
Evaluating the German Federal Law of Equal Treatment of Disabled Persons – methods and results

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Abstract

The German federal law of equal treatment of disabled persons (Behindertengleichstellungsgesetz des Bundes, BGG) came into effect in 2002. An evaluation of this law was required by the national plan of action for the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and was published by Welti et al. in 2014.[1]

Project evaluation objectives were to estimate whether the needs of disabled persons are met and whether the instruments were apt to achieve the aims of the law. Jurisprudential analyses in combination with surveys were used for this research.

The presentation will give both an explanation of the socio-scientific research approach and the data gained, as well as the outcome of the legal analysis based on that data.

I. Social science (Diana Ramm)

In its socio-scientific research approach, the evaluation-team performed a survey among government agencies dealing with the BGG. Employees of public health insurances and the federal employment agency were asked to complete a questionnaire. Organizations of disabled people were also included in our research approach. These were surveyed by a web based barrier-free questionnaire.

II. Disability, Equality and Human Rights Law (Dr. Johanna Wenckeback)

Legally, the evaluation has focused on the legal questions arising from the data provided by the social science research done in advance. Both legal literature and relevant case-law of German Courts as well as the ECJ have been analysed.

III. Main results (Ramm/Wenckeback)

Main results have been e.g. that

- laws on inclusion and participation still have a lack of publicity;
- class action suits have barely been used by disability organisations in practice; instead, the researchers suggested to implement legal rules on arbitration based on the Austrian legislation;

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- there is a need to harmonize central legal definitions of disability” and discrimination” according to the CRPD in German law; ”reasonable accommodations” (Art.5 CRPD) are not explicitly implemented into German law yet.

The impacts of BGG, however, were evaluated positively. Results also indicate that there might be some shortcomings in regard of accessibility. A reform of BGG is in the law-making process now[2]. The presentation will therefore give an outlook on which suggestions of the interdisciplinary researchers might be enacted in order to make the German law more coherent with the CRPD.

<http://www.bmas.de/DE/Service/Medien/Publikationen/Forschungsberichte/Forschungsberichte-Teilhaber/fb-445.html>

http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Meldungen/2016/gesetzentwurf-zur-weiterentwicklung-des-behindertengleichstellungsrechts.pdf?__blob=publicationFile&v=2

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