|  |
| --- |
| **Article 5 - List of illustrative indicators on equality on non-discrimination** |
| **Right to equality and non-discrimination[[1]](#endnote-1)** |
| **Attributes/****Indicators** | **Equality and protection from discrimination (disability based and others)** | **Provision of reasonable accommodation** | **Specific measures to achieve de facto equality** |
| **Structure** | 5.1 National constitutional provisions adopted and/or 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.[[2]](#endnote-2)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 [[3]](#endnote-3).5.3 Legal or statutory requirement to collect and publish[[4]](#endnote-4) data disaggregated by disability across sectors (n. health, employment, education, violence, access to justice, political participation, among others), including e.g. enrolment rate, employment rate, access to health services, victims of violence, complaints on discrimination lodged, etc.) 5.4 Legal requirement to establish a marker on all public spending to promote and protect the rights of persons with disabilities. |
| 5.5 Relevant thematic legislation[[5]](#endnote-5) enacted explicitly prohibiting discrimination on the basis of disability and providing legal remedies for all forms of discrimination. | 5.6 Specific theme/target within national strategy and/or plan for equality of all persons with disabilities to ensure availability of technical guidance,[[6]](#endnote-6) financial incentives and budgetary resources, for the provision of reasonable accommodation by public and private actors. | 5.7 Specific measures to achieve de facto equality including affirmative action measures,[[7]](#endnote-7) adopted in legislation(s) and/or policy plans, in particular for the groups more at risk of discrimination among persons with disabilities, including existence/appointment of monitoring and enforcements mechanisms. |
| **Process** | 5.8 Number and proportion of public staff designing, implementing and/or delivering services to the public trained on equality and non-discrimination under the Convention, including on the duty to provide reasonable accommodation, disaggregated by sector, agency and geographical location.  | 5.11 Number of persons with disabilities benefiting from specific measures, in particular affirmative action measures, disaggregated by measure reported, age, sex, disability, geographical location, and if applicable, by sector (public or private).[[8]](#endnote-8) 5.12 Budget allocated for the implementation and monitoring of specific measures, including notably affirmative action measures. |
|  | 5.9 Budget allocated for reasonable accommodation within the public sector (e.g. in centralized reasonable accommodation funds)5.10 Number of persons trained under State-run programs directed to private actors (employers, service providers, etc.) on the duty of and procedure for the provision of reasonable accommodation. |
| 5.13 Awareness raising campaign and activities for dissemination of information directed to all the population, including notably persons with disabilities and their families, on understanding discrimination on the basis of disability, anti-discrimination frameworks, the obligation to provide reasonable accommodation and on specific measures to achieve de facto equality.5.14 Consultation processes undertaken to ensure active involvement of persons with disabilities, including through their representative organizations, in the design, implementation and monitoring of laws, regulations, policies and programs, concerning equality and non-discrimination of rights of persons with disabilities.[[9]](#endnote-9) 5.15 Number of complaints alleging discrimination on the basis of disability and/or other grounds against persons with disabilities, investigated and adjudicated in favor of the complainant, disaggregated by mechanism, and the proportion of these complied with by the government or duty bearer.[[10]](#endnote-10) |
| **Outcome** | 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 (SDG indicator 10.3.1 or 16.b.1), disaggregated by age, sex and disability. | 5.17 Number and proportion of reasonable accommodation requests granted in the public sector, disaggregated by age, sex, disability.  |  |
| 5.18 Proportion of population below the international poverty line, by sex, age, employment status, geographical location (urban/rural), and disability (SDG 1.1.1)5.19 Proportion of population below the national poverty line, by sex, age and disability (SDG 1.2.1)5.22 Proportion of “population living in households with access to basic services”, disaggregated by disability (SDG 1.4.1)5.20 Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land assecure, by sex and by type of tenure disaggregated by disability (SDG 1.4.2)5.21 Average hourly earnings of female and male employees, by occupation, age and persons with disabilities (SDG 8.5.1)5.22 Unemployment rate, by sex, age and disability (SDG 8.5.2)5.23 Proportion of people living below 50 per cent of median income, by age, sex and disability (SDG 10.2.1)5.24. 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) (SDG 3.8.1), disaggregated by age, sex and disability.5.25 Proportions of positions (by sex, age, disability and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions (SDG 16.7.1) |

