



Enforcement Toolkit

European Disability Forum

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About the European Disability Forum

The European Disability Forum (EDF) is an umbrella organization of over 100 members that defends the interests of 100 million persons with disabilities in the EU. It is a unique platform run by persons with disabilities and their families, and is a strong, united voice of persons with disabilities advocating for the implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) in the EU.

Aim of this toolkit

The aim of this toolkit is to provide persons with disabilities and their representative organisations with an overview of the remedy mechanisms that they can use when they experience or identify a breach of their rights as contained in EU Law and clarify which one is the most appropriate for each circumstance. Since enforcement is a combined effort of both European and National bodies, this toolkit makes a distinction between these two administrative and judicial levels.

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Introduction

Why do we need enforcement?

Due to its binding nature, legislation is one of the strongest tools that we have at hand to build inclusive societies, remove existing barriers and combat discrimination. For this reason, [Article 4 of the Convention on the Rights of Persons with Disabilities](#) (CRPD) obliges state parties to adopt legislative measures to implement its provisions.

An important feature of the European Union (EU), which does not exist in similar regional organisations, is that it has the capacity to adopt laws that give legal persons¹ specific rights and obligations.

Our report [Your Rights in the European Union](#) (2021) explains how an increasing number of EU laws have a direct impact on the life of persons with disabilities. To name a few, European legislation currently forbids discrimination on the basis of disability in employment and vocational training, obliges that public websites and mobile applications are accessible and grants the right to receive appropriate assistance when traveling.

Unfortunately, having a right enshrined in a law is not enough to ensure compliance. Disability-based discrimination still takes place and accessibility is not always guaranteed. When laws are not respected, they need to be enforced. By enforcement, we mean the process of making a Member State, a company, an organisation or an individual to obey a certain law. In other words, to make sure that they do what is required by law².

¹ A legal person is any individual, company and entity that has legal rights and is subject to obligations.

² Source: [Britannica.com](https://www.britannica.com)

How can you enforce your rights?

Courts are commonly known to be the main venue to enforce laws and seek redress, but the reality is that there are many other mechanisms available to achieve compliance. When it comes to the enforcement of European Legislation there are two elements that you should keep in mind:

- (1) Enforcement is a joint effort by bodies at the national and the European Level.
- (2) The bodies at these two levels can carry out either judicial and/or non-judicial enforcement.

As you will see in this toolkit, from national courts and ombudsman bodies to direct complaints to the European Commission, there are different mechanisms at hand. Choosing among them will depend on who has breached the law, what type of law has been breached, what is the outcome you want to achieve and how much human and financial resources you have. Each mechanism has a specific purpose and comes with its advantages and disadvantages.

Finally, it is important to remember that while in EU laws enforcement rules are set by the EU, Member States have room of manoeuvre as for the enforcement mechanisms that they put in place when they transpose EU Directives, implement Regulations and establish penalties for breaches. Member States are also responsible for designing and resourcing judicial and non-judicial systems at national level. The more resources and powers national enforcement authorities have, the better the service they can provide people whose rights have been breached.

How can this toolkit help you?

This toolkit should help you have an overview of the main mechanisms that you can use to enforce your rights as contained in **EU legislation**. To do so, this toolkit classifies such mechanisms in two big groups based on their level (European and National) and their nature (Judicial and Non-Judicial). For each group we provide a general explanation of the mechanisms available, clarify when they can be used and explain what the main pros and cons are. To better illustrate this, the toolkit includes, where possible, practical disability-related examples and recommendations.

This document does not cover enforcement of the CRPD per se, the European Court of Human Rights and the United Nations mechanisms. For more information on UN mechanisms, you can consult:

- [EDF toolkit on engagement with the CRPD Committee](#)
- [EDF toolkit on engagement with the CEDAW Committee](#)

Glossary³

Enforcement – the process of detecting, deterring, redressing and punishing the breach of a certain law. Member States can nominate different entities in charge of enforcement, which can be judicial or non-judicial.

Redress – the process of correcting a situation in which the rights of a person have been breached. The redress process often leads to remedies.

Remedy – the decision of the enforcement body aimed at compensating the person or organisation who suffered the damage. Remedies can take

³ To draft this glossary, we have used several sources such as the [European Institute of Public Administration Paper on Enforcement of EU law](#), the [Consumer's Pro Toolkit on Collective Redress](#) and the [Systemic Justice's Glossary of Legal Terms](#). Online dictionaries such as Collings, Oxford and Cambridge have also been used.

many forms, such as a form of a financial compensation, a penalty, an obligation to stop a specific behaviour or to act in a certain way.

Judicial enforcement – the enforcement process that is carried out by courts (either EU or National). Their role is to apply the law to specific cases with independence and impartiality. The decisions of EU and National courts are binding on the parties.

Binding decision – a decision that must be obeyed. If it is final, then in general it cannot be challenged in Court.

Court – the place where legal disputes are heard and resolved by judges. The European Union and its Member States have their own courts, which deal with different types of cases.

Non-judicial enforcement – the enforcement process that is carried out outside of courts by bodies appointed to that end. These bodies can be Ombudsmen, National Enforcement Bodies or Equality Bodies. Their decisions are not always binding on the parties and might require judicial enforcement.

Part 1 – Non-Judicial Enforcement at the EU Level

European Commission – Infringement Procedures

Often referred to as 'Guardian of the Treaties', one of the core missions of the European Commission is to enforce EU law. If in the course of its own investigations or as a result of complaints, it identifies a breach of EU law by an EU country (non-compliance with Treaty Provisions, EU Regulations and Directives), the European Commission can launch an 'Infringement Procedure'.

The infringement procedure is a prelitigation tool that allows EU countries to remedy the situation voluntarily. It starts by a request of information (letter of formal notice) and continues with a formal request to comply with EU law (reasoned opinion). If this phase fails, the European Commission can start judicial proceedings by referring the EU country to the European Court of Justice. If the violation continues after a Court Decision, the Commission may even ask the Court to impose financial penalties to the country concerned ([more information of infringement procedures](#)).

In practice, Infringement Procedures are mostly launched during the transposition of Directives. In such case, they can be initiated for non-communication of transposition measures, incorrect transposition and incorrect application.

However, even when a potential breach of EU is detected, the European Commission is not obliged to launch an infringement procedure. If it finds it appropriate, it can also make use of a pre-infringement process called [EU Pilot](#). The EU Pilot is an online tool that allows for informal confidential dialogue between the European Commission and the Member States concerned without the need to launch an infringement procedure. This tool can be useful to deal with technical matters.

Disability examples

- **European Accessibility Act:** On June 2023, the European Commission sent a reasoned opinion (request to comply) to Bulgaria, Ireland, Cyprus, The Netherlands and Poland for failing to notify transposing measures of the Act by the deadline (June 2022). If these Member States do not comply, the European Commission could refer them to the European Court of Justice ([more information on the Accessibility Act Infringement Procedure](#)).
- **Passenger Rights:** On February 2015, the European Commission referred Austria to the European Court of Justice for failing to comply with its obligations under [Regulation 181/2011 on Bus and Coach Passenger Rights](#). Among others, Vienna failed to designate the terminal where passengers with disabilities can receive assistance. The decision came after Austria had failed to implement such measures on time and reply to the letters of formal notice (request for information) and reasoned opinion (request to comply). The case was closed on September 2015 after Austria designated a bus terminal to assist persons with disabilities ([more information on the Passenger Rights Infringement Procedure](#)).
- **Emergency Communications:** in 2019, the Spanish Committee of Representatives of Persons with Disabilities (CERMI) sent a Report to the European Commission asking to launch an infringement procedure against Spain for failing to ensure the accessibility of the emergency number 112, as required by the Universal Service Directive - later repealed by the European Electronic Communications Code ([more information on the Emergency Communications infringement procedure](#)). On July 2019, [the European Commission opened an infringement procedure against Spain](#), which was closed in April 2020.

