

To the attention of:

Committee on the Rights of Persons with Disabilities
Human Rights Treaties Division
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
CH – 1201 Geneva

Vienna, 6 January 2014
Ref: 2014-outgoing-000009

Subject: Contribution to the Draft General Comment on Article 12 of the CRPD – Equal recognition before the law

Dear Madam or Sir,

I am pleased to provide you with the EU Agency for Fundamental Rights' (FRA) contribution to the above-mentioned Draft General Comment.

In July 2013, the FRA published a report on [Legal capacity of persons with mental health problems and persons with intellectual disabilities](#). The report presents FRA's legal analysis of current standards and safeguards concerning the legal capacity of these two groups of persons. It twins this analysis with the lived experiences of a small number of interviewees regarding the loss of legal capacity and other restrictions on their ability to take decisions.

The annex of the report, reproduced in this submission, presents an overview of the current legislation in the 28 EU Member States along with an overview of the last significant legislative amendments.

I enclose copies of the report for your information. I hope that the information provided will be useful for the finalisation of the Draft General Comment. Should you need any further information, please consult the [thematic page on our website](#) and do not hesitate to contact me.

Yours sincerely,

Martha Stickings
Equality & Citizens' Rights Department
European Union Agency for Fundamental Rights (FRA)





Annex: Legislation on legal capacity

EU Member State	Legislation	Last significant amendment
AT	Federal Law on Guardians for Disabled Persons (Bundesgesetz über die Sachwalterschaft für behinderte Personen) Civil Code (Allgemeines bürgerliches Gesetzbuch, ABGB) Non-Contentious Proceedings Act (Außerstreitgesetz, AußStrG)	Amendment to the Guardianship Law 2006 (Sachwalterrechts-Änderungsgesetz 2006 - SWRÄG 2006)
BE	Civil Code (Code Civil) Judicial Code (Code Judiciaire)	18 July 1991
BG	Persons and Family Act (Закон за лицата и семејството) Family Code (Семеен кодекс) Civil Procedure Code (Граждански процесуален кодекс)	1 October 2009
CY	Law on administration of property of persons incapable of administering their property and affairs and for the control of the administration (23(I)/1996) (Ο περί Διαχείρισης της Περιουσίας Ανίκανων Προσώπων Νόμος του 1996) Law on the Rights of Mentally Retarded Persons (117/1989) (Ο περί Νοητικά Καθυστερημένων Ατόμων Νόμος του 1989)	
CZ	Civil Code, Act no. 40/1964 (Občanský zákoník, Zákon č. 40/1964 Sb.) Civil Procedure Code, Act no. 99/1963 (Občanský soudní řád, Zákon č. 99/1963 Sb.)	1 January 2012; comes into force as of 1 January 2014
DE	Civil Code (Bürgerliches Gesetzbuch (BGB)) Law on Procedure in Family Affairs and in Matters of Voluntary Jurisdiction Reform Act (Gesetz zur Reform)	1 September 2009





	<u>des Verfahrens in Familiensachen und in Angelegenheiten der freiwilligen Gerichtsbarkeit (FGG-RG)</u> Third Act Amending the Custodianship Act (<u>Drittes Gesetz zur Änderung des Betreuungsrechts</u>)	1 September 2009
DK	Act on Guardianship (<u>Værgemålsloven, n. 1015/2007</u>)	
EE	General Part of the Civil Code (<u>Tsiviilseadustiku üldosa seadus</u>) Code of Civil Procedure (<u>Tsiviilkohtumenetluse seadustik</u>)	
EL	Civil Code (<u>Αστικός Κώδικας</u>)	
ES	Civil Code (<u>Código Civil</u>) Civil Procedure Act (<u>Ley de Enjuiciamiento Civil</u>)	
FI	Government Bill HE 146/1998 (<u>Hallituksen esitys Eduskunnalle holhouslainsäädännön uudistamiseksi</u>) Guardianship Services Act (<u>laki holhustoimesta/lag om förmyndarverksamhet (442/1999)</u>)	
FR	Civil Code (<u>Code Civil</u>)	Act No. 2007-308 of March 5 reforming legal protection of adults
HU	Act IV of 1959 on the Civil Code of the Republic of Hungary (<u>Az 1959. évi IV. törvény a polgári törvénykönyvről</u>)	New Civil Code to enter into force in 1 January 2014
IE	<u>Lunacy Regulation (Ireland) Act</u>	
IT	Civil Code (<u>Codice Civile</u>) Code of Civil Procedure (<u>Codice Di Procedura Civile</u>)	Law n.6, 9 January 2004
LT	Civil Code (<u>Civilinis Kodeksas</u>) Code of Civil Procedure (<u>Civilinio proceso kodeksas</u>)	No XI-1312, 12 April 2011
LU	Law on legally incapable adults (<u>Loi du 11 août 1982 portant réforme du droit des incapables majeurs</u>)	
LV	Civil Code (<u>Latvijas Republikas Civillikums</u>)	Amendments to the Civil Law (<u>Grozījumi Civillikumā</u>), 29 November 2012 (in





	Civil Procedure Code (Civilprocesa likums)	force from 1 January 2013) Amendments to Civil Procedure Code (Grozījumi Civilprocesa likumā), 29 November 2012 (in force from 1 January 2013)
MT	Civil Code (Civili kodiči) Code of Organization and Civil Procedure (Kodiči ta 'organizzazzjoni u proċedura ċivili)	XXIV of 2012 – Code of Organization and Civil Procedure and the Civil Code (Amendment) Act , 7 December 2012
NL	Civil Code (Burgerlijk Wetboek)	
PL	Civil Code (Kodeks cywilny) Code of Civil Procedure (Kodeks postępowania cywilnego)	
PT	Civil Code (Código Civil) Code of Civil Procedure (Código de Processo Civil)	
RO	Civil Code (Codul Civil)	New Civil Code (Legea 287/2009 Noua Cod Civil), 17 July 2009
SE	Code on Parenthood and Guardianship (Föräldrabalk 1949:381)	9 June 2005
SI	Code of Obligations (Obligacijskega zakonik) Non-litigious Civil Procedure Act (Zakon o nepravdnem postopku) Marriage and Family Relations Act (Zakon o zakonski zvezi in družinskih razmerjih)	Amendments in Mental Health Act No. 77/2008 (Zakona o duševnem zdravju), 23 July 2008
SK	Civil Code (Občiansky zákonník – Zákon č. 40/1964 Zb.) Civil Procedure Code (Občiansky súdny poriadok – Zákon č. 99/1963 Zb.)	





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UK	Mental Capacity Act 2005 Mental Health Act 1983 Adults with Incapacity (Scotland) Act 2000 Enduring Powers of Attorney (Northern Ireland) Order 1987	Mental Health Act 2007
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