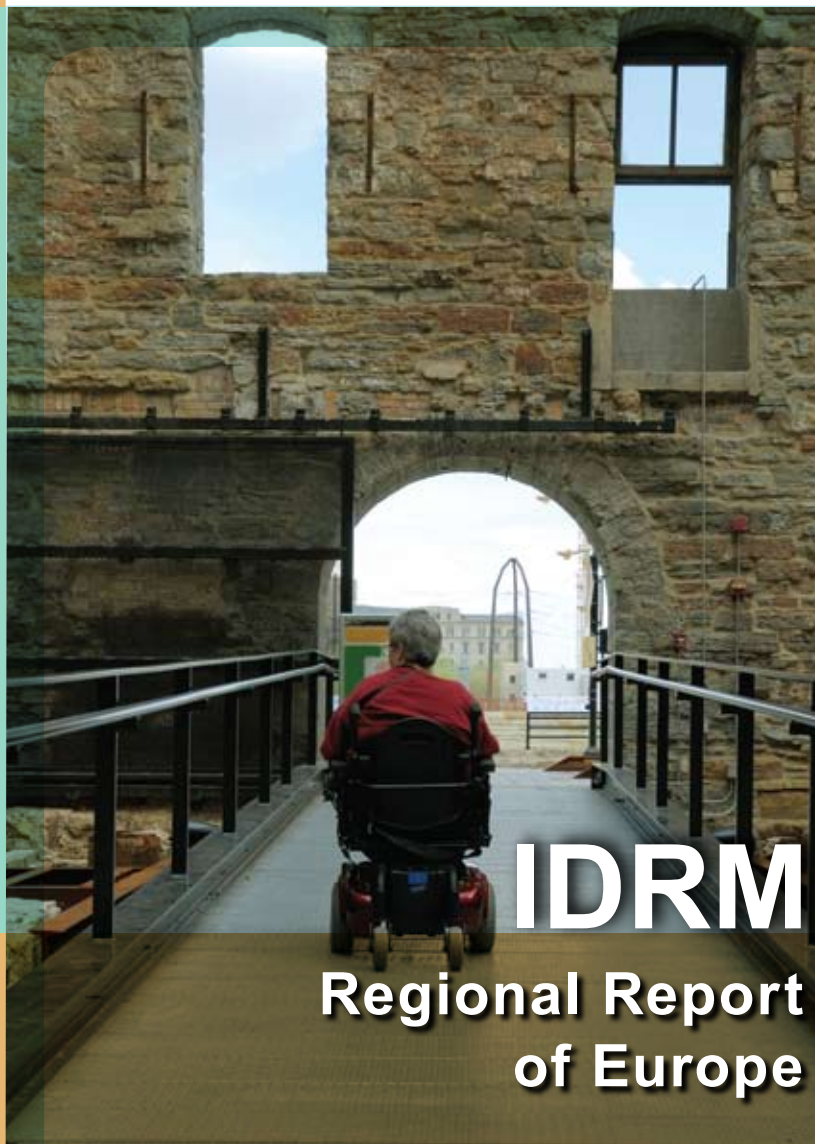




**International Disability
Rights Monitor 2007**



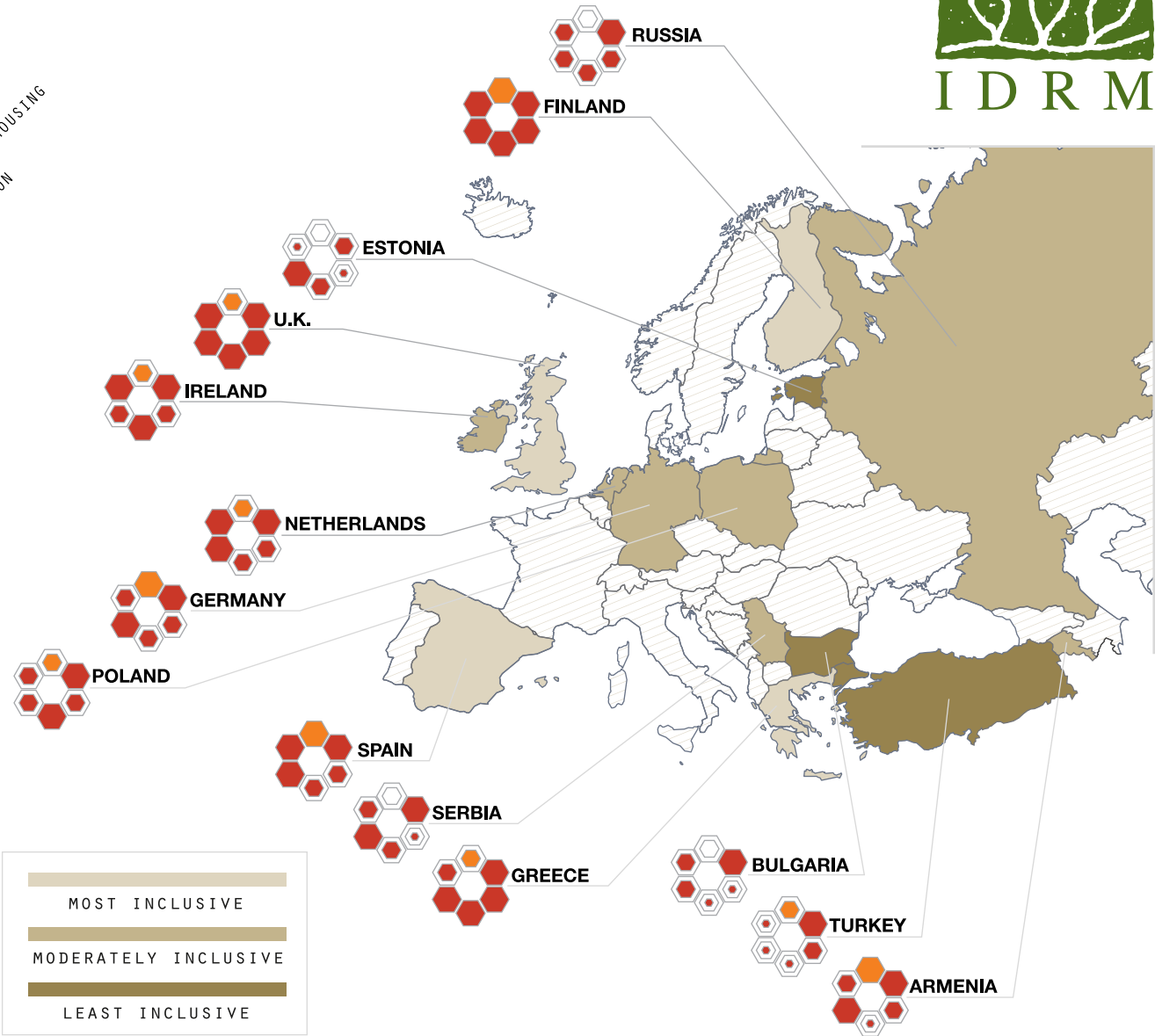
IDRM

**Regional Report
of Europe**

International Disability Rights Monitor: Europe
2007 Report Card



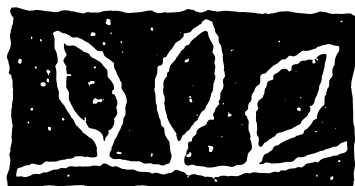
	CONVENTION & OPTIONAL PROTOCOL SIGNATURES	LEGAL PROTECTIONS	EDUCATION & EMPLOYMENT	ACCESSIBILITY	HEALTH SERVICES & HOUSING	COMMUNICATION
FINLAND						
GREECE						
SPAIN						
U.K.						
ARMENIA						
GERMANY						
IRELAND						
NETHERLANDS						
POLAND						
RUSSIA						
SERBIA						
BULGARIA						
ESTONIA						
TURKEY						



	CONVENTION & OPTIONAL PROTOCOL SIGNATURES		CONVENTION ONLY SIGNED		NONE SIGNED
	ADEQUATE BASIC PROTECTIONS		SOME BASIC PROTECTIONS		POOR OR NO PROTECTIONS

COMMUNICATION		CONVENTION & OPTIONAL PROTOCOL SIGNATURES
HEALTH SERVICES & HOUSING		LEGAL PROTECTIONS
ACCESSIBILITY		EDUCATION & EMPLOYMENT

International Disability Rights Monitor



I D R M

Regional Report of Europe 2007

Copyright © August 2007 by Center for International Rehabilitation
All rights reserved. Published 2007
Printed in the United States of America

International Disability Rights Monitor™

For more information or reports on line visit: www.idrmnet.org

For inquiries email: idrm@cirnetwork.org

International Disability Network/Center for International Rehabilitation

Chicago:

211 E. Ontario St.

Suite 300

PO Box 11011

Chicago, IL 60611-3004

Tel/TTY: 312.229-1359

Fax: 312 229-1370

Nicaragua:

Km. 5 1/2 carretera Sur

Detrás del Hospital de

Rehabilitación Aldo

Chavarria CENAPRORTO

Managua, Nicaragua

Tel/TTY: 505-268-7988

Bosnia:

Donje BRDO 37

Tuzla, Bosnia & Herz 75000

Tel/TTY: 387.35.273.154

Fax: 387-35-231-154

Cover design by Rachel Dow of Dao Design.

Report Card designed by Jason Simmons of Gradient Labs.

Back cover and Executive Summary photos courtesy of the Make-Development
Inclusive project.

The mission of the International Disability Network is to assist people with disabilities worldwide in achieving their full potential.

The mission of the International Disability Rights Monitor project is to promote the full inclusion and participation of people with disabilities in society and to advance the use of international law to ensure that their human rights are respected and enforced.



Preface

About the International Disability Rights Monitor

This is the fourth publication and the third regional report of the International Disability Rights Monitor (IDRM) project. The project represents an ongoing collaboration between the Center for International Rehabilitation (CIR), European Disability Forum (EDF), and many other international and national disability groups. The goals of the IDRM project are to promote the full inclusion and participation of persons with disabilities in society and to advance the use of international humanitarian law to ensure that the rights of persons with disabilities are respected and enforced.

The impetus for the project grew from the reality that policy makers, the human rights community, treaty monitoring bodies, and global leaders have access to very little information about the extent or the nature of the challenges faced by persons with disabilities. The IDRM project addresses this gap by documenting the problems, progress and barriers experienced by people with disabilities in a coordinated, systematic and sustained way.

In 2003, the IDRM published a disability rights compendium that covered a broad range of topics. It included articles examining issues of concern to the disability community, a comparative analysis of disability law in 52 countries around the world, and the results of field trials of the IDRM methodology in El Salvador and Nicaragua. This book marks the third in a series of regional reports that document and assess the condition and treatment of people with disabilities internationally. The first regional report, the Regional Report of the Americas, contains reports from 24 countries and was released in August 2004. The second regional report, the Regional Report of Asia, contains reports from six countries and was released in August 2005. All regional reports include a regional report card summarizing the degree to which basic protections for the rights of people with disabilities are in place.

The IDRM research network that is responsible for these reports consists of local and regional researchers drawn primarily from the disability community. The researchers come together for regional training on IDRM data collection methodology then engage in extensive research in their home countries. Researchers consult with both government officials and leaders of civil society in preparing their reports. The research for this report was conducted during late 2006 and early 2007. Reports were then edited by IDRM staff before being returned to the researchers for their approval.

While the IDRM strives to be as comprehensive and accurate as possible, disability is a complex issue and presents inherent data collection challenges. Thus the IDRM welcomes feedback from all sources. Through a cooperative effort, we can create a resource that will be of use to all those who wish to promote and protect the human rights of all persons with disabilities.

William Kennedy Smith M.D.
Project Founder

Mary Keogh
International Coordinator, IDRM

IDRM Research Network 2007

International Coordinating Team:

William Kennedy Smith, M.D.,

Mary Keogh, International Coordinator, IDRM

IDRM Europe Advisory Board:

Professor Gerard Quinn, Ireland

Stefan Tromel, Fundacion ONCE, Spain

Professor Theresia Degener, Germany

Lisa Adams, Handicap International

Alexander Cote, Handicap International

Carlotta Besozzi, European Disability Forum

Burton Blatt Institute:

Peter Blanck, Chair

Micheal Morris, J.D, Managing Director, Washington DC

Maria Reina Victoria, Research Associate, Washinton DC

Researchers:

Armen Alaverdyan, Armenia

Kapka Panayotova, Bulgaria

Agne Raudmees, Estonia

Pirkko Mahlamäki, Finland

Sabine Haefner, Germany,

Eirini-Maria Gounari, Greece

Mary Keogh, Ireland

Annette Plooy, Netherlands

Anna Rozborska, Poland

Roman Zhavoronkov, Russia

Damjan Tatic, Serbia

Leonor Lidón Heras, Spain

Dr. Idil Isil Gul, Turkey

Gillian Quinn, United Kingdom

Table of Contents

Acknowledgements	VII
Researcher Biographies	X
Foreword	XV
Executive Summary	I
Regional Reports of Europe	
Armenia	29
Bulgaria	63
Estonia	97
Finland	127
Germany	169
Greece	211
Ireland	253
Netherlands	301
Poland	323
The Russian Federation	359
Serbia	399
Spain	435
Turkey	473
United Kingdom	517
Appendix A	568
Appendix B	597
Appendix C	659

Acknowledgements

The disability rights movement has made significant progress over the past decade. This is particularly evident within the international human rights framework. The culmination of individuals and organizations working together has resulted in the development of a new international law to protect the rights of people with disabilities- the United Nations Convention on the Rights of People with Disabilities. In March 2007, the Convention of the Rights of Persons with Disabilities and its Optional Protocol was opened for signature and as of July 2007, 100 countries have become signatories to the Convention, 55 have become signatories to the Optional Protocol and there has been one ratification.

In achieving this incredible milestone, the International Disability Rights Monitor (IDRM) would like to thank in particular, Ambassador McKay for his excellent chairmanship of the negotiations, Ambassador Gallegos for his tireless work, the International Disability Caucus (IDC) for its effective lobbying and all of the other organization and individuals who have worked tirelessly to make this a reality. We look forward now to a future where people with disabilities rights are recognized and upheld.

The IDRM report results from the efforts of local researchers in each country whose hard work and insights produced this Regional Report. Their commitment to the field and ability to secure the most accurate and timely information on the rights of people with disabilities in their countries are remarkable. Given the general dearth of information on disabilities, completing their task required a large measure of resourcefulness, perseverance and dedication. The quality of this report is a testament to their abilities.

The IDRM is proud of its partnership approach in producing this Regional Report. We would like to thank the IDRM Europe Advisory Board members; Carlotta Besozzi (European Disability Forum); Stefan Tromel (Fundacion ONCE); Professor Gerard Quinn (National University of Ireland, Galway, Ireland); Professor Theresia Degner (Bochum, Germany), Lisa Adams and Alexander Cote (Handicap International) for their guidance and input throughout the development of this report.

Finally, the IDRM wishes to thank all of the staff members from both partner organizations, the Center for International Rehabilitation (CIR) and the Burton Blatt Institute (BBI) whose hard work made this report a reality. The IDRM would not exist without the dedicated work of Dr. William Kennedy Smith, Chairman of the CIR and IDRM founder. His ideas and efforts are the foundation upon which this important project rests, and we thank him for his on-going guidance and unflinching support. In addition we would like

to thank the Burton Blatt Institute for their expertise in fact-checking and editing the report in particular, Peter Blanck, Chair (BBI) and Maria Reina, Research Associate (BBI). Many thanks also to Hector Casanova, Vice President of Programs (CIR); Nikola Prvulov, Field Operations Manager (CIR); Deborah Ervin, Director of Marketing and Communications (CIR); Mary Keogh, International Coordinator (IDRM); and Julie Miller and Andy Jenkins, Communications Officers (CIR).

Primary funding for the IDRM Report of Europe was provided by a grant from the Center for Disease Control. Funding support was also provided by Fundacion ONCE, the Irish government through Irish Aid; Handicap International and the Kennedy Smith Foundation.

2007 IDRM Researchers: Europe



Armenia, Armen Alaverdyan

Armen Alaverdyan is the Executive Director of the Unison NGO for Support of People with Special Needs, and the Director of the Paros Chamber Choir – most of whose members are wheelchair users. A survivor of Myelitis at the age of 22, Mr. Alaverdyan dedicated subsequent years of his professional career to advocating for the rights of people with disabilities in Armenia.

In 1994, he received a Master of Arts degree in music.

He holds a Raoul Wallenberg Institute Diploma of Human Rights. Mr. Alaverdyan has initiated a nationwide campaign aimed at the creation of accessible environments for people with limited mobility. He has been responsible for numerous projects promoting equal opportunities for people with disabilities, as well as non-disabled residents of Armenia.



Bulgaria, Kapka Panayotova

Kapka Panayotova is one of the CIL founders and longstanding disability leader. In her professional capacity as a macroeconomist she has been involved in advocacy-oriented research commissioned by the World Bank, international donors, and advocacy NGOs. Accessibility, education, and personal assistance policies – considered the key preconditions for successful

employment – are in the focus of her attention. Ms. Panayotova led a team of disability experts who developed three Annual Disability Rights Review reports for Bulgaria. These were widely distributed and used in further analysis performed for policy purpose.

Ms. Panayotova's firm ideas about human rights and her outspokenness have brought to light a lot of discrimination cases in Bulgaria, which resulted in the denouncement of key legal provisions in Bulgaria and the development of an entirely new disability act. Ms. Panayotova is also well known as a disability advocate in the Balkans, as well as across Europe.



Estonia, Agne Raudmees

Agne Raudmees has served as the president of the Estonian Mentally Disabled People Support Organization since 2002. She has also been a board member of Inclusion Europe and the European Association of Societies of Persons with Intellectual Disability and their Families since 2003.

Ms. Raudmees has been instrumental in establishing a day care center for people with intellectual disabilities, which has been in existence since 2003. Ms. Raudmees' future plans include developing her research and project evaluation skills.



Finland, Pirkko Mahlamäki

Pirkko Mahlamäki is the secretary general of the Finnish Disability Forum. She has worked as a disability expert and trainer in a number of projects focused on combating discrimination. She is currently preparing her thesis for a law degree on the UN Convention on the Rights of Persons with Disabilities, and she is looking forward to learning more about how to best fight

discrimination as a woman with a mobility disability.

Ms. Mahlamäki holds a Master's degree in translation and in comparative literature. She is also an authorized translator.



Germany, Sabine Haefner

Sabine Haefner works as a Social Policy Officer and advocate for a German NGO called Sozialverband Deutschland e.V. (SoVD), where she specializes in helping to provide legal assistance to people with disabilities and the elderly. She was also actively involved in the negotiation of the UN Convention on the Rights of Persons with Disabilities, and drafted several

position papers for the Women's Caucus of the International Disability Caucus.

Ms. Haefner has studied law at both the University of Regensburg and Higher Regional Court (Oberlandesgericht) in Brandenburg, Germany.



Greece, Eirini-Maria Gounari

Eirini-Maria Gounari is an international lawyer with a Master's degree in EU Law, specializing in human rights protection, access to justice, and election legislation. She has worked in various legal capacities in Greece and Belgium with the European Commission, international human rights NGOs, and the Aristotle University. Ms. Gounari has also worked on a broad range of projects

related to anti-fraud issues, civil society development, and protection of marginalized groups, especially people with disabilities and immigrants. She has also worked as an election expert with the OSCE/ODIHR in international election observation missions.



Ireland, Mary Keogh

Mary Keogh graduated with a Master's Degree in Development Studies in 2005. She also holds a Bachelor's Degree in Economics and a Postgraduate Diploma in Social and Vocational Rehabilitation. She has been active in the Irish disability movement for more than 10 years and has worked in many different capacities.

Ms. Keogh has also worked as a trainer and facilitator, both nationally and internationally, on disability and social inclusion. She currently works with the Center for International Rehabilitation as the IDRM International Coordinator.



Netherlands, Annette Plooy

Annette Plooy is a political scientist with extensive experience in mental health services. She works at the Center of Expertise on Rehabilitation at Utrecht, Netherlands, where she coordinates a program on recovery and participation. Her expertise is focused on: the recovery of people with long-term psychiatric problems through self-help and mutual support; the

meaning and use of experiential knowledge in mental health services; and the stigma of, and discrimination against people with psychiatric problems.

Ms. Plooy has been involved in a European-wide study of discrimination against people diagnosed with schizophrenia, and participates in further European stigma-related research. She has written many publications on the topics of recovery, experiential knowledge, and stigma



Poland, Anna Rozborska

Anna Rozborska has been a member of staff at the Polish Association of the Blind since 1997, and her main responsibilities include international relations with various international projects, and some national projects and activities. At present, she also cooperates with several other disability organizations. Since 2003, she has been actively involved in the creation of Polish Disability

Forum, which became a full member of the European Disability Forum in 2004. She has been the secretary general of the Polish Disability Forum Board since its first election in 2004. In 2005 she was elected as a board member of European Disability Forum.

Ms. Rozborska is involved in international and national disability rights advocacy in cooperation with various NGOs, and also in consultation with national authorities.



Russia, Roman Zhavoronkov

Mr. Zhavoronkov works primarily on supporting access to education for people with disabilities. He researches laws and legal practices; drafts, and lobbies for anti-discrimination legislation; provides expertise to the State Duma (Russian Parliament); supports legal education and training; and prepares reports on relevant legislation.

Mr. Zhavoronkov also serves as a lawyer for an independent not-for-profit organization (Lawyers of Constitutional Rights and Freedoms), which pleads strategic cases in protecting the rights of people with disabilities in court. Mr. Zhavoronkov has published reports in both Russian and English on the rights of people with disabilities. He has also been a visiting fellow at Columbia University, New York, U.S.



Serbia, Damjan Tatic

Damjan Tatic is currently a consultant at the UN Development Program office in Belgrade where he is providing proposals for implementing the UN Convention on the Rights of Persons with Disabilities in Serbia. He is also a researcher with Handicap International where he is analyzing legislation guaranteeing the rights of people with disabilities in the former Yugoslavia and Serbia. In 2005,

he conducted research on behalf of the International Labor Organization on the employment of people with disabilities in Serbia

Mr. Tatic is National Rapporteur for the European Disability Forum for Serbia. He has many years of experience volunteering with a variety of organizations such as the Yugoslav Muscular Dystrophy Association, MDA Serbia, and the Center for Independent Living Serbia, of which he is one of the founding members. In 2003, Mr. Tatic served as an expert on the Serbia and Montenegro state delegation to the UN Ad Hoc Committee for drafting a Convention on Promotion and Protection of Rights and Dignities of People with Disabilities. Mr. Tatic has a master's degree in international public law from the University of Belgrade, and is currently completing a Ph.D. on the protection of human rights of persons with disabilities at the Faculty of Political Sciences, Department for International Affairs at the University of Belgrade.



Spain, Leonor Lidón Heras

Leonor Lidón currently works with Fundación ONCE, Spain's largest foundation dedicated to people with disabilities, where she works on issues related to employment. She is also involved with a project about the European media and disability, and is currently a member of a working group that is studying Spanish legislation from the perspective of the UN Convention on the Rights of Persons with Disabilities.

Ms. Lidón has a Bachelor of Law degree from Universidad Pontificia de Comillas, and has two master's degrees from ESIC (Business and Marketing School) and

Fundosa Social Consulting in Direction and Organization of Human Resources and Management of SMES (Small and Medium Enterprises). In 1999 and 2000 she was Spanish sub champion in swimming for people with mobility disabilities. She enjoys almost everything related with people, culture, travelling and photography.



Turkey, Dr. Idil Isil Gul

Dr. Idil Isil Gul is a lecturer on public international law and human rights at Istanbul Bilgi University Law Faculty. She also works as a project coordinator at the Human Rights Law Research Center at the same university, where she is managing a project on the human rights standards related to people with disabilities in Turkey. The project has both research and advocacy components. Dr. Gul gained her Ph.D. in Law with a thesis entitled “The Incorporation of

Disability and Human Rights Related International Standards Into Turkish Law.”

In addition, Dr. Gul has participated in several international seminars and conferences concerning the human rights of people with disabilities. She is serving as a consultant to many disability NGOs in Turkey.



United Kingdom, Gillian Quinn

Gillian Quinn graduated from the University of Leeds, England in 2006 where she obtained a degree in English Law and European Law. During her time at the University of Leeds, she was granted an ERASMUS scholarship to study German law at the University of Heidelberg, Germany. In addition to her work for the IDRM, Ms. Quinn has been involved in supporting and mentoring young people with disabilities at a high school in West Yorkshire, England.

Ms. Quinn has a particular interest in the autism spectrum and is currently working for the UK charity MENCAP as an advocate for adults with Autistic Spectrum Conditions.

Foreword

Over the last few decades, the disability movement has undergone a shift, working less to earn charity and more to earn equal rights for people with disabilities. This is what we call the 'paradigm shift' from medical to social, human rights-based model of disability. People with disabilities are no longer considered victims or patients, but persons with rights and a role to play in society. It is the unaccommodating environment that disables a person's life, rather than a physical impairment that disables a person.

In December 2006, the first binding international human rights treaty, the UN Convention on the Rights of Persons with Disabilities, was adopted by the UN General Assembly. The Convention is a huge achievement, and the European Disability Forum (EDF) is proud of active its involvement in the negotiation process. The European Communities and most of its Member States signed the Convention immediately, and others are about to follow the suit. We can be especially proud because the role and visibility of disabled people was key in the process of creating the Convention.

The Convention puts persons with disabilities fully on the human rights agenda by detailing the actions that states and non-state actors must take to ensure that people with disabilities can enjoy their rights on an equal basis with all others. Three of the guiding principles of the Convention include:

- 1) respect for inherent dignity and individual autonomy, including the freedom to make one's own choices, and independence of persons;
- 2) full and effective participation and inclusion in society; and
- 3) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.

The Convention is expected to become reality after 20 states ratify it. Upon its entry into force, the parties will have to review their policies on a regular basis with the view to ensure their compliance with the letter and the spirit of the Convention. Evaluation by the specialised Committee of States' compliance with the Convention will be based on reports submitted by the latter and shadow reports produced by stakeholders, such as organisations of disabled people.

In this respect, the present IDRM compilation of national reports from 14 European countries is an excellent precedent-setting example for use by national authorities and organisations of disabled people equally. The IDRM European Regional report is invaluable as it has been written by those directly concerned (in accordance with the social model of disability), while maintaining an objective and constructive approach. Its findings

demonstrate the positive role that the disability movement and researched can play together.

The report gives a comprehensive picture of the situation of disabled people in each one of the 14 countries, and includes an overview of the disability population, legislative framework and administrative practices, as well as main obstacles faced by people with disabilities in daily life. In addition to being an important tool to be used by national authorities to improve lives of people with disability in an individual European country, the report contributes to mapping out the situation of disabled people across Europe and better understanding of common challenges faced by the whole European disability community. We are hopeful that the conclusions of the report will be used by the European policy-makers to create more non-discriminatory and inclusive European policies and practices.¹

Yannis Vardakastanis
President, European Disability Forum
1 August 2007

The European Disability Forum (EDF) is a European umbrella organization representing the interests of 50 million European citizens with disabilities. The group's membership includes national federations of organizations of people with disabilities in the 27 EDF Member States, including all European Union members, as well as Norway and Iceland. The EDF also includes a large number of European NGOs representing different types of disabilities. The EDF's mission is to advance human rights of people with disabilities and to promote equal opportunities in the EU Institutions and the 27 EDF Member States, in accordance with principles of non-discrimination.

¹ Briefing for Therese Kempeneers, Seminar: "Creating a strong European Disability Movement: A perspective from Portugal" Lisbon, Portugal, 5 July 2007.

Executive Summary

The Role of International Law in Disability Rights

13 December 2006, the United Nations adopted the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. Three months later, at its first day of signature, a record number of States signed the Convention, which has been seen as a positive sign and has generated great expectations among international disability advocates. In effect, while the CRPD does not list new rights, it ensures that the rights of persons with disabilities will be no longer overlooked, creating a very promising and comprehensive international legal framework. Namely, this new treaty includes the fundamental human rights enforced in prior UN instruments now in a way that addresses the particularities of disability and creates a set of specific state obligations in order to promote inclusion and eliminate discrimination. It is relevant to highlight that full participation of persons with disabilities is not only one of its guiding principles, but was also the strategy according to which all text negotiations were structured. Systematic consultations with Disabled Peoples' Organizations have greatly enriched the CRPD's content and guaranteed the effectiveness of its formulation.

In addition to addressing equality and non-discrimination, accessibility, health, education, employment, rehabilitation, and participation in political life for people with disabilities, etc., the CRPD sets out a code of implementation and monitoring. Thus, once the Convention is ratified, countries will have to generate a national mechanism to promote and monitor implementation and submit periodical reports to a Committee of independent experts.¹ Moreover, States signing the Optional Protocol recognize the competence of the Committee to consider communications from individuals or groups who claim to be victims of a violation of the Convention provisions, once all national recourse procedures have been exhausted.² In particular, relevant bodies such as disability organizations and their representatives will be able to contribute with the surveillance of the Convention at

¹ *Convention on the Rights of Persons with Disabilities (CRPD), Article 33, 34, and 35, United Nations, 2007.*

² *Optional Protocol to the Convention on the Rights of Persons with Disabilities, United Nations, 2007 .*

the national as well as the international level in different manners, including: being involved and participating fully in the national monitoring process, being consulted for the elaboration of States Parties' reports, submitting observations and recommendations and giving technical advice related to State Parties' reports upon Committee's request, and providing expert advice on the implementation of the Convention to the Committee.³ Since the CRPD will enter into force after the 20th ratification and Parties are expected to provide reports to the Committee every two years after enactment, there is an urgent need for disability organizations and other stakeholders to improve their data collection activities and consolidate their monitoring efforts.

IDRM Overview

The International Disability Rights Monitor (IDRM) documents and assesses the rights and treatment of people with disabilities internationally. The genesis of the project lies in the dearth of the data on the actual everyday conditions in which people with disabilities around the world live. Because of the challenges inherent in collecting reliable information about the situations of people with disabilities, a dispersed reporting network, which is comprised of local researchers who are familiar with and engaged in the disability communities of each country, is central to the IDRM methodology. The IDRM research network allows us to seek out, analyze, and organize information that has never before been collected on this scale. This report provides a baseline assessment from which to track annual changes in the level of human rights protections afforded to persons with disabilities on a country-by- country basis.