How to act

- Any individual or organisation that believes that an EU law has been breached by a National Authority can contact the European Commission either digitally or physically. [This is the link to submit an online complain to the commission](#) and [this is the link to the physical complain form that you can send to the commission by traditional post](#). You can send the physical form to the European Commission Secretary General in Brussels or the EU Commission office in your country ([more information on how to contact the commission](#))
- Remember, the European Commission will only process the complaint if the breach of EU law is done by a public authority in an EU country (not private individuals, companies or bodies). Even if a breach is detected, the European Commission is not obliged to launch an infringement procedure.
- In order to know what obligations apply to the authorities of your Member State you can [use the toolkits that EDF has prepared](#) on different pieces of EU legislation. In case of doubt, you can always check the legislation directly or [contact the EDF secretariat](#).
- If you raise a complaint to the European Commission, it is useful to inform EDF secretariat. This will not only help understand the number of complaints raised and on what topics, but also will allow EDF staff to refer to them when meeting European Commission officials.
- If the infringement procedures do not work, the Commission can refer the Member State to the European Court of Justice.

European Ombudsman



The [European Ombudsman](#) is an independent European body in charge of conducting inquiries about cases of maladministration by the European Union public administration (EU Institutions, Bodies, Offices and Agencies). Maladministration can occur if an institution or any other EU body fails to respect fundamental rights, EU law and principles of good administration.

The areas of work of the European Ombudsman include transparency issues (access to documents), management of EU funds, fundamental rights (including CRPD), infringement of EU law (when the Commission has not handled well an infringement procedure), EU recruitment process and EU personnel issues.

The European Ombudsman can conduct an inquiry either on its own initiative or on the basis of complaints submitted by an EU citizen or any natural or legal person residing or having a registered office in an EU Member State. In this process, the Ombudsman can request information from the EU Institutions and Bodies concerned.

At the end of the inquiry, the Ombudsman can prepare a solution proposal to the institution concerned. If this fails, it will make recommendations to address the situation. If the institution concerned does not accept the recommendations, the Ombudsman can draw a special report to the European Parliament. Although the Ombudsman decisions are not legally binding, the rate of compliance with her findings are relatively high ([more info on the work of the European Ombudsman](#)).

Disability examples

- **European Funds:** in 2021, the European Ombudsman opened an inquiry on her own initiative to look into how the Commission monitors that the Member States use EU Structural Funds to promote the right of persons with disabilities to independent living and inclusion in the community. After the inquiry, the Ombudsman concluded that the Commission could provide clearer guidance to promote deinstitutionalisation in the context of Structural Funds and that further steps could be taken to improve monitoring and enforcement ([more information on the ombudsman's own initiative inquiry on the use of European Funds](#)).
- **Web Accessibility:** In 2015 the UN Committee in charge of assessing how the EU complies with the CRPD found that EU institutions needed to do more to improve the accessibility of their websites. Following this finding, and the information sent by organisations such as the European Blind Union on the accessibility problems of the commission websites⁴, the Ombudsman opened an inquiry against the European Commission in 2017. The Ombudsman was satisfied with the steps that the Commission was taking to improve the situation and provided some recommendations. The inquiry was closed in 2018 ([more information on the ombudsman's inquiry on web accessibility](#)).
- **European Funds:** In October 2019, the European Network for Independent Living (ENIL) submitted a complaint against the European Commission for the use of European Structural and Investment Funds for the construction of institutional care facilities

⁴ more specifically to the lack of accessibility of the Commission's 'Have Your Say' portal and other ad hoc surveys, which affected the possibility for visually impaired people and their representative organisations to respond to public consultations, including consultations regarding accessibility and inclusion.

in Portugal and Hungary. After its inquiry, the Ombudsman concluded that there were shortcomings but that the Commission took actions to address the problems identified. It adopted three recommendations to improve the situation ([more information on ENIL's complaint to the European Ombudsman](#)).

- **Recruitment Processes:** In March 2018, two visually impaired candidates who participated in EU Civil Service recruiting process complained about the lack of accessibility of online application forms and lack of proper accommodation during the test. After its inquiry, the Ombudsman concluded that the European Personnel Selection Office (EPSO)'s action constituted maladministration and made recommendations to improve the situation ([more information on the Ombudsman inquiry on EU Civil Service recruiting process](#)).

How to act

- Any EU citizen or an individual, business and organisation based in the EU can submit a complaint to the European Ombudsman. Before contacting the European Ombudsman, you first need to try to resolve the matter with the institution concerned.
- To submit a complaint you can either fill the [online european ombudsman complaint form](#) or fill in this [physical european ombudsman complaint form](#) and send it by post the European Ombudsman Office in Strasbourg (France) ⁵.
- Even if you are not personally affected, you can complain to the Ombudsman.
- Remember, the complaint will only be accepted if it concerns an EU institution, body, office or agency ([list of EU institutions, bodies, offices or agencies available here](#)) and be submitted within 2 years of the date you became aware of the problem.

⁵ Address of European Ombudsman : Médiateur européen, 1 avenue du Président Robert Schuman, CS 30403, F-67001 Strasbourg Cedex

- If your complaint refers to maladministration by National, Regional or Local authorities, don't worry, you can submit your complaint to the national and regional ombudsmen ([list of national and regional ombudsman available here](#)).
- Although the recommendations of the Ombudsman are not legally binding, in case of non-compliance, the European Ombudsman can write a report to the European Parliament, bringing public attention to the issue.
- If you want to know more about the work of the European Ombudsman, read [this booklet about the European Ombudsman Work](#).

European Parliament's Committee on Petitions (PETI)

In the European Parliament, the Committee on Petitions (PETI) is in charge of receiving, considering and following up on the petitions submitted by EU Citizens and organisations. Petitions can be submitted to call the attention of the Parliament on a subject that affects them directly and falls within the EU's field of activity. These can be citizens' rights, environment, consumer protection or free movement. Petitions can take the form a complaint, a request or an observation.

The petition can be a call to the European Parliament to adopt a position on a specific matter or to draw attention to any infringement of your rights by a Member State, local authority and other institution.

Once the petition is submitted, the Committee will check its admissibility and will treat it. There can be different outcomes: the Committee can ask the Commission to conduct a preliminary investigation on your petition (when the petition concerns the application of EU law); ask national authorities for information or clarifications; prepare and submit reports and resolutions to be voted in Plenary (exceptional); conduct fact-finding visit to the country or region concerned and issue a report with observations and recommendations; suggest alternative means of redress

or place the petition in the Committee's agenda and discuss it in a meeting.

The Petitions Committee does not have investigatory nor enforcement powers and it can only adopt non-binding recommendations. Nevertheless, it can be a good tool to draw political attention to specific matters.

