right to privacy of individuals and meet data protection standards. See Office of the United Nations High Commissioner for Human Rights, *A Human Rights-Based Approach to Data* (2018).

[e] "Relevant thematic legislation enacted" refers to legal frameworks regulating the exercise of rights, whether they are disability specific or mainstream (e.g. a labour code, education act, law on social protection or media law)

[f] For example, guidance on reasonable accommodation could contribute to ensuring broader knowledge of it and its broader provision, particularly given that the obligation to provide reasonable accommodation is often misunderstood and confused with accessibility measures. For a clear distinction, see Committee on the Rights of Persons with Disabilities, general comment No. 2 (2014) (paras. 25–26) and general comment No. 6 (2017) (para. 26). Guidelines on reasonable accommodation have been developed at the national level in Peru and in New Zealand, among others.

[g] Typical examples of specific measures, including affirmative actions, to achieve de facto equality are:

- Employment quotas requiring both public and private employers to hire a certain proportion of persons with disabilities of the total number of employees (e.g. 1 out of 20, or 5 per cent)
- Quotas in electoral lists or reserved seats in parliaments to promote representativeness and enhance political participation of persons with disabilities
- Tax exemptions for importing specific products for mobility (adapted cars, assistive devices, etc.)
- Social protection benefits granted to persons with disabilities, either to ensure income security (poverty reduction programmes targeting persons with disabilities) or to cover disability-related costs (social protection programmes to mitigate and cover direct or indirect additional costs of disability-related expenses)

[h] Affirmative action measures should be designed to ensure that their impact can be monitored in order to report on beneficiaries, in particular to reflect the multiple and intersecting identities of beneficiaries where relevant to the context. For example, an increase in the admission rate of persons with disabilities at universities can be the effect of an affirmative action measure (such as a quota or preferential admission) and/or the increased number of eligible applicants with disabilities.

[i] This indicator requires verifying concrete activities undertaken by public authorities to involve persons with disabilities in decision-making processes related to issues that directly or indirectly affect them in line with article 4 (3) of the Convention and general comment No. 7 (2018) of the Committee on the Rights of Persons with Disabilities, including consultation meetings, technical briefings, online consultation surveys, and calls for comments on draft legislation and policies, among other methods and mechanisms of participation. In this regard, States must:

- Ensure that consultation processes are transparent and accessible
- Ensure the provision of appropriate and accessible information
- Not withhold information or condition or prevent representatives of persons with disabilities from freely expressing their opinions
- Include both registered and unregistered organizations
- Ensure early and continuous involvement of persons with disabilities
- Cover related expenses of participants

[j] This information should be disaggregated by:

- Sex, age, disability, ethnic background, indigenous background, minority background, language, nationality, migrant status, refugee status, asylum-seeker status, stateless status, socioeconomic status, geographical location or place of residence (urban/rural area), religion, marital and family status, sexual orientation and gender identity of the complainant/s
- Mechanism (e.g. court/tribunal, national human rights institution, office of the human rights ombudsperson or other mechanism)
- Ground(s) of discrimination

- Respondent (private person or actor, or public agency)
- Type of discrimination alleged (direct or indirect, notably those cases of alleged denial of reasonable accommodation or a lack of compliance with specific measures)
- Outcome of the complaint (e.g. upheld or dismissed)
- Compliance or not by the Government (e.g. compensation for discrimination on the basis of disability and the average amount of such compensation)