This project is the first of its kind to address issues surrounding disability in multiple regions around the world but takes as its structural model the Landmine Monitor project. The IDRM, like the Landmine Monitor, is a civil-society based initiative that relies on data collected by an international network of researchers. The IDRM was conceived as a shadow reporting system, paralleling shadow reports that bolster adherence to norms of behavior enshrined in

³ CRPD, Article 33, Article 35 paragraph 4, Article 36 paragraph 5, and Article 38 (a).

international instruments. Examples of such reports include those produced by International Women's Rights Action Watch to monitor the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) or the International Human Rights Law Group shadow reports relating to the Convention on the Rights of the Child (1989).

Unlike the Landmine Monitor, which assesses the implementation of a United Nations Convention (the Ottawa Convention Banning Anti-Personnel Landmines, 1997), and the other shadow reporting mechanisms, the IDRM does not assess member-country adherence to an existing United Nations instrument. United Nations member states do, however, have a monitoring system that is associated with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (the Standard Rules), which were adopted by the General Assembly in 1993. Member states self-monitor their compliance with the Standard Rules under the guidance of a Special Rapporteur who reports to the Commission for Social Development. The monitoring system in place relies on governmental self-reporting; whereas, the International Disability Rights Monitor is based on reporting conducted by organizations and individuals in civil society, with members of the disability community reporting on their own countries. Thus, not only does the IDRM complement the current monitoring system, with the recent adoption of the UN Convention on the Rights of Persons with Disabilities, the IDRM should be a useful instrument for countries assessing their compliance with the Convention

Methodology

The methodology employed in IDRM research is primarily of an exploratory nature, with the guiding question being, "what rights and conditions are experienced by persons with disability in each country?" The items contained in the research guide include closed-ended (yes/no) questions and open-ended questions for data collection. This methodology consciously combines a quantitative approach, eliciting data that is comparable across countries, and a qualitative approach to obtain textured responses that will support a narrative description of the situation in each country. Researchers are not limited to questions included in the guide but rather are encouraged to document situations and circumstances in their locale.

Items in the research guide were largely designed with the recommendations of the Standard Rules in mind. The questions were then refined via consultation with members of the international disability community and experts on disability law in a variety of jurisdictions. Once the IDRM project was officially underway, the questions were again evaluated by international disability experts as well as by disability advocates, including IDRM local researchers. The research guide (also known as the questionnaire) is comprised of 107 distinct questions. A total of 91 items were included in the main body of the guide. Sixteen items were included in the panel discussion section. Of these, three were also included in the main body.

The questions in the main body of the research guide were distributed among four sections focusing on different topic areas. Ten items were concerned with identifying the population of people with disabilities in the country. To accomplish this, the researchers obtained statistical materials and interviewed national governmental officials to gauge the accuracy of the existing data.

The second section of the research guide, entitled “Disability Rights,” is comprised of 24 items, with several questions asking researchers to follow up certain responses with further questions. This section deals primarily with the nature of national laws and policies protecting the rights of persons with disabilities, including anti-discrimination laws, and protections of civil, political and social rights. It also addresses questions on the institutionalization of persons with disabilities.

The third section of the guide addresses issues of inclusion and accessibility. This part is divided into six segments, comprising a total of 43 items. The segments include: communication, education, employment, health services, housing, and accessibility of the built environment.

The fourth section addresses the activities of disability organizations at the national and local levels. This section includes items related to governmental entities as well as non-governmental entities. It was comprised of eight items. In order to complete these questions, researchers collected epidemiologic and census data as well as materials related to laws and statutes regarding disability.

Researchers also conducted interviews with a variety of officials and disability leaders to obtain additional information and verification of policies. Researchers selected interviewees based on their positions within governmental ministries and agencies, and for their reputation as having expertise in the issue area. In addition, the researchers gathered attitudinal/opinion data from focus groups comprised of disability leaders. The methodology for the panel sessions differed from the methodology used to obtain responses and data for the main questionnaire items. Focus panels are conducted with experts on disability—persons with personal experience of disability and/or long-standing work in the field of disability.

The researchers then conducted an open-ended discussion around the 17 panel questions. Panel session results generally do not produce data that can be easily analyzed, statistically or otherwise. Instead, panel sessions produce a great deal of verbal data, which must be summarized before justifiable conclusions can be drawn. The purpose of these panel discussions was to gain understanding and insight into the issues of disability in the countries in question, not to quantify an opinion of a larger population.

A field test of the IDRM research methodology was conducted during 2003 in two countries in the Americas, El Salvador and Nicaragua. Over a six-week period, the researchers collected data regarding the legal regime surrounding disability rights, issues of inclusion, and the activities of disability organizations in their respective countries. The results of that field test were published in the 2003 International Disability Rights Compendium. In August 2004, the IDRM released the first Regional Report of the Americas, and the same methodology was used for the Report of Asia 2005.

Once the methodology was tested and validated, local researchers for the European Regional report were trained in standard data-gathering techniques by the staff from the Center for International Rehabilitation. Researchers received their training through an intensive online training program that covered topics such as international law, human rights, research methods, interviewing techniques, sourcing and writing report findings. The program took place over a three-month period and researchers engaged in online discussions and also completed learning activities.

There are a few important challenges and limitations to this research that need to be acknowledged. Most importantly, there is not yet an international consensus on how to define disability. Although the World Health Organization's International Classification of Functioning, Disability and Health (ICF) has been accepted as an international standard, it is not yet employed around the world or around the region. Because collecting independent population-based data is outside the scope of this report, the statistical data presented in the reports are based upon surveys conducted in each country. Without a standard definition, however, these numbers are not strictly comparable.

A second challenge was due to the overall low priority generally given to disability issues in most countries. Consequently, official records are often scarcely kept or even completely lacking in some cases and previous research from which to draw was minimal. The IDRM researchers had to compile their information from a variety of sources. Information was cross-checked as thoroughly as possible, but the lack of documented sources presented challenges at times.

Report Card Methodology

The IDRM report card at the front of this book is a critical part of the IDRM monitoring system. The report card displays at a glance the extent to which fundamental human rights protections are currently in place in each country. Moreover, it does so by means of a methodology that allows this piece of the IDRM to make direct comparisons between countries. The report card is based on a series of 10 closed-ended questions covering six issues: UN Convention/optional signatories; legal protections; education and employment; accessibility; health services and housing; and communication. The exact items used are included in Appendix C of this report. These indicators primarily address basic social, economic and cultural rights of people with disabilities. Although observance of these rights is undoubtedly linked to civil and political rights, at this time the report card does not include items measuring political rights of people with disabilities. Further information about a broader variety of rights is included in the detailed country reports that follow.

Based on the answers to these questions, each country is assigned to one of three categories, indicating the overall level of inclusion of people with disabilities: Most Inclusive, Moderately Inclusive, and Least Inclusive. Countries where basic human rights protections are available in all or almost all sectors are identified as the Most Inclusive nations. Those countries with some basic protections in some sectors are identified as Moderately Inclusive nations. Finally, countries with few or no protections in the majority of sectors are the Least Inclusive nations. Inclusiveness was determined based upon the total number of items where actions have been taken that can help promote the inclusion of persons with disabilities. Resources are not evenly distributed in the region, however, which could result in a direct relationship between wealth and inclusiveness. Thus, in calculating inclusiveness, national resources were taken into account. First, items were correlated with GDP per capita to identify those that were more often associated with countries that have greater resources.⁴ The logic behind this weighting is one of commitment to inclusion. When countries with limited resources undertake projects that are expensive, and usually only realistic in wealthier countries, this is considered to indicate a level of commitment to disability rights and social inclusion.

Because it is intended to identify only the most basic level of rights protections on a variety of issues, the report card is not intended to rank order countries. Some countries may provide protections that have an important impact on the integration of persons with disabilities, which go beyond those measured for the report card. Additionally, there may be tremendous variation experienced within a single country. For these reasons, the report card cannot be used to draw conclusions beyond the basic inclusiveness category.

Terminology

The issue of language choice is important within any study of disability issues. There is still no consensus on how to talk about people with disabilities. Each term stresses a different relationship. Some terms,

⁴ GDP per capita was chosen because it is the measure used by the UN Human Development Report.

like “persons with disabilities,” focus on the individual, preferring to acknowledge that a disability is simply a condition of living and not inherent in any person. Others, like “disabled person,” stress membership in a disability community. In the era of identity politics, membership in a minority group can be an important and defining piece of self-identity that can be expressed through language. Finally, some terms may stress the responsibility of communities to support people with disabilities. Preferred terminology varies by language, group, and individual. It remains a widely debated issue.

In the absence of an internationally agreed upon disability nomenclature, two primary choices confront the editors of a report of this kind: update all language to a chosen standard, or retain local language – even if it might be considered problematic or discriminatory. In general, the IDRM has chosen to update language except when it occurs in an official context. Because the codification of discriminatory language in law may adversely affect the rights of people with disabilities, it is important to identify and preserve such terminology in context. In those country reports where problematic language remains, there is a “Terminology” section at the beginning of the report identifying the problematic terms. The remainder of this report uses both “people with disabilities” and “disabled people,” retaining the usage that predominates in the language of each local researcher. As preferred language shifts, the IDRM will work to update its style in order to respect this important issue.

Findings

Report Card Findings

The majority of the countries are placed in the moderately inclusive section. Four countries (Finland, UK, Spain, and Greece) were found to be the most inclusive while three countries (Bulgaria, Turkey, and Estonia) belonged in the least inclusive category.

Most of the countries provided adequate basic legal protections, having both specific legislation and also other protections such as anti-discrimination legislation. Ireland provides both specific protection and also protection under its anti-discrimination legislation.

Four of the countries have signed both the UN Convention on the Rights of People with Disabilities and the Optional Protocol. Six of the countries have signed the Convention while four have not signed either. It is important to note that failing to sign onto the Convention does not mean that given countries failed to support the Convention in its negotiation stages. For example, Serbia included a person with a disability on its delegation.

Most of the countries provide adequate basic protections in the area of employment and education, which leads us to believe that many challenges remain throughout the countries to ensure inclusive education and employment practices.

Much work remains to be done in the areas of health, housing, accessibility, and inclusive communication practices across the countries. For example, just under half of the countries had government websites that were accessible for people with visual impairments.

Disability Definitions

Research conducted in the European region has concluded that there are different classification systems and varying definitions of disability in each country. This results in a challenge to the identification process of people with disabilities.⁵

IDRM research has found that the various definitions of disability are influenced by the models of disability that are used. Some systems of classification are more narrow than others in terms of the range of categories used to evaluate people. Some are based only on an incapacity to work while others also include the person's entitlement for social welfare benefits and assistance.

In countries where a purely medical disability model is used, such as Bulgaria and Armenia, the responsibility of assigning disability status is left solely to medical agencies.⁶ The Bulgarian definition

⁵ Brunel University, Definition of Disability in Europe- A comparative analysis; Employment and Social Affairs, European Commission, September 2002.

⁶ Armenia, disability status is assigned by the Medico Social Expert Agency; Bulgaria, Territorial Expert Medical Panel.

states that disability shall mean “loss or damage to physiological and anatomical structures resulting in a loss of their physical and mental and psychological functions.”⁷ In contrast, the definition of disability used in Serbia shows greater influence from the social model. Recent Serbian law states that “persons with disabilities are persons with physical, sensory, intellectual or emotional impairments acquired at birth or a later stage of life, who due to social and other barriers cannot fully participate, or are limited in their participation, in social activities at the same level as others.”⁸ However, most of the definitions focused on a “loss of activity” or some “functional” assessment of disability.

In two countries, it was found that the disability definition did not include all kinds of disabilities. For example, the Netherland Minsitry of Health uses a narrowed defintion of disability in making policy decisions, which includes only “physical, sensory and learning impairments.” People with psycho-social disabilities are not included. Serbia also has a tradition of not considering people with psycho-social or psychiatric conditions as part of the disability population.

In addition to the official definitions contained in legisaltion, each country has a variety of additional disability defintions associated with social and financial benefits, and access to services. The UK, for example, does not have a single defintion of disability. It is defined within the UK census primarily in the context of incapacity to work, while the UK Disability Discrimination Act defines disability in a broader context. Other countries like Finland and Ireland have additional definitions of disability related to one’s need for services. Indeed, many governments have differing definitions based on the services or benefits being provided, and sometimes they are not consistent.

The majority of nations with welfare systems in place use any one of a variety of classification systems that measure or rank a person’s

⁷ Law on Integration of People with Disabilities entering into force on 1 January 2005, State Gazette, 81, 17 September 2004.

⁸ The National Strategy for Enhancement of Status of Persons with Disabilities, Law on Prevention of Discrimination against Persons with Disabilities, Official Gazette of Serbia, no 34/2003.

level of disability. This kind of system is in place in order to gage how many benefits a person is entitled to receive.

For example, in Greece if a person passes through both committees charged with identifying people as having a first and second degree disability, he or she will be classified as being over 67 percent disabled. In that case, the person is entitled to financial benefits. According to the German Social Code, “severely disabled people are those whose degree of disability is at least 50 percent.”

In other countries such as Russia, Armenia, and Estonia, people with disabilities are classified as having anywhere from a ‘low disability’ to a ‘severe disability.’ In Estonia, social benefits are based on a determined degree of disability, ranging from ‘Moderate’ to ‘Profound.’

Disability Population



There is official data on the disability population in the majority of countries in the region – with the exception of Serbia, who use the World Health Organization estimates of its disability population, and Finland. Data collection methods vary from country to country, and for most of the countries, data collection started to emerge from the mid 1990s.

Table I shows the main disability surveys reported for each country and the disability rate found by each. In Ireland, the UK, Bulgaria, Germany, Poland, and Estonia disability population data is gathered through official census. Each census includes specific question(s) on disability.

Table I: Disability Population (Country Breakdown)

Country	Disability as % of total population	Method of Data Collection
Armenia	4.6%	Medico Expert Social Agency
Bulgaria	3.3%	2001 Census
Estonia	8.4%	National Census Data, Social Ministry data-base
Finland	5%	No official survey ¹
Germany	10%	Federal Statistics Office
Greece	9.3%	Eurostat 1995
Ireland	8.3%	Census 2002
Netherlands	13%	Central National Statistics Bureau
Poland	14.3%	National Census 2002
Russia	8%	Federal State Statistics Service
Serbia	7% -10%	No official data collection, percentages are based on WHO estimates
Spain	9%	Survey on Disabilities, Impairments and Health Status
Turkey	12.29%	Turkey Disability Survey 2002
United Kingdom	18.2%	2001 National Census

In other countries such as Spain, Turkey, Armenia, Greece, Russia, and the Netherlands data on disability population is gathered using a variety of different sources, which include specific questionnaires on disability, statistics from pension/social welfare recipients, and incapacity to work payments.

Finland has a unique position on collecting data on disability. The country has never created a national survey on disability, and there are no questions about the disability population included in the Census. Statistics are only available through specific impairment groups who maintain registries, such as the number of persons eligible for disability services, affiliations or memberships of DPOs.

Disability rates throughout the studied countries vary. The majority of countries in the region report disability ranging between 8 percent and 14 percent. Among other causes, the variations can be explained by the different disability definitions and classification used throughout the region, for example defining disability within the context of incapacity to work, as they do in Poland, or linking with functionality as they do in the UK. The likelihood of individuals self-diagnosing disabilities, as is common in the UK and Ireland, can also impact disability population figures.

The UK has the highest disability rate in the region at 18.2 percent, the census basing its findings on the characterization of disability in terms of functionality and within the context of limiting long-term illness or permanent impediment to work. Armenia and Bulgaria, at 4.6 percent and 3.3 percent respectively, have the lowest rates of disability population – both classify disability from a health/medical perspective.⁹

Legislation and Disability Rights

Overall legal protections for people with disabilities in the region are good. These protections range from constitutional guarantees, specific laws on disability, anti discrimination legislation and regulations. The majority of the countries have specific disability laws, while others use a combination of specific laws and anti-discrimination measures, as found in Ireland and Spain. Some countries such as Poland and Armenia have legal protection for survivors of armed conflict. Interestingly, disability DPO's in Armenia, Bulgaria, and Serbia played a major role in bringing about the adoption of legal protection for people with disabilities. In Ireland, a consultative process was established which engaged DPO's, service providers and advocacy groups to develop Irish disability legislation.

The effectiveness and influence of the provisions vary from country to country along with implementation and enforcement. Of particular importance is the tendency of national laws to “encourage” rather than “require” compliance. This trend undermines the enforceability

⁹ While Armenia's rates comes from registration completed by Medico-Social Expertise Agency at the Ministry of Labor and Social Affairs, Bulgaria disability data was collected for the 2001 Census.

of disability legislation. In addition, all countries unfortunately retain laws or regulations that serve as legal barriers to people with disabilities for example in the instance of people having the legal capacity to vote, in most countries people who have been deemed legally incapable are restricted from voting.

With the opening for signature of the Convention on the Rights of People with Disabilities in March, all but four countries had signed the Convention while some also signed the Optional Protocol. Throughout the negotiation process of the Convention, all countries provided support for and included people with disabilities in their delegations. For example, Germany, Ireland, UK, Serbia, and Finland provided such support, while other countries, such as the Netherlands, included DPOs in their delegations.¹⁰

Voting rights for people with disabilities are recognized throughout the region. However, countries vary regarding the provision of physical access to voting. Data on the accessibility of voting stations is not widely available throughout the region, although some countries do have official data. Poland's National Electoral Office provides data on accessible stations and Germany has data which is partially provided by local authorities and federal Laender. It estimates that 57 percent of voting booths have access. In other countries such as Spain, a DPO recently denounced the government's provision of access to voting for people with disabilities and stated that the right to vote cannot be exercised in conditions equal to those provided to other Spanish citizens.¹¹ Further estimates from panel discussions held in Russia estimate accessibility of polling stations at not more than 20 percent. Some of the countries, including Poland, Turkey, the UK, and Serbia have people with disabilities who have been elected as officials.

Within the region, there has also been progress on disability and inclusive development practices. Finland, for example, has inclusive development policies and a study conducted in 2003 found that the government has spent a total of approximately €32.3 million

¹⁰ The Dutch delegation to the UN Convention negotiations included a representative of a Dutch platform of disability organizations.

¹¹ CERMI, CERMI denounces that on the elections people with disabilities cannot exercise the right to vote normally once more, 25 May 2007.

on disability - specific development cooperation since 1991. This amounts to five per cent of overall budget.¹² Another example is the Netherlands where disability and development issues are highlighted by the work of the Disability and Development Consortium.

Communication

Provision of accessible and alternative formats varies throughout the region. In some countries, such as Bulgaria, there is a law that provides for a monthly allowance for information and communication services that is paid to people with hearing and visual disabilities.¹³ In some countries, access to information is regulated by laws. For example, Ireland's disability law compels its government to provide information in accessible formats. Russia also has a federal law giving people with disabilities the right to receive necessary information¹⁴

Not all of the countries provide their constitution in Braille, though some national NGOs will provide legislation in Braille format. Access to libraries and materials in alternative formats also varies across the region. Ireland has a unique project for making libraries inclusive to people with disabilities.¹⁵

Some countries like Greece and Germany officially recognize sign language. Spain is awaiting approval from its Parliament to recognize and regulate sign language, and it is hoped this will be passed by the end of 2007. The majority of countries provide some form of closed captioning or similar access to hearing impaired television viewers, although these programs are typically limited and focused around evening news programming.

It also appears that inclusion for people with disabilities in emergency response lacks official strategies in the region. In the event of a disaster, Finland plans to use the system of SMS messages and TTY to communicate with people with hearing and speech impediments.

¹² Ministry of Foreign Affairs of Finland, <http://formin.finland.fi/public/default.aspx?nodeid=15346&contentian=2&culture=en-US>.

¹³ Law on Integration of People with Disabilities, Article 42, State Gazette, 81.

¹⁴ Law on Social protection of persons with disabilities in the Russian Federation.

¹⁵ The Library Council, Policies & Projects: Reasonable Accommodation for people with disabilities, www.librarycouncil.ie/policies/access.html.

In Greece, a Greek Telecom offers the Otealert Service to subscribers, a special appliance that provides a red button for direct emergency contact that can be incorporated into regular or mobile phone.

Education

In the vast majority of countries, the right to education for all children is protected by legislation with the primary and secondary level tending to be compulsory. However, the application of this practice for children with disabilities varies from country to country. For example, in the UK it is unlawful for education providers to discriminate against pupils, students and adult learners with disabilities and thus seems to be effective. Yet, in Serbia, similar anti-discrimination legislation exists but progress still needs to be made in order to make the education of children with disabilities an integral part of the education system. On the other hand, education for children with disabilities is not necessary obligatory in Greece, and in Russia, there are some limitations regarding the guarantee for vocational training.

Many countries report the presence of a board, committee, or center that is responsible for assessing children in order to establish any disability and recommend a special needs education package. Examples of this can be found in Greece, Estonia, and Poland. In the Netherlands, in cases where a parent prefers that their child be educated in a mainstream school, they are provided with a personalized program that bring with it the resources necessary for their education, such as a personal budget for support services, extra personnel assistance, appropriate learning materials, etc.

Physical accessibility and resource accessibility (both in terms of teachers and equipment) remain obstacles to entering mainstream education and in some countries, to actually being educated at all. For example, Greek and Russian children with disabilities, as a group are at risk of experiencing exclusion from education altogether. And in Finland, accessibility issues remain a barrier for students at all levels even though legislation mandating accessibility are in place.

The availability of educational statistics across the region varies. In 2006, Turkey had an overall literacy rate of 87 percent while the literacy rate for people with disabilities was only 63.67 percent. In Germany, recent figures show that only about 13 percent of children

and adolescents with disabilities attend a mainstream school while only two percent of students at German universities have a disability.

Overall, there is a move towards inclusive education in the countries studied, and in some, such as Spain and Finland, the principle of inclusion underpins relevant legislation and policy. Spain, Finland, and in some nations, such as Ireland, a number of options regarding educational settings are provided for people with disabilities. However, a divergence remains between what is provided for in the law and what is available or accessible in practice. Thus, there is still a way to go before inclusive education becomes a real option for all children with disabilities. For example, some countries report a lack of options for children and parents in rural areas while others, like Estonia, maintain that schools still retain the right to refuse to enroll a child with disabilities. Progress towards inclusive education remains blocked by inaccessible transportation, school environments and learning materials.

Employment

The legal framework varies across the region but a number of countries including Armenia, Finland, Bulgaria, Ireland, and Poland, are currently pushing for reasonable accommodation. Bulgaria and Greece are directing funding towards accommodating the workplace specifically while others have anti-discrimination provisions. These latter countries include Finland, Serbia, Turkey, the UK, Estonia, and the Netherlands, however, such provisions have been enacted only recently and so its effects have yet to be determined. Thus far, such improvements are not necessarily reflected positively in the employment rates across the board. For example, in Serbia only 13 percent of people with disabilities are employed, while in the UK 48 percent of the disability population are employed. Half of the countries in the report have employment quotas including Bulgaria, Germany, and Turkey; while others are now developing them, such as Armenia and Serbia. Others countries, like Finland, have negative attitudes towards quota systems in general, including those targeting disadvantaged groups. Further, the success of quota systems in fostering equal employment is debatable, even where there are fines levied for non-compliance. For example, the German report highlights

that many employers prefer to pay a monthly compensatory levy than comply with the quota for employing people with disabilities. In Turkey, placements in the private sector are 12 to 25 times higher than placements in the public sector though they still fall short of quota requirements.

How employment statistics are gathered in each country differs. Some countries do not count people with disabilities in receipt of permanent disability pensions as unemployed, for example, Poland and Armenia. As a result, official unemployment statistics in Poland state that only 15.3 percent of people with disabilities are unemployed, yet 85 percent are inactive.

Half of the countries report a provision for specific training and job placement for people with disabilities, including Greece, Ireland, the UK, and Armenia. Such programs tend to be run by or on behalf of the government, although in Finland, it is run by a variety groups.

Almost all the countries report the provision of supported employment and sheltered workshops, though exact provisions vary from country to country. For example, many countries fund the accommodation costs of workplaces while others pay employee subsidies to employers or offer tax incentives. Interestingly, nations like Bulgaria offer tax incentives to people with disabilities, and in Armenia people with disabilities receive financial support for the registration of their businesses. In Germany, assistance is provided to keep or obtain employment, while in Serbia there is no supported employment in the open labor market. Usually, sheltered workshops are financed and managed by state and local governments, although in Russia they are organized at state institutions, psycho-neurological facilities, and NGOs. Estonia reports that insufficient funds are made available for sheltered workshops, and overall, the region is still a long way from providing for the participation of people with disabilities in the workplace.

In those countries where social security, welfare, and pensions exist for people with disabilities, they are regulated by law and determined according to legal definitions and conditions. Examples include Ireland, Spain, the UK, Estonia, Poland, and Greece.

Health Services

Health services for people with disabilities are adequate in the region, though they are impacted by resources and budget allocations. Eligibility for health care services in some countries are reliant on disability assessments, while others relate to paid contributions or have a legal basis. In Estonia, people with disabilities are directed to rehabilitation services when they apply for an examination of the degree of their disability.

Some countries include disability modules in their training for medical staff. For example, in Finland physician training on provision of care to people with disabilities is available during both medical school and residency.

Housing

Some countries, such as the UK and Russia, have specific programs for the provision of housing for people with disabilities. Other countries, Armenia and Finland for example, contend that people with disabilities are eligible for housing on an equal basis with others. However, the accessibility of available public housing remains a key concern and some countries, including the Netherlands, report the need to better prioritize accessible housing. Even in countries where there is a public quota reserved, such as in Spain, housing for people with disabilities is rarely available. Municipalities and local authorities tend to have the overall responsibility of providing housing, but these provisions vary greatly based on availability and other factors within different countries.

All nations report the provision of a variety of specific allowances, grants, subsidies, and tax exemptions, all subject to established criteria, with regards to housing issues for people with disabilities. For example, a 'severe disability' in Finland, low income in Spain, or home ownership in Turkey, can each result in different treatment by these respective governments.

Several countries, including Armenia and Serbia, report that family continues to play a role in the support of everyday activities of people with disabilities. Other countries, such as Finland, provide personal

assistance and other support services for qualified beneficiaries. Half of the countries report that no provision for independent living exists in their current legislation, while other countries report that they are in various stages of garnering official support for the idea. Ireland, for example, has a very active independent living movement with 26 centers throughout the country, but it is still a new movement in Armenia where the first Center for Independent Living was just established in December 2006. In other countries, there still seems to be an official focus on and promotion of long-term residential care, such as in Poland, where the government continues to ignore the desire of the disability community to live independently.

Institutionalization

Most countries report a history of institutionalization of people with disabilities, though current reliance on the practice varies within the region. Some countries, such as Germany, are officially promoting de-institutionalization, and Finland sees outpatient care as the primary option. In other countries, institutions are over-used because of the lack of community-based services.

Forced or involuntary institutionalization is regulated across the region, particularly with regard to people with psycho-social disabilities in cases where the person is deemed to pose a threat to themselves or to others. Countries who have dealt with forced or involuntary institutionalization in the past include Serbia, Estonia, and Germany. Particularly in the federal land of North-Rhine Westphalia, Germany, between 2000 and 2002, there were 20,000 forced commitments to institutions per year in a population of 18 million inhabitants. These commitments appeared to relate to issues of 'public security.' In Spain, it is reported that sterilization and clinical experiments are admissible in virtue of the law in certain cases. The number of residential centers established specifically for people with disabilities varies in each country, as does the variety of services provided and the consistency of standards among institutions.

Institutions within some countries have been mentioned in reports by independent organizations that highlight human rights violations. For example, a report into institutions in Bulgaria concluded that conditions and care amounted to inhuman and degrading treatment. There seems to be no mechanism for independent monitoring in

a number of countries, including Russia and Turkey; nor is there an established mechanism for reporting incidences of institutional abuse, as highlighted for Estonia. Other countries, such as the UK, have designated independent organizations to regulate the provision of care in group homes, and countries like Finland have enacted legislation which sets forth stiffer penalties for those who abuse people with disabilities. A number of countries, such as Armenia and Estonia, require institutions to report all deaths so that the cause of death can be determined. However, the occurrence of abuse and human rights violations in institutions is, on the whole, unknown.

Accessibility

All countries in the region have legislation, regulations, or guidelines relating to the accessibility of physical environments. There is a general recognition that accessibility is central to the full inclusion and participation of people with disabilities. In practice, however, the legislation is not fully adhered to in the majority of countries, and this is reflected by the fact that enforcement is often inconsistent and ineffective. Penalties for non-compliance are almost non-existent. However, there are a number of positive initiatives promoting compliance. For example, in Poland an annual competition called 'Warsaw without Barriers' is very popular and awards prizes to the most accessible buildings different cities.

A key barrier to full accessibility is the fact that the legislation only tends to cover new buildings and buildings being renovated, without necessarily placing an onus on all public (and private) bodies to ensure full accessibility.

While it is recognized that accessible transportation is essential for people with disabilities to fully participate, public transportation systems continue to struggle with accessibility problems. Improvements have been made in recent years, though much remains to be done for buses, trams, trains, and taxi services. For example, in Armenia the only option for people with mobility disabilities is the use of taxi or private car. Services within countries tend to be inconsistent, and the capital cities are the main focus of the reports.

Most countries provide for free or reduced travel costs on public transport for people with disabilities, although with great variation

across the region. Examples of this can be found in Serbia, Bulgaria, and Russia. There is also financial support available for the purchase and adaptation of private vehicles, as is the case in Finland and the UK. In those countries there is an organization whose specific role is to assist people with disabilities with transportation issues.

Even where transport systems are accessible, obstacles to accessibility occur in the form of the inaccessibility of footpaths and road crossings, and this can often negate improvements in public transport accessibility. Prime examples can be found in the reports from Greece and Spain.