Disability Examples:

- **European Parliament resolution on the protection of persons with disabilities:** in October 2021, following the amount of petitions received on disability issues in the Petitions Committee, the European Parliament [adopted a resolution with a series of recommendations to the European Commission and its Member States touching disability related issues](#) such as free movement, accessibility, discrimination, employment and education.
- **Rights of persons with disabilities in the Covid-19 crisis:** in 2020, Inclusion Europe submitted a [petition to the Petitions Committee to draw the attention to the situation of people with intellectual disabilities and their families](#) during the time of Covid-19 pandemic and calling for disability related services as a matter of priority. The petition was deemed admissible and therefore was heard by the Members Committee. As a result, in July 2020, the Commission was asked to provide more information and the [European Parliament adopted a resolution on the situation of persons with intellectual disabilities during covid-19](#). Inclusion Europe chose the Petition Committee because, in a moment of crisis, this type of petitions could help raise awareness among the MEPs. The petition triggered debates, discussions between institutions and the resulting parliamentary resolution was sent to competent ministries at national level ([more information on Inclusion Europe's Petition to the European Parliament](#)).

- **Ratification of Marrakesh Treaty:** in 2011, the European Blind Union and its British member Royal National Institute of Blind People (RNIB) submitted a petition on access by blind people to books and other printed products. This petition aimed at promoting the accession of the EU to the Marrakesh Treaty, which was being blocked by some Member States. The Petitions Committee examined the petition, which led to a [European Parliament Resolution on the Ratification of Marrakesh Treaty in 2016](#). This resolution called the Council to swiftly ratify the Treaty. In this case, the Petition was used to put pressure on Member States.
- **Tabling petitions in national sign-languages:** in 2016 [the European Union of the Deaf \(EUD\) tabled a petition asking the European Parliament to allow deaf persons to submit petitions in their national sign language](#). To date, the only possibility offered to deaf people is to table petitions in one of the 24 EU official languages, without consideration given to the 30 national sign languages that co-exist within the European Union. The petition is currently being assessed by the MEPs who, in the course of several meetings, are studying the feasibility of introduction such option.

How to act

- Any individual or organisation in the EU can submit a petition to the Committee⁶. The petition can be submitted electronically through the [PETI portal](#) or by traditional post to the Committee's Address⁷. In case you choose the second option, there is no standard form to be filled and it should include your name, nationality, permanent address, signature and supporting documents ([more information on how to submit a petition](#)).

⁶ Citizen, Resident or Legal Person with registered office in EU Member States

⁷ Address Petitions Committee: European Parliament, Chair of the Committee on Petitions, c/o PETI Secretariat Rue Wiertz 60, 1047 Brussels, BELGIUM

- The Committee of Petitions can take complaints from all levels of government, which is not the case for the European Commission and Ombudsman.
- Although the Petitions Committee does not have the capacity to enforce legislation, it can be a tool to bring public and political attention to a specific issue. Having the European Parliament carrying out an inquiry, site visit or adopting a resolution calling Member States and European Institutions to act, can be a good way to raise awareness about the shortcomings of existing policies and laws.
- While Committee revises the petition and drafts the resolution you need to be ready to provide background information to the MEPs. Once there is a resolution, is good to reach out to MEPs so they understand the problem at stake and vote favourably.
- In order to increase visibility, you can ask people to formally support your petition by filling in the relevant information in the Petition's Online Portal. However, you have to bear in mind that the Committee will base its considerations and decisions only on the merits of the content of the petition, irrespective of the numbers of signatories or supporters.

Part 2 - Non-Judicial Enforcement at national level

Although enforcement mechanisms at the EU level can be useful in certain situations, such as non-compliance by Member States or EU institutions, national mechanisms can be the most effective ones to seek redress for individual cases. As we will see in the following pages, there are different tools available at the national level before choosing to go to court (judicial enforcement).

Some of them, like Equality Bodies, will help in different areas, including employment, education, transport and housing, including when EU legislation is concerned. Others, like National Enforcement Bodies for Passenger Rights (NEBs) or Web Accessibility Enforcement Bodies (WAD NEBs), will only enforce your rights as contained in specific piece of EU legislation such as Passenger Rights Regulations or the Web Accessibility Directive.

Some national mechanisms, like SOLVIT and the European Consumers Centres Network (ECC – Net) are specific European Commission initiatives aimed at promoting the respect of EU law at the national level. They mainly address cross-border disputes.

The main advantages of non-judicial enforcement mechanisms are that, compared to the judicial ones, they do not charge legal fees and the complaints are handled by experts on the matter. The main drawback is that, depending on their powers, resources, skills and competences, their decisions are sometimes non-binding, obliging the affected person to initiate judicial proceedings against the infringing party.

Equality Bodies

Equality Bodies are independent public organisations that play a central role in implementing, applying and enforcing EU and national equality law⁸ at the national level. Despite its diversity in terms of structure, power and functioning, the minimum common competences all of them have are: (I) Supporting victims of discrimination with independent assistance in pursuing their complaints, (II) Conducting independent surveys on discrimination and publishing reports and (III) Making recommendations – including for policy change – on the cases they deal with⁹.

Although equality bodies were set up following the requirements of EU equality legislation to combat discrimination based on race, ethnic origin and gender, nowadays most of them also cover discrimination based on other grounds, such as disability. As a result, Equality Bodies are one of the places you can address if you want to enforce your rights as contained in the [Equal Treatment Directive in Employment and Vocational Training](#) – covering persons with disabilities – the Gender Equality and Race Directives as well as European and national antidiscrimination legislation in different fields such education, housing and transport. Besides, most Equality bodies are the [UN CRPD national monitoring mechanism](#), and they assist in issues related to the rights enshrined in the Convention.

In most cases, Equality Bodies will take your complaint and attempt to reach amicable out of court settlements. However, the specific things you can expect from them will vary in each country. While some can support victims by offering legal advice and handling complaints through amicable settlements others can engage in litigation processes by representing

⁸ The existing EU framework includes [Directive against discrimination on the grounds of race and ethnic origin](#) (2000), [Directive against discrimination at work on grounds of religion, belief, disability, age or sexual orientation](#) (2000), [Directive on equal treatment for men and women in matters of employment and education](#) (2006), [Directive on equal treatment for men and women in access to and supply of goods and services](#) (2004) as well as the [EU Charter on Fundamental Rights](#).

⁹ Main Source for this chapter: [Website of the European Network of Equality Bodies \(Equinet\)](#).

victims in cases. Some Equality Bodies also have decision-making powers, by making recommendations or taking legally binding decisions on claims made by victims of discrimination.

This diversity in terms of structure, powers and functioning is likely to change soon with the [upcoming adoption of standards for equality bodies](#). Proposed by the European Commission in 2022, these two Directives will set minimum requirements for all existing equality bodies. This will include improved independence, adequate resources, proactive awareness raising measures and more tools to assist victims (including, amicable settlement, litigation powers and accessibility and reasonable accommodation for persons with disabilities).

Disability Examples

- In **Belgium**, an employee within the autistic spectrum was fired due to his disability. After the intervention of the Inter-federal Centre for Equal Opportunities – UNIA (Belgium’s equality body), the company’s management apologised and put in place reasonable accommodation measures ([more information on the case dealt by the Belgian equality body](#)).
- In **Czechia**, a primary school decided to stop the individualised study plan to a student with special needs due to the lack of an up-to-date report from the pedagogic-psychological counselling centre. Thanks to the intervention of the Czech Public Defender of Rights (equality body) the situation was resolved ([more information on the case dealt by the Czech equality body](#)).
- In **France**, an employer refused to accommodate the needs of an employee with a disability and follow the doctor recommendations to reallocate her to another post. The employee decided to contact the Defender of Rights (equality body). After the inquiry, the Defender concluded that the employee had faced a case of

discrimination and recommended the company to repair the prejudice made ([more information on the case dealt by the French equality body](#)).