**ANNEX**

1. Article 5 of the CRPD cuts across all rights of the Convention and is thus intimately linked to each. While the CRPD 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 of Article 5 of the CRPD. [↑](#endnote-ref-1)
2. Legislation should contain at least the following elements:

	* - Definition of disability is compliant with Article 2 of the Convention;
	* - Prohibition discrimination against persons with disabilities on the basis of all prohibited grounds of discrimination, including actual or perceived disability;
	* - Definition of discrimination on the basis of disability includes direct/indirect discrimination, harassment, discrimination by association, multiple/intersectional discrimination and denial of reasonable accommodation, which is defined in compliance with the Convention;
	* - Discrimination on the basis of disability is prohibited across all sectors and in all areas of life, including employment, education, healthcare, access to goods and services, etc.;
	* - The obligation to provide reasonable accommodation is recognized across all sectors and in all areas of life.
	* - Provision for funding mechanisms to ensure 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 including individual victims, groups and associations working to combat discriminatory practices; and
	* - State duty to adopt specific measures, including affirmative action measures, to achieve de facto equality of persons with disabilities- [↑](#endnote-ref-2)
3. For example, such as women and girls, children, older persons, persons who are deaf-blind, persons with intellectual disabilities, migrants, indigenous persons, persons living in remote and rural areas, among others [↑](#endnote-ref-3)
4. Publication of data must respect the right to privacy of individuals and data protection standards. See OHCHR, [A human rights based approach to data](https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf) (2018). [↑](#endnote-ref-4)
5. “Relevant thematic legislation enacted” alludes to legal frameworks regulating the exercise of rights, whether they are disability specific or mainstream (e.g. labour code, education act, social protection act, media law, etc.) [↑](#endnote-ref-5)
6. For example, the obligation to provide reasonable accommodation is usually confused with accessibility and accessibility obligations. For a clear distinction, see CRPD Committee, [general comment no. 2](http://daccess-ods.un.org/access.nsf/Get?Open&DS=CRPD/C/GC/2&Lang=E), paras. 25 and 26, and [general comment no. 6](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=enhttp://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2qtJucAYDOCLUtyUf%2brfiOZckKbzS%2bBsQ%2bHx1IyvGh6ORVZnM4LEiy7ws5V4MM8VC4khDIZJSuxotVqfulsdtPvhttp://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2qtJucAYDOCLUtyUf%2brfiOZckKbzS%2bBsQ%2bHx1IyvGh6OYrTkKW94%2bbftZyA2qp1n6CSHPkid5oppX5B7PWy3A7N), para. 26. [↑](#endnote-ref-6)
7. 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 according to the total number of employees (e.g. 1 out of 20, 5%);

- Quotas in electoral lists or reserved seats in parliament 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 costs of disability in current societies). [↑](#endnote-ref-7)
8. Affirmative action measures should be designed in such a way that its specific impact can be monitored to report on beneficiaries. E.g. an increase in the admission rate of persons with disabilities at universities can be the effect of an affirmative action measure (e.g. quota or preferential admission) and/or more qualified applicants with disabilities. [↑](#endnote-ref-8)
9. 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 CRPD, including consultation meetings, technical briefings, online consultation surveys, call for comments on drafts legislations and policies, among other participatory methods. In this regard, see [General Comment no 7 of the CRPD Committee (CRPD/C/GC/7)](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/7&Lang=en) where it is elaborated that States must:

ensure that consultation processes are transparent;

ensure provision of appropriate and accessible information;

not withhold information, condition or prevent organizations of persons with disabilities from freely expressing their opinions;

include both registered and unregistered organizations;

ensure early and continuous involvement; and

cover related expenses of participants (e.g. transport and other expenses to attend meetings and technical briefings). [↑](#endnote-ref-9)
10. This information should be disaggregated by:

- age, sex, disability, ethnic background, indigenous 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, gender identity, political opinion, of the complainant/s,

- Mechanism (e.g. courts/tribunals, the national human rights institution, human rights ombudsperson or other mechanisms);

- Ground(s) of discrimination.

- Respondent (private persons or actors, or public agencies)

- Kind of discrimination alleged (direct, indirect, etc., identifying notably cases of alleged denial of reasonable accommodation and lack of compliance with specific measures).

- Outcome of the complaint (e.g. upheld, dismissed, etc.)

- Compliance or not by government (e.g. compensation for discrimination on the basis of disability, and the average amount of such compensation) [↑](#endnote-ref-10)