A number of countries have a policy of direct engagement with people with disabilities when designing and monitoring issues of accessibility. For example, in Ireland there is a Public Transport Accessibility Committee comprised of people with disabilities and transport service providers, with monitoring responsibilities set in law. DPOs have been directly responsible for improvements in countries such as Serbia where a project to rebuild one of the capital's main streets was awarded a special accessibility award at the European level in 2003.

All the countries have legislation governing building and construction, though due to weak or zero enforcement, the physical environment remains mostly inaccessible. In some countries the regulations that govern public buildings and facilities do not apply to private buildings, as is the case in Serbia and Ireland. Elsewhere (examples include Bulgaria and Greece) the private sector is sometimes ahead of the public sector. In Germany restaurants, cafes, and bars seeking operating licenses are required to be accessible in certain circumstances.

Overall, accessibility to both public and private buildings and facilities is limited – despite some variations across the region. In Finland, accessibility has greatly improved over the past two decades, while in Spain many public buildings are still inaccessible.

The post office is a critical facility in all communities and can perhaps be viewed as a benchmark of accessibility in each country. The situation varies throughout the region. In Germany the postal service is relocating many offices without first checking the accessibility of

the new premises, while in Serbia there seems to be a movement towards making post offices accessible. There are also variations within individual countries – Armenia for example.

There is wide variation in the region regarding universal design in university architecture curriculum, and Serbia stands out as a leader in this area. Its 'Design For All' model is incorporated as a compulsory component of the architecture curriculum in two main universities, and one of the universities is currently adapting its campus as set out in accessibility guidelines.

On the whole, government websites are not fully accessible to people with disabilities. For example, in Estonia the government websites remain totally inaccessible, and in the UK there is simply a commitment to make them accessible in the future. Other countries, such as Finland, are much further along in ensuring compliance. There are varying degrees of interest in Internet access across the region, with some innovative projects. However, there are no countries yet with universal Internet access, or countries fully compliant with WAI guidelines. Much remains to be done.

Disability Awareness and Action

The majority of countries have a national coordinating organization for disability issues, while in others such as Germany, coordination and monitoring is carried out at a regional level. All the nations researched here have established structures for the development of policy and the provision of services to the disability community. Each one has also established ties with DPOs and various specialized disability communities in order to facilitate consultation and partnership. The number of people with disabilities that participate in national coordinating organizations, and the power of such organizations, varies in each country. For example, the structure of the Polish national coordinating body is primarily advisory in nature, and gives a small amount of voice to DPOs. In other countries, like Turkey, the UK, and Serbia, people with disabilities and their representative organizations have a direct input into the development of policy and legislation.

Most countries have adopted a plan or strategy for confronting disability issues, though the scope and depth of these strategies does

vary. For example, in Turkey the focus is limited to the employment of people with disabilities, while in Estonia the plan is not specific to disability but rather includes disability under the general focus of social inclusion. Budgetary and funding issues for disability-relevant plans also vary across the region. The early stages of implementation for the UK strategy were not dependent on additional funding, but annual funding has been agreed upon in Ireland. In Armenia, budgets are drafted annually, thereby making funding for each successive year uncertain. In Ireland, the implementation of the plan lies primarily with the government, and this is also the case for a number of other countries, including Poland. DPOs also play a critical role in monitoring the implementation, and in some countries monitoring groups have been established for this purpose –Ireland being one example.

Not all countries have umbrella organizations for people with disabilities and there is a clear need for greater cooperation and coordination between all organizations. The Armenian report specifically notes that since organizations typically compete for the same funding, cooperation and coordination between them can often be difficult. In some countries the disability movement is well established and highly effective at lobbying for social change. For example, in both Serbia and the UK disability legislation was adopted as a result of the work and commitment of the disability movement.

Many DPOs have developed partnerships with public authorities and other bodies, and participate at a national level in the majority of countries. In some countries, however, disability organizations do not have the capacity to promote human rights or to apply for international funding, as is the case in Turkey. Yet in others, people with disabilities are consulted during the legislative process, though there is no guarantee that their views will be pivotal in the development of plans, as is the case in Poland.

In summation, much work remains to be done to ensure that meaningful partnerships are promoted and that DPOs are directly involved in the determination of all aspects of legislation, policy, and service provisions.

Regional Reports of Europe: Country Reports



ARMENIA¹

Key Factors

The Republic of Armenia, with a territory of 29,800 square km, is a developing country facing

numerous challenges in its transition from a post-Soviet republic to an independent state with a market-oriented economy. In addition, Armenians suffered a devastating earthquake in 1988, the Nagorno-Karabakh war in the early 1990s, and are still experiencing economic blockades and closed borders undertaken by Turkey and Azerbaijan, two of Armenia's four neighboring countries. Since Armenia gained independence in 1991, civil society has rapidly developed. Many of the existing stereotypes portraying people with disabilities as passive, sick, dependant on their families, and unable to work have been challenged. Activity from numerous disability NGOs has resulted in the creation of legal protections for people with disabilities. However, there is still a lack of implementation and poor monitoring mechanisms, even though Armenia has a constitution and several laws providing comprehensive rights for people with disabilities.²

Terminology

The word “hashmandam” is the term most often used to refer to a person with disabilities in Armenia's legal documents, media coverage and general public. “Hashmandam” can be translated to “disabled” or “a disabled person” depending on whether it is used as a noun or an

¹ The IDRM Armenia researcher, Mr. Armen Alaverdyan, is grateful to Mr. Marat Atovmyan for his assistance in analyzing Armenia's legislation, also to Mr. Aghasi Harutyunyan and Ms. Anna Papyan for their assistance in conducting interviews. The author expresses his gratitude to all of the government officials who have provided information for this report and participated in the interviews as well as to the leaders of the disability community for their active participation in the panel discussion.

² See, for example, Human Rights Defender's Annual Report 2006, Section 4.3 (The Rights of Persons with Disabilities) at http://www.ombuds.am/download.php?file_id=229&rand_int=65535 (Accessed 21 May, 2007) (In Armenian).

adjective. The disability community views this word as a neutral term without any offensive meaning. The expressions “hashmandamutyun unetsogh andz” (which translates to “a person with disability”) or “hatuk kariknerov andz” (“a person with special needs”) are also common in the contemporary Armenian language. In terms of people with intellectual disabilities, the terms “mtavor hetamnats” (“mentally retarded”) and “mtavor teri” (“mentally deficient”) were common several years ago. Currently, more empowering terms like “mtavor hatuk karikner unetsogh andz” (“a person with special mental needs”) are preferred by most disability advocates. Though describing other types of disabilities, the terms “khool” (“deaf”), “kuyr” (“blind”), and others are used, none of these terms have a derogative meaning in Armenian. In general, the use of the outdated disability terminology has become less frequent.³

Definition of Disability

Until 2005, the official definition of disability contained an offensive determinant, “anliarzhékutyun,” which approximately translates to “defectiveness” – “Disabled person: a person who needs social care and protection because of limitations of vital activities conditioned by his/her mental or physical defectiveness.”⁴ In May 2005, this term was changed and currently the official definition of disability is provided by the amended Article 2 of the *Law On Social Protection for Persons with Disabilities in the Republic of Armenia*: “Disabled person: a person who needs social care and protection because of limitations of vital activities as a consequence of his/her health disorder.”⁵ A slightly different definition of disability is provided in the

³ Panel discussion with Susanna Tadevosyan, President of Bridge of Hope NGO, Yerevan, 6 March 2007: “For the 5 last years, our NGO has held annual contests for the best media coverage of disability issues. The use of the terms like “wheelchair confined”, “victim”, “suffering”, etc. has significantly decreased. Instead, the journalists more frequently base their coverage on the principles of social model of disability.”

⁴ Law “*On Social Protection for Persons with Disabilities in the Republic of Armenia*” (old edition) (In Armenian): see <http://www.parliament.am/legislation.php?sel=show&ID=1784&lang=arm>. The law was initially adopted in 1993 and amended in 1994, 1997, 1999, 2000, 2002, 2003, 2004, and 2005.

⁵ Law “*On Social Protection for Persons with Disabilities in the Republic of Armenia*” (current edition) (In Armenian): see <http://www.parliament.am/legislation.php?sel=show&ID=2294&lang=arm>.

Statistical Yearbook of Armenia 2006: “Disabled person is the person who needs caring for and protection in connection with restriction of vital activity in consequence of physical or medical deterioration.”⁶

People with disabilities are officially divided into three groups, depending on the level of their impairments. Group one includes people with the most severe disabilities, group two refers to those with average-level functional limitations, and group three includes people with minor disabilities. Medico-Social Expert Commissions (MSECs) are state agencies exclusively authorized to assign the official status of “a person with disability” and one of the corresponding three groups. This process is regulated by the Government Decision No.750-N of 13 June 2003: “On Approval of the Classifiers and Criteria for Assigning Disability Groups during Medico-Social Expertise.”⁷ The classifiers define the following main types of disabilities:

- mental impairments;⁸
- speech impairments;
- sensory (visual, hearing, etc.) impairments;
- mobility impairments;
- metabolic impairments; and
- mutilating impairments.⁹

Section VII of the Decision No. 750-N sets the criteria for assessment of vital limitations in children. Article 17 defines the following “major

⁶ National Statistical Service of Armenia, *Statistical Yearbook of Armenia 2006*, Yerevan 2006; unedited English version as available on the Website of the National Statistical Service of Armenia at http://www.armstat.am/arm/StatData/Taregirq_06/Taregirq_06_8.pdf (Accessed 21 May, 2007) (In Armenian).

⁷ *Government Decision No.750-N of 13 June 2003 “On Approval of the Classifiers and Criteria for Assigning Disability Groups during Medico-Social Expertise”*, Official Bulletin No. 2003/37 (272), 16 July 2003.

⁸ In this classification, “mental impairments” includes both groups, people with intellectual disabilities and people with psycho-social (psychiatric) disabilities.

⁹ *Government Decision No.750-N of 13 June 2003 “On Approval of the Classifiers and Criteria for Assigning Disability Groups during Medico-Social Expertise”*, Official Bulletin No. 2003/37 (272), 16 July 2003; The term “metabolic impairments” refers to blood circulation disorders, metabolic diseases, disorders of respiration, digestion, excretory system, immunity, etc.; the term “mutilating impairments” refers to structural deformations of one’s face, head, body, or extremities; pronounced disfiguration of appearance; abnormal digestive, urinary, or respiratory tracts; abnormalities of body size (gigantism, dwarfism, cachexy, and obesity).

disorders limiting vital functions:” a) disorders of mental and psychic functions; b) disorders of sensual functions (visual, hearing, etc.); c) mobility impairments; d) disorders of blood circulation, respiration, digestion, etc. According to Article 29, “the status of ‘a disabled child’ is assigned in case of availability of any type of limitation of vital activities.”¹⁰

Disability Population

The National Census does not include questions related to disability.¹¹ According to the information provided by the Medico-Social Expertise Agency at the Ministry of Labor and Social Affairs, their computer database included 144,900 people with disabilities, 41.5 percent of whom were women, in July 2006.¹² The latest number of registered people with disabilities is about 148,000, which accounts for 4.63 percent of the total population (January 2007).¹³

As of 1 January 2005, about 135,000 people with disabilities were registered in the country (including about 8,000 children under 18).¹⁴ This shows that the number of registered people with disabilities has increased by 10 percent in only two years. Some of the reasons for this change could be: 1) the database on people with disabilities was updated; therefore, more people have been registered and included in this database; 2) Medico-Social Expert Commissions (MSECs) have started to more actively operate in rural areas, which, in turn, has resulted in the increased number of registered people with

¹⁰ Government Decision No.750-N of 13 June 2003 “On Approval of the Classifiers and Criteria for Assigning Disability Groups during Medico-Social Expertise”, Official Bulletin No. 2003/37 (272), 16 July 2003.

¹¹ The Census questionnaire is available online at http://www.armstat.am/arm/Census/Yerevan_01/Yerevan_01_41.pdf (Accessed 21 May, 2007) (In Armenian).

¹² National Statistical Service of Armenia, “Number of Registered People with Disabilities in January-June 2006”, in Socio-Economical State of the Republic of Armenia in January-July 2006 (Yerevan, 2006), Sec. 5.2,115; The Armenian Ministry of Labor and Social Affairs obtains data on the number of persons with disabilities from the Medico-Social Expert Commissions (MSECs).

¹³ ¹³ Misha Vanyan, Head of the Medico-Social Expert Agency of Armenia, Press-conference, Yerevan, 24 January 2007.

¹⁴ *Strategy of Social Protection of People with Disabilities for 2006-2015*, Government Decision No. 44 of 3 November 2005.

disabilities¹⁵; 3) health care has become relatively more affordable resulting in more people being applied to various hospitals and other health institutions where some have been officially registered as people with disabilities.¹⁶ “In 2006, 60,064 persons were examined by MSECS. As compared with 2005, this number increased by 1,971 people.”¹⁷

The average number of children with disabilities under the age of 18 in the country (7,870) comprises approximately 0.8 percent of the total number of children (988,515). “Such a small percentage is conditioned by the existing “strict” expert criteria for assigning the status of a child with a disability.”¹⁸

Table I: The number of registered persons with disabilities, by sex and age, January-June 2006¹⁹

	At the beginning of the reporting period		At the end of the reporting period	
	Total	Women	Total	Women
People with disabilities, total	141,382	56,919	144,938	60,134
(With permanent disabilities)	94,478	37,596	93,593	38,168
Under the age of 18	7,987	2,462	8,490	2,623
18-40 years old	23,730	6,920	24,745	7,163
(With permanent disabilities)	12,163	3,669	13,225	3,879
Age 40 to the pension age ¹	54,847	25,215	60,588	28,491
(With permanent disabilities)	27,497	11,605	29,253	12,432
Pension age	54,818	22,322	51,115	21,857
(With permanent disabilities)	54,818	22,322	51,115	21,857

¹⁵ Jemma Baghdasaryan, Head of Department of Disable and Elderly People, Ministry of Labor and Social Affairs of Armenia, interview by author, Yerevan, 7 February 2007.

¹⁶ Ruzanna Yuzbashyan, Head of the Department of Primary Health Care, Ministry of Health of Armenia, interview by author, Yerevan, 29 January 2007: “In order to obtain the status of a person with a disability, one should usually undergo medical examinations. Even outpatient examinations used to be chargeable. One would have to pay for examinations both in hospitals and in polyclinics. Since 2006, it has become possible to take these examinations free of charge. This, in turn, is resulting in the increased rate of registered persons with disabilities.”

¹⁷ Vanyan, Misha.

¹⁸ UNICEF Armenia, *Childhood Disability in the Republic of Armenia* (Yerevan: 2005), 18.

¹⁹ National Statistical Service of Armenia, *Number of Registered People with Disabilities in January-June 2006*, in *Socio-Economical State of the Republic of Armenia in January-July 2006*, Yerevan, 2006, Sec. 5.2, 115.

Table II: Gender distribution of the number of registered persons with disabilities, by causes of disabilities and by disability groups, as of 1 July 2006²⁰

	Group 1		Group 2		Group 3		Disabled children	
	Total	Of which women	Total	Of which women	Total	Of which women	Total	Of which girls
General disorders	9,119	4,089	63,661	30,400	28,118	15,520	-	-
Congenital disease	2,911	1,202	9,207	3,661	4,705	1,240	8,490	2,623
Illness, impairment, injury acquired while performing military service	1,356	33	9,396	262	3,130	63	-	-
of which:								
While defending the RoA*	217	8	2,271	69	799	32	-	-
While performing military service	284	3	2,373	53	1,663	28	-	-
While performing military duties	108	-	1,072	14	540	2	-	-
During World War II and in other military actions	747	22	3,680	126	128	1	-	-
Labor impairment or injury	199	36	1,109	217	1,751	287	-	-
Professional disease	22	4	266	63	222	35	-	-
Illness, impairment, injury acquired during liquidation of consequences of Chernobyl Nuclear Power Station disaster or other nuclear accidents	11	-	375	8	256	6	-	-
Illness, impairment, injury acquired during natural, technocratic and other disasters, as well as while liquidating their consequences	75	50	440	263	119	72	-	-
Total	13,693	5,414	84,454	34,874	38,301	17,223	8,490	2,623

²⁰ National Statistical Service of Armenia, *Number of Registered People with Disabilities in January-June 2006*, Sec. 5.2, 116.

Legislation and Disability Rights

National Protections

In 2005, a constitutional referendum was held in Armenia and numerous changes to the constitution were approved. Some of these changes were disability-oriented. The amended constitution states, “Everyone shall be equal before the law. Any discrimination based on any ground such as ... disability ... shall be prohibited.”²¹ According to the Constitution, the policy of “preventive care, treatment and integration” of persons with disabilities shall be among the “basic tasks of the state in the economic, social and cultural spheres.”²²

No law specifically prohibiting discrimination on the ground of disability has been adopted so far. However, various laws protect the rights of people with disabilities in the areas of education, employment, and other major fields. The *Law On Social Protection for Persons with Disabilities in the Republic of Armenia* is the national law that specifically references and protects the rights of people with disabilities.²³ This law, adopted in 1993 and amended 10 times since, has incorporated many of the provisions of the Standard Rules for Equalization of Opportunities for Persons with Disabilities. The law covers all groups of people with disabilities. Especially significant were amendments made to the law in 2002 under the initiative of a coalition made up of six different disability NGOs.²⁴ In particular, the age of people eligible for the officially assigned status of “a child with disability” was raised from 16 to 18. This amendment (Article 6.2) helped many applicants with disabilities enter universities free of charge, as a measure of affirmative action.²⁵ Another amendment (Article 5.1) obliged the government and the National Assembly (Parliament) to include annual rehabilitation programs in the state

²¹ *The Constitution of the Republic of Armenia*, Article 14.1, Official Bulletin 2005 (special edition), 5 December 2005.

²² *Ibid.*, Article 48.

²³ Bulletin of the Supreme Soviet of Armenia No. 1993/10.

²⁴ *Ibid.*

²⁵ Before adopting the amendment, children with disabilities used to lose their status of a “disabled child” when they were 16, as this status was only assigned to those under 16, after which such persons had a chance of regaining the status (and consequently, the privileges stipulated by the Law on Education to persons with disabilities) only when they reached the age of 18.

budget. Section 5 of the law is entirely devoted to accessibility of buildings, transportation, and other infrastructure issues affecting people with disabilities.

The Law On Social Protection for Persons with Disabilities in the Republic of Armenia and several governmental decisions, including the decision *On Approval of the Regulation on Providing Accessibility of Public Transport and Engineer Infrastructures for Disabled People and Groups of People with Reduced Mobility*, and *On Approval of the Strategy of Social Protection of People with Disabilities for 2006-2015*, obliged government actors, private individuals, and commercial organizations to promote the rights of people with disabilities and create adequate conditions for social and political inclusion.

Armenia's legislation includes various provisions that secure additional protections to survivors of armed conflicts.²⁶ There are some restrictions to the rights of people with disabilities to have a family and to adopt. Article 116 of the Family Code establishes the type of people that have the right to adopt.^{27 28} In compliance with this article, the government adopted the list of diseases that may make a person ineligible to adopt. Government Decision No. 517-N (5 May 2005) defines 12 diseases, including "grave mental disorders", preventing a person from adopting a child.²⁹ According to the law, this decision is based on the best interests of the child. There are no legal or other restrictions that could prevent people with disabilities from exercising their right to immigrate, seek asylum, and form associations.

²⁶ The Republic of Armenia has ratified some international legal documents concerning protection of human rights, victims of armed conflicts, cultural heritage during armed conflicts. Moreover, on 2 December 1998 the Parliament adopted the Law "On Veterans of the Second World War" (Official Bulletin No. 1998/33 (66), 31 December 1998), also the 27 October 1998 Law "On Social Security of Military Servants and their Family Members" (Official Bulletin No. 1998/30 (63), 30 November 1998). These laws include additional protections for people who acquired their disabilities as a result of armed conflicts or while performing their military service.

²⁷ Family Code of Armenia, Official Bulletin No. 2005/4 (376), 19 January 2005

²⁸ Any adult can be an adoptive parent excluding individuals who have been declared incapable by court; those who have been deprived from their parental rights by court; former adoptive parents whose rights have been canceled by court because they failed to perform their parental duties; individuals who have violated the law, individuals whose health may prevent them from executing parental rights and duties as proper, etc.

²⁹ Government Decision No. 517-N, 05 May 2005, Official Bulletin No. 2005/30 (402), 20 May 2005

There is no organization or entity in Armenia with a sole mission to keep records of discrimination against people with disabilities in the areas of housing, employment, education, and transportation. Therefore, no systematized data has been collected. However, the office of the Human Rights Defender and several NGOs keep records of various cases of discrimination, including those against people with disabilities.³⁰

Several factors have led to the adoption of relevant disability protections. Disability NGOs are quite active in the field of legal and other protections for people with disabilities. Some of the positive amendments to disability-related legislation have been drafted and lobbied by these NGOs. The availability of country offices and the representation of various international human rights organizations have also contributed to the adoption of disability protections. Another important factor is Armenia's membership in the UN and the Council of Europe, both of which urge the national government to take steps aimed at the creation of equal opportunities for disabled and non-disabled residents of the country.

International Protections

Armenia joined the United Nations on 2 March 1992. Since then, it has always voted in favor of disability-related issues, including the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993) and the Convention on the Rights of Persons with Disabilities (2006).³¹ During 2007, the government intends to carry out "activities aimed at harmonization of Armenia's legislation with the provisions of the UN Convention on the Rights of Persons with Disabilities."³² On 30 March 2007, Armenia signed the Convention and its Optional Protocol.³³

³⁰ See, for example, Human Rights Defender's Annual Report 2006 at http://www.ombuds.am/download.php?file_id=229&rand_int=65535 (Accessed 21 May, 2007) (In Armenian).

³¹ Varsenik Baghdasaryan, Head of the UN Section, the Department of International Organizations, Ministry for Foreign Affairs of Armenia, interview by author, Yerevan, 19 January 2007.

³² Excerpt from Protocol No. 31, government session of 10 August 2006, Section 9 ("On the 2007 Annual Program of Social Protection for People with Disabilities"), Introduction.

³³ United Nations Enable Website, <http://www.un.org/esa/socdev/enable/conventionsign.htm> (Accessed 21 May 2007).

Armenia signed the revised version of the European Social Charter of 1996 on 18 October 2001 and ratified it on 25 December 2003. However, the country has not ratified the protocol enabling collective complaints to be brought under the European Social Charter.³⁴ On 11 September 2006, Armenia submitted to the European Committee on Social Rights its first report covering the time period between 2001 and 2004. The report covers Article 15 by describing the disability-related legislative framework. So far there has been no response from the committee. Armenia is supposed to submit another report by October 2007 and this upcoming report should elaborate on a number of articles including Article 15. The elaborations will be made based on the comments the committee is to provide.

To some extent, Armenia implements inclusive development policies. "Whenever possible, the government promotes accessibility and inclusion of people with disabilities (no matter whether a donor country or organization sets this as a pre-condition for funding or not). For example, when some of the main streets in Yerevan, the capital city of Armenia, were being reconstructed during 2003, the donor organization ("Linci" Foundation) did not demand that these streets must be accessible for wheelchair users. However, the government, urged by disabled people organizations, decided that curb ramps should be constructed on the pedestrian crossings."³⁵

Legal Barriers

The Civil Code, Criminal Code, and Administrative Offences Code do not foresee specific penalties for discrimination on the grounds of disability. However, Article 2 of the Civil Procedural Code states that

³⁴ Anzhela Baghdasaryan, 3rd Secretary at the Section for Council of Europe, Department of Europe, Ministry for Foreign Affairs of Armenia, interview by author, Yerevan, 19 January 2007: "The appropriateness of the protocol for Armenia must be determined by the Ministry of Labor and Social Affairs."

³⁵ Interview with Jemma Baghdasaryan, Head of Department of Disabled and Elderly People, Ministry of Labor and Social Affairs of Armenia, Yerevan, 7 February 2007. Note of the Author: For example, in 2005, under initiative of Astghik NGO, several disability NGOs applied to the Linci Foundation construction unit to ensure availability of curb ramps at pedestrian crossings which were to be repaired; this initiative resulted in the construction of 237 curb ramps in the center of Yerevan (e.g., see the Website of *Hetq Online* at <http://www.hetq.am/eng/society/h-0103-Inazarian.html>).

any person has the right to appeal to the courts for protection of his or her rights, freedoms, and legal interests provided by the constitution and laws or by a contract.³⁶ In fact, people with disabilities do not often appeal to the courts for protection of their legal rights. Even if this is the case, people with disabilities will likely face numerous bureaucratic and other challenges in court, such as the inaccessible buildings that host the courts.³⁷

The issues related to guardianship or legal representation are regulated by the Armenian Civil Code and the Armenian Civil Procedural Code. According to Article 31 of the Armenian Civil Code, “a person who because of a mental disorder cannot realize the meaning of his/her actions or manage them may be recognized incompetent by a court decision.”³⁸ A case of recognizing a citizen as incompetent may be brought to court by his or her family members, the organ of guardianship and trusteeship, or by the administration of a mental hospital. The judge should appoint a medical examination to determine the mental condition of the person. If the court decides to declare a person incompetent, the organ of guardianship and trusteeship appoints a guardian for this person.³⁹ Guardianship is imposed with the aim to protect the rights of an incompetent person. The guardian is eligible to sign documents on his or her behalf, and may spend any incomes of a person under guardianship, but only for the best interests of the latter.⁴⁰

Heads of local municipalities are organs of guardianship and trusteeship. Guardianship and trusteeship commissions are formed at the local municipalities. Membership of these commissions includes social workers of the municipality, teachers, lawyers, and

36 *Civil Procedural Code of Armenia*, Official Bulletin No.1998/20 (53), 9 September 1998.

37 In August-September 2005, Unison NGO conducted monitoring of physical accessibility of the major public buildings for people with limited mobility. This research included all of the nine courts in Yerevan, the capital city of Armenia. According to the monitoring report, the first floors of only two of the court buildings are partly accessible for wheelchair users.

38 *Civil Code of Armenia*, Official Bulletin No.1998/17 (50), 10 August 1998.

39 *Civil Procedural Code of Armenia*, Articles 168-172, Official Bulletin No.1998/20 (53), 9 September 1998.

40 *Civil Code of Armenia*, Article 32.

NGO representatives.⁴¹ The commissions play an important role in decision-making processes and in the monitoring of the rights of people under guardianship.⁴² The guardianship may be abolished by a court if the reasons for imposing it do not exist any more.

Armenia has no law specifically addressing violence against people with disabilities. However, provisions of the Criminal Code and other relevant laws apply to all potential victims of violence. All crimes and cases of abuse or violence committed in Armenia are registered by the Information Center of the Police. Cases of abuse against people with disabilities are not separately recorded.⁴³ Generally speaking, in spite of the availability of adequate legal protections for people with disabilities in Armenia, many of them are far from being fully implemented. The laws and other legal documents mostly comply with international standards but do not have mechanisms for implementation and/or sanctions for non-compliance.

Civic Participation

Like other citizens of Armenia, people with disabilities have the right to vote and to be elected to public office.⁴⁴ Currently, there are no members of the Armenian National Assembly that have a disability.⁴⁵

⁴¹ *Government Decision No. 922-N of 22 June 2006 "On Approval of the Charter of Guardianship and Trusteeship Organs and Revocation of the Government Decision No. 111 of 13 March 2002, Sections 1.1, 3.7 and 3.9"*, Official Bulletin No. 2006/39 (494), 19 June 2006.

⁴² Telephone interview with Arpenik Abrahamyan, Member of the Guardianship and Trusteeship Commission at the Shengavit Municipality of Yerevan, President of Prkutyun NGO, Yerevan, 26 May 2007.

⁴³ Vladimir Grigoryan, Head of Department Implementing Monitoring of Legality of Investigations, Office of General Public Prosecutor of Armenia, interview by author, Yerevan, 6 February 2007.

⁴⁴ The only exclusion for citizens of Armenia (no matter whether they have a disability or not) is provided by Article 30 of the Constitution of the Republic of Armenia (with amendments): "Citizens found to be incompetent by a court decision [which may include people with psycho-social disabilities - Note by Author], duly sentenced to prison or serving the sentence, shall not be entitled to vote or be elected" – please see the corresponding section of the official Website of the National Assembly at <http://www.parliament.am/legislation.php?sel=show&ID=1&lang=eng> Exactly the same provision can be found in Article 2 (sec.5) of the Electoral Code (Official Bulletin No. 1999/2 (68), 18 February 1999).

⁴⁵ The last Parliamentary elections were conducted on 25 May 2003. Then a blind candidate, Mr. Artak Arakelyan, was elected MP (as member of one of the pro-government political parties). He was one of the most active members of the National Assembly. Unfortunately, MP A. Arakelyan died on 29 July 2005..

The government does have senior and middle-level officials with disabilities.⁴⁶

The only obstacle that may prevent voters with disabilities from exercising their electoral right is a lack of accessibility of polling stations. Before 1999, the law had allowed home-based voting. This practice was discontinued due to concern that it increases the risk of fraud.⁴⁷ Currently, the Electoral Code provides that, “disabled people, as well as the voters that have difficulty to participate in the elections, arrive at polling stations and participate in the voting according to the procedure established by the Central Electoral Commission.”⁴⁸ The law obliges local authorities to “implement actions necessary for ensuring the accessibility of electoral right for disabled people.”⁴⁹ However, there is still a lack of implementation of this provision. The majority of the polling stations are located in schools and kindergartens built in the Soviet era, none of were constructed with the principles of universal design. A few schools have been equipped with ramps since the collapse of the USSR, while several others do not have any stairs before the entrance.⁵⁰ Currently, several disability NGOs are making efforts to make more polling stations accessible.