How to act

- The [website of the European Network of Equality Bodies](#) (Equinet) is a really good source of information to understand the work of these bodies.
- If you have been a victim (or are aware) of a case of discrimination, you can contact the [Equality Body of your country of residence](#). In their website, you can find more information about the specific procedure to submit a complaint. The most common ones will be an online form, a telephone call, a physical meeting or a written complaint sent via post.
- There is, at least, one Equality Body in each Member State. Identify the Equality Body active in disability-based discrimination in your country and understand what type of support they can offer you. They might be able to help in many different areas (education, transport, employment...)
- Even if they can't handle your specific complain, Equality Bodies will be able to provide you with useful information and redirect you to competent bodies.

SOLVIT



SOLVIT is an online and free of charge service provided by the national public administrations in the EU, Iceland, Liechtenstein and Norway. The aim of this service is to find solutions to [problems related to the breach of EU citizens' cross-border rights](#) by public authorities, be it local, regional or national. SOLVIT offers a faster,

informal and alternative mechanism to solve breaches in legislation instead of starting a court case, submitting a formal complaint to the Commission or launching a petition.

Among others, SOLVIT can help you in the following areas: recognition of professional qualifications, working abroad, health insurance, unemployment benefits, visas and residence rights. From a disability perspective, SOLVIT can be a good mechanism to solve problems related to the freedom of movement, such as the EU Parking Card.

Anyone encountering a problem exercising their rights in another EU country can seek help from their home centre via an online procedure. This centre will get in touch with the SOLVIT centre in the country where the problem occurred and will try to solve it within 10 weeks.

Disability Examples

- **Freedom of movement:** Between 2018 and 2022, SOLVIT received 260 enquiries about the EU Parking Card. Such complaints mainly referred to the rights granted by the card when traveling to another member state, mutual recognition of national parking cards and justification for fines received even when showing the card¹⁰.
- **Cross border workers:** SOLVIT dealt with a complaint regarding France's refusal to grant a frontier worker working in Belgium leave and benefits to take care of a disabled family member¹¹.

How to act

- You can use [SOLVIT's website to submit any complaint](#). The conditions to do so are the following: the complaint needs to refer to a breach of EU rights by a public administration in a country different from yours (cross-border nature) and the case has not been taken to court yet.

¹⁰ [Link to Solvit Examples about freedom of movement](#)

¹¹ [Link to Solvit Example about Belgian cross border worker](#)

European Consumer Centres Network (ECC-Net)



The [European Consumer Centres Network \(ECC-Net\)](#) is a pan-European organisation with 29 centres and 150 legal experts that help consumers in the EU, Norway and Iceland get redress when their rights under EU consumer law are breached. Such rights can apply to consumer contracts, payment options, pricing rules, VAT, shipping and delivery conditions, guarantees and returns, passenger rights and hotel accommodations¹².

The breaches in EU consumer law can occur when you buy goods or services in person or online and when you travel to any other EU Member State, Norway and Iceland.

When needed, the ECC-Net will provide you free-of-charge information on your rights and protections under EU law as well as expert advice on cross-border disputes with businesses. If necessary, the ECC will try to find an amicable solution with the trader involved. If the trader does not want to cooperate, the ECC will advise you to seek redress through other out-of-court mechanisms (such Alternative Dispute Resolution, which you can find below) or court procedures (small claims procedure, which is explained in the judicial enforcement section).

Examples

Italy: When organising a trip to Italy, a consumer purchased six tickets to visit the Colosseum with her family and friends. But due to the pandemic, the group could not travel. The seller issued a voucher so they could take the trip at a later date. After several months, consumer's brother, with whom she had planned to travel, died. Due to this loss, the consumer could no longer go through with the original plan, so she

¹² For more information, check [EU consumer rights](#) and [EU Travel rights](#).

decided not to travel to Italy at all. When she asked for a refund, she received no answer. ECC-Net intervened, after which the seller refunded the six tickets¹³.

How to act

- The Consumer Centre will help you only if (I) the problem happened in an EU country different from yours, (II) you have already claimed the company in writing, (III) you have not started a legal procedure and (IV) the case is not related to fraud. When you select the ECC of your country, you will find the concrete information to submit a complaint. [The full list of European Consumer is available here](#).
- To process your complaint online, you will have to provide your personal data, the name of the trader involved (airline, shop or hotel), a description of the problem (with the date and the main events), the solution you wish (exchange, reparation, reimbursement...) and documentation (proof of payment, conditions, e-mails exchanged with the trader...). Once submitted, the Centre will process your case and indicate if the solution you wish is judicially possible.
- If you cannot solve the issue with the trader yourself, the ECC will try to find an amicable solution (that requires the agreement of cooperation of the trader). Unfortunately, the ECCs do not have enforcement powers and cannot force the trader to comply with the law. If this voluntary procedure does not work, they will refer you to the most appropriate enforcement body such as Alternative Dispute Resolution Mechanisms (See next point).

¹³ Source: [ECC-Net Success Stories Website](#)

Alternative Dispute Resolution Mechanisms (ADRs)

Alternative Dispute Resolution Mechanisms (ADR) are an out-of-court mechanism that allows consumers to resolve disputes with the trader thanks to the intervention of an impartial third party (the ADR body). Compared to court procedures, it is an easy, fair and cost-effective mechanism to enforce consumer rights, especially when it involves low-value disputes.

Although the EU tried to harmonise the ADR framework by setting common minimum standards, the functioning of this mechanism is quite heterogeneous in Europe. Among others, there are differences regarding the obligation for traders to engage in such procedures (not always mandatory) and the nature of the outcome (not always binding).

Currently there are more than 400 notified bodies, which can be used to deal with consumer complaints in areas as diverse as transport (specially air travel), clothing, holiday accommodation, ICT goods and services and financial services.

How to act

- Before submitting a complaint to an ADR body, you should contact the trader directly and try to solve the issue with them.
- If the dispute refers to a product or service you bought online, you can use the [Online Dispute Resolution](#) (ODR), a platform created by the European Commission to directly resolve disputes with traders. You can use this platform to reach out a trader directly or agree on an Alternative Dispute Resolution (ADR) body to mediate.
- If you cannot resolve the problem directly with the trader, you might submit your complaint to the ADR, in most cases by using an online form available in its website. In some cases, you might have to do so by post.

- You can have an [overview of the existing national ADRs in the following website](#). You can also find more information in ADRs work in a dedicated European Commission's website.
- Although there is little European consumer legislation with specific provisions on persons with disabilities, you can use ADRs to enforce passenger rights regulations. In Germany, [Söp is recognised by the German Federal Government](#) as a consumer conciliation body in the transport sector. In Spain, the [Spanish Aviation Authority \(EASA\) has started working as ADR for air passenger rights](#).
- Recital 99 of the [European Accessibility Act](#) encourages Member States to establish alternative dispute mechanisms to address non-compliance with this directive prior to an action being brought before courts or competent administrative bodies.

Passenger Rights' National Enforcement Bodies

National Enforcement Bodies (NEB) are public bodies nominated by Member States to verify that transport operators in air, rail, water, bus and coach respect the rights of passengers. Such rights include, among others, compensation and/or reimbursement in the event of delay or cancelation, right to transport for person with disabilities, liability for broken or lost mobility equipment and assistance free of charge. You will find more about such rights in the [five European Passenger rights Regulations](#).

If you believe your rights under these regulations have not been respected, you can contact the competent NEB. In some cases, you can go to them directly but in others, you are required to settle the problem with the transport operator first through their own complaint handling mechanisms.

Examples

- **Denmark:** a passenger with reduced mobility submitted a complaint to the Danish National Enforcement Body for lack of proper assistance by the airport service provider. Among others, the Passenger complained about the disrespectful and rude attitude of the person that was supposed to assist. Following this complaint, the Enforcement Body got in touch with the PRM Service Provider to seek clarifications on the situation. After the inquiry, the NEB concluded the Service Provider's procedures were compliant with [Regulation \(EC\) 1107/2006 on the rights of persons with disabilities and reduced mobility when traveling by air](#) but that there was awareness shortcoming. In this sense, the NEB produced several recommendations, which the Service Provider took into account.
- **Ireland:** The Security Personal in the airport did not treat with respect and regard to the disability a visually impaired passenger who had pre-notified assistance. After this experience, the passenger decided to bring a complaint to the airport concerned. After receiving no response from the airport, the passenger brought the case to the competent NEB. The NEB contacted the airport to clarify their policy for visually impaired and blind passengers going through security as well as the training provided to the personnel. The aim was to confirm that it was in line with [Regulation \(EC\) 1107/2006 on the rights of persons with disabilities and reduced mobility when traveling by air](#). During this process, the Airport provided all the information and conducted an internal investigation, which confirmed that the treatment to the passenger was not in line with their standards and policy. The NEB also requested the airport to contact the passenger regarding the unanswered complaint.

How to act

- If any of your rights as contained in the Passenger Rights Regulations has been violated, in most cases, you should contact the [National Enforcement Body](#) (NEB) of the country where the incident took place. In some cases, the NEB will require you to submit the complaint to the transport operator concerned before submitting the complaint to them.
- There are different NEBs in each country, depending on the transport mode concerned (Air, Rail, Bus or Waterborne Transport). [You can find the full list of NEBs in the European Commission's website](#). Please note that in some countries there can be separate NEBs on air passengers' rights for persons with disabilities.
- What the NEB can do for you will depend in each Member State according to its powers and resources. If the NEB finds that your rights have been breached, their final decision is not always binding on the transport operator. If that is the case, you will need to consider using other methods to seek redress (Alternative Dispute Resolution Bodies, Equality Bodies or National Courts).
- Although we can't provide legal advice, we advise you to report your case in [EDF discrimination database](#). This information supports our evidence-based advocacy actions in this field.

Web Accessibility National Enforcement Bodies

The Web Accessibility Directive (WAD) obliges public sector bodies to make their websites and mobile applications accessible to persons with disabilities¹⁴. If you experience an inaccessible website or mobile app, the quickest way to solve it is to make use of the [feedback mechanism](#) you

¹⁴ For more information about the EU Web Accessibility Directive, please check [WAD Frequently Asked Questions](#).

will find in the [accessibility statement](#) of the website and application concerned. This mechanism helps to notify accessibility issues or request the non-accessible content directly with the website or app concerned.

If the response to this request is not satisfactory, you can then try to contact [the designated National Enforcement body](#). Member States have to ensure there is an 'adequate and effective' enforcement procedure enabling people to submit complaints to a national body responsible for the enforcement of the Web Accessibility Directive. Information about the enforcement procedure and the national enforcement body must be included in the accessibility statement.

These enforcement bodies should guarantee compliance with the directive's accessibility requirements, an effective handling of notifications of inaccessible content or requests for accessible content received through the feedback mechanism, as well as the review of the assessments of disproportionate burden carried out by public sector bodies.

As in similar mechanisms, the procedures of the National Enforcement bodies for the WAD vary from country to country. If you wish to know more, specific information on the national enforcement procedures can be found in the [WAD monitoring reports published by member states](#).

How to act

- Familiarise with the Web Accessibility Directive and its main provisions. To do so, you can use [EDF Transposition Toolkit](#), [the Web Accessibility Directive Frequently asked Questions](#) and [the Web Accessibility Initiative Communities of Practice](#).
- Identify what are the specific digital accessibility rules that apply to your country. To do so you can use [the specific accessibility obligations that Member States have notified for the transposition of the WAD](#).

- To know how to submit a complaint through the feedback mechanism you can use [the resources of the U Power WAD project](#). This project provides tools to help persons with disabilities know how, where and to whom express the accessibility problems they encounter when navigating through public sector websites and apps.
- If a public sector body does not comply with the accessibility obligations and fails to respond to a request initiated through the feedback mechanism, you can contact the designated [Enforcement Body of your country](#).
- There are variations in the way enforcement operates in member states. In most member states, the enforcement procedure will have three steps. First, the responsible body will collect and examine the complaints and decide to start a procedure. Second, the body may issue binding instructions with a deadline for compliance if a breach of the obligations is found. Third, if the organisation concerned fails or refuses to comply, the body will proceed with the enforcement¹⁵. While this might take the form of an order to the public sector concerned, in cases handled through mediation the complainer might need to turn to the court if the parties cannot find an agreement¹⁶.
- Since this directive applies to public administrations, National and Regional Ombudsman bodies will also be competent to help.

Audiovisual National Regulatory Authorities

The Audiovisual Media Services Directive (AVMSD) establishes obligations regarding the accessibility of audiovisual media services (such as sign language interpretation, subtitles for the deaf and hard of hearing and

¹⁵ Source: [European Commission's Staff Working Document on the Implementation of the Web Accessibility Directive](#) (2022)

¹⁶Source: [Study Supporting the Evaluation of the Web Accessibility Directive](#) (2020)

audio description) and the prevention of discrimination on the grounds of disability. As any Directive, Member States have to adopt national legislation to meet these general requirements.

To enforce these rules, each EU country has designated [one or more independent national regulatory authorities \(NRA\) tasked with the implementation of the Directive](#). Besides, Member States must designate a single, easily accessible and publicly available online point of contact to provide information and receive complaints regarding accessibility issues.

Disability Examples

- **Portugal:** In 2023, the [Portuguese Audiovisual Regulator ERC](#) condemned the TV channel SIC with a 45.000 EUR fine for the absence of sign language interpretation in the pre-campaign debate for the European Elections. The Decision was taken after a complaint filed by the Portuguese political party PAN ([more information on the decision of the Portuguese audiovisual regulator](#)).
- **France:** In 2023, the [French Audiovisual Regulator ARCOM](#), warned the TV channel France 5 and France 2 about the bad quality of the subtitles for the deaf and hard of hearing in two of their emissions. The action came after a complaint and led to a request of actions to reverse the situation ([more information on the decision of the French audiovisual regulator](#)).

How to act

- Get familiar with the specific audiovisual accessibility rules that apply in your country. To do so, one of the sources that you can use are [the specific accessibility obligations that Member States have notified for the transposition of the AVMSD](#).

- Consult existing resources such as [EDF Transposition Toolkit](#) and the [European Media Observatory AVMSD transposition table](#). The Media Observatory Transposition table will help you see how certain provisions of the directive have been transposed into national law.
- Identify the [National Regulatory Authority in your country](#) and get familiar with the complaint and enforcement processes. The procedures and the powers of the Regulator might differ from one state to the other.

National Regulatory Authorities (Telecommunications)

The [European Electronic Communications Code \(EECC\)](#) is a directive that aims to set an EU-level legal framework to coordinate national legislation on electronic communications networks and services. This covers telephony services, the single european emergency number 112 and basic internet access. The EECC also includes specific provisions to ensure that end-users with disabilities enjoy access and choice to these services on an equal basis with others.

Member States have to nominate competent bodies to enforce the provisions of the code. The [full list of competent authorities can be found in the website of the Body of European Regulators for Electronic Communications](#) (BEREC). Some of the main tasks given to national regulatory bodies are implementing market regulation, ensuring tariff transparency, contributing to the protection of end users' rights, where relevant in coordination with other competent authorities.