During the 2003 parliamentary and presidential elections, no ballots were printed in Braille or any other alternative format to facilitate the electoral of voters with visual impairments; nor had such people received relevant information (leaflets, programs of the parties, candidates, etc.) in alternative formats prior to the elections. The situation should improve in time for parliamentary elections on 12 May 2007. The Armenian Central Electoral Commission adopted a decision aimed at providing blind citizens with an opportunity to secretly vote in

⁴⁶ For example, Ms. Hovanush Goroyan, Head of the Legal Department at the Ministry of Labor and Social Affairs of Armenia, is a visually impaired (blind) woman; people with disabilities are also employed by the Ministry for Foreign Affairs of Armenia and by some other government agencies.

⁴⁷ http://www.electionaccess.org/publications/news/05_25_03_Armenia.htm.

⁴⁸ *Armenian Electoral Code*, Article 2.4 Official Bulletin No. 1999/2 (68), 18 February 1999.

⁴⁹ *Ibid.*, Article 165.

⁵⁰ Unison NGO, http://www.unison.am/monitoring_results.doc. Prior to the Presidential and Parliamentary elections of 2003, Unison NGO had conducted monitoring of nearly all of the Yerevan's polling stations. Only 10 (or less than 0.5%) of the 419 observed polling stations were wheelchair accessible.

this election.⁵¹ In particular, special ballots will be printed with Braille indications of all of the political parties and individuals participating in the elections.⁵²

Inclusion

Communication

The government provides a Braille version of the constitution; however, no other alternative format version is available.⁵³ According to the Head of the Department of Disabled and Elderly People, the government funds the publication of monthly newsletters of the Union of Blind People, and it also intends to draft a regulation to make such activities obligatory.⁵⁴ In September 2006, the government allocated about €26,000 (12 million drams) for the printing of Braille textbooks.⁵⁵ The governmental plan of action for 2007 includes printing books in alternative formats, providing special writing-books, and ensuring the recording of “talking books.”⁵⁶

Currently, the national library does not provide materials in alternative formats.⁵⁷ The library, however, has a project aimed at creating an accessible environment for people with disabilities. The project proposal has been submitted to the Ministry of Education and Science, UNICEF, and other donors. The library plans to renovate the first floor

⁵¹ *Decision of the Central Electoral Commission of Armenia No. 47-N*, Official Bulletin No. 2007/9 (249), 19 March 2007.

⁵² Gohar Sarkisyan, *Elections Have Become More Expensive*, (In Russian) Respublika Armenia, 15 March 2007, also available online at <http://www.ra.am/?num=2007031603#2007031603>.

⁵³ Copies of the Braille version of the Constitution are mostly available in libraries of educational-manufacturing establishments of the Union of Blind People.

⁵⁴ Baghdasaryan, Jemma.

⁵⁵ *Armenia Country Report on Human Rights Practices - 2006*; released by the U.S. Department of State Bureau of Democracy, Human Rights, and Labor; 6 March 2007. Available online at <http://www.state.gov/g/drl/rls/hrrpt/2006/78799.htm> (Accessed 21 May, 2007).

⁵⁶ Excerpt from Protocol No. 31, Government session of 10 August 2006, Section 9 (“On the 2007 Annual Program of Social Protection for People with Disabilities”), subsection 5.7.

⁵⁷ Silva Zakaryan, Chief Librarian at the National Public Library, interview by author, Yerevan, 2 February 2007: “There have been exhibitions at the library, but the special literature put on display had been brought from the Library of the Union of Blind People.”

to make it easier for people with disabilities to access the library. Also, it plans to have a special reading room for people with disabilities.⁵⁸

People with hearing impairments “are relatively isolated from the community. They have formed a specific socio-cultural minority, members of which mainly communicate with each other using sign language.”⁵⁹ The national news is, to some extent, captioned for hearing-impaired viewers. The Public Armenian Television (1st channel), which covers the entire territory of the country, uses subtitles instead of sign language in its primetime news broadcast. The subtitled news is not fully provided but is instead a summary. Some of the other Armenian TV companies also provide subtitles of their news coverage. One privately owned TV channel (ALM) covering most of the territory of Armenia always accompanies its news (as well as many other programs) with sign language translation. Article 3 of the Armenian *Law On Television and Radio* provides a definition of sign language focused on simultaneous translation of TV programs.⁶⁰ The same law obliges the Public Armenian Television to provide sign language translation or Armenian subtitles during at least one news program and one children’s program per day.⁶¹

The Government Department of Emergency Situations has no specific regulation that would make the relevant officials employ special communication techniques to notify people with speech impediments or hearing impairments about emergencies.⁶² Armenia also lacks an accessibility policy for websites. None of the governmental websites specifically address the needs of people with visual disabilities.⁶³

⁵⁸ Susanna Ghazaryan, Responsible Officer for the UN Depository Fund, interview by author, Yerevan, 2 February 2007.

⁵⁹ V. Sahakyan, *People with Hearing Impairments in the Armenian Reality. Problems and Solutions* (Yerevan 2006).

⁶⁰ Armenian Law “On Television and Radio”, Official Bulletin No. 2000/27 (125), 18 November 2000.

⁶¹ Armenian Law “On Television and Radio”, Article 28 (Official Bulletin No. 2000/27 (125), 18 November 2000).

⁶² Telephone interview with an official from the Information Center at the Government Department of Emergency Situations, 6-7 February 2007.

⁶³ See, for example, <http://www.president.am> (Official site of the President); <http://www.parliament.am> (Official site of the National Assembly); <http://www.gov.am> (Official site of the Government); <http://www.mss.am> (Official site of the Ministry of Labor and Social Affairs).

Education⁶⁴

The term “children with disabilities” is not used in the educational system of Armenia; the law identifies them as “individuals in need of special educational conditions” (“krtutyán arandznahatuk paymanneri karik unetsogh andzink”). This category mostly refers to children with disabilities, though it also addresses other children that are in need of additional support.⁶⁵

There are general admissions regulations into different types of schools, whether a child has a disability or not. There is a choice between segregated and integrated education. The law stipulates that, “education of children with special educational needs may be carried out either in mainstream or special schools, based on their parents’ choice.”⁶⁶ If parents feel there has been a violation of their child’s rights, they can go to court. The other options for complaints include applying to the Ministry of Education and Science, Human Rights Defender, or to disability and human rights NGOs.

For the last several years, inclusive education has been experimentally applied in Armenia under the initiative of Bridge of Hope NGO and the Ministry of Education and Science.⁶⁷ According to media reports, over 200 children with special educational needs study in six Yerevan schools, applying the inclusive education system.⁶⁸

⁶⁴ Children normally go to school at the age of seven in Armenia. Currently, 11-year secondary school is in place. According to the *Law on Education* (Official Bulletin No. 1999/12 (78), 14 May 1999), this system is going to make a shift to a Western-type school. Starting from the academic year of 2009-2010, children will attend elementary schools (1-4th years); secondary schools (5-9th years), and high schools (10-12th years).

⁶⁵ Anahit Muradyan, Senior Specialist at the General Education Department, the Ministry of Education and Science of Armenia, interview by author, Yerevan, 1 February 2007: “This group includes all those who for one or another reason have difficulties with comprehending the general educational program.”

⁶⁶ *Armenian Law “On Education”*, Article 19.3, Official Bulletin No. 1999/12 (78), 14 May 1999.

⁶⁷ Muradyan, Anahit: “The Minister of Education and Science issues a decree ratifying the schools which *ex officio* implement inclusive education of children in need of special educational conditions and which unlike common schools receive additional sums from the state for that. Today there are 6 of those schools in Yerevan. It is envisaged that in September 2007, eight others (including four schools located in a region of Tavush) will join them.”

⁶⁸ See, for example, <http://armenianow.com?action=viewArticle&AID=1618&CID=1733&IID=&Ing=eng>.

These schools are equipped with ramps; however, they are not fully accessible for wheelchair users because of a lack of adapted bathrooms and other facilities.

A recent report, examining the Armenian special education center situation, states, "Fifty-two special schools function in Armenia nowadays; during the 2003-2004 academic year, 10,815 children were studying there ... 38 of these schools have a mission of educating children in need of special educational conditions as a result of their mental or physical disorders."⁶⁹ Education for students with disabilities is available at special schools in most small and large cities. Training on techniques for teaching children with disabilities is not included in the curriculum used for all teachers in Armenia.⁷⁰ However, special education training is available to teachers who wish to take it.⁷¹

In 2006, 103 young people with disabilities were granted a state guarantee for getting education within the framework of professional rehabilitation programs for people with disabilities. Forty-three of them are currently studying in universities, and 20 others have joined colleges (the state funds the study expenses of both groups).⁷²

The family is rarely involved in the intellectual rehabilitation and education of people with severe, profound, and/or multiple disabilities living in residential institutions.⁷³ There are approximately 400 students in residential care.⁷⁴ Currently, the Ministry of Education and Science has two programs and standards for work with children in need of special educational conditions. These are the programs for children

⁶⁹ Musheg Mikaelyan, *Special Education in Armenia Yesterday, Today and Tomorrow* (Yerevan: UNICEF & the Ministry of Education and Science of Armenia, 2004), 16.

⁷⁰ Anahit Muradyan, Senior Specialist at the General Education Department, the Ministry of Education and Science of Armenia, interview by author, Yerevan, 1 February 2007: Muradyan, Anahit: "We work with international organizations and develop programs aimed at ensuring that all teachers get training on working with children who are in need of special educational conditions."

⁷¹ Ibid: "If a teacher applies to the appropriate body (the training body is the National Education Institute of Armenia), we try to involve them in those trainings."

⁷² Vanyan, Mischa.

⁷³ Panel discussion with Balasanyan Harutyun, Director of Kharberd Children's Home, 6 March 2007.

⁷⁴ Baghdasaryan, Jemma.: "About 150 children are in the Gyumri Boarding House for Disabled Children Under Five, and the Kharberd Specialized Boarding House for Children hosts about 250 students."

with mild or severe intellectual disabilities. Individual study plans are worked out for the child after identifying his or her individual needs, strengths, and weaknesses.⁷⁵ There are two educational institutions admitting young people with intellectual disabilities over the age of 18 (Merdzavan College and Kapan Residential College). However, their services rarely provide academic educational opportunities, as they are limited to vocational and handicraft training.⁷⁶

The Ministry of Education and Science has various programs to detect special educational needs in children. Article 5 of the *Law on Education of Persons with Special Educational Needs* categorizes people with visual impairments, hearing impairments, mobility impairments, severe speech disorders, conduct and emotion-will sphere deviations, intellectual disabilities, and psycho-social disabilities. The ministry's programs cover all of these groups.

A national program for early detection of disabilities is also in place. The Ministry of Health implements these programs in collaboration and with support of UNICEF and Mission East.⁷⁷ This program covers all kinds of disabilities, and health screening is performed to detect any kind of impairment in a child.

There is a national policy that requires schools to be accessible to people with disabilities. According to Section 6, "Ensuring Education for People with Disabilities", of the *Strategy of Social Protection of People with Disabilities for 2006-2015*, the goal of the state in the field of education is the "realization of the educational rights of children with disabilities and children with special educational needs." The strategy identifies 12 major actions aimed at achieving this goal, including, "ensuring the accessibility of buildings of mainstream and special education institutions by inclusion of these buildings in the priority list for reconstruction."⁷⁸ Currently, no school is in full compliance with accessibility guidelines.

⁷⁵ Muradyan, Anahit.

⁷⁶ Panel discussion with Arpenik Abrahamyan, President of Prkutyun NGO, Yerevan, 6 March 2007.

⁷⁷ Artsruni Hakobyan, Chief Child Neurologist at the Ministry of Health of Armenia, interview by author, Yerevan, 3 February 2007.

⁷⁸ *Strategy of Social Protection of People with Disabilities for 2006-2015*.

Table III: Distribution of Disabled People by Educational Level, %⁷⁹

Illiterate	12.7
Still elementary	1.0
Elementary	14.3
Basic general	17.7
Secondary (complete) general	26.6
Primary vocational	3.9
Secondary vocational	14.4
Higher	9.4

Employment

The national policy pertaining to people with disabilities and the ability to work includes several laws and other government documents. The most important of these documents are: the Labor Code, the *Law On Population's Employment and Social Security in Case of Unemployment*, the *Law On Social Protection for Persons with Disabilities in the Republic of Armenia*, and the *Strategy of Social Protection of People with Disabilities for 2006-2015* (Government Decision No. 44 of 3 November 2005).

Under Article 141 (section 1) of the Labor Code, people with disabilities may require that their employers should provide for a flexible schedule for such employees (based on medical examination).⁸⁰ This law also contains some other additional protections for employees with disabilities. Articles 19 (section 2) and 15 (section 17) of the *Law On Population's Employment and Social Security in Case of Unemployment* states that people with disabilities have the right to get free vocational training and placement, as well as to receive financial support for registration of their businesses.⁸¹

⁷⁹ National Statistical Service of the Republic of Armenia, *Report on Sample Survey of Living Conditions for Disabled People Registered in the Vulnerability Estimation System in the Republic of Armenia*, Yerevan 2003, 66, Graph 19.

⁸⁰ Labor Code of Armenia, Official Bulletin No. 2004/69 (368), 21 December 2004.

⁸¹ Armenian Law "On Population's Employment and Social Security in Case of Unemployment", Official Bulletin No. 2005/75(447), 7 December 2005.

The largest employer in the private sector is the Electric Network of Armenia, which has 7,984 employees. This company does not have a policy stating that people with disabilities cannot be discriminated against in employment on the basis of his or her disability. However, they have a policy of providing special social protections to those employees who acquired a disability while working for the company.⁸²

According to the official data, 55 percent of all people with disabilities are of a working age (16-63); those who are employed comprise eight percent of all the people with disabilities of a working age.⁸³ People with disabilities do not obtain the official status of an unemployed person because “unemployed individuals are considered those unoccupied individuals who do not receive pensions provided by the legislation.”⁸⁴ People with disabilities receive disability pensions; therefore they do not qualify for the status. Simultaneously, according to the same law, unemployed people with disabilities self-register as “unoccupied individuals looking for work”⁸⁵ in the Employment State Service of the Ministry of Labor and Social Affairs. As of December 2006, 1,500 of 102,200 people looking for a job were people with disabilities.⁸⁶ People with disabilities who are not looking for work are included in the general list of the economically inactive population. However, their number is not separately calculated.⁸⁷

There are some training and placement programs for people with disabilities run by the Employment State Agency, with the occasional participation of various international agencies and NGOs. In order to secure the effectiveness of these programs, three-side contracts consisting of the person with a disability, the Employment State Agency, and the employer are provisionally signed to ensure that the person with a disability will be provided with an appropriate job once he or

⁸² Telephone interview with M. Grigoryan, Head of PR Department, Electric Network of Armenia, Yerevan, 27 February 2007.

⁸³ *Strategy of Social Protection of People with Disabilities for 2006-2015*.

⁸⁴ *Armenian Law “On Population’s Employment and Social Security in Case of Unemployment”*, Article 7; adopted 24 October 2005, Official Bulletin No. 2005/75 (447), 7 December 2005.

⁸⁵ *Ibid.*, Article 19.2, Official Bulletin No. 2005/75 (447), 7 December 2005.

⁸⁶ Interview with Nelly Baghdasaryan, Head of Department of Social Field and Nature Preservation, National Statistic Service of Armenia, Yerevan, 23 January 2007.

⁸⁷ *Ibid.*

she completes the program.⁸⁸ The barriers that prevent many people with disabilities from participating in the programs include a lack of physical accessibility of the training facilities, and their centralization in large cities and towns. There are no formal restrictions for those people with disabilities who want to access mainstream training programs and placement services. However, in many cases these opportunities are not available for people with disabilities (because of the physical inaccessibility of buildings or facilities, lack of auxiliary equipment, devices and alternative formats of educational materials, etc.)

Armenia's legislation does not include a quota system requiring the employment of people with disabilities. The government does not currently provide funding for accommodation of the workplace, but relevant mechanisms are being developed.⁸⁹

According to the *Law on State Pensions*,⁹⁰ people with disabilities have the right to receive disability pensions. The law establishes two types of pensions: insurance and social. A person who has had work experience before the case of disability receives insurance pension, while a person who has no work experience or has had a disability from childhood receives social pension (which is less than insurance pension). If the family has a member with a disability, it has a chance to receive family benefits on poverty. In general, disability pensions are too small to ensure an adequate quality of life.

The existing pensions are not equal for all cases of disability. In Armenia, "civil" and "military" pensions exist. All issues related to "civil pensions" are regulated by the *Law On State Pensions*. This kind of pension is paid by the State Fund of Social Insurance. The *Law On Social Security of Military Servants and Members of Their Families*⁹¹ regulates issues related to military pensions. These pensions are paid by the state budget, and the Ministry of Defense deals with this issue. If a military servant has acquired a disability, he or she can

⁸⁸ Baghdasaryan, Jemma.

⁸⁹ Ibid.

⁹⁰ *Armenian Law "On State Pensions"*, Official Bulletin No. 2003/18 (253), 9 April 2003.

⁹¹ *Armenian Law "On Social Security of Military Servants and Members of Their Families"*, Official Bulletin No. 1998/30 (63), 30 November 1998.

receive a disability pension and other social assistance. Veterans of the Second World War receive both types of pensions and other social assistance.

Health Services

Rehabilitation and medical treatment of people with disabilities are partly funded by the state budget. Provision of free medical treatment is obligatory in the state-owned hospitals and polyclinics. People with disabilities of groups one and two⁹² are eligible for free medication; people with disability group three shall be provided with a 50 percent discount.⁹³ However, the level of the available funding is insufficient; people with disabilities frequently have to buy medications on their own and pay other hidden costs of their treatment. In addition, the quality of the free medical service is often poor.

Disability training is an essential part of the professional curriculum for all of the future medical professionals. Each educational module includes a section related to disabilities.⁹⁴ The Ministry of Health plays a part in strategic community restoration programs. These are drafted and submitted by individual communities. Since 1999, about 100 (out of 260) rural polyclinics have been renovated and equipped. In addition to this, training courses for nurses and physicians have been implemented. By 2008, all of the polyclinics will have computers and necessary medical equipment.⁹⁵

Government-funded rehabilitation services are available throughout the country. Each polyclinic has a rehabilitation department, or at least a physiotherapeutic department, which is available for all patients, including people with disabilities. In addition, there are several well-equipped modern centers in Yerevan – the Institute of Physiotherapy

⁹² As described above, group one includes persons with the most severe disabilities, group two refers to those with average-level functional limitations.

⁹³ Armenian Ministry of Labor and Social Affairs, Frequently Asked Questions section) <http://www.mss.am/eng/faq/faqinvalid.htm> (Accessed 21 May 2007).

⁹⁴ Ruzanna Yuzbashyan, Head of the Department of Primary Health Care, Ministry of Health of Armenia, interview by author, Yerevan, 29 January 2007.

⁹⁵ Ibid.

and Balneology, Children's Rehabilitation Center, International Post-Trauma Rehabilitation Center of the Red Cross, and others.⁹⁶

The state provides people with disabilities with technical aids (wheelchairs, hearing aids, prosthetic and orthotic devices, crutches, etc.) free of charge. In order to obtain a wheelchair, a person with a mobility impairment should submit a written application and a reference from the Medico-Social Expert Commission (MSEC) indicating that he or she needs a wheelchair. The application goes to the local agency of social services serving his or her area. The same agencies serve people with hearing impairments. To obtain a hearing aid, one should get a reference from the Republican Hearing (Surdology) Center indicating which type of hearing aid he or she needs and submit it along with an application to the agency. Wheelchairs and hearing aids are provided free of charge once every four years.⁹⁷ According to government officials, there are no difficulties in providing assistive devices. In 2006, 374 hearing aids and 339 wheelchairs were provided.⁹⁸

The most serious challenge that people with disabilities face in the area of technical aids is a lack of high-performance and/or custom-designed equipment. People with disabilities can purchase auxiliary materials from several privately funded organizations. Obviously, some of the devices (especially hearing aids) available in shops are of a much higher quality than those provided by the state. However, there is no reimbursement option if people with disabilities buy their own equipment.⁹⁹

⁹⁶ Baghdasaryan, Jemma.

⁹⁷ Questions and answers on these and other issues concerning rehabilitation, technical aids, etc. are available online at <http://www.mss.am/eng/faq/faqinvalid.htm> (the official Website of the Armenian Ministry of Labor and Social Affairs) (Accessed 21 May, 2007).

⁹⁸ Vanyan, Misha.

⁹⁹ Baghdasaryan, Jemma: "The Government has various rehabilitation programs; however, it is yet impossible to provide reimbursement for financial reasons."

Table IV: Gender distribution of the number of people with disabilities who received the guarantee for rehabilitation actions, by type of rehabilitation activity, as of 1 July 2006¹⁰⁰

Types of rehabilitation actions	Number of disabled people		Of which under 18 years old	
	Total	Of which women	Total	Of which girls
Medical rehabilitation	25,121	12,527	1,202	334
including:				
Rehabilitation therapy	23,917	12,018	1,052	295
Reconstructive surgery	912	386	86	24
Sanatorium treatment	131	52	-	-
Prosthetic-orthopedic	161	71	64	15
including:				
Prosthetic device	45	11	-	-
Orthotic device	4	1	1	-
Complex orthopedic shoe	63	23	60	-
Corset	16	6	3	-
Breast prosthesis	33	30	-	-
Professional rehabilitation	410	187	178	65
including:				
Vocational training	320	148	170	62
Creation of special jobs	25	12	-	-
Other professional activities	65	27	8	3
Social rehabilitation	21,822	9,224	1,160	405
Individual care	434	169	44	13
Home service	274	110	41	7
Tocio-psychological rehabilitation	20,325	8,672	1,042	382
Service at residential institution	25	11	-	-
Other types of social rehabilitation	764	262	33	3
including:				
Wheelchair	268	85	23	-
Crutch	23	8	1	-
cane	143	49	2	1
Hearing aid	330	120	7	2
Total	47,353	21,938	2,540	804

¹⁰⁰ National Statistical Service of Armenia, *Number of Registered People with Disabilities in January-June 2006*, Sec. 5.2, 119.

Housing

The constitution stipulates that, “everyone shall have the right to social security during old age, disability, loss of bread-winner, unemployment and other cases prescribed by the law. The extent and forms of social security shall be prescribed by the law,”¹⁰¹ However, no separate legal instrument specifically addresses the issue of housing for people with disabilities, and no subsidies or supports for housing for people with disabilities are available.

In general, people with disabilities have the right to housing on an equal basis with other residents of Armenia: “[i]t is prohibited to force them to live in special institutions or in an isolated manner.”¹⁰² Most people with disabilities are believed to live with their families and caregivers, as Armenian families usually play an important role in caring for and supporting members with disabilities. Some own homes or apartments and others may be involved in public housing programs, such as living in retirement homes.¹⁰³ Individuals with disabilities who live alone are eligible for at-home social care provided by regional social service agencies.¹⁰⁴

The Independent living movement is quite new in Armenia. On 2 December 2006, Unison NGO established the first Center for Independent Living (CIL) in Armenia that provides peer counseling and referral services concerning housing and other issues. It is designed as a model CIL and, if successful, this NGO intends to create similar centers in other communities and cities of Armenia.¹⁰⁵

Institutionalization

There are four institutions in Armenia operating with the specific and exclusive mission of providing long-term housing and care to people with disabilities (for details, see Table V). The Armenian Ministry of

¹⁰¹ *The Constitution of the Republic of Armenia*, Article 37.

¹⁰² Marine Hakobyan, *Armenia's Agenda of Activities Aimed at Protection of the Rights and Dignity of Persons with Disabilities* (Yerevan 2006), 32.

¹⁰³ Official Website of the Ministry of Labor and Social Affairs of Armenia, <http://www.mss.am/eng/faq/faqinvalid.htm> (Accessed 21 May, 2007).

¹⁰⁴ Ibid.

¹⁰⁵ Unison NGO, <http://www.unison.am> (Accessed 21 May, 2007).

Labor and Social Affairs is responsible for the functioning of all of these centers, as well as for monitoring the living conditions in them. The residents of the institutions are mostly people with psycho-social disabilities, severe mental disabilities, and/or multiple disabilities.

Table V: Institutions providing long-term housing and care exclusively to people with disabilities in Armenia¹⁰⁶

Institution	Vardenis Neuropsychiatry Boarding House	Gyumri Boarding House	Gyumri Boarding House for Disabled Children Under Five	Kharberd Specialized Boarding House for Children
Approximate number of residents	360	150	150	250
Psychological counseling	Yes	Yes	Yes	Yes
Psychiatric counseling	Yes	Yes	Yes	Yes
Rehabilitation services	Yes	Yes	Yes	Yes
Acute care services	Yes	Yes	Yes	Yes
Education/ training	No	No	Yes	Yes

Normally, people with disabilities cannot be placed in these institutions against their will. Exceptions are regulated by the Armenian *Law On Psychiatric Care* and the Civil Procedural Code. Article 23 of the *Law On Psychiatric Care* stipulates that the person who has been placed in an in-patient psychiatric clinic has to undergo examination by a psychiatric committee within 72 hours after placement, and a decision on professional justifications for hospitalization should be made.¹⁰⁷ According to the same article, as well as to Articles 144-147 of the Civil Procedural Code,¹⁰⁸ after the positive decision on justification, the management of the psychiatric institution should apply to the

¹⁰⁶ Baghdasaryan, Jemma.
¹⁰⁷ Armenian Law “On Psychiatric Care”, Official Bulletin No. 2004/34 (333), 30 June 2004.
¹⁰⁸ Civil Procedural Code of Armenia.

court of first instance to obtain sanction to start involuntary treatment of the citizen.

Guardianship may be imposed by court, if a person, for example, has been declared incapable. Local municipalities have commissions of guardianship, which are also eligible to make such decisions. People with disabilities cannot be recipients of forced interventions except for the cases stipulated by Article 22 of the *Law On Psychiatric Care* (e.g., if a person is dangerous to others because of his or her mental disorder, special clothing, belts, sedatives, and other medications may be used).¹⁰⁹ Incidences of abuse in such institutions may be reported to the Ministry of Labor and Social Affairs, the Human Rights Defender's Office, the Police and Prosecutor-General's Office, or human rights and/or disability NGOs. According to a report released by The Helsinki Association of Armenia and The Norwegian Helsinki Committee, "psychiatric institutions in Armenia provide poor treatment of patients, serve inadequate food, and lack meaningful activities."¹¹⁰ Another report released by The Mental Health Foundation states that several important stipulations of the Armenian *Law On Psychiatric Care* are not implemented in reality. "The absence of sub-legislative acts, guaranteeing the implementation of the law is the main reason for that. The other reasons are the isolation and the closed nature of psychiatric institutions, a characteristic inherited from the previous system, as well as the traditional attitude of the public and professionals toward people with mental health problems and disability."¹¹¹

A mechanism for reporting incidences of death in such institutions is in place. Heads of these institutions are obliged to immediately inform the corresponding police departments on any cases of deaths. The police departments register the reports in accordance with provisions of the

¹⁰⁹ Armenian Law "On Psychiatric Care."

¹¹⁰ Helsinki Association of Armenia and The Norwegian Helsinki Committee, *Mental Health Institutions in Armenia – Preliminary observations*, Yerevan and Oslo 2007; the English version of the report is available at the Website of The Norwegian Helsinki Committee at <http://www.nhc.no/php/files/documents/land/Armenia/mentalhealthinstitutionsArmenia-report-Feb07.pdf> (Accessed 30 May, 2007).

¹¹¹ Mental Health Foundation, *Implementation of The Law On Psychiatric Care. Report (2004 - 2006 1st Quarter)*, Yerevan 2006; English version of the report is available at the Website of the Mental Health Foundation at http://www.mentalhealth.am/MHLaw_report_eng_PDF.pdf (Accessed 30 May, 2007).

joint Command No. 11/251 of 27 May 2002, issued by the Prosecutor-General and the Police Chief *On Unified Regulation of Registration of Crimes*. According to commands and recommendations of the Prosecutor-General, local prosecutor's offices must report any case of death in such institutions and investigate the reasons of death. If the victim's death proves to be the result of violence, a criminal case is commenced and an investigation is conducted.¹¹² Each case of death is registered in the local civilian registry office, and the state takes care of the funeral costs and other related expenses.¹¹³

Accessibility

Both the government and organizations of people with disabilities recognize the importance of accessibility to the full inclusion and participation of people with disabilities. The governmental plan of action for 2007 identifies "adaptation of public transport and social infrastructures" as one of the priority measures to be undertaken in order to ensure equal opportunities for people with disabilities.¹¹⁴ Accessibility still remains one of the major challenges that people with mobility impairments face in their daily life. The public transport system in Armenia is not accessible for wheelchair users.¹¹⁵ The only option for people with mobility disabilities is the use of taxi or private cars. The main post office in the capital city is not wheelchair accessible either. However, several other post offices in Yerevan and other towns and villages are accessible.

One of the administrative buildings in Yerevan plays an especially important role for access of people with disabilities to governmental officials. This building hosts most of the ministries (including the Ministry of Education and Science, Ministry of Labor and Social Affairs, Ministry of Health, etc). The front entrance of this building does have a ramp, which, however, leads to the ground floor only. Each of the ministries has an office located on the ground floor. When

¹¹² Grigoryan, Vladimir.

¹¹³ Baghdasaryan, Jemma.

¹¹⁴ Excerpt from Protocol No. 31, Government session of 10 August 2006, Section 9 ("On the 2007 Annual Program of Social Protection for People with Disabilities"), Subsection 2.1.

¹¹⁵ See, for example, Section 4.3 (The Rights of Persons with Disabilities) of the Human Rights Defender's Annual Report 2006 at http://www.ombuds.am/download.php?file_id=229&rand_int=65535 (Accessed 21 May, 2007) (In Armenian).

a wheelchair user comes to the ministry, a relevant official should come down from their office and receive the visitor. In order to reach the lift to access offices upstairs, visitors need to overcome about 10 stairs without any ramp. From the back entrance, the lift is almost perfectly accessible (only one small stair on the way to it). Although the back entrance is not designed for visitors, sometimes the guards make exceptions and allow wheelchair users to use this entrance.

In 2005, Unison NGO conducted a research of accessibility of 202 various establishments (including schools, museums, concert halls, shops, restaurants, etc.) located in the center of Yerevan. Only 47 of these places were accessible for wheelchair users. Based on the results of the research, an accessibility guide was published.¹¹⁶ It is worth mentioning that the situation is slowly improving and many of the newly constructed buildings are accessible.