Compared to other pieces of EU legislation, the EECC gives considerable freedom to Member States when it comes to the protection of consumer rights. It does not foresee specific enforcement mechanisms, including penalties or remedies. One of the mechanism that is mentioned out-of-court dispute resolution, such Alternative Dispute Resolution Mechanisms (see previous point with this name).

Unfortunately, there is no overview of the available enforcement mechanisms available for consumers at the national level, so the better is that [to explore directly with the national competent authority](#).

European Accessibility Act

The European Accessibility Act (EAA), which will start applying from 2025 on, is a Directive that will set minimum accessibility requirements for a number of products and services placed in the EU Internal Market. The Directive foresees different mechanisms to make sure that economic operators (including product manufacturers and service providers) do what is required by this law. Although it is early to describe all the enforcement mechanisms available (Member States have some degree of freedom to do so), the Act establishes some general requirements.

On the one hand, Market Surveillance authorities will be in charge of monitoring compliance of products and will be able to withdraw the product from the market if non-compliance persists. On the other hand, Member States will have to designate a special authority to check compliance of services and follow up on complaints. Consumers and organisations of persons with disabilities will be able to bring complaints to court or competent body to enforce obligations under the act.

Unfortunately, this will not be possible when the breach is done by public authorities ([more information on the EAA](#)).

Part 3 - Judicial Enforcement

As we have seen so far, non-Judicial enforcement mechanisms can be a quick, simple and cost-efficient way to seek redress when your rights are violated. However, the outcomes are not always binding on or satisfactory to the parties. At this point, an alternative you can consider is judicial enforcement, which is carried out through national courts and tribunals, and in limited cases, the Court of Justice of the European Union. Although this is not in the scope of this Toolkit, one should not forget about the [European Court of Human Rights](#) (ECtHR), an international court that interprets the European Convention on Human Rights.¹⁷

National courts play a central role in the enforcement of EU law, as they are obliged to implement EU law and protect the rights of the individuals under them. Whenever your rights are violated within a Member State, Courts must provide an effective redress (oblige cessation of illegal behaviour and / or provide compensation). [To bring a certain case to court, you need to be aware that each Member State has its own procedures, remedies and sanctions.](#)

In limited occasions, individuals can also seek enforcement through the Court of Justice of the European Union, which has the last say when it comes to the interpretation and application of EU legislation. A separate section will allow us to get a better understanding of this important EU institution.

Although the binding nature of court enforcement makes it a central venue to seek redress, the nature of the proceedings (which can be complex, time consuming and lengthy) and the costs (which mainly include attorney and court fees) are well-known barriers that can make access to it difficult. However, this should not discourage persons with

¹⁷ Although the Convention is not EU Law, the principles and rights they contain might also be covered. Therefore, it can also be an enforcement venue to explore. [EDF has a website section with an overview of the disability related cases dealt by the ECtHR.](#)

disabilities and their representatives from enforcing their rights through national courts. A separate section will explore some tools that can facilitate access to justice.

Disability examples of national judicial enforcement

- **Air Passenger Rights Regulation:** the airline *Easyjet* denied boarding to three wheelchair users in three different flights between 2008 and 2009. The airline argued that they could not travel unaccompanied. Claiming their rights under Regulation 1107/2006, the passengers took their case to Court, who ruled in their favour and fined Easyjet with 70.000 EUR and 2000 EUR in compensation for each passenger. Despite the appeals of the airline against this judicial decision, [France highest court \(Court de Cassation\) confirmed it in 2015](#). During the process, the passengers received the support of the *Association des paralyses de France (APF)* ([more information on the air passenger rights court case](#)).
- **Employment Equality Directive:** an employee at a shipping company in Antwerpen, Belgium, was fired when he decided to return to work after a long sick-leave caused by depression / burn out. According to the company, there was no work for him. In what he considered a discriminative dismissal on disability grounds, the employee decided to take the case to court. The Belgian court, understanding that depression / burn out fell within the definition of disability under [EU Directive on non-discrimination in the context of employment](#), analysed the case and found disability-based discrimination. Among others, the company had available vacancies and could not prove that the employee had been fired for economic reasons. The court also found lack of reasonable accommodation for not allowing his progressive return to work. The court ordered a compensation amounting to six months of gross salary ([more information on the Belgian employment discrimination case](#)).

Court of Justice of the European Union (CJEU)



The [Court of Justice of the European Union](#) (CJEU) is the judicial institution of the European Union. Its role is to ensure that European law is interpreted and applied in a uniform manner and that EU countries and EU institutions comply with EU law¹⁸. Despite its relevance in the context of EU legislation, individual complaints to the CJEU are rare. You can take action directly before the CJEU, for example, when an EU institution's decision has affected you personally and directly, but the most common ways for an individual to reach the CJEU are indirectly:

- When an individual brings a case to a national court and questions arise about the interpretation of relevant EU legislation (Preliminary Ruling). Referring the matter to the CJEU is a prerogative of the court, not the individual concerned.
- When an individual notifies the Commission about the failure to comply with EU legislation by a Member State, the Commission can go as far as bringing the Member State to the CJEU¹⁹.

The CJEU mainly gives its ruling when the following cases arise:

- **Interpretation of Law:** when national courts have a doubt about the interpretation or validity of EU law or the compatibility of national law with EU law, they can ask the CJEU for clarification. The response given by the CJEU is called 'Preliminary Ruling' and the national court must apply it to the case concerned.
- **Enforcement of Law:** when a national government fails to comply with EU law, the European Commission or another EU country can take the case to the CJEU. The European Commission will take a

¹⁸ You can find more information at the [European Union's dedicated website](#).

¹⁹ Source: [Bringing Rights to Life – The Fundamental Rights Landscape in the European Union](#) (Fundamental Rights Agency 2012 Report)

Member State to the CJEU if the infringement procedure has failed (see Part 1 of the toolkit).

- **Annulment of EU Legal Acts:** if an EU legal Act²⁰ contradicts EU treaties or fundamental rights, an EU Government, the Council of the EU, the European Commission or the European Parliament can ask the court to withdraw it. Individuals can only do it when the EU act is directly addressed to them²¹ (like Administrative Decisions or Sanctions) or can prove that concerns them directly and individually.
- **Actions for failure to act:** when the Parliament, the Council or the European Commission do not take the actions they are obliged to take, EU Governments or other Institutions can bring the matter to the Court. Individuals and companies can only do it where the body concerned should have addressed an act specifically to them. And before they do it, first they must call on the relevant body to act.
- **Actions for Damages:** if the action or inaction of the EU has harmed the interest of a person or a company, they can take the case to the CJEU. Three criteria have to be met for EU liability to exist: 1) an illegal act by an EU institution or body, 2) actual damage and 3) casual relation between the illegal act and the damage.

Disability examples of EU judicial enforcement

- **Preliminary ruling on employment discrimination:** in 2017 a hard of hearing worker of an Estonian prison was dismissed based on national regulations that prohibited the employment of persons whose hearing acuity does not meet minimum sound perception thresholds. The person concerned initiated judicial proceedings that made it to the Estonia Supreme Court. In order to check the validity

²⁰ EU Legal Acts are Regulations, Directives, Decisions, Recommendations and Opinions.

²¹ This happens in very few occasions as most legal acts are of general application.

of the national regulations applied for such dismissal with the Constitution and EU law, the supreme court referred a question to the CJEU. In a [preliminary ruling of 2021](#), the CJEU ruled that Estonian regulations were contrary to Directive 2000/78 on equal treatment in employment ([more information on the employment discrimination case in Estonia](#)).

- **Annulment of EU legal acts on institutionalisation:** in 2019, European Network for Independent Living (ENIL) and two other disability rights organisations challenged the use of European funds to build institutions in Bulgaria. The applicants wanted the CJEU to stop the disbursement of such funds (which the Commission refused to do). Unfortunately, the Court considered that the action for annulment requested by the disability organisations was inadmissible. The main reason, according to the CJEU was that the appellants were not directly concerned, as they were not directly beneficiaries of financial assistance, nor would they be liable for any payment of recovered fund. Although the action was not successful, it is a good example of how citizens can reach the CJEU beyond the pre-judicial questions submitted by national courts²².

Part 3.1 Tools to Support Judicial Enforcement

European Small Claims Procedure

The European Small Claims Procedure is a judicial enforcement mechanism that allows you to bring cases to court over a civil or trade dispute (e.g. you did not receive your order, or your flight was cancelled), with a cross-border element (you or the other party are based in another EU Member State, the exception is Denmark²³, which is not bound by the

²² Source: [Article at Cambridge European Constitutional Law Review](#) (2022) as well as [ENIL's dedicated article](#).

²³ Despite this, Denmark has a National Claims Procedure equivalent to the European one. A lot of cases related to [EC Regulation 261/2004](#) are handled with this procedure (but not so many for [Regulation 1107/2006](#)).

EU Regulation on Small Claims procedure²⁴) and a value of maximum 5000 EUR, excluding expenses.

If these conditions apply, you will be able to take your case to court using the so called European Small Claims Procedure. The main advantage will be that you don't need to hire a lawyer to start the procedure, the claim can be resolved quicker and the procedure is simpler, especially for cross-border claims. However, you can incur certain costs such as court or translation fees, which can be reimbursed if your case is successful.

You can start the [small claim procedure online](#), by filling up a form containing all required information (you should attach any case-relevant documents, e.g. invoices) and sending it to the court that has jurisdiction. Within 14 days of receiving, the Court must fill in an 'answer form' and send a copy to the defendant, which has 30 days to reply by filling another answer form. Within 30 days of receiving the defendant's answer, the court must either give a judgement, request further details or summon the parties to an oral hearing. In case of oral hearing it is not necessary to be represented by a lawyer and, if possible, the hearing is carried out through videoconference / teleconference. At the end of the process, the Court issues a certificate with is enforceable in all Member States without formalities²⁵.

How to act

- For more information, you can consult the [European Commission's Toolkit on Small Claims Procedure](#).
- The Small Claims Procedure can be a good mechanism to process claims under Passenger Rights Regulations.

²⁴ Source: [A Guide for Users to the European Small Claims Procedure](#).

²⁵ Source: [European Union's Small Claims Procedure Website](#)

Your Europe Advice

[Your Europe Advice](#) is an online legal advice service provided by the European Citizens Action Service (ECAS). The team consists of about 60 lawyers who cover all 24 official EU languages and are familiar both with EU law and national laws in EU countries.

Your Europe Advice Team will provide you with personal advice on your EU rights, clarify the EU law that applies in your particular situation, explain how you can exercise your rights and direct you to a body that can offer further assistance, if needed. The team will reply within one week.

Remember that advice and information in response to individual enquiries addressed to Your Europe Advice are provided by independent legal experts under contract with ECAS, meaning that the European Commission acts as a facilitator of the service and accepts no responsibility or liability with regard to the information or advice provided (the advice do not bind the European Commission).

Disability Examples

Although Your Europe Advice expertise covers a wide range of topics, the most common inquiries submitted by persons with disabilities refer to the challenge that arise when they travel or move to another European country for a long period of time. These inquiries commonly refer to the recognition of the national disability parking card, the recognition of the national disability assessment, the transfer of invalidity pension and access to services (accessibility of public services or special rates for cinemas, public transport or museums).

Act now!

- You can contact this service by filling out [an online form in Your Europe Advice Website](#). Apart from providing relevant personal and

contact information, you'll be asked to describe the situation you experienced, the country in which occurred, the points on which you need advice, the steps you have taken so far and the authorities and bodies you have already contacted (with the relevant outcome).

- When reaching out to Your Europe Advice, you should bear in mind they will not enforce compliance if your rights have been breached but will be able to provide you with expert legal assistance on your specific situation.

Pro bono Legal Services

Pro bono refers to free provision of legal services, including litigation, by individual lawyers or organisations. Such services free of charge are normally aimed at individuals or organisations who don't have the resources to afford them. This could include, for example, activists, asylum seekers and persons with disabilities and their representative organisations.

Nowadays, pro bono legal support is provided by individual lawyers acting by-themselves, organisations and also Law Firms. Although the Pro Bono culture is well established in the United States (US), the practice in Europe is more oriented towards providing legal assistance to support NGOs in their human rights advocacy.

Some organisations that provide such service or connect with pro-bono lawyers are [The Good Looby](#), [International Lawyers Project](#) (ILP), [International Senior Lawyers Project](#) (ISPL), [PILnet](#), [Lawyers without Borders](#), the [Helsinki Foundation for Human Rights](#) and the [Digital Freedom Fund](#). Many big law firms have a pro-bono coordinator which you can contact. Specific countries, states, cities, and even bar associations

may have their own pro-bono or public interest committees and organisations²⁶.

Examples

- **Poland:** in 2015, a blind woman was denied boarding on a bus service from Lublin to Warsaw as a result of the driver refusing to embark her guide dog. Two lawyers, who represented the client pro bono thanks to the [Helsinki Foundation for Human Rights](#), represented the client in court and won the case. The Regional Court of Warszawa-Praga ruled in favour of the woman, ordering the company to issue an apology and pay 5000 PLN to a charitable cause ([more information on the Polish case that receive pro bono judicial support](#)).
- **Belgium:** in 2019, the European Network for Independent Living (ENIL) and two other disability rights organisations decided to initiate proceedings at the European Court of Justice (ECJ) against the European Commission for failing to halt the use of EU funds to build institutions. The three organisations were represented on a pro-bono basis by Covington & Burling LLP. Unfortunately, the case was deemed inadmissible by the ECJ ([more information on ENIL's case that received pro-bono support](#)).

How to act

- Explore what the possibilities in your country are. A good way to start will be to check big Law Firms or NGOs working in the judicial field.

²⁶ Source: [Digital Freedom's Fund Strategic Litigation Toolkit](#)

Strategic Litigation

The main goal of strategic litigation is to use the case of a particular client to bring about broader social, economic and political change. This can be done by setting a precedent for the outcome in similar cases, by raising public awareness or by putting pressure on relevant actors to take measures to prevent, among others, discrimination²⁷. If successful, strategic litigation can have a positive impact in society beyond the specific persons involved in the case. Although the goal is to go to court for a legal victory, by exposing injustice and raising awareness in society, you can also win by losing the case²⁸ or when there is a settlement reached before going to court. The way you communicate about your strategic litigation is important.

Examples²⁹

- **United Kingdom:** Ms Coleman brought a claim against her employer for unlawful discrimination on the grounds of her son's disability. Since the employer claimed that associative discrimination was not prohibited by UK non-discrimination law, the Tribunal decided to refer the matter to the European Court of Justice, which ruled that Directive 2000/78/EC prohibited discrimination on the grounds of disability and that it was not necessary for the person who suffered discrimination to be disabled. The case was strategic in the sense that it clarified that associative discrimination was also prohibited under current EU legislation, thus affecting the outcome of similar cases.