Articles 10, 15, and 16 of the Armenian *Law On Urban Development* contain provisions obliging construction companies to ensure accessibility of newly constructed and repaired buildings for people with disabilities.¹¹⁷ According to the Government Decision No. 392-N of 16 March 2006, *On Approval of the Regulation on Providing Accessibility of Public, Transport and Engineer Infrastructures for Disabled People and Groups of Population with Reduced Mobility*, new public buildings and facilities, as well as old ones after their repair, must be accessible for the aforementioned groups.¹¹⁸ This requirement equally applies both to state-owned and private buildings. On 10 November 2006, The Minister of Urban Development issued a Command No. IV-11 *On Approval of Construction Norms for Ensuring Accessibility of Buildings for People with Limited Mobility*.¹¹⁹ These

¹¹⁶ Armen Alaverdyan, *Yerevan: A City for All. Accessibility Guide for People with Limited Mobility* (Yerevan 2005).

¹¹⁷ Armenian Law “On Urban Development”, Official Bulletin No. 1998/11(44), 30 May 1998 (this law was amended in 2001, 2002, 2003 and 2005; amendments concerning accessibility issues were made in 2002 and 2005).

¹¹⁸ Government Decision No. 392-N of 16 March 2006 “On Approval of the Regulation on Providing Accessibility of Public, Transport and Engineer Infrastructures for Disabled People and Groups of Population with Reduced Mobility”, Official Bulletin No. 2006/23 (478), 19 April 2006.

¹¹⁹ Command No. IV-11 of the Minister of Urban Development “On Approval of Construction Norms for Ensuring Accessibility of Buildings for People with Limited Mobility”, Official Bulletin No. 2007/2 (242), 15 January 2007.

norms are obligatory for all construction companies and may serve as a real mechanism for improving accessibility in the country.¹²⁰

Culture, Sports, and Recreation

The Ministry of Culture and Youth Affairs, Ministry of Labor and Social Affairs, and National Committee of Physical Education and Sports are government agencies responsible for areas related to culture, sports, and recreation for all people including those with disabilities. Some of the Armenian disability NGOs are active in involving people with disabilities in various cultural activities. The most talented artists with disabilities occasionally have opportunities to participate in exhibitions, concerts, and other events (including those held overseas).

Several creative groups of people with disabilities operate in Armenia. Among such groups are the Paros Chamber Choir¹²¹ (see photo), most members of which are singers using wheelchairs; the Ovasis Theater-Studio of deaf people; the choir of the Union of Blind People, consisting of visually impaired singers; and the ceramics workshop for deaf people. There are also arts and musical training courses for individuals with various types of disabilities and artistic groups of children with developmental disabilities.¹²²

Disability sports in Armenia have grown over the past decades. Since 1989, about 20 summer and winter sport and recreational camps attended by more than 2,000 people have been organized.¹²³ In 1994, under the initiative of the Pyunic Association for the Disabled, the National Paralympics Committee of Armenia was established with a mission to coordinate disability sports in the country. The same

¹²⁰ In 2006, Unison NGO proposed to adopt a special law providing for accessibility of buildings, transport, etc. (see the report published on the Website of the National Assembly at http://www.parliament.am/news.php?do=view&ID=1540&cat_id=1&day=03&month=12&year=2005&lang=arm) (Accessed 21 May, 2007). Currently, this draft law is on the agenda of the National Assembly (see <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=7660&lang=arm>) (Accessed 21 May, 2007) (In Armenian).

¹²¹ For details, visit the official Website of the Paros Chamber Choir at <http://www.paros.am> (Accessed 10 June, 2007).

¹²² For details, visit the Website of Prkutyun NGO at <http://www.prkutyun.am/cakeng.htm> (Accessed 21 May, 2007).

¹²³ Pyunic Association for the Disabled, <http://www.pyunic.org/programs.html> (Accessed 21 May, 2007).

year, it joined the International Paralympics Committee. Since 1996, Armenia's teams have participated in all of the Paralympics Games.

The lack of accessibility of most of the cultural centers, concert halls, museums, galleries, and recreational and sport facilities is the major obstacle to full inclusion of people with disabilities in culture, sports, and recreation. Only two of the major cultural establishments located in Yerevan are wheelchair accessible – the Naregatsi Art Institute¹²⁴ and the Komitas Chamber Music Hall (the latter lacks an accessible bathroom). The International Post-Trauma Rehabilitation Center, equipped with modern recreational facilities (including a gym and a swimming pool) is perfectly accessible for wheelchair users.¹²⁵

Disability Awareness and Action

The focal point for disability policy and planning at the level of the national government is the Ministry of Labor and Social Affairs. It is a “state authorized organ to draft and implement disability policy in Armenia.”¹²⁶ Within this ministry, the Department of Disabled and Elderly People's Issues is specifically responsible for developing disability policy. On 10 October 2006, The Prime-Minister of Armenia issued Decision No. 747-N *On Establishment of Disability Council at the Prime-Minister of the Republic of Armenia*. Only one session of this council has been held so far (as of March 2007). The Council consists of 27 people, 17 of whom are leaders of disability NGOs. Thirty percent of the members (all representing NGOs) have various disabilities.

The first attempt to draft a national plan of action on disability was made by a coalition of Havat and Unison NGOs in 2005. With support from the European Commission, these organizations implemented a nationwide project that resulted in the elaboration and publication of

¹²⁴ For details, visit the Website of Naregatsi Art Institute at <http://www.naregatsi.org> (Accessed 21 May, 2007).

¹²⁵ For more information, visit the Website of the International Post-Trauma Rehabilitation Center at <http://www.iptrc.am> (Accessed 21 May, 2007).

¹²⁶ Baghdasaryan, Jemma.

a draft plan of action for 2006-2010.¹²⁷ The government was quick to respond to this initiative. In November 2005, it issued Decision No. 44 *On Approval of the Strategy of Social Protection of People with Disabilities for 2006-2015*. Most of the provisions and suggestions available in the plan of action drafted by the NGOs were included in the governmental strategy.

The goal of the strategy is the integration of people with disabilities, ensuring their full participation in all aspects of Armenian society. The strategy includes health, medical, social, and psychological rehabilitation, ensuring access to mainstream education, transportation, communication, education, employment, human resources development, social protection, and other areas. The strategy reflects special approaches to groups of people with disabilities in need of special care (children with disabilities, women with disabilities, people with multiple disabilities, and others).

The main directions of the strategy are: 1) ensuring accessibility, equal rights, and opportunities for people with disabilities in all areas of the life of the society; 2) ensuring the right to education for children with disabilities and the enhancement of employment opportunities for people with disabilities; 3) ensuring the application of the principle of social partnership among state and non-state bodies involved in issues of people with disabilities; 4) ensuring public education and awareness on issues of disability and people with disabilities.¹²⁸

The budget for each year shall be drafted separately. In accordance with the *Law On Social Protection for Persons with Disabilities in the Republic of Armenia*, an annual program of activities should be elaborated. This process is based on a strategy, and the most appropriate actions are included in the annual program and consequently in the annual state budget. For example, the 2007 budget includes “enlargement of types of rehabilitation items” and it is planned to include funding for providing universities with the “Arev”

¹²⁷ Havat & Unison NGOs, *From Equal Rights – To Equal Opportunities. National Plan of Action on Disability in Armenia* (Yerevan 2005).

¹²⁸ Strategy of Social Protection of People with Disabilities for 2006-2015, Appendix to Government Decision No. 44 of 3 November 2005.

system (Armenian-language computer software for visually impaired and blind people) in the 2008 budget, etc.¹²⁹

There is no umbrella organization of and for people with disabilities. Dozens of disability organizations operate in the country.¹³⁰ Some of them are active in conducting various activities aimed at raising disability awareness, providing different services to people with disabilities, organizing roundtable discussions, seminars, conferences, etc. Specific actions targeted at challenging common attitudes to disability issues are also frequent.¹³¹ A higher level of cooperation among disability NGOs is desirable and possible. However, limited funding, which comes mostly from international donor organizations on a competitive basis, makes a better coordination of NGO activities difficult.¹³²

In general, the disability situation in the country has made a significant shift from the complete ignorance and denial of people with disabilities by the “mainstream” community, to the recognition of their dignity and human rights. Most disability advocates believe that Armenia slowly but firmly moves towards a society of equal opportunities for all.¹³³

¹²⁹ Excerpt from Protocol No. 31, Government session of 10 August 2006, Section 9 (“On the 2007 Annual Program of Social Protection for People with Disabilities”).

¹³⁰ This footnote lists some of the most active Armenian disability NGOs in alphabetical order. The following list, however, cannot be considered as the full registry of the disability-oriented organizations deserving to be mentioned. It is solely based on the author’s experience and knowledge. Astghik, Bridge of Hope (www.bridgeofhope.am), Full Life (www.fulllife.am), Havat (www.havat.am), Kamk ev Korov, Lusastgh, Scarp, Paros, Prkutyun (www.prkutyun.am), Pyunic (www.pyunic.org), Unison (www.unison.am).

¹³¹ For example, Unison NGO conducts annual beauty photo contests among women with disabilities; Pyunic NGO carries out annual wheelchair marathons; Prkutyun NGO organizes concerts with participation of pop stars and children with mental disabilities twice per year, etc.

¹³² Panel discussion, Yerevan, 6 March 2007.

¹³³ Panel discussion.



BULGARIA

Key Factors

Bulgaria is located in the South East Balkans, bordering Greece and Turkey on the South, Serbia and Macedonia on

the West, Romania on the North and the Black Sea on the East. Its territory accounts for 111,000 square kilometers and the population was reported to be 7,718,750 in 2005.¹ Bulgaria made its transition from communism to democracy in the early 1990s, and in January 2007 became a member of the European Union. In the years following the fall of the communist regime, Bulgaria faced huge inflation, high unemployment rates, poverty, and political turbulence. Unlike other Balkan countries, however, Bulgaria did not go through wars and civil conflicts. Pressure for the protection of human rights and dignity, freedom of speech, and transparency could be attributed to these times along with a great deal of humanitarian aid, financial support for non-governmental organizations, and democratic development.

Since the 1997 parliamentary elections, the country stepped on the road of steady progress – economic indicators are improving, unemployment is decreasing, and official statistics report an increase in incomes. In 2005, the Gross Domestic Product (GDP) was €21,512 billion, compared to €15,235 billion in 2001.² The GDP per capita was €2,779 in 2005, whereas 2001 data reported this indicator at a level of €1,925.³

¹ National Statistical Institute, (In Bulgarian), 16 June 2006, <http://www.nsi.bg/Population/Population.htm>. (Accessed October, 2006).

² Bulgarian National Bank, [http://www.bnb.bg/bnb/home.nsf/vPages/S_Macroeconomic_Indicators_table/\\$FILE/06 percent2010 percent2020 percent20WEB_Macroeconomic percent20Indicators percent20BG.xls](http://www.bnb.bg/bnb/home.nsf/vPages/S_Macroeconomic_Indicators_table/$FILE/06%20percent2010%20percent2020%20percent20WEB_Macroeconomic%20Indicators%20BG.xls) BGN = New Bulgarian Lev, which was a result of denomination by 1000 Old Bulgarian Levs.

³ *Ibid.*

People with a certified disability in Bulgaria comprise slightly above 10 percent of the population though different sources reveal different numbers. Most of them fall into the lowest strata of society in income, education and well-being indicators, thus forming a majority of the unemployed and social welfare beneficiaries. Both the environment and social infrastructures are still under development to accommodate people with disabilities in an inclusive manner.

Terminology

Culture and policies in Bulgaria are traditionally dominated by the medical model approach to disability. Disability is perceived as a medical condition, which makes “people unable to work” rather than “able to contribute.” This is reflected in the language used when disability is discussed. Until 2004, the term commonly used for disability was “invalidity” (инвалидност) and for people with disabilities – “invalids” (инвалиди). The first disability legislation passed in 1995 even made this term legal. It was only recently, when the current law on Integration of People with Disabilities was passed, that a new terminology was legally introduced – **people with disabilities** (хора с увреждания). This was the result of a long and extensive awareness raising campaign run by disability organizations. EU accession arguments and a value-based public debate also worked to this end. Insulting words are avoided when speaking in public. When speaking privately however, people continue to use words like “crippled,” “dumb,” “retarded,” etc.

Journalists still call people with disabilities “invalids,” explaining it as being “shorter.” It “takes less time on air or fewer characters in the paper,” a journalist says when asked why media have stuck to this terminology.⁴

In recent years, some disability leaders started promoting the term “people with different abilities,” but it is not popular yet, and not widely accepted by people with disabilities themselves. The opinions

⁴ *The Year of Our Discontent: Monitoring and evaluation report on a public campaign for personal assistance*, Center for Independent Living, Sofia, 2004, <http://www.cil-bg.org/main.html>, (Accessed 30 April 2007).

regarding language among people with disabilities vary; some claim that it does not matter what they are called as long as “the real attitudes are appropriate.” Others, however, insist on “respectful language as it also moulds attitudes.”⁵

Definition of Disability

The official definition of disability is included in the final provisions of the Law on Integration of People with Disabilities. It says: a “‘disability’ shall mean loss of or damage to physiological and anatomical structures resulting in a loss of their physical and mental and psychological functions.”⁶ The law also defines the term “person with disabilities” as such: “a ‘person with a disability’ shall be deemed to be each person regardless of age with a physical or sensory or mental disability which hinders his or her social integration and participation in public life and opportunities for communication, training and employment.”⁷ The most important of the definitions included in the Law on Integration of People with Disabilities, however, is the one defining people ‘with permanent disabilities’ (хора с трайни увреждания) as this is the only category of the disability population entitled to governmental support – in cash or in kind, directly or indirectly. A ‘person with permanent disability’ “shall be deemed to be a person who as a result of anatomical, physiological or psychological condition would have permanently reduced abilities to perform activities in a way and to a level possible for a healthy individual, and who has been assessed by the medical authorities with more than 50 percent reduced capacity to work or reduced ability to socialize.”⁸ This whole sequence of definitions shows the domination of the medical model of disability as opposed to the social one – the focus is on the individual’s inabilities as opposed to environmental barriers.

⁵ Panel discussion led by Author, Bourgas, 25 September 2006.

⁶ *Law on Integration of People with Disabilities*, entering into force on 1 January 2005, State Gazette, 81, 17 September 2004.

⁷ *Ibid.*

⁸ *Ibid.*

Lost capacity to work is determined individually by a special medical panel on the basis of a Regulation on Assessment of the Working Capacity, which was amended in 2005 by the Ministry of Health. Under this regulation, the reference point for assessment is the 'fully able bodied person' with no medical diagnosis. The procedure includes collection of all medical documentation and an application for 'granting a disability status.' Any health condition can be claimed as disabling. A special body, called the Territorial Expert Medical Panel, reviews the applicant's medical record and attaches percentages of 'lost capacity to work' to each diagnosed condition. If more than one condition is claimed, then a leading condition is defined and 'accompanying' conditions, as many as there are, receive reduced percentage of 'inability to work.' Finally, a numerical formula is applied to calculate the overall percentage of lost working capacity.⁹

Disability Population

Official sources provide contradictory information on the number of people with disabilities in Bulgaria. 2001 Census data showed that 263,143 Bulgarians have a medically identified disability, which was 3.3 percent of the entire population in the country.¹⁰ Ninety-two percent of people with disabilities fall into the age group of 16-64 years. 10 percent of all interviewees were up to 29 years of age and 15 percent were at the age of 60-64 years. The National Social Security Institute (NSSI) data for the same year (2001), however, showed that disability pensions have been paid to twice as many disabled pensioners. The reasons for these discrepancies have not been explored.

For the last couple of years, the number of pensioners receiving disability pensions for general health condition indicates a trend in the increase of the disabled population. In December 2003, the number

⁹ Decree No. 99 of the Council of Ministers, dated 31 May 2005, on approved Regulation concerning Medical Assessment of the Individual Working Capacity, State Gazette, 47, of 7 June 2005.

¹⁰ National Statistical Institute, under a project funded by the EU Statistics Office, *Disability Research in Bulgaria*, www.nsi.bg, (Accessed 30 April 2007). This was the first time that a special section on disabilities was included in the general questionnaire. Citizens were asked whether they have been granted a disability status, what was their disability and what was their social situation – married vs. single, employed vs. unemployed, etc.

of pensioners with a personal pension for a general health condition accounted for 248,869, an increase of 23.4 percent from 2002 figures, which were reported to be 201,726.¹¹ Given that the Ministry of Health did not report worsened health status of the Bulgarian population, a reasonable assumption could be made that this trend is due to the fact that people who do not meet the retirement age requirements of the Social Security Code (SSC) and cannot find a job attempt to rely on the benefits of the social security system. Other proof could be seen in the structure of the newly certified people with disabilities, where the highest number of newly granted disability pensions for a general health conditions is for people between 45-60 years of age.¹²

The National Center for Health Information (NCHI) – a government body collecting the disability determinations of the medical panels from all parts of the country – reported 241,671 newly certified adults with disabilities in 2004 and 9,665 children. In 2005, 228,708 adults and 8,682 children were recognized.¹³ The largest number of newly disabled people is reported in the largest cities of Bulgaria – Sofia, Plovdiv and Varna.¹⁴

The most reliable data on people with disabilities can be found at the National Social Security Institute (NSSI), which reports 852,404 disability pensions paid in 2005.¹⁵ 35.7 percent (304,751) of the pensioners have more than 90 percent lost capacity to work; 50 percent (435,925) have between a 70-90 percent inability to work; and 14.3 percent (121,694) have between 50-70 percent lost working capacity. This source also reveals 45,160 newly granted disability pensions in 2005, which significantly differs from the number reported by NCHI for the newly certified disabled population in 2005. The highest number of newly granted disability pensions for general health condition falls in the age groups of 45-60 years.

¹¹ National Social Security Institute, Official Journal, March 2004, <http://www.nssi.bg>, (Accessed 20 April 2007).

¹² *Ibid.*

¹³ *Letter Ref. No. 1266*, from the National Center for Health Information in response to a request under the Access to Public Information Law 2000 placed by the author, 7 August 2006,

¹⁴ National Center for Health Information, www.nchi.government.bg, (Accessed October, 2006).

¹⁵ National Social Security Institute, data requested under the Access to Information Act 2000, provided officially in September 2006.

In 2005 the National Statistical Institute carried out a study titled *Disabilities in Bulgaria* funded by the EU Statistics Office. The objective was to identify the health and social status of people with disabilities and their possibilities for integration. The research covered 3,000 people with disabilities, each in the 16-64 age group. Results presented a snapshot of the situation for persons with disabilities but did not provide specific recommendations.¹⁶

The research found that 51 percent of men with disabilities and 49 percent of women with disabilities have low educational levels (up to primary education). 43 percent of men with disabilities and 42 percent of women with disabilities have completed high school education. Disparities arise when considering university education levels, as 6 percent of men with disabilities and 10 percent of women with disabilities have a university degree.

20 percent of the respondents suffered substantial restrictions in their daily activities due to health conditions, 43 percent felt restricted and 37 percent did not experience any constraints in their daily life caused by their disability. 27 percent received assistance from other people, but only 22 percent assessed this assistance as adequate.

Legislation and Disability Rights

National Protections

The Constitution of Bulgaria orders the State responsible for the well being of all its citizens. Specifically, its anti-discrimination clauses do not include disabilities as a possible basis for unequal treatment.¹⁷ However, constitutional Article 51, which deals with social security and welfare, imposes on the State the responsibility for 'social security of the temporarily unemployed,' as well as for provision

¹⁶ National Statistical Institute under a project funded by the EU Statistics Office, *Disabilities in Bulgaria*, www.nsi.bg, (Accessed October 2006).

¹⁷ *Constitution of Bulgaria*, Article 6, paragraph 2: "All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status," State Gazette, 56, 13 July 1991.

of ‘special protection’ to disabled people among other socially disadvantaged citizens.¹⁸ Some lawyers say that unequal treatment of people with disabilities by different public systems could be seen as constitutionally correct as, by Constitution, they are subject to ‘special protection.’¹⁹ Others interpret the Constitution in its general provisions (right to education, employment, health care, freedom of speech, religious beliefs, etc.) as applicable to people with disabilities also. The problem, nevertheless, lies in the lack of a mandatory requirement for the State to create conditions for the participation of people with disabilities, which is not stipulated in the Constitution.

The first special disability law – the Law on Protection, Rehabilitation and Social Integration of Invalids – was passed in 1995. It was meant to provide social welfare benefits to individuals on the grounds of disability. Its focus on the environmental factors was limited. Few, rather blank, norms related to accessibility, inclusive education, mainstream employment, and awareness-raising were considered in the law. Preserved low education levels, high unemployment rates, massive poverty among the disabled population, and the large number of institutionalized people with disabilities proved the need for new, modern legislation which will ensure the protection of human rights of disabled people and their effective inclusion in society.

As a result of extensive campaigns run by Bulgarian Disabled Peoples Organizations in the context of Bulgaria’s accession to EU and the European Year of Disabled People (2003), this law was entirely denounced and replaced by new disability legislation a decade later – the Law on Integration of People with Disabilities entered into force as of 1 January 2005.²⁰ It changed the language (the term ‘invalids’ was replaced by ‘persons with disabilities’) but the philosophy seems to have stayed the same – disability status is still granted on the basis of medical diagnosis alone, which determines all interventions paid by the government. It covers all areas of public and social life –

¹⁸ *Constitution of Bulgaria*, Article 51, paragraph 2 and 3, State Gazette, 56, 13 July 1991.

¹⁹ Interview with a disability rights advocate, lawyer by occupation, representative of the Bulgarian Lawyers for Human Rights Foundation, 13 July 2006.

²⁰ *Law on Integration of People with Disabilities*, State Gazette, issue 81 dated 17 September 2004; last amendments announced in issue 108 of the State Gazette, 29 December 2006, and entering into force as of 1 January 2007.

separate chapters deal with prevention, education, social protection, employment, communication, and institutional framework. The main target group of the law is people with permanent disabilities (more than 70 percent lost ability to work). Its nature of framework legislation leaves room for the executive power – the government – to regulate specific areas of life.

Following the provisions on the purpose of the law, which is “to regulate public relations linked to integration of people with disabilities” (Art. 1 of the Law), an anti-discrimination clause is stated, which defines any different treatment on the grounds of disability as discrimination – direct or indirect. Further chapters on prevention of disability, education, communication, sports, culture, etc., are general and pose obligations on different public actors – line ministries, local authorities, businesses – but without specific procedures to follow and control mechanisms for compliance with the law. Detailed provisions are included in the Social Protection Chapter, which deals with disability allowances and access to technical aids. The Employment Chapter determines quota-based mainstream employment and special enterprises as possible options for people with disabilities on the labor market. And finally, the participation of people with disabilities in the policy process is determined through their representative organizations, which are involved in the National Council on the Integration of Disabled People – a consultative body to the decision-making process.

The Agency for Disabled People was established under Article 7 of the Law, and aims to “implement government policies for people with disabilities.”²¹ Its authorities are limited to keeping a database of people with disabilities, running cash-disbursements for technical aids, and giving grants for projects that target the disabled population in the country.

The recent Anti-discrimination Act passed in 2003, and which came into force in January 2004, fully transposes the EU Equality Directives (43/2000/EC, 78/2000/EC, 75/117/ECR, 97/80/EC, 76/207/ECR) and regulates the protection of all individuals in the

21 *Law on Integration of People with Disabilities*, State Gazette, Issue 81.

territory of the country against all forms of discrimination, thus contributing to its prevention and re-enforcing positive measures for equal opportunities. The law also bans discrimination on grounds of race, gender, religion, disability, age, and sexual orientation.²²

An Anti-discrimination Commission was set up under this law, which is intended to quickly settle disputes regarding unequal treatment.²³ Commissioners judge whether discrimination on a certain ground occurred and can impose penalties. In addition, cases of discrimination could also be taken directly to court with the burden of proof reversed, meaning the accused party has to prove that there was no discrimination on any of the grounds listed in the law. NGOs on behalf of a group of people whose rights have been violated can also take action under this law. This has been a substantial breakthrough in the Bulgarian legal system, which does not normally consider group cases.

Article 5 of the Anti-discrimination Act declares, “construction and maintenance of inaccessible environment” as direct discrimination. This allows many people with physical disabilities, individuals with visual disabilities and disability organizations to challenge public and private entities due to their inaccessible environments. In May 2005, a wheelchair user filed a case in the court against the Sofia Municipality for inaccessible construction of the new underground transportation facility. At the end of 2005, the court issued a ruling confirming the discrimination on the grounds of disability and advising the municipality to refrain from discrimination in the future. Afterwards, the City Council decided to make adjustments to the metro stations.

Every legal regulation that has been passed in recent years has had a non-discrimination clause, including disability. The Public Health Care Act, Public Education Act, and Employment Promotion Act

²² *Law on Protection against Discrimination*, State Gazette, 86, 30 September 2003.

²³ Anti-Discrimination Commission, (In Bulgarian), <http://www.kzd-nondiscrimination.com>, (Accessed October 2006).

are good examples of proclaiming non-discrimination.²⁴ The Public Education Act imposes an obligation on mainstream schools to enroll children with special educational needs (SEN) and to provide an enabling environment for them.²⁵ The Labor Code and the Social Security Code contain special disability protections. Article 333 of the Labor Code does not allow employers to dismiss disabled workers without permission granted by the Labor Inspection Office, and reinforces the quota requirement of 4 percent disability adjusted jobs for all employers hiring over 50 employees.²⁶ The Social Security Code provides for pensions, allowances and assistance to people with permanent disabilities depending on the “percentage lost ability to work” certified by the Medical Expert Panel.²⁷

Most of the national disability rights legislation was triggered and facilitated by the country’s accession to the European Union, alongside the effective advocacy of disability NGOs. The May 2006 Report of the European Commission on the Progress of Bulgaria towards EU Accession listed “labor law, social dialogue, social inclusion, [and] anti-discrimination policies” among areas that still require “increased efforts” on the part of the government, along with “the translation of the *acquis* into Bulgarian.”²⁸

International Protections

Bulgaria has signed all international treaties related to human rights and disability. The most important of them being the Universal Declaration of Human Rights; Convention on the Rights of the Child

²⁴ *Public Health Care Act*, State Gazette, 70, 10 August 2004, entering into force on 1 January 2005, last amendments in October 2006; *Public Education Act*, State Gazette, 86, 18 October 1991, last amendments in May 2006. Article 4 includes a non-discrimination provision; *Employment Promotion Act*, State Gazette, 112, 19 December 2001, in force as of 1 January 2002, Article 2 contains a non-discrimination provision.

²⁵ *Public Education Act*, Article 27, last amendments published in the State Gazette, 105, 22 December 2006.

²⁶ *Labor Code*, State Gazette, 86, dated 1 April 1986, last amendments published in the State Gazette, 105, dated 22 December 2006.

²⁷ *Social Security Code*, State Gazette, issue 110, dated 17 December 1999, last amendments published in the State Gazette, issue 105 dated 22 December 2006.

²⁸ Commission of the European Communities, http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0214en01.doc, (Accessed October, 2006).

(20 November 1989); Convention Related to the Status of Refugees; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social, and Cultural Rights; International Covenant on Civil and Political Rights, and the Optional Protocol to it; and the Convention on the Elimination of All Forms of Discrimination against Women, and the Optional Protocol (6 October 1999) which is signed but not ratified.²⁹

In 1992, Bulgaria ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Though disability is not listed explicitly as a prohibited basis for discrimination, the open-ended format of Article 14 makes it applicable to disabilities as it “prohibits any discrimination in the enjoyment of the rights and freedoms set forth in the Convention.”³⁰

In addition, Bulgaria is a signatory to the European Social Charter. However, the disability-related protocol has not been signed as of yet.³¹ The country has submitted three reports to the European Committee of Social Rights and has received valuable comments.³²

Legal Barriers

The main barrier to equal treatment of people with disabilities and their inclusion in society could be identified in the disability assessment

²⁹ Convention on the Rights of the Child, Ratified in 1992; Convention Related to the Status of Refugees, Ratified on 12 May 1993; International Convention on the Elimination of All Forms of Racial Discrimination, Signed on 1 January 1966, ratified on 8 August 1966; International Covenant on Economic, Social, and Cultural Rights, Signed on 8 October 1968, ratified on 21 September 1970; International Covenant on Civil and Political Rights, Signed on 8 October 1968, ratified on 21 September 1970; Optional Protocol to the ICCPR, Ratified on 26 March 1992. Convention on the Elimination of All Forms of Discrimination against Women, Signed 17 July 1970, ratified on 8 February 1982 (Optional Protocol of 6 October 1999, signed 6 January 2000 but not ratified).

³⁰ “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”, European Convention on Human Rights, Art. 14.

³¹ As of April, 2007.

³² Council of Europe, *European Social Charter*, http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/1_by_state/Bulgaria_index.asp#TopOfPage, (Accessed October, 2006).

regulations, which are designed on the basis of medical condition and do not consider levels of functioning at all. In other words, the focus is on a person's impairment and inability to function similarly to a person without disabilities. The direct link between a diagnosis and 'lost capacity to work' measured in percentage against a 'normal,' 'healthy' person's performance fails to recognize the capacities, which could be developed through compensation of damaged functions. Furthermore, all disability provisions in the entire Bulgarian legislation refer to disabled people as 'persons with an impairment certified by a Medical Labor Panel with more than 50 percent lost ability to work.' This gives one, and only one, document the absolute power to decide access to all sorts of disability allowances, cash benefits and services.³³

There are still several regulations that prohibit people with disabilities to perform certain activities or impose 'special' requirements in cases of a disability. An example could be given with the issuing of driving licenses, for which applicants with disabilities are referred to a special medical panel for assessment.³⁴ The procedure is arduous and time-consuming; however, in most of the cases permission is granted.