²⁷ Source: [Equinet's Handbook on Strategic Litigation](#)

²⁸ Source: [The Public Interest Litigation Project \(PILP\) website](#)

²⁹ Source: [Equinet's Handbook on Strategic Litigation](#)

- **United Kingdom:** In 2008, Mr Stott booked a flight from the United Kingdom to Greece operated by Thomas Cook Tour Operators Limited. As a result of his disability, he required help and support from his wife and made the proper arrangements to seat together. In the return flight, he did not receive appropriate assistance, which caused distress to him and his wife. Based on existing regulations – like Regulation 1107/2006 on the Rights of Persons with Disabilities when traveling by air – the case made it to the UK’s Supreme Court. Unfortunately, the applicable framework for compensation was the Montreal Convention, which does not foresee compensation for injury to feelings. Although the case was dismissed, the Supreme Court was extremely critical with the behaviour of Thomas Cook and suggested that it would be desirable for the state parties of the Convention to consider its amendment ([more info](#)). As highlighted by Equinet, although the case was lost, the Court’s critical statement has been useful in pursuing the issue further with the UNCRPD committee.
- **Ireland:** In Ireland, a citizen with a visual disability successfully alleged, at the Irish High Court, that the absence of means to vote independently violated his right to vote in secret ([The case of Sinnott v Minister for the Environment \[2017\] IEHC 214, the High Court](#)). Later, the Electoral Reform Bill that passed in 2020 would further consolidate existing legislation and establish a national electoral management body (EMB). Also, as good practice, consultations took place on the contents of the law, including compliance with Article 29 of the CRPD. [More information on Sinnott’s case](#).
- **Lithuania:** in 2018, a Court ruled in favour of two wheelchair users. It was also in an important case over accessibility barriers in polling stations. The plaintiffs received moral damage compensation from the municipalities that held the elections. The court ruled that

lack of funds cannot be grounds for non-compliance with mandatory legal provisions concerning the elections. Furthermore, the court also disagreed with the defendants' assertions that the concerned persons with disabilities could use alternative voting methods (e.g., early or mobile voting at home). It noted that choosing alternative voting methods for applicants is a right but not an obligation, and that the relevant public authorities must ensure proper accessibility voting conditions. This ruling led to legal amendments that included obligatory accessibility requirements at polling stations. [More information on the case.](#)

How to act

- If you want to know more about strategic litigation, we recommend you to read the toolkits prepared by the [Digital Freedom Fund](#), [Equinet](#), [Systemic Justice](#).
- If you are planning to use strategic litigation as a tool for change, make sure you build a communication strategy alongside it.

Collective (or Class) Action

Collective (or Class) action is the practice of allowing individuals affected by a common harm to go to court together and to have a professional litigate on their behalf. Although it can exist in different areas of law, this practice is often used to enforce consumer rights as the expensive and time-consuming procedures will discourage persons to fight their case individually (especially when the level of harm is low).

Although, each Member State will have its own practices of collective (or class) action, including in antidiscrimination law³⁰, there is a specific list of EU legislation for which Member States have to put in place collective

³⁰ Source of the two first strategic litigation cases: [Equinet Report Preventing and Reacting through sanction remedies](#) (2023)

redress mechanisms (in relation to consumers). The most relevant ones for persons with disabilities are the Passenger Rights Regulations (Air, Rail, Bus and Waterborne)³¹.

Examples³²

- **Belgium:** in 2014, several strikes affected the regular functioning of SNCB services. However, the railway company refused to pay compensation to consumers affected. Thanks to a collective action launched by the Belgian consumer group, the 44.000 passengers affected got compensation.

State-funded Legal Aid

Complementary to pro bono services or legal advice services, access to justice can be facilitated through legal aid systems. Available in all Member States, such systems allow those with insufficient resources to meet the costs of a court case or legal representation. National schemes can differ on the potential beneficiaries and type of support provided.

Some systems aim at making legal services and access to justice generally available, while others only provide it to the poorest individuals. In some countries legal aid consist of free representation or assistance by a lawyer or a dispensation from paying the costs of proceedings³³. The [European Justice Portal provides an overview of the national practices](#).

Conclusions

Persons with disabilities and their representative organisations have different tools at hand to enforce their rights under EU law. These tools either provide you with free legal advice (such as Your Europe Advice,

³¹ The diversity of practices led to the setting up of minimum EU-requirements through a [2020 Directive](#). This Directive, which started applying in 2023, obliges Member States to allow collective redress against infringements of specific EU law (to be found in Annex I).

³² Source: [BEUC publication why we need collective redress at EU level](#) (2019)

³³ Source: [European Court of Human Rights Handbook on Access to Justice](#) (2016)

SOLVIT, Equality Bodies and European Consumer Centres Network), engage with the different parties to resolve the situation (Equality Bodies, Passenger Rights, National Enforcement Bodies, Ombudsman) or impose sanctions and / or oblige the cessation of the breach (National Courts and Court of Justice of the European Union).

Each of these tools comes with its pros and cons: while some mechanisms can help you at no cost and are relatively quick to activate, others can be time-consuming and require financial resources. Some can only provide recommendations while others result in binding decisions or rulings.

Choosing among them will depend on the goals you want to achieve:

- If you want your Member State to properly implement an EU legislation, you might consider submitting a complaint to the European Commission and try to start an infringement procedure.
- If you want to raise awareness about specific situation and put pressure on policy makers to act at the European level, you might consider submitting a petition to the Committee on Petitions of the European Parliament.
- If a company, public administration or a person has breached your rights, you might consider contacting and / or using Passenger Rights Enforcement Bodies, National Equality Bodies, Alternative Dispute Resolution Mechanisms.
- If those 'soft mechanisms' do not force compliance, you might consider using the judicial mechanisms and taking your case to National Courts.
- When you decide to use judicial mechanisms, you can rely on different tools to cover the financial costs (pro bono support, collective action, state-funded legal aid)
- If you want to increase the impact of your case and achieve systemic changes, you might consider starting strategic litigation or reach the European Court of Justice when possible.

Apart from using the formal mechanisms to submit a complaint, do not underestimate the importance of using more informal channels. If you know the competent staff at the European Commission, Equality Bodies or National Ministries, do not hesitate to directly send them information about the breaches you encounter. They might use this information to inform their decisions and start actions themselves.

Unfortunately, laws in place that protect the rights of persons with disabilities are not enough. Well-resourced and properly trained judicial and non-judicial enforcement mechanisms are key to ensure that individuals can seek redress when their rights are breached. For this reason, when Member States transpose European legislation, it is extremely important to advocate for enforcement mechanisms that have real powers, appropriate staff and enough financial resources.

Although seeking enforcement and redress can be a tiresome process that not always leads to the desired results, we advise you to always address your complaints to the relevant body and, inform, the organisation of persons with disabilities of your Member State as well as the European Disability Forum. The more evidence we have of existing shortcomings and breaches, the more leverage we will have to change them.

Finally, an important area for enforcement not covered by this toolkit is campaigning and activism. Public campaigns, demonstrations, open letters, meetings with policy makers, social media posts and coverage in relevant media outlets can be extremely helpful to raise societal awareness.

Such campaigns can be a good tool to improve the existing legal framework and develop further the rights of persons with disabilities. In 2011, aware of the existing barriers to freedom of movement for persons with disabilities, the European Disability Forum launched a campaign for the creation of a [European Disability Card](#). The aim of the card would be to allow persons with disabilities moving throughout the EU to receive the

same disability related advantages and discounts as the nationals of the Member State they are visiting. In 2015 the European Commission launched a successful pilot project to explore its feasibility and, in 2023, presented a legislative proposal to would lead to its formal creation. After months of intense negotiations, the proposal has been agreed by policy-makers in 2024 and the Card will be a reality by 2027.

Document credits

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