People with disabilities are deprived of opportunities to integrate in their communities due to limited access to resources for compensation of their functional deficits. Means testing, though rarely applied, combined with commonly spread eligibility criteria based on the 'reduced capacity to work' factor exclude severely disabled people from access to appropriate technical aids and needed support for

³³ Such references could be found in the Social Security Code, which provides for pensions and other disability allowances, in the Law on Integration of People with Disabilities providing for monthly integration benefits, in the Social Assistance Act, which gives access to cash benefits and services, in the Law on Family Support and Child Benefits, which grants public resources for raising children, in the Public Education Act, which allows for school enrolment, in the Public Health Act, in the Employment Promotion Act, which provides for special treatment on the workplace, in the Corporate Taxes Act granting tax holidays for special enterprises and in the Law on Taxation of Individuals, which stipulates tax privileges for disabled people.

³⁴ *Regulation on Issuing Driving Licenses, Attachment on Medical Requirements*, State Gazette, 46, 6 June 2006.

participation.³⁵ Moreover, an annex to the Enforcement Regulation that is within the Law on Integration of People with Disabilities exhaustively lists 14 items of technical aids, for which the Government grants a fixed amount of 'targeted cash benefit' to eligible people with disabilities.³⁶ The rates of these cash benefits have not been changed since 1998, whereas the prices of technical aid items grew considerably in this period. A knee-high prosthesis cash benefit amounted to €110, and €300 for one above the knee. A ring type wheelchair was supported by the government with €200, and €1,300 for an electric one. Thus the legislation makes modern technical solutions – wheelchairs, computer technologies, etc. – inaccessible for disabled people.

Still another legal barrier to equal treatment is the lack of enforcement provisions in both general and special laws concerning disabilities. Control and sanctioning provisions are weak and do not result in real penalties being inflicted on people or organizations that do not comply with the law. Data from the Agency of Disabled People, the group responsible for collecting penalties, show that no money has been cashed in for any breaching of the law under nine explicit paragraphs included in the Law on Integration of People with Disabilities and dealing with non-compliance situations referred to the areas of accessibility, education, employment, transport, sports, culture, etc.³⁷ At the same time, most of the public buildings are inaccessible regardless of the legal requirements; children with disabilities attend special schools despite the obligation of the mainstream schooling system to accommodate them; people with disabilities

³⁵ Disabled people who meet the requirements for social welfare benefits by having low income are granted cash benefits up to Euro 600 for car adaptations without reference to a company licensed for provision of such services (Article 48 of the Enforcement Regulations to the Law on Integration of People with Disabilities). If a disabled person reports higher monthly income, she/he has to choose a licensed provider. Only then is access opened to this cash benefit (Article 39 of the Enforcement Regulations to the Law on Integration of People with Disabilities). Currently there are no licensed companies registered with the Agency for Disabled People, which makes this allowance unusable for disabled people with monthly incomes that make them ineligible for social welfare assistance.

³⁶ *Enforcement Regulations to the Act on Integration of Disabled People*, Annex 7 to Article 40. The list mentions prostheses, orthoses, crutches, wheelchairs, orthopedic shoes, hearing aids, white cane, antidecubital items, etc.

³⁷ Official letter signed by the Executive Director in response to a request placed by the author for information on the grounds of Access to Public Information Act 2000, 14 September 2006.

are unemployed despite the quota principle for the employers; etc. (see further chapters on these issues). Many in the disability community feel that proper legislation is in place, but enforcement is still lagging.³⁸

There are no barriers imposed on people with disabilities in regard to their legal representation – it is only the court that could limit or take away legal capacity of an individual when a motion is put forward by either the family or a public authority. No evidence could be found of enforced and illegal deprivation of the legal capacity status of individuals with disabilities.

Civic Participation

The Bulgarian Constitution provides all citizens, including those with disabilities, the freedom to associate and organize (Article 44). Similarly, all citizens can elect and be elected for public office (Article 42) – people with disabilities do not make an exception unless they are placed under “judicial disability or imprisoned” (Section 1 of Article 42) with either status being ruled by the court.

Recent amendments to the Law include special regulations related to disabled voters. They apply to all types of political elections – parliamentary, local, and presidential – and include accessibility requirements.³⁹ Local Election Commissions designate a polling section, accessible for people with mobility problems, on the lowest possible floor in the building. In most cases these buildings accommodate mainstream schools and are not accessible by design. The Central Election Commission also recommends that local authorities provide for special transport and assistance to people with disabilities that place a request for such service. The ballot is secret by the Constitution but the **1991 Law on Election of Members of Parliament** allows for “another person or commission member in the election booths when voters are exercising their right to vote” only in cases “when the voter is disabled and cannot perform the

³⁸ Panel discussion led by Author, Sofia, 21 July 2006.

³⁹ *Law on Election of Members of Parliament*, Article 78a, entering into force on 12 April 2005, State Gazette, 32, 2005.

necessary voting procedure on his own and asks for the help of a person as chosen by him.”⁴⁰

In the 2005 parliamentary elections, however, media reported many cases of voters with disabilities who could not exercise their right to vote because the assistance was not provided or they could not reach the polling place.⁴¹ The issue of accessibility in the political process has not been explored and there is no data available to judge the civic participation through the process of elections. Publicly, the disability community is represented in the political establishment through a wheelchair-using Member of Parliament and the Executive Director of the Agency for Disabled People.⁴²

On a local level, Councils on the Integration of Disabled People are set up though it is not mandatory by law. There is anecdotal evidence that this body is most effective in the Varna Municipality, but there is no hard data available to confirm this. The Council on Accessibility and Integration of Disabled People in Sofia was set up during the previous local government mandate but it has not met since 2003 following the change in local government after the last elections.

Inclusion

Communication

The Law on Integration of People with Disabilities makes a monthly disability allowance for “information and communication services” and for “accessible information” available to people with permanent disabilities.⁴³ Accessible information allowance is paid to people with hearing and visual disabilities only. Eligibility criteria refer to the type and severity of the impairment and the personal needs of the individual. No means testing is applied. Enforcement regulations

⁴⁰ *Ibid*, Article 67.

⁴¹ *Sega Daily*, 26 June 2005; *24 Hours Daily*, 28 June 2005; Bulgarian National TV, Prime-time News, 25 June 2005; OSCE Observers' Report, 2005, 17, <http://www.osce.org/odihr-elections/14355.html>, (Accessed September, 2006).

⁴² Denitsa Dimitrova is an MP with the National Movement Simeon the Second.

⁴³ *Law on Integration of People with Disabilities*, Article 42, State Gazette, 81.

define the rate of the allowance proportionately to a monthly subsistence cost indicator approved by the Council of Ministers.⁴⁴ The 2005 expenditures for information and communication services allowance reached the amount of €7,040 million paid to 139,179 beneficiaries. In 2005, public spending on this item was reported at €2,144 million disbursed between 55,137 beneficiaries.

Table I: Monthly Integration Allowance ⁴⁵,

Type of Allowance	2005 Total Budget (mln Euro)	2005 Number of Beneficiaries	Average Monthly Rate per 1 beneficiary (Euro)
Information and communication services	7,040	139,179	4,21
Accessible information	2,144	55,137	3,24

The average monthly allowance cannot be expected to compensate for the deficit of a disabled person and help her/him integrate into society. This allows us to draw the conclusion that a lot of public resources are distributed without proper targeting, which leads to low effectiveness and efficiency. This statement was made in 2004 as well in the budgetary analysis to the *Disability Rights Review for Bulgaria* publication.⁴⁶

The Law on Integration of People with Disabilities requires public broadcasting companies (national radio and TV) and the Bulgarian Press Agency to provide accessible information for people with disabilities, as well as to include “special shows” in their programs.⁴⁷

⁴⁴ *Enforcement Regulations to the Law on Integration of People with Disabilities*, Article 26, State Gazette, 115, 30 December 2004, last amendments: State Gazette, 58, 18 July 2006. For 2005, the allowance was approved at the level of BGN 65 (Euro 33).

⁴⁵ Social Welfare Agency, Official letter dated 1 August 2006, in response to a request by the author under the Access to Public Information Act 2000.

⁴⁶ Center for Independent Living, Sofia, 2004, <http://www.cil-bg.org/english/index.html>, (Accessed November, 2006).

⁴⁷ *Law on Integration of People with Disabilities*, Article 39, State Gazette, 81.

Budget allocations for such activities (in the national budget framework, as well as in the companies' budgets) are not reported, however. The lack of reporting, in combination with the lack of control mechanisms makes this provision not feasible – it may or may not happen depending on the will of the broadcasting agencies.

There is no requirement for issuing a Braille version of official documents. The St. Cyril and Methodius National Library maintain a section of different entries randomly transferred on audiocassette, large print format, or in electronic version. This has already become a 'part of our daily work,' one of the staff members answered when asked how often these are updated.⁴⁸ Currently the library is developing its own strategy and action plan to systematically address the accessibility of their collections.⁴⁹

On the other hand, it is fair to say that the national news is captioned for people with hearing impairments, as well as some regular programs. Private broadcasting companies also provide sign language interpretation. Sign language is not officially recognized. The Bulgarian National Television has a special show for people with disabilities going on once a month in the form of a health care program. Unfortunately, its timing (Fridays at 4:30 pm) suits people who are not working.⁵⁰ It is captioned for people with hearing disabilities.

The Civic Court Procedures Code requires that a sign language interpreter should be supporting the process in court cases where one of the parties has a hearing impairment.⁵¹ Lack of sign language interpretation disqualifies the hearing in the trial.

Education

The Ministry of Education and Science "shall ensure that: (1) Children with disabilities of pre-school and school age shall be included into

⁴⁸ Interview with the Head of the Division on Accessible Readings, conducted by the author, 23 June 2006.

⁴⁹ *Ibid.*

⁵⁰ Bulgarian National Television, http://programata.bnt.bg/node_103/node_368/node_32669, (Accessed November 2006). (In Bulgarian).

⁵¹ *Civic Court Procedures Code*, 8 February 1952, last amendments 8 August 2006.

the education system; and (2) a supportive environment shall be created for children with disabilities.”⁵² Amendments to the Public Education Act and Ordinance Number 6 (2002) allowed for children with special educational needs (SEN) and/or chronic diseases to receive integrated education in mainstream schools, and schools were made responsible for creating a supportive environment to accommodate students with SEN. According to the same piece of legislation (Public Education Act), however, children with SEN are referred to special schools, “when all other options for training and education in State and municipal schools have been exhausted and with the written consent of the parents or legal guardians.”⁵³ This wording is often interpreted as an opportunity to refer children with SEN to a special school whenever the mainstream school faces the slightest difficulty in ensuring a supportive environment for its students.⁵⁴

Evidence of this could be found in the official data provided by different government agencies. The total number of special schools in the country is 129. Of these, 27 are basically health care institutions. The total number of children enrolled in special schools in 2005/2006 is reported to be 12,992 out of approximately 970,000 enrolled students.⁵⁵ The largest number of students, 7,884, is in auxiliary schools that are special support schools for children with learning disabilities. In most cases, these schools are geographically located in remote places or in the outskirts of cities, encouraging the physical isolation of children as well. Additionally, most of the special schools are equipped with boarding facilities, which accommodated 7,277 children or 56 percent of all special schools students in 2005.⁵⁶

⁵² *Law on Integration of People with Disabilities (2004)*, Article 17

⁵³ *Public Education Act*, amendments of 2002, State Gazette, 90, 24 September 2002.

⁵⁴ The legal definition for supportive environment reads: “providing adapted architectural environment which should guarantee physical access for the children to the classrooms and the other school premises, qualified teachers and non-teaching staff, technical equipment to facilitate the teaching process, etc.”, *Public Education Act*, amendments of 2002, State Gazette, 90, 24 September 2002.

⁵⁵ Ministry of Education and Science, data requested by the author under the Access to Public Information Act 2000, letter dated 31 July 2006.

⁵⁶ *Ibid.*

Bulgarian legislation provides for several types of special schools for disabled children. In 2005, a total of 1,025 children studied in speech-therapeutic schools, schools for children with hearing disabilities and schools for children with visual disabilities. Out of these, 827 are permanently separated from their families, often living in a different city.⁵⁷

A report devised by the State Agency on Child Protection in 2005 showed that most of the children in auxiliary schools are of Roma background. Furthermore, they have not been assessed for disability but come from very low income families, which face severe difficulties in raising their children. A similar conclusion has been made by the UNICEF Innocenti Insight Research Center in a report covering all countries of Central and Eastern Europe, the Commonwealth of Independent States (CIS) and the Baltic States (27 countries in transition to democracy and market economy).⁵⁸ This report concludes that over-institutionalization of children with disabilities remains a problem, though data was gathered from the early transition times.

Children with physical disabilities are often enrolled in individual education plans **with the neighborhood schools, but teachers usually** visit them at home. No records of these children are kept at a national level, but some observations allow for a conclusion that the number of children with physical disabilities in mainstream schools is far from a real representation, as many don't attend.

Most disturbing, from an equal opportunities perspective, are the institutions for disabled children under the Ministry of Labor and Social Policy (MLSP). These are special facilities for children and youth with intellectual disabilities (29 in number with 1,720 children placed in 2004), day care centers for children and youth with intellectual disabilities (18 with 463 children placed), social vocational training institutions (nine with 1,040 children placed), and institutions for intellectually-preserved children and youth with physical disabilities

⁵⁷ *Ibid.*

⁵⁸ UNICEF Innocenti Insight Research Center, *Children and Disability in Transition in CEE/CIS and Baltic States*, 2005.

(one institution with 76 children).⁵⁹ MLSP institutions admit children who are considered “*uneducable*” according to outdated disease classification.⁶⁰ The children in these institutions are completely excluded from the education system and they are denied access to education *a priori*. The training follows MLSP curriculum for work and corrective-compensative activities for children between the ages of three and 18 years with moderate/acute intellectual disabilities. The policy is still targeting care for the physical needs of the children and, in the best of cases, the acquirement of social skills, rather than education and inclusion. The lack of a unified disability assessment methodology and an obligatory medical monitoring system leads to children being placed in such establishments with imprecise and often wrong diagnoses.⁶¹

Special education costs in 2005 account for €20,200 million.⁶² This includes operational (utilities and administration) and staff (teaching and non-teaching personnel) costs. In addition, special schools usually manage to raise extra funds from charity sources to refurbish the buildings. Local businesses also make donations for special schools to improve the diet of the children. Most of the special schools are still in huge debt to contractors – they delay payments for electricity, water supply and heating.⁶³

According to information provided by the Ministry of Education and Science (MoES) in 2005 only 1,593 children with SEN have been

⁵⁹ The data used refers to 2003 and 2004 and are provided by the State Agency on Child Protection (SACP). MLSP data is not available (request for access to public information ref. № 38-138/4.11.2005).

⁶⁰ A combination of health problems (children with multiple disabilities) can lead to *100 percent lost capacity to socialize* according to the Regulations on Medical Assessment of Impairments. Parents of children with such determinations are usually referred to day-care centers or residential type of institutions.

⁶¹ *Children and Disability in Transition in CEE/CIS and Baltic States*, 2005; *Position Paper on Inclusive Education*, Save the Children, Sofia, January 2006, <http://www.savethechildrenbg.org/SCBG/Web/EventView.aspx?nEventID=32&EN&Search=Position percent20Paper>, (Accessed 30th April 2007).

⁶² Ministry of Education and Science, data requested by the author under the Access to Public Information Act 2000, letter dated 31 July 2006.

⁶³ *Ibid.*

receiving integrated education in mainstream schools, which is more than double the number of the 2004 estimate, 717.⁶⁴ Creation of 'supportive environments' is reported by the MoES and there has been a rise in the number of resource teachers (129 for the whole country in 2004 and 227 in 2005) and speech therapists (12 in 2004 and 18 in 2005). There are no detailed data on access adjustments or teaching materials. A Position Paper issued by the Save the Children UK office in Bulgaria states: "Despite the positive developments, this small figure compared to the total number of 18,512 registered disabled children under the age of 18 leads to a number of possible conclusions:

- 1) Segregated education of disabled children is traditional and widespread. Since no accommodations for disabled students in mainstream schools are provided, parents refrain from enrolling their children without being confident that proper care and an adequate learning process will be available to them;
- 2) Stronger political will and determination is required to create an enabling environment for disabled children and their families in order to allow parents to make inclusive choices for the future of their children."⁶⁵

Several universities used to exclude people with disabilities from certain specialties, annexing a list of medical conditions to their internal regulations banning admission. There were several successful court cases regarding this issue, which have made a positive difference throughout the whole university education system.⁶⁶

Employment

People with disabilities considered to have more than 70 percent reduced capacity to work can go on early retirement, receive a

⁶⁴ *Ibid.*

⁶⁵ *Inclusive Education In Bulgaria: How Much Remains To Be Done?* Save the Children, January 2006, Sofia, Bulgaria. <http://www.savethechildrenbg.org/SCBG/Web/EventView.aspx?nEventID=32&EN&Search=Position percent20Paper>, (Accessed 30 April 2007). (In Bulgarian).

⁶⁶ Supreme Administrative Court, www.sac.government.bg. (Accessed 11 July 2007).

disability pension, and are allowed to keep a paid job at the same time. The National Statistical Institute's (NSI) research on people with disabilities in Bulgaria conducted in 2005 showed that only 13 percent of the interviewees at working age (16 to 64 years) were employed, i.e. had compensation for work. Eight percent of which were engaged in subsidized employment programs, while five percent defined themselves as unemployed and the remaining 82 percent considered themselves out of the labor force. The internal structure of the unemployed people with disabilities as a group, however, raises serious concerns: 47.3 percent have completed only primary or lower education; 35.2 percent are vocationally trained; 9.5 percent are secondary school graduates and only 8 percent have university degrees. Low education levels and the lack of professional skills make people with disabilities vulnerable on the labor market with limited chances to get a job. Low qualification jobs usually relate to physical work, which is often inappropriate for people with disabilities.

In order to raise people with disabilities' competitiveness on the labor market, vocational training programs have been launched. These are based on targeted projects for unemployed people with disabilities and usually cover computer skills, specific professional skills (for example, accounting), foreign languages, etc. Their duration is limited to two-three months. NGOs and training providers licensed by the Vocational Training Agency are eligible for funding.⁶⁷

Most of the new Bulgarian legislation passed after 1990 includes anti-discrimination clauses and the regulations related to employment are no exception. Article 2 of the Employment Promotion Act states that "when this law is implemented no direct or indirect discrimination on the grounds of ethnicity, age, gender, religion, political or trade unions affiliation, social and family status, physical or mental disabilities, is allowed."⁶⁸ The Law on Integration of People with Disabilities contains a section on employment where a mainstream employment is mentioned, and a quota system and special enterprises are regulated

⁶⁷ Ministry of Labor and Social Policies (MLSP), National Program on Employment and Vocational Training for People with Permanent Disabilities, http://www.az.government.bg/Projects/Prog/HU/Frame_HU.htm, (Accessed January 2006). (In Bulgarian).

⁶⁸ *Employment Promotion Act*, State Gazette, 112, 29 December 2001, last amendments of 2006.

in a comprehensive manner.⁶⁹ Article 25 requires the Agency for Disabled People to keep a record of special enterprises and to provide funding for their business development projects on the top of the subsidies granted by virtue of having people with disabilities on the payroll. In 2005, enterprises run by the Union of Deaf People received €267,000 for 14 projects, the Union of the Blind got funding for nine projects worth €275,000, and the National Union of Cooperatives of Disabled People received €271,000 for nine projects. In addition, the agency each year is given a budget to finance adaptations of the workplace, provide access to the workplace, provide necessary equipment for people with disabilities on the job, etc.⁷⁰ In 2005 the agency reported that 49 individual projects were funded at a total value of €120,000 to create accessible working environments.⁷¹

Taxation laws stipulate incentives for the self-employment of people with disabilities, in addition to start-up business grants provided by the Agency for Disabled People. People with a disability are entitled to double tax-free income levels.⁷² Employers of people with disabilities benefit from corporate tax relief proportionate to the number of people with disabilities hired in the business, while special enterprises are totally exempted from paying taxes on the profit they make.⁷³

The Employment Agency, along with the Ministry of Labor and Social Policy (MLSP) also run disability programs that support the demand side of the labor market. Under these programs, employers may apply with requests to get funding for employees with disabilities. The allocated money is earmarked for minimum monthly salaries over 12 to 24 months plus social security contributions. However, employees with disabilities under these programs have no access to

⁶⁹ Special enterprises are commercial entities registered under the Bulgarian corporate law as trade companies or cooperatives which have a defined share (different according to the nature of impairment) of disabled workers in the overall employment. For example, enterprises for deaf people have to employ people with disabilities as 30 percent of their workforce, whereas this share in case of physical and visual impairments is 50 percent.

⁷⁰ *Law on Integration of People with Disabilities*, State Gazette, 81.

⁷¹ Official letter dated 14 September 2006 in response to a request placed by the author under the Access to Public Information Act 2000.

⁷² *Individual Income Tax Act*, 1 January 1998. The tax-free level of income was BGN 180 (Euro 90) for 2005.

⁷³ *Corporate Taxation Act*, 5 December 1997.

individual support on the job such as personal assistance, mobility allowance, etc. It is reasonable to expect that people with health problems would constitute the major group of beneficiaries of such programs.⁷⁴ The Employment Promotion Agency reports for 2005 that 1,313 people with disabilities got a job under their programs and the budget for supporting employers amounted to approximately €1 million.⁷⁵

Despite all these disability employment policies, 72 percent of the respondents in the NSI study on people with disabilities in Bulgaria held in 2005 say that the disability pension is their only source of income; 38 percent receive social welfare benefits mostly in-cash, six percent have a personal assistant, and another four percent benefit from the social welfare services.⁷⁶

Health Services

The Public Health Act prohibits discrimination on the grounds of disability, and health insurance is obligatory for all Bulgarian citizens. In the case of the employed population, contributions of six percent of the income are shared between the employer and the worker (three percent each). Contributions for unemployed disabled people are transferred directly from the National Budget to the National Health Insurance Fund (NHIF).⁷⁷

The health care system is generally weak in Bulgaria and large parts of the population remain underserved. Drugs are partially paid for by the NHIF with contributions also coming from patients. This places low-income groups, including many people with disabilities, in the quite difficult situation of not being able to afford necessary medicines. To address this issue, the Law on Integration of Disabled People introduced monthly allowances for 'medication and diet food' with the integration component at the rate of 15 percent of the

⁷⁴ Participant in a panel discussion, Bourgas, September 2006.

⁷⁵ Employment Agency, data requested by the author under the Access to Public Information Act 2000, letter dated 25 August 2006.

⁷⁶ National Statistical Institute under a project funded by the EU Statistics Office, *Disability Research in Bulgaria*, www.nsi.bg, (Accessed November 2006).

⁷⁷ *Health Insurance Act*, State Gazette 70 of 19 June 1998.

subsistence living cost, which for 2005 amounted to €4.40, which altogether buys a pack of average quality vitamins.⁷⁸ The Social Welfare Agency reports that 368,769 people with disabilities had received this monthly allowance in 2005 and the expenditure reached €13.3 million.⁷⁹

People with more than 90 percent lost ability to work (severe permanent disabilities) are entitled once a year to a 14-day rehabilitation course paid with the integration allowance – by reimbursement – under the Law on Integration of Disabled People. The National Social Security Institute also provides ‘recovery treatment’ for workers with disabilities who make social security contributions and are referred to facilities run by the institute.

Housing

The Housing policy of the Bulgarian Government is weak, since more than 90 percent of the population owns property to live in.⁸⁰ This is a heritage of the communist past when real estate property was cheap and people could afford to buy their houses. In addition, the process of restitution run in the early 1990s gave back to many people (including people with disabilities) land and houses that were nationalized in the 1940s and 1950s.

The housing policy is decentralized to a municipal level but local authorities have no resources to set up and implement social housing projects. The Law on Integration of Disabled People requires municipalities to provide housing for people with disabilities but it rarely happens – in 2005, only 1,149 people with disabilities were granted a monthly allowance for municipal housing rent and the overall spending was €102,000.⁸¹

⁷⁸ Panel discussion.

⁷⁹ Social Welfare Agency, data requested by the author under the Access to Public Information Act 2000, letter dated 26 September 2006.

⁸⁰ National Statistical Institute, 3 July 2006, <http://www.nsi.bg/Population/Population.htm>, (Accessed November 2006).

⁸¹ Social Welfare Agency, data requested by the author under the Access to Public Information Act 2000.

One of the key issues related to the housing of people with disabilities is the accessibility of their existing living quarters. The regulations to the Law on Integration of Disabled People allow for less than €300 to be earmarked for housing adjustments.⁸² This money could be reimbursed after the adaptation is designed and completed. Few people with disabilities can afford such adjustments and the evidence for this could be found in the Agency for Disabled People report, which says that 68 cases were supported for a total worth €20,000.

Institutionalization

Bulgaria became well known because of its high levels of institutionalization – both children and adults are easily placed for residential care. Most of the international reporting lists this issue as a “key problem” for the Bulgarian government. The European Commission 2005 Report on Bulgaria’s Progress towards EU Accession places institutionalization in the ‘yellow’ zone for government action.⁸³ Even though Bulgaria is not a signatory to the disability-related provisions of the European Social Charter, the European Committee of Social Rights made strong comments on the institutionalization of disabled children, requesting further information from the government on the issue.⁸⁴

There are three line ministries which run institutions for people with disabilities: the MoES is in charge of residential care provided to children with disabilities in special schools with boarding facilities; the Ministry of Labor and Social Policies (MLSP) runs institutions for adults with disabilities; and the Ministry of Health (MH) is in charge of psychiatric hospitals and related facilities.

⁸² *Enforcement Regulation to the Law on Integration of People with Disabilities*, Article 38, State Gazette, 115.

⁸³ Website of the EC on Bulgaria; There were ‘red’, ‘yellow’ and ‘green’ zones in the official Government policies. ‘Red’ zones related to the need of taking decisive measures for improvement (for example judiciary and organized crime), ‘yellow’ zones were listed as recommended for measures and ‘green’ zones were assessed as ‘good progress made’.

⁸⁴ *European Social Charter (Revised)*, European Committee of Social Rights, Conclusions 2005 (Bulgaria), Article 8, 11, 14, 17, 18, 25 and 27 of the Revised Charter, 24 – 26, (Accessed November 2006).

MLSP data for 2005 show that residential settings accommodated 14,161 people, a majority of them with disabilities due to aging or permanent health conditions. The largest number of 4,499 residents is found in the facilities for adults with mental disabilities.⁸⁵ Since January 2002, Amnesty International has monitored several social care homes for adults with mental disabilities in Bulgaria. Some of these facilities have already closed down, stressing the need for active monitoring. In the facilities, living conditions and lack of adequate care for the residents amounted to inhuman and degrading treatment in violation of international law.⁸⁶ In an October 2002 report, Amnesty International addressed extensive recommendations to the Bulgarian authorities, referring to the needs for better living conditions, the recruitment of professional staff, creating conditions for re-integration of institutionalized people, etc.⁸⁷ A 2004-2011 National Mental Health Policy document has been adopted by the government in line with the *Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care* annexed to the UN Resolution 46/119.⁸⁸ Priority was given to community care and inclusion through a number of measures – closing residential settings, training of mental health professionals, public awareness raising, and community work. Lots of these goals have yet to be accomplished.⁸⁹

A report of the Bulgarian Helsinki Committee shows that in 2004, 11 State psychiatric hospitals (SPH) and the eight largest district psychiatric dispensaries (PD) in the country provided care to people with psychiatric problems, operating with a combined capacity of

⁸⁵ Ministry of Labor and Social Policies (MLSP), *Special Institutions providing social services*, 2005.

<http://www.mlsp.government.bg/bg/links/index.htm>, (Accessed November 2006).

⁸⁶ Amnesty International, *Bulgaria: Failings in the Provision of Care*, <http://web.amnesty.org/library/Index/ENGEUR150022005?open&of=ENG-BGR>, (Accessed 30 April 2007).

⁸⁷ Amnesty International, *Far from the eyes of society – Systematic discrimination against people with mental disabilities*, AI Index: EUR 15/005/2002, October 2002.

⁸⁸ *Protection of persons with mental illness and the improvement of mental health care*, United Nations General Assembly, Resolution 46/119, 17 December 1991, <http://www.un.org/Depts/dhl/res/resa46.htm>, (Accessed 30 April 2007).

⁸⁹ *Inpatient Psychiatric Care and Human Rights in Bulgaria in 2005*, Bulgarian Helsinki Committee, December 2005, <http://www.bghelsinki.org/index.php?module=resources&lg=bg&id=323>, (Accessed 30 April 2007).

4,274 beds.⁹⁰ Out of the total number of patients hospitalized in psychiatric facilities, the patients admitted for compulsory treatment in 2003 were 1,966. In 2004, the number went up to 2,389. In 2003, their share was 5.4 percent, and in 2004 it was 5.9 percent of all hospitalized patients.

A Disability Rights Review issued in 2004 by the Center for Independent Living contained a section on people with disabilities living in institutions. The study consisted of qualitative research of the residents. It was made clear by the respondents that they applied for institutional placement due to lack of services available in their communities. Few mentioned 'bad family relations' as the reason for the application and still fewer blamed 'pressure from the family.' Living conditions in some of the institutions are appalling – old buildings falling apart, usually located in remote areas. "Three people in a room is perceived as a luxury. You wake up in the morning and wait for the night to come," one of the residents shared.⁹¹

Accessibility

Accessibility is recognized in numerous policy documents of the Bulgarian government as a key issue and precondition for effective integration of people with disabilities. The first disability legislation of 1995 made it an obligation for local and national authorities to follow technical norms for accessibility and gave the state until 1998 to adjust the existing facilities.⁹² The Urban Development Act included accessibility requirements to urban planning and construction works. Regulation 6 followed it on building accessible environments in urban and rural areas, which further provided details and technical standards.

The Law on Integration of Disabled People (2005) reinforced the importance of accessibility but introduced a new grace period (the end of 2006) to allow all public buildings owned by the State and

⁹⁰ *Ibid.*

⁹¹ Center for Independent Living, *Disability Rights Review in Bulgaria*, Sofia, 2004, <http://www.cil-bg.org/english/index.html>, (Accessed 30 April 2007).

⁹² *Regulation concerning Technical Norms on Accessibility of the Built Environment*, 1 January 1995.

municipalities to be adjusted. In the meantime, the Anti-discrimination Act was passed, which stated that “building and maintaining an inaccessible environment” was direct discrimination.

Despite all existing legislative obligations for both the public and private sector, no systematic efforts could be witnessed on the part of the governments to adhere to the legal requirements. There have been no earmarked budgets for accessibility adjustments, except for 2003 – the European Year of People with disabilities – when €2.2 million was allocated in the Beautiful Bulgaria Program for the refurbishment of buildings.⁹³

Furthermore, there is no proper control system that would ensure that new public buildings are in line with the accessibility regulations. As a result, brand new facilities are opened that are inaccessible for people with disabilities. Some government agencies and municipalities are making isolated efforts to adapt significant public buildings for use by people with disabilities but are rarely reported on the national level, which makes it difficult to assess the overall level of the country’s accessibility. In addition, there are numerous examples of newly adapted facilities, which do not comply with the technical standards and rather hinder the access for everyone. There is no evidence of fines being collected in cases of non-compliance with the accessibility requirements. “I can’t fine anyone in practice,” shared the Executive Director of the Agency for Disabled People, explaining that legal provisions do not set up a procedure for sanctioning infringements.⁹⁴ The Deputy Minister for Public Administration Reform admitted publicly the lack of consistent public policies on accessibility and delays in adjusting the public administration facilities for citizens with disabilities.⁹⁵

⁹³ A country-wide employment generating program to fix old and falling apart buildings, which was started as a joint effort by the UNDP and the Bulgarian Government, becoming a Bulgarian national program later in 2005/2006.

⁹⁴ Interview with Mincho Koralski, Executive Director of the Agency for Disabled People, , August 2006.

⁹⁵ Round Table discussion on the Government Action Plan to Comply with the EU Accession Requirements, Sofia, October 2006.

The private sector seems to be much further along in this area. Many retail outlets, supermarkets, business centers, and other facilities are accessible. Large chain hotels are made fully accessible as they follow the policies of their headquarters, which are usually based in the West. This has been demonstrated in the Map of Accessible Sofia Project, which aimed at marking accessible facilities in Sofia. People with disabilities were trained to assess accessibility and score facilities by elements.⁹⁶

The Law on Integration of People with Disabilities calls for the provision of an allowance for “transportation services” at a rate of 15 percent of the monthly subsistence income, which in nominal terms is worth €4.20.⁹⁷ The numbers reported by the Social Welfare Agency show that in 2005 such allowance was paid to 464,469 disabled people with an allocation of €17.304 million.⁹⁸

Public transport is generally inaccessible though legislation is in place requiring buses to be adjusted to serve disabled passengers.⁹⁹ Several big cities in the country have organized para-transit services with adapted minivans at the price of mainstream public city transport.¹⁰⁰ Since para-transit services are more expensive than the regular ones, the difference is covered by the local government as a subsidy to the service provider.

The most important government agencies’ websites are not in full compliance with WAI guidelines.¹⁰¹ Legislation on this issue remains to be developed and passed. Several human rights organizations representing disabled people run advocacy campaigns to this end.

⁹⁶ Center for Independent Living project funded by the UK Department for International Development. 2004/2005, www.cil-bg.org, (Accessed 30 April 2007).

⁹⁷ *Enforcement Regulations to the Law on Integration of People with Disabilities*, Article 25, State Gazette, 115.

⁹⁸ Social Welfare Agency, data requested by the author under the Access to Public Information Act 2000, letter dated 1 August 2006.

⁹⁹ *Regulation 33 on Public Road Transport of Passengers and Cargo in the Republic of Bulgaria*, issued by the Ministry of Transport on 3 November 1999, State Gazette 101, 23 November 1999.

¹⁰⁰ The City of Sofia (with a population of 1.5 million) runs two adapted minivans. Orders from disabled people take several days to one week in advance.

¹⁰¹ Agency for Disabled People, <http://ahu.mlsp.government.bg> (In Bulgarian); Ministry of Labor and Social Policies <http://www.mlsp.government.bg/bg/links/index.htm>, (Accessed October 2006).

Culture, Sports and Recreation

Article 36 of the Law on Integration of People with Disabilities makes it an obligation for different sports and culture agencies to create conditions for social integration of people with disabilities through adaptation of sports facilities, promotion of sport events for people with disabilities, support for disabled athletes to practice, and support for sport activities in schools. The same goes for cultural agents, who are supposed to make facilities accessible and promote activities that would include people with disabilities.

In spite of Article 36, no designated money could be found in the national budget for sports. Special Olympics activities are sponsored by private donors from the United States; the Sports for Disabled Federation receives its funding from private sources and a small part of its budget comes from the State Agency for Youth and Sports. Detailed data on the operations and budgets of these organizations were not found.

The Sports for Disabled Federation combines different sport activities for people practicing athletics.¹⁰² Bulgarian athletes with disabilities have participated in a number of Para-Olympic Games and have won medals for their achievements. The disability community, however, does not widely participate in sports.¹⁰³ There is also a branch of Special Olympics in Sofia, and its members performed very well at the Para Olympics games in the United States, Canada, and Greece.

Various community groups run community clubs for people with disabilities where social activities predominate. It is an obligation set up for the municipalities in the special disability law to provide local disability organizations with a premises and pay the costs of running it. There are more than 270 clubs around the country where bands and dancing groups are set up, performances are shown, chess competitions are organized, etc.

¹⁰² Literally it would be translated as *Sports for Invalids*, since it was established in the early 1990s.

¹⁰³ Panel discussion,

Disability Action and Awareness

The Law on Integration of Disabled People stipulates the establishment of a National Council on the Integration of Disabled People (NCIDP). It is comprised of nationally represented organizations of and for disabled people, government agencies, trade unions, and business associations. NCIDP is meant to be a consultative body with the Council of Ministers to enlarge the social basis of the policy making process. It is supposed to meet when new legislation is discussed, to take stands on draft legislations, to suggest policy action, etc. NCIDP does not have an administrative structure (office and staff), nor does it maintain a website of its own. Information on the proceedings and events can be obtained through the MLSP with a special request for information under the Access to Public Information Act.

Most of the NCIDP members are funded by the Government and refrain from questioning its decisions. Evidence to this end could be found in how people with disabilities judge the quality of the special disability legislation and public disability policies. Most of the participants in the panel discussion were critical, stating that there are many strategies and paperwork but little is done. One participant said, “Almost no action is taken. No one knows what the unions are doing there, negotiating with the government.”¹⁰⁴

There is also an umbrella organization called the National Disability Council (NDC) comprised of umbrella type DPOs and service providers. It is meant to provide a platform for people with disabilities to speak with one voice. NDC was set up in 2003 following the advice of EU experts in order to have access to the EU policy process. NDC represents the Bulgarian disability community in the European Disability Forum (as an observer prior to the country's full EU membership). In June 2005, it had nine members. NDC does not have a website or regular communication services for its members or the larger disability community.

104 *Ibid.*

Apart from the nationally representative DPOs, there are numerous community groups and independent local DPOs that run strong advocacy campaigns for human rights and equal opportunities. Although they are not funded by the government (local or national), these organizations manage to raise funds, conduct awareness raising projects, direct action initiatives, and advocacy and lobbying activities. For example, the Decent Life Foundation in Bourgas managed to convince the local government to improve city transport facilities and to run more adapted vans for people with mobility problems. A group in Stara Zagora lobbied intensively for inclusive education and the municipality started taking action in the school year 2005/2006.

Some of these organizations decided to come together and form the Bulgarian National Equal Opportunities Association (BNEOA), which, after meeting the criteria for national representation, will apply to get access to the policy process. A lot of individuals with disabilities have joined the BNEOA.

The Bulgarian Constitution allows all citizens the freedom to associate and organize (Article 44). It is hard to cite any number of existing disability organizations in Bulgaria, since such statistics do not exist. The Law on Integration of Disabled People (Article 6) further regulates the participation of people with disabilities in the policy process by setting up a National Council on the Integration of Disabled People (NCIDP). Its operation is supervised by the Minister of Labor and Social Policies.

Requirements for national representation of DPOs include membership size and country coverage. Article 8 of the bylaws regulating the criteria for national representation and performance procedures of the NCIDP define two sets of requirements: general and specific. General requirements refer to the legal status of the organization and country coverage, whereas specific requirements deal with membership size and the way

they differ on impairment basis.¹⁰⁵ Currently 12 organizations of people with disabilities are members of the NCIDP and the remaining 19 are organizations for trade unions, employers' organizations, and government authorities. This composition clearly

shows the minority position of the disability organizations. Most of them are disability based (opposed to cross-disability), very much traditional in their approaches (medically oriented), and hierarchical in terms of governance. These organizations are granted government subsidies (Article 52) by virtue of having the status of nationally representative. In 2005, their number was 14.¹⁰⁶

¹⁰⁵ Regulation on the Establishment and Performance Procedures of the National Council on Integration of People with Disabilities and the Eligibility Criteria for Organizations of Disabled People, Organizations for Disabled People, enacted by the Council of Ministers on 17 December 2004, entering into force as of 1 January 2006. Eligible for national representation are organizations, which have branches in 30 percent of the 274 municipalities in Bulgaria; Organizations of people with physical, visual, hearing and mental impairments are required to have 1,600 members; organizations of deaf-blind people – 400 members, service providers have to report 4,500 served clients per year and not less than 50 professional staff employed; organizations of disability employers are required to have at least 10 members who employ not less than 800 certified people with impairments.

¹⁰⁶ The approved subsidy for 2005 amounted to BGN 18,454 million (€0.95 million).



ESTONIA

Key Factors

Estonia covers an area of 45,227 km², of which 47.6 percent is forest and woodland. The population is 1.4 million and Estonians

comprise 65 percent of total population. Other major ethnic groups are Russian (28 percent), Ukrainian (2.5 percent), Byelorussia (1.5 percent) and Finnish (0.9 percent). About one-third of the population lives in Estonia's capital Tallinn, and the urban population comprises 69.2 percent of the total. The main religion is Lutheran but there are also Orthodox, Baptists and others.

Estonia became part of the European Union in 2004.¹ It is a parliamentary republic and the parliament has 101 members each serving a period of four years. The head of state is the president. Estonia is divided into 15 counties, 207 rural municipalities and 47 towns. The main sector of Estonian economy is oil-shale energy, telecommunication, textiles, chemical products, services, food and fishing, shipbuilding and transportation. Following a period of decline caused by restructuring of the economy, Estonia has been experiencing strong economic growth since 1994.

The situation of people with disabilities in Estonia has improved, but several barriers remain. As a recent member of the EU, Estonia approved many European and international declarations protecting human rights of people with disabilities. New services and legislation were created, which support participation of disabled people in society and illuminate institutionalization. Despite these actions, people with disabilities still face barriers to public participation, due mostly to the negative, and unchangeable, attitude many citizens have of people with disabilities. The positive results of the transition period is that disability has become more visible in the society, but

¹ Europe at a glance, Member states of the EU, Estonia http://europa.eu/abc/european_countries/eu_members/estonia/index_en.htm (Accessed 20 July 2007).

the big changes in the society have caused a lot of social problems, that also affect people with disabilities as a vulnerable group. During the rapid economical growth, so- called “soft” values remained in the background. A good example to illustrate this is that the Estonian disability pensions haven’t been increased during the last seven years whilst living costs went up 5-10 percent annually. The new legislation and policies include people with disabilities, but investments into social field do not follow these regulations and have not translated into programs and disability related investments yet. Since the 1990’s the percentage of the overall social expenditure of the GDP has decreased each year.²

Terminology

In Estonia, the fields of law and policy use terminology and definitions from the World Health Organization’s ICD-10 to diagnose and classify disability.³

Since 1996 most legal documents have changed the term “invalid,” “handicap” to the terms “disabled” or “person with special needs.” For instance, the term “deviation” was replaced by “special needs” in April 2004 according to the Amendment Act of Pre-school Child Care Institutions Act of 2003, the Social Welfare Act of 1995, the Basic Schools and Upper Secondary Schools Act of 1993, the Child Protection Act of 1992, the Deserved Years Retirement Pension Act of 2004, and the Education Act of 1999 in Estonian legislation.⁴

The Medical Examination Commission of the Social Security Board determines working capacity and also establishes an individual’s degree of disability (moderate, severe or profound), which in turn

2 The Estonian Chamber of Disabled People, www.epikoda.ee, (Accessed 20 May 2007).

3 The Estonian Chamber of Disabled People, Disability policy (In Estonian) <http://www.epikoda.ee/index.php?op=2&path=Invapoliitika> (Accessed 20 May 2007).

4 *The Amendment Act of Pre-school Child Care Institutions Act 2003*, (In Estonian) *Social Welfare Act 1995* (In Estonian), *Basic Schools and Upper Secondary Schools Act 1993* (In Estonian), *Child Protection Act 1992* (In Estonian), *Deserved Years Retirement Pension Act 2004* (In Estonian) and *Education Act 2004* (In Estonian), Ministry of Justice; www.legaltext.ee, (Accessed 9 June 2007).

determines access to social welfare and other benefits for adults and children.⁵

Estonia's society tends to label people with disabilities as "people who are 'less competitive on the labor market.'" Capacity for work is based on degree of disability and the amount of disability benefits depends on the level of work capacity in the system.⁶

Definition of Disability

In Estonia, the Social Benefits for Disabled Persons Act 2002 defines disability as "the loss of or an abnormality in an anatomical, physiological or mental structure or function of a person."⁷ Most recent legislation uses the term "person with special needs."⁸

The Social Benefits for Persons with Disabilities Act 2002 establishes three degrees of disability, according to the person's level of functioning and corresponding need for personal assistance: moderate, severe and profound without consideration of the social dimension of disability. The degree of disability is determined by the Medical Committee (or Commission) for a period of six months to three years, for persons below the age of 65.⁹ The degree of disability is decided according to medical conditions of a person not her/his social needs such as place of living (city or rural area), education, wish to work, specific individual demands caused by disability (for example, multiple people with disabilities have more needs for technical aide and assistants), health, marital statues, personal wishes to continue study or work, etc.

⁵ (Legislature, Laws and Acts), (In Estonian), Ministry of Social Affairs www.sm.ee, (Accessed 13 June, 2007).

⁶ (Legislature, Laws and Acts), (In Estonian), Ministry of Social Affairs www.sm.ee, (Accessed 2 February 2007).

⁷ Social Benefits for Disabled Persons Act 2002 (In Estonian), Article 2, RT I 1999, 16, 273; consolidated text RT I 2002, 39, 245. Ministry of Justice, www.legaltext.ee, (Accessed 9 June 2007)

⁸ The Estonian Chamber of Disabled People, www.epikoda.ee, (Accessed 9 June 2007).

⁹ Social Benefits for Disabled Persons Act 2002(In Estonian), Article 2 (1), RT I 1999, 16, 273; consolidated text RT I 2002, 39, 245. Ministry of Justice, www.legaltext.ee (Accessed 13 June 2007).

Social benefits for both adults and for children are based on the determined degree of disabilities. The three degrees of disability are defined as follows:¹⁰

- *Profound* disability is the loss of, or an abnormality in, the anatomical, physiological or mental structure or function of a person, as a result of which the person needs constant personal assistance, guidance or supervision twenty-four hours a day;
- *Severe* disability is the loss of, or an abnormality in, the anatomical, physiological or mental structure or function of a person as a result of which the person needs personal assistance, guidance or supervision in every twenty-four hour period; and
- *Moderate* disability is the loss of or an abnormality in, the anatomical, physiological or mental structure or function of a person, as a result of which the person needs regular personal assistance or guidance outside his or her residence at least once a week.

The basis for medical treatment and medical intervention in defining disability is *The International Statistical Classification of Diseases and Related Health Problems*.¹¹ The Medical Examination Commission of the Social Security Board (hereafter the Medical Commission), is responsible for determining both the degree of disability and the degree of working incapacity. A person who has a disability and loss of working ability at the same time, or only meets one of these criteria could be assessed as eligible to receive disability support. A person whose loss of working ability is under 10 percent is not necessarily accepted as a disabled person by the Medical Examination Commission of the Social Security Board, and therefore he or she will not get any

¹⁰ *Social Benefits for Disabled Persons Act 2002* (In Estonian), Art. 2 (1) RT I 1999, 16, 273; consolidated text RT I 2002, 39, 245. Ministry of Justice, www.legaltext.ee (Accessed June 13th 2007).

¹¹ *The International Statistical Classification of Diseases and Related Health Problems*, World Health Organization, Geneva, 1992, translated into Estonian by Pavel Bogovski, edited by Pavel Bogovski and Ilmar Laan, Ministry of Social Affairs, Tallinn, 1994., www.sm.ee (Accessed June 13th 2007).

disability pension or other support services compensating working ability lost.

The Basic Schools and Upper Secondary Schools Act of 1993 defines “students with special needs” as “students with physical disabilities, speech impairments, sensory or intellectual disabilities, or mental disorders, and students who need special treatment due to behavioral problems.”¹²

Disability Population

Statistics about people with disabilities are compiled by the Social Insurance Board, and they are based on the registration of recipients of pensions for incapacity for work.¹³ The 2002 Labor Force Survey Percentage estimates that 8.4 percent of the general population is comprised of people with disabilities.¹⁴

Due to the adoption of the new Welfare Act (1996), there was a rapid fall in the official numbers of people with disabilities. Many people with disabilities remain unhappy with the new assessment system of disability degree. From level of work, incapacity depends on the disability degree and from that person’s social benefit level. If a person’s disability is assessed as moderate and they suffer from no work incapacity, he or she will receive no social benefits from the government.¹⁵ The benefit is only paid to compensate work incapacity caused by disability.

¹² The Basic Schools and Upper Secondary Schools Act 1993(In Estonian), Article 4(2), RT I 1993, 63, 892, consolidated text RT I 1999, 42, 497. www.hm.ee According to Article 4(2) “schools for students with special needs are intended for students with physical disabilities, speech impairments, sensory or intellectual disabilities, or mental disorders, and for students who need special treatment due to behavioural problems.” www.legaltext.ee (Accessed 13 June 2007).

¹³ Note: this pension prior to 2000 had been called the disability pension.

¹⁴ National Census data Social Ministry data base 2006(In Estonian), . www.sm.ee, (Accessed 9 May 2007).

¹⁵ Panel discussions, Tallinn, Estonia 28 August 2006.

Legislation and Disability Rights

National Protections

There is no national law that specifically references and protects the rights of people with disabilities. The constitutional principle of non-discrimination, worded in general terms, is repeated in other Estonian laws.¹⁶ Article 12 of the Constitution establishes an explicit ban on discrimination. “Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, color, sex, language, origin, religion, political or other opinion, property or social status or on other grounds”.¹⁷ This article does not refer specifically to “disability” although this would fall under “other grounds.” Article 28 provides for persons with disabilities and states that they are under special care of the state and local governments.¹⁸

In 1995, the government approved the National Disability Concept (the Concept). The Concept is based on the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities.¹⁹ These rules govern the employment and education opportunities of people with disabilities. They also cover the principles that the State must apply in organizing the activities (including employment

¹⁶ Poleshchuk, Vadim, www.migpolgroup.com *Country report on Estonia*, May 2003 Report on measures to combat discrimination in the 13 candidate countries (VT/2002/47) , www.migpolgroup.com, (Accessed 9 May 2007)

¹⁷ *Constitution 1992* (In Estonian), Article 12, Ministry of Justice, www.legaltext.ee, (Accessed 9 May , 2007)

¹⁸ Constitution 1992, Article 28 states that “[...] An Estonian citizen has the right to state assistance in the instances of old age, incapacity to work, loss of a provider, or necessity. The categories and extent of assistance, and the conditions and procedure for the receipt of assistance shall be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law. [...] Families with many children and persons with disabilities shall be under the special care of the state and local governments.” www.legaltext.ee, (Accessed 9 May , 2007)

¹⁹ *UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, www.un.org/esa/socdev/enable/dissre00.htm Adopted by the United Nations General Assembly, 48th session, Resolution 48/96, annex, of 20th December 1993: (Accessed 9 May 2007)

and education) of people with disabilities, approving acts and implementing legislation. The Concept is not a legally binding rule.²⁰

While there have been initiatives to create equal opportunities for people with disabilities in Estonia, people with disabilities continue to experience difficulties and encounter obstacles in society, beginning with physical barriers (unapproachable buildings, streets, and vehicles), prejudicial attitudes and an attitude of rejection from the general public.

International Protections

United Nations negotiations concerning the disability issue are not commonly known in Estonia. There was a governmental representative who attended the Ad Hoc meetings on the UN Convention on Disability but information about those issues is not widely disbursed. People with disabilities were not included in the delegation.²¹ Information about the 2007 UN Disability Convention is located on the Ministry of Social Affairs web page.²² The website is in English, which is inaccessible for many citizens of Estonia.

Estonia ratified the Revised European Social Charter in 2000.²³ Estonia submitted four reports about the implementation of the European Social Charter in the Council of Europe's member states between 2003 and 2005. These reports concerned the application of the Revised Charter. The fourth report on non-core provisions of the Revised Charter accepted by Estonia was submitted in August 2006.²⁴

20 *General Concept of the Disability Concept of the Disability Policy of the Republic of Estonia* (In Estonian), www.sm.ee Rule No. 7, shortened and adjusted from the United Nations General Assembly, 48th session, Resolution 48/96. Passed 16 May 1995 in the session of Government of Republic of Estonia, Item No. 11 (Accessed 9 May 2007).

21 Panel discussion, Tallinn, Estonia 28 August 2006.

22 Ministry of Social Affairs, www.sm.ee (Accessed 20 July 2007).

23 *Ibid*

24 *Ibid*

The fifth report will concern the provisions related to the themes of 'Employment, Training and Equal opportunities;' it should be submitted before 31 October 2007.²⁵

To date, no specific anti-discrimination body with adequate powers has been established in Estonia. The Chancellor of Justice is an independent official, responsible for reviewing legislation and ensuring its conformity with the Constitution and other sources of legislation. The decision of the Chancellor of Justice is binding and must be carried out by all parties involved.²⁶

Legal Barriers

All citizens have equal rights in Estonia according to the law. Legal barriers are not the main reason for difficulties in access to equal rights for people with disabilities. The barriers are found more in the attitude of society and the general lack of knowledge about disability. Many legal acts passed are not actually implemented. There are no penalties for failure to respect the human rights of people with disabilities or for discrimination against them. A complaint made to the Chancellor of Justice Application System must go through a long and bureaucratic procedure. Usually people find consolation from NGOs and sometimes volunteers help to solve their problems.²⁷

The legislation is permissive rather than legally enforceable. The range and availability of services listed in the Social Welfare Act in practice depend to a large extent on the priorities and resources of each local authority. There are 241 municipalities (39 urban and 202 rural municipalities) in Estonia. It is easier to access rehabilitation services, education and employment in major cities. A great number of small municipalities are unlikely to provide a wide range of services. Residential housing and special schools for disabled people are mainly located in rural areas.²⁸

²⁵ Council of Europe, http://www.coe.int/t/e/human_rights/esc/5_survey_by_country/Estonia_en.pdf (Accessed 20 July 2007).

²⁶ *Legal Chancellor Act 2003*, Article 1(5). www.legalex.ee, (Accessed 9 May 2007).

²⁷ Kannukene M. Interview by the Author, 20 August.2006.

²⁸ Panel discussion.

Civic Participation

Theoretically, disabled people in Estonia have the same rights to participate in society and other civic affairs such as voting, having a family, working, etc. The Estonian Constitution Article 57, section (1) states, “The right to vote shall belong to every Estonian citizen who has attained the age of eighteen.”²⁹ It further states in section (2) “An Estonian citizen who has been divested of his or her legal capacity by a court does not have the right to vote.”³⁰

People with disabilities have the same rights as all citizens to have a family and adopt children. They must go through an application process and if a social worker approves that a person with a disability has an income, employment, and the ability to raise a child, they can then adopt a child. However, a person whose legal capacity is limited by a court cannot adopt child.³¹

In everyday life there are several difficulties to accessing these rights. The main difficulties are the lack of supportive services and the low income of people with disabilities. Penalties for failure to respect the constitutional rights of persons with disabilities do not exist.³²

Inclusion

Communication

Access to civic participation for disabled people is limited by the lack of communication. There are no alternative forms of communication or tools mentioned in Estonian legislation. Sign language is not recognized by the government, despite several appeals by organizations for people with hearing impairments. There is no information in an easy to read

²⁹ Ministry of Justice, Constitution.

³⁰ *Ibid.* Article 57 section 1; section 2.

³¹ *Family Law Act* Perekonnaseadus. 01.01.95 (), <https://www.riigiteataja.ee> (Accessed 10 July 2007).

³² Lõoke A., representative of ELIL Estonian Union of Persons with Mobility Impairment, Interview by the Author, 20 August 2006.

format or Braille versions. Alternative communication possibilities are mostly provided by NGOs.³³

Access to information in alternative formats such as Braille, audio, digital and easy-to-read; recognition of sign-language and access to hearing devices are considered as services for disabled people. Braille and sign-language are recognized and used; hearing devices are considered as technical aids and are the responsibility of the municipal level. Sign Language translation is one of the social services, which is the responsibility of the local municipality. Access to services are limited by local municipality budget and they are given for people whose rehabilitation plan determines the need of this service. Technical aid is supported by the regional municipality; the need for which is determined in the rehabilitation plan.

Organizations such as the Estonian Chamber of Disabled People representing various disabilities are lobbying for better accessibility – focusing on the accessibility needs of the group.

Education

The Constitution guarantees the right to an education for everyone, and the Education Act supports this right. Article 37 of the Constitution establishes this right for everyone, including non-citizens, children of residents in Estonia and illegal aliens. It states:

- (1) “Everyone shall have the right to an education. Education shall be compulsory for school-age children to the extent specified by law, and free of school fees in state and local government general education schools;
- (2) In order to make education available, state and local governments shall maintain the necessary number of educational institutions. As determined by law, other educational institutions may be established, including private schools;
- (3) Parents shall have the final decision in choosing education for their children;

- (4) Everyone shall have the right to instruction in Estonian. Educational institutions established for minorities shall choose their own language of instruction;
- (5) The provision of education shall be supervised by the state. The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia.”³⁴

General legislation on basic and secondary education also regulates special education. Children have the right to attend the nearest school which meets their educational requirements.³⁵

The Education Act establishes that the state and local government must guarantee everyone in Estonia the opportunity to comply with the compulsory education requirement and to acquire continuous education, according to the conditions and procedures provided for by legal acts. Education Act Article 2 states, “No one can be deprived of the right to education. In the exercise of any functions which the state assumes in relation to education and to teaching, the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”³⁶

In practice, for children with disabilities, the right to access to mainstream schools is often not realized; many mainstream schools will not enroll children with intellectual disabilities on the grounds that they cannot provide the needed support services. Existing regulations do not define exactly what mainstream schools must do to adapt their conditions to meet the needs of children with special needs.

Often it is easier take child to the special school, because all the costs related to inclusive education must be covered by family”³⁷

³⁴ Constitution Article 37.

³⁵ Education Act, 21.03.99, Ministry of Justice, www.legaltext.ee, (Accessed 9 June 2007).

³⁶ *Ibid.* Four of the Education Act of the Republic of Estonia; passed 23 March 1992 (RT 1992,12,192), entered into force 21 March 1999, www.legaltext.ee, (Accessed June 9 2007).

³⁷ Mättas, B., parent of disabled child, Access to education and employment, Soros Monitoring Report 2005, http://www.vaimukad.ee/uus/UK/index_uk.htm, (Accessed 13 June 2007).

The Vocational School Act establishes special rules enabling people with disabilities to study in vocational schools.³⁸ The Counseling Committees carry out multidisciplinary assessments of children with disabilities and involve parents or guardians. Based on their assessment of a child's level of disabilities, the Committee recommends a type of school and class for the child.³⁹ In principle, the family of a child with special needs should receive information and support from the local authorities in the area of their residence. Assistance is mainly limited to a medical approach.⁴⁰

In practice a number of important barriers still limit the extent to which the integrated education of children with disabilities can develop. These barriers include the lack of transportation, support persons, and special aids in teaching. Large class sizes and opposition to integration from some teachers and parents of children without disabilities also pose an obstacle. The most important barrier, however, is the insufficient number of support specialists.⁴¹

In major cities it is easier to find supportive services for children with disabilities to attend local schools where there is enough capacity and smaller class sizes (around 12 pupils). In rural areas sometimes there are only three-five children per class and the schools do not have the resources to provide a child with a disability with special education. On the other hand, rural populations tend to form closer communities which are friendlier to the needs of disabled students and sometimes societal attitude is more important than having special needs-capable teachers.⁴²

There is no firm statistical information about the percentage of disabled students who receive mainstream education. Educational opportunities for people with intellectual disabilities over the age of

³⁸ Vocational School Act RT I 1998, Article 14(1), 64-65, 1007; consolidated text RT I 2001, 68, 406, www.hm.ee (Accessed 13 June 2007).

³⁹ Information from the Education section of the Website of the Ministry of Education and Research, www.hm.ee (13 Accessed June 2007).

⁴⁰ Access to education and employment, Soros Monitoring Report 2005, http://www.vaimukad.ee/uus/UK/index_uk.htm, (Accessed June 13th 2007).

⁴¹ Panel discussion.

⁴² Access to education and employment, Soros Monitoring Report 2005, http://www.vaimukad.ee/uus/UK/index_uk.htm, (Accessed June 13th 2007).

18 are very limited. There is only one vocational rehabilitation center in Estonia, named “Astangu Rehabilitatsioonikeskus” (“Astangu Coping Center”) where people with different disabilities can receive some vocational training. Most of the students in Astangu are people with physical disabilities.

Students with physical disabilities have more opportunities to attend mainstreamed school or even universities. But it mostly depends on their personal network and possibilities; in rural areas it is much harder for them to access education. Opportunities for disabled people should be the same as those of all citizens of Estonia. For students with hearing or vision disabilities, the main obstacles are lack of special facilities for study, special books, materials on tape, etc.

Attending vocational school is very difficult even for those who can afford to due to the lack of supported services, such as transportation and support persons.

The mechanism for appealing an alleged injury of rights is general and open to all citizens in Estonia. Everyone has the right to appeal in writing and officials are obliged to respond within 30 days. Existing institutions for appeal are the Head of the Counseling Committee, the Ministry of Education and the Chancellor of Justice

Employment

The unemployment rate of people with disabilities has been increasing rapidly since 1991 and is much higher than that of the general population. The 2002 National Statistical Report shows that only 25 percent of people with disabilities (between the ages of 16-65) are employed. This would seem to violate the constitutional principle of non-discrimination in employment which, although worded in general terms, is repeated in several Estonian laws.⁴³

“The Social Protection of the Unemployed Act and the Employment Service Act provides the main legislative base for labor market policy.

⁴³ National Development Plan 2005-2007 2005-2007 (), www.sm.ee, (Accessed 1 January 2007).

During 2001–2006, labor market policy was carried out according to the priorities established in the Joint Assessment of Employment Priorities (JAP),⁴⁴ the National Development Plan 2003–2005, and the Employment Action Program 2003 and 2004. The main priority established in the Employment Action Programs is to continuously increase the share of active employment according to the needs of risk groups and the labor market. More attention will be given to working individuals among risk groups.”⁴⁵

In 2006, new labor market legislation was introduced by the government. The new legislation regulates the labor market but unfortunately doesn't include any special clause for people with disabilities. There is no quota system for the employment of people with disabilities and there are no active employment measures specifically designed for people with disabilities.

Regional departments of the Labor Market Board assist job-seekers and the unemployed to adapt themselves to their new situations. They are provided a service package tailored to their specific needs and abilities—information, training and retraining, career guidance, work practice and basic working skills training, support and assistance for starting a business, and other services. Each unemployed person will be provided with an individual action plan.⁴⁶

Accessibility to mainstream training and services for people with disabilities is difficult for many different reasons—attitudes of society, lack of supportive services, and insufficient income for private courses. Legally the disabled are allowed to use same services as all other people, but in practice this does not occur.⁴⁷ Several projects supported by EU foundations under the program Phare partnership projects 2003, 2004 targeted access to employment

⁴⁴ Gateway to European Union, *Joint Assessment of Employment Priorities*, www.europa.eu.int, (Accessed June 9th, 2007).

⁴⁵ “Welfare programme for children and for people with disabilities for 2004–2006”, Ministry of Social Affairs, www.sm.ee, (Accessed 9 June, 2007); Access to education and employment, Soros Monitoring Report 2005, http://www.vaimukad.ee/uus/UK/index_uk.htm, (Accessed June 13th 2007).

⁴⁶ Ministry of Social Affairs, www.sm.ee (Accessed 9 May 2007).

⁴⁷ Ingrid Leppik, Interview with representative of self advocate, MTÜ Tugiliisu, 28. August. 2006, Tallinn.

for people with disabilities.⁴⁸ Phare funded research found that people with disabilities seldom take advantage of the available active employment measures, which are designed more generally for people who are “less competitive on the labor market” – rather than just for people with disabilities. It recommended an analysis of employment services and the development of additional measures, as required.⁴⁹

Employment subsidies are allocated to employers through the Employment Office for the employment of those who are “less competitive on the labor market”. This includes people with disabilities who have a reduced working capacity of between 40 and 90 percent. The employment of a person with 100 percent working incapacity is also possible by law. The employment subsidy received by an employer who hires (full-time) an unemployed person with less competitive abilities is equivalent to the minimum monthly wage during the first six months, and 50 percent of the minimum monthly wage during the following six months. The state covers the costs of adapting workplaces for people with disabilities.⁵⁰

There is no official definition of sheltered employment and no studies have been conducted to establish the actual need for employment centers and sheltered workplaces for people with disabilities. By law local municipalities are responsible to provide opportunities and accessible facilities for access to employment for people with disabilities. In Estonia there are large regional differences between municipalities in this regard because of the rarefied areas and distinct financial situation of municipalities.⁵¹ Statistics about the number of

⁴⁸ The Phare program is one of the three pre-accession instruments financed by the European Union to assist the applicant countries of Central and Eastern Europe in their preparations for joining the European Union, http://ec.europa.eu/enlargement/financial_assistance/phare/index_en.htm, (Accessed 23 July 2007).

⁴⁹ Töö ja puuetega inimesed, Phare partnerlusprojekt, (*Enhancing employment opportunities*, Phare partnership programm), www.pite.ee (Accessed 13 June 2007).

⁵⁰ Rebuilding of working place is accomodation of employee premises or implementation for make them accessible for disabled persons. renovation of employe ,Labor services and support legislation § 20 lg 1 www.pite.ee, (Accessed 9 May 2007).

⁵¹ Estonian Chamber of Disabled People, Country overview, www.epikoda.ee (Accessed 9 June 2007).

people with disabilities who are employed in sheltered workshops are not available.⁵²

National policy calls for sheltered employment with support services for the employee with disabilities and their employer. Services include assistance, guidance and counseling, as well as adaptation of the workplace and working conditions to meet the needs of the employee. This policy applies to private employers, and calls for the creation of inclusive environments. Such support may be carried out through allocations of funding to the employer for specific purposes or by providing professional services from a psychologist, social worker, solicitor or medical doctor. Unfortunately, such services are rarely used by employers because there is not a sufficient amount of governmental support for that service (€58.03 per month per person).⁵³

The Social Insurance Board provides pensions and benefits to approximately 370,000 people and this figure includes 100,000 people with disabilities and approximately 200,000 families with children, including those who receive benefits for children with disabilities. There is no official statistic as to how many of these families have children with disabilities, as every family is entitled to €19.17 per month, per child.

According to statistics of Social Insurance Board in 2006, 1,212 parents received support for raising a disabled child, 5,295 children got disability benefits (under 16 years) and 107,431 people received disability benefits.⁵⁴ Social benefits are calculated on the basis of the degree of disability. People with disabilities who are aged 16 and over and have been determined by the Medical Commission as having a working incapacity of between 40 and 100 percent are paid a monthly allowance.⁵⁵

⁵² Känd H, NGO "Maarja küla" representative . Interview by the Author, 20 September 2006.

⁵³ Sotsiaalministeerium EV, The only legal reference to sheltered work is in annex 1 in the regulation of the Minister of Social Affairs, No. 4 of 3 January 2002, Requirements set on the Institutions of social care and social care services, RTL 2002,9,93, www.sm.ee ,(Accessed 13 June 2007).

⁵⁴ Statistika amet (Statistical database), Toetused 2006, [www.stat.ee](http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp) ,<http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp>, (Accessed June 9 2007).

⁵⁵ *Social Benefits for Disabled Persons Act*, Ministry of Justice, www.legaltext.ee (Accessed 9 June 2007).

This allowance takes the form of either an incapacity pension or a national pension of up to approximately €51 per month. Of notable import is the fact that people with less than 40 percent working incapacity are not eligible for these allowances.⁵⁶

The national pension is granted to people with disabilities who are of working age and have not fulfilled the accumulation period for eligibility for a person with an incapacity. The amount of the national pension is calculated on the basis of the standard national pension. The pension forms 100 percent of the sum of the national pension (from April 1, 2007 – €90.96). Depending on the percentage of the loss of working capacity the amount of the national pension in case of permanent incapacity for work is the following:

Table I: Amount of national pension in case of permanent incapacity for work

Loss of working capacity	Multiplied by national pension	Total
40 percent	x 1423.31	569.32 kroons; (€36.39)
50 percent	x 1423.31	711.66 kroons; (€45.48)
60 percent	x 1423.31	853.99 kroons; (€54.57)
70 percent	x 1423.31	996.32 kroons; (€63.67)
80 percent	x 1423.31	1,138.65 kroons; (€72.77)
90 percent	x 1423.31	1,280.98 kroons; (€81.87)
100 percent	x 1423.31	1,423.31 kroons.(€90.96)

Eligibility criteria for the incapacity pension:

- sixteen years old and has been assessed as permanently incapable to work;
- loss of working capacity is 40 to 100 percent and who by the initial date of granting of the pension has acquired the following pensionable service or accumulation period in Estonia. In 2005, the average incapacity

⁵⁶ Access to education and employment, Soros Report 2005.

pension was approximately €100 per month. People receiving the incapacity pension retain this benefit if they take up employment.

The incapacity pension is only granted to people with disabilities of working age who have fulfilled the requirements concerning the work accumulation period. The amount an individual receives is calculated as a function of his or her percentage loss of working capacity and the accumulation period worked.⁵⁷

Social benefits for disabled persons shall be granted and paid to permanent residents of Estonia or persons residing in Estonia on the basis of a temporary residence permit with moderate, severe or profound disabilities which cause additional expense.

There are seven classes of social benefits for disabled persons and they are calculated on the basis of the rate of social benefits. The rate of social benefits is established by the Estonian parliament in the state budget for each budgetary year. The rate of social benefits in 2006 was €25.56 euros.

“Disabled adult allowance shall be paid monthly to a person not less than 16 years of age for the additional expenses caused by the disability and, upon existence of a rehabilitation plan, for the activities prescribed therein in an amount equal to:

- 160 percent of the social benefit rate to a person with a profound disability (640 Estonian kroons);
- 105 percent of the social benefit rate to a person with a severe disability (420 Estonian kroons);
- 50 percent of the social benefit rate to a person with a moderate disability (200 Estonian kroons).

Disabled child allowance shall be paid monthly to a child under 16 years of age for the additional expenses caused by the disability and,

⁵⁷ Social Insurance Board, www.ensib.ee, (Accessed 9 June 2007).

upon existence of a rehabilitation plan, for the activities prescribed therein in an amount equal to:

- 270 percent of the social benefit rate to a child with a moderate disability (1,080 Estonian kroons);
- 315 percent of the social benefit rate to a child with a severe or profound disability (1,260 Estonian kroons).

The amount of disabled parent's or caregiver allowance is 75 percent of the social benefit rate (approximately €19.17)⁵⁸

To date, no studies have been carried out to establish the level of poverty among disabled people. However, the results are predictable, given that the majority is fully dependent on pensions and social benefits. For those who earn low wages, employment is often not financially rewarding when the additional costs of going to work, such as transport, lunch outside the home or childcare, and the possible loss of social benefits, are taken into consideration. The lowest salaries and wages are found in fields where unemployment is high: agriculture, healthcare and social security (including social welfare institutions).⁵⁹

The Social Protection for the Unemployed Act provides special courses for the unemployed. The courses last for up to six months in the form of classes or individual training. However, the Employment Office does not organize any opportunities for people with disabilities to attend the work place as an apprentice. Nor does it organize further study in specific skills for a particular job supported employment training or "vocational rehabilitation or professional rehabilitation training" for people with disabilities. There have only been a few cases in which persons with disabilities have been sent to adult vocational training by an Employment Office.⁶⁰

⁵⁸ Social Insurance Board.

⁵⁹ Panel discussion.

⁶⁰ *Social Protection of the Unemployed Act* RTI 2000, 57, 371 (entered into force 1 October 2000, last amended 9 February 2005), www.legaltext.ee, (Accessed 9 June, 2007).

Health Services

The Ministry of Social Affairs provides funding specifically for the rehabilitation of people with disabilities. Rehabilitation involves the development of skills and capabilities of people with disabilities and the provision of support systems. It is targeted towards furthering one's ability to cope and reduce their need for personal assistance or support.⁶¹

People with disabilities may be directed to rehabilitation services when they apply for an examination of their degree of disability. Rehabilitation services are provided by a rehabilitation team, which first prepares a rehabilitation plan and applies the measures specified in the plan.⁶²

A rehabilitation plan is prepared for an adult or child with disabilities on the basis of instructions from the Medical Commission – or a medical expert who has entered into a contractual agreement with the Social Insurance Board to perform medical examinations.⁶³ On the basis of the rehabilitation plan, the Commission can identify a person's need for personal assistance and the estimated additional expenses incurred by the person's disabilities. The personal rehabilitation plan is a written, legally binding document, the form of which cannot be altered because it is official document, ratify by Social Ministry.⁶⁴

Active rehabilitation is carried out at a rehabilitation institution that has been granted a license by the Ministry of Social Affairs. Rehabilitation centers approved by the Ministry of Social Affairs are mostly established in cities. Thirty-nine centers were licensed in 2004, and 12 of them are in Tallinn.⁶⁵ The centers primarily offer

⁶¹ *Rehabilitation services*, Ministry of Social affairs. www.sm.ee, (Accessed 9 June 2007).

⁶² *Social Benefits for Disabled Persons Act*, Article 2 (2) Ministry of Justice, Social Benefits for Disabled Persons Act, Article 2 (2). www.legaltext.ee, (Accessed 9 June 2007).

⁶³ *Regulation No. 9 of the Ministry of Social Affairs of 8 January 2002*, on the Procedure for Determining the Degree of Severity of a Disability and Identifying Additional Expenses, RTL 2003, 26, 397, Article. 2(2), Ministry of Justice, www.legaltext.ee, (Accessed 9 June 2007).

⁶⁴ *Regulation 9/2003*, Article 2 (2). Regulation No. 9 of the Ministry of Social Affairs of 8 January 2002.

⁶⁵ *Statistic of welfare services for disabled people* (In Estonian) Ministry of Social Affairs. www.sm.ee, (Accessed June 9th 2007).

psychological and psychiatric counseling, speech therapy, and physiotherapy consultations. A rehabilitation allowance is paid for the active rehabilitation of a person who is aged from 16 to 65 and has disabilities. The allowance provides partial compensation of related costs.⁶⁶ People with disabilities are guaranteed the right to the necessary technical aids and rehabilitation services that are financed from the State Budget.

Technical aids are reimbursed by the government. There is a private organization “Invaru” where people with disabilities can obtain auxiliary materials and technical aids. The Social Ministry reimburses a percentage of the cost (30-90 percent) in cases where the need for technical aid is mentioned in the rehabilitation plan.⁶⁷

Access to health care services are guaranteed for people with disabilities by law and give people with disabilities the right to use the same health services as all citizens. People with disabilities also have the right to access rehabilitation services.⁶⁸ All people are covered with health insurance for first aid. People with disabilities are able to apply for health insurance.

Support organizations for people with physical disabilities have been lobbying to change Estonian legislation. EU documents such as the Malaga declaration and the action plan 2006-2015 of the European

Council work to raise the quality of and access to health care services for people with disabilities.⁶⁹ No special law or “soft” document, such as bill of patients’ rights, has been adopted in Estonia.⁷⁰

There have been two drafts of patients’ rights law in Parliament, but neither was adopted because of the strong opposition from medical practitioners. Some patients’ rights principles have spread into

66 Sõmer S., *The Magic Word – Rehabilitation*, (in Estonian), in Sinuga No. 2/2000; www.epikoda.ee.

67 *Social Benefits for Disabled Persons Act*.

68 *Healthcare law* www.riigiteataja.ee, (Accessed 9 June 2007).

69 Eesti Liikumispuudega Inimeste Liit (Estonian physically disabled people support organisation), www.elil.ee, (Accessed June 9 th 2007).

70 *Healthcare law*.

different legislative acts. Some rights have been generally described in legislation, but lack any stipulation as to how such principles should be implemented in practice.⁷¹

There is much disagreement among legislators regarding how to handle these problems; some patient rights are missing from legislation altogether. Existing legislation sometimes violates internationally accepted grounds regarding patients' rights. As a result, patients' rights are not adequately realized.⁷²

Special additional trainings for doctors are provided by Center for Continuing Medical Education, University of Tartu. On the list of courses for 2007, were trainings about ethics in medicine and patient rights in medicine but not special courses how to work with people with disabilities. Courses are divided by specialty, so if for example, a dentist has no interest to work with psycho-social disabled patients, there are no rules to force that doctor to participate in courses about psycho-social disability.⁷³

Housing

In Estonia there is no established policy for addressing the housing issue to provide adequate housing for people with disabilities. Nor is there any facility, which provides peer counseling or referral services for housing acquisition. The concept of independent living is covered lightly in various Ministry of Social Affairs documents plan for development 2007-2010 Social Affairs ministry,⁷⁴ as a result of a roundtable *Main obstacles of mental health 2002* (organized by Center of policy studies Praxis where housing was pointed out as a one of the main issues for mental health and life quality.⁷⁵

⁷¹ Estonian Patient Advocacy Association, www.epey.ee, (Accessed 9 June 2007).

⁷² Ilves P., Estonian Patient Advocacy Association, Interview by the Author, Tallin 12 June 2006.

⁷³ Medical science department training plan for courses 2007 (In Estonian), www.kliinikum.ee, (Accessed June 9th 2007).

⁷⁴ Ministry of Social Affairs, www.sm.ee, (Accessed 9 June 2007).

⁷⁵ Center of policy studies, www.praxis.ee, (Accessed 9 June 2007).

The government remains the main source of funding for large support institutions.⁷⁶ The State is also funding supported employment and supported living as well institutional care for people with special mental health needs and intellectual disability, as they are among those most at risk of exclusion.⁷⁷

Subsidies and/or supports for housing of the disabled are very limited. Because accessibility to housing is the responsibility of local municipalities, much variation results. Special housing services are provided for people with psycho-social disabilities and people with intellectual disabilities.

The Social welfare services provided to an insured person with a disability are dictated in his or her rehabilitation plan. Services are financed by the state budget which is based on the number of people cared for. The individual sums stated for each service are different.

However, neither the quality nor the accessibility of community-based services is satisfactory. Services are underfinanced and most people with disabilities are not able to get the assistance they need as a result. Movement from residential care to the community-based services is developing too slowly.⁷⁸

Institutionalization

There are 86 institutions in Estonia operating with the specific mission of providing long-term housing and care to people with disabilities. A total of 4,324 individuals live in these institutions.⁷⁹ The biggest institution is Valkla Hooldekodu, which has 300 clients.⁸⁰ Because the Estonian population is relatively small as compared to other nations, the size of even its largest long-term institution is also fairly small.⁸¹

⁷⁶ Statistical analyze Social protection, Statitctical database, www.stat.ee, (Accessed 9 June 2007)

⁷⁷ Estonian Disability Chamber, Report of disability legislation, www.epikoda.ee (Accessed June 13th 2007).

⁷⁸ Panel discussion.

⁷⁹ Statistical analyze Social protection, Statitctical database, www.stat.ee, (Accessed 9 June 2007)

⁸⁰ *Ibid*

⁸¹ Statistical database 2005 , www.stat.ee, (Accessed 9 June 2007).

Services provided by these institutions are mostly acute care. Rehabilitation services have become available in the last few years. Community-based services, such as supported living, are generally provided by institutions. Disability organizations disagree with statistical information about amount of service users who live independently because most of them still live close to the institutions area and have developed little autonomy.

Most of the people in an institution are those who have psycho-social or intellectual disability. There is no separate institution for people who use different types of services. In one institution people can receive long-term housing, court-ordered institutional care, specialized care for the elderly and care for people with disabilities.⁸²

People can only be placed in an institution against their will by a court order. The court may give such permission if a person poses a danger to himself or society. In accordance with the Code of Civil Procedure, such placement against one's will is decided by the courts on the grounds of a petition which can be initiated by any number of people: the person to be placed under guardianship; and a close family member, such as a parent, an adult child or a cohabitant husband or wife. The institution to provide the guardianship may also initiate the petition as can the state.⁸³

There is no mechanism for reporting incidences of abuse in such institutions.⁸⁴ Institutions must report any incidences of death on the premises, a process which is regulated by the government and obligatory for all welfare institutions.⁸⁵

There is no regulation of compulsory treatment in cases where the patient is deemed competent to give the consent, but is legally

⁸² Panel discussion.

⁸³ *Code of Civil Procedure* RTI 1998, 43-45, 666, Article. 258 (entered into force 1 September 1998, last amended 1 March 2005); see: U. Mereste, *The Lexicon of the Economy II*, Estonian Encyclopedia Publication, Tallinn, 2003, 360. Ministry of Justice, www.legaltext.ee, (Accessed 9 June 2007).

⁸⁴ Regulation No. 4 *Obligatory requirements for welfare institutions and welfare services* [RTL 2005, 54, 773 – come into effect on 27.05.2005] Ministry of Social Affairs, www.sm.ee, (Accessed 9 June 2007).

⁸⁵ *Ibid.*

under guardianship (both the children and adults) Patients who are compulsorily admitted to a hospital are not entitled to giving consent to treatment or the release of their health information. Both the admission and consent to treatment is described in special legislative acts such as Law of Psychiatric Assistance, Law of Obviation of Infectious Diseases.⁸⁶

A right to social integration is not protected at all within the legislation. There is a considerable lack of society-based services to aid social integration. Some attempts have been made to provide rehabilitation by the state but accessing such services is often impossible due to over-bureaucratization or the lack of funding. There are many barriers which make it impossible to get nursing and other care services at home. There is also a lack of humane services and solutions for terminal care. Institutionalized services are overused as hospitals and care homes are often the only options for subsistence and health maintenance.⁸⁷

The Patients' Right Advocacy Association (EPAA) monitors conditions in these institutions. However, like for many other NGOs for EPAA, it is not easy to monitor all their activities. People from all regions of Estonia can ask help from the EPAA. Their services are provided by three lawyers and three patients' advocates located in the four largest cities of country: Tallinn, Tartu, Viljandi, and Pärnu.⁸⁸

EPAA receives several complaints about the poor quality of institutionalized services in the Northeast of Estonia (a mostly Russian-speaking population).⁸⁹ Each institution investigated by the EPAA receives literature about the rights of residents and the staff is instructed on the importance of taking residents' rights more seriously.⁹⁰

⁸⁶ Estonian Patient Advocacy Association, www.epey.ee, (Accessed 12 June , 2006).

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

Accessibility

Currently, there is legislation stating that public buildings and facilities must be accessible to people with disabilities.⁹¹ Local governments observe accessibility regulations in the built environment but there is no real enforcement. The following measures have been promoted in a few places like: the main post office, new buildings for public use (government buildings, big marketplaces, schools, etc.). In order to facilitate accessibility in (more developed areas), the pavement is leveled off, parking areas are marked, automatic doors are installed, and lifts and accessible toilets are made available. Rarely, contrasting colors are utilized in public places for the visually impaired. The most difficult obstacles, when planning to build accessible environments, are attitudinal factors.⁹²

The public transportation system in the capital city, Tallinn, is not accessible to people with disabilities. It is the responsibility of local government to provide accessible transportation services. Since the resources of the various municipalities vary by regions, there is no common system or guarantee of access. According to the government, gasoline for private transportation used by people with physical disabilities is to be compensated. Persons with severe disabilities have the right to full compensation for public transportation and persons with less severe disabilities are compensated for half their expenses. There is no compensation to support persons who accompany the disabled but there is free transportation for guide dogs used by the blind.⁹³ For children with disabilities there are free of charge buses providing transportation to and from school. Transportation remains, however, one of the main problems facing those people with disabilities who need it in order to work.

The Estonian Physically Disabled Persons Support Organization worked on a project (founded by the EU) which focused on monitoring

91 Nõuded liikumis-, nägemis- ja kuulmispuudega inimeste liikumisvõimaluste tagamiseks üldkasutatavates ehitistes, Majandus- ja kommunikatsiooniministri 28. novembri 2002. a määrus nr 14, (Rules for make public buildings accessible for disabled people, statute from communication and economics ministry)www.riigiteataja.ee.

92 http://www.independentliving.org/standardrules/UN_Answers/Estonia.html.

93 Representative of Blind People support organisation, Panel discussion.

accessibility in the capital. The results showed that the current state of accessible public transportation is very poor. For many years such organizations communicated with the Transportation Ministry about the need to buy accessible buses and replace bus line plates with larger numbers for the visually impaired. Still no real improvements have been made and accessibility continues to be a problem.⁹⁴

There is no special means to make governmental websites accessible for people with disabilities. Access to public websites; access to information & telecommunications technologies are the matters what currently have not been focused on so much. The bodies responsible for this field are Estonian Informatics Centre and the Estonian Ministry of Economics and Communication. Contacts to improve accessibility of web-sites have been introduced with the Estonian Informatics Center.⁹⁵ Several times, non-binding declarations about the accessibility of websites for disabled people were discussed. Information policy principles that were approved by Parliament in May 1998 are becoming the main documents for establishing a framework for building an information society and defining national priorities for realizing this framework.

The European Commission⁹⁶ declared at a meeting in Lisbon, 23-24 March 2000 that accessibility to an e-society for people with disabilities must improve and that governmental websites must be accessible. To date, there have been some projects supported by Social Ministry and run by different local Estonian NGOs to improve computer using skills for the people with disabilities.⁹⁷ Governmental websites remain inaccessible for people with disabilities.

Culture, Sports, and Recreation

There is no governmental entity responsible for areas related to culture, sports or recreation for people with disabilities. Activities in these areas are carried out by NGOs with are supported by various foundations. Their work is based on projects which does not support

⁹⁴ Panel discussion.

⁹⁵ *Ibid.*

⁹⁶ EU Commission, http://www.europa.eu/institutions/inst/comm/index_en.htm (Accessed 10 July 2007).

⁹⁷ Innovation IT solutions site Estonia, www.esis.ee, (Accessed 9 June 2007).

stability and development as projects are short term and do not give continues development for regular sport activities for disabled people. For example, the city of Tallinn supports athletic activities for people with disabilities through various NGO projects.⁹⁸ The Estonian Union of Sports for the Disabled has existed for 15 years, but is not very active in these activities. The Union consists of 19 member organizations and hosts few activities per year.⁹⁹

Disability Awareness and Action

The Ministry of Social Affairs is a focal point for disability planning and it also has responsibility for developing Estonia's National Action Plan for Social Inclusion (NAPs). In its recent plan, the visibility of disability issues has improved. In the previous Plan for 2004–2006, rights and inclusion plans for people with disabilities was mentioned only briefly.¹⁰⁰

The Estonian disability movement is organized so that there are nation-wide disability specific NGOs (at the moment 30 NGOs are in operation nationwide). Additionally, there are 16 regional boards of disabled groups, representing disability in each of the 15 Estonian counties and in the capital of Tallinn. The Estonian Chamber of Disabled People is the national umbrella organization for people with disabilities in Estonia. The Chamber has 46 member organizations.¹⁰¹ These organizations formed a lobbying group called the Forum, which strives for more effective advocacy work and a stronger connection with politics and ministry representatives.¹⁰² Disabled Peoples' Organizations are covered by general law on NGOs.¹⁰³ The network of disability organizations in Estonia work together, to form a better partnership with the public sector. The main purpose of these organizations is to participate in policy creation. As such, members

⁹⁸ Sports and Youth Department of city Tallinn, (Support for sport projects) 2006, www.tallinn.ee, (Accessed 11 June 2007).

⁹⁹ Estonian Union of Sports for the Disabled, www.eil.ee, (Accessed 9 June 2007).

¹⁰⁰ National Action Plan (NAP), Ministry of Social Affairs, www.sm.ee, (Accessed 9 June 2007).

¹⁰¹ Estonian Chamber of disabled people, www.epikoda.ee, (Accessed 9 June , 2007).

¹⁰² *Ibid.*

¹⁰³ Äriseadustik (Business Code), Ministry of Justice, www.legaltext.ee, (Accessed 9 June 2007).

from each group meet on a monthly basis and every three months, where they organize meetings with government officials to discuss making policy changes to benefit their communities.¹⁰⁴

¹⁰⁴ Estonian Chamber of disabled people, www.epikoda.ee.



FINLAND

Key Factors

Finland became a member of the European Union in 1995, and joined the Euro zone¹ in 2002. Its population is 5.3 million. The sixth largest country in Europe in area, Finland has a low population density (15.5 people per square kilometer). Approximately two-thirds of Finns live in

urban areas. The capital, Helsinki, has 561,000 residents, and the metropolitan region (including Helsinki and its neighboring cities Espoo and Vantaa) has well over one million Finns.²

After a severe economic depression in the early 1990s, there has been a long period of economic expansion. Major reforms in social welfare and pension systems were undertaken in the late 1990s to prepare for the demographic challenge of a rapidly aging population. Responsibility for the provision of services and assistance rests mainly on the 417 municipalities, many of which face economic challenges. Decentralizing service provision to municipalities led to increasing inequalities between people in different parts of the country. Since the depression, social exclusion has increased markedly, and those outside of the labor market have remained economically behind. The 2005 estimate of GDP per capita is \$31,000. The average income

¹ Euro zone refers to the sub-group of European Union member states which have adopted the euro.

² CIA World Factbook 2006. *Fact sheet Finland* www.virtualfinland.fi; Economist country briefings www.economist.com, (Accessed 29 January 2007).

is around €2,100 per month, while that of individuals relying on state pensions is €600.³

Terminology

A paradigm shift from the medical model to the social model of disability occurred during the 1980s. The terminology and goals of the UN Standard Rules terminology and goals have influenced legislation, for example through language used in stating legislative purpose.⁴

The traditional Finnish term for a person with a disability was “invalidi,” derived from the Swedish “invalid.” This has now largely been replaced in Finnish by ‘vamma’ and ‘vammainen’ (disability, disabled, respectively), which are used adjectivally as “disabled person” or “person with a disability.” Regarding intellectual disabilities, current laws dating from the late 1970s employ the terms “mental handicap” and “mental retardation.” Some associations still retain these phrases in their names. The Finnish word that is more currently used and accepted for intellectual disability is “kehitysvammaisuus,” Disabled People’s Organizations (DPOs) emphasize that disability-related concepts must be accepted by the group that they refer to. The change from referring to “the disabled” as a separate segregated group to referring to disability as one aspect of the person has only been embraced by DPOs.⁵

Definition of Disability

Definitions of disability in legislation reflect some progression from the medical model focusing on individual impairments, to the social model of disability, which includes the consideration of barriers to participation in the community and implies the need to remove

³ Justander Pirkko, representative of EAPN/Fin European Antipoverty Network, interview by author, Helsinki, 18 November 2006.

⁴ Observation by the Author.

⁵ Panel discussion with Jaana Penttilä and Ilona Toljamo, leaders of disability organizations, conducted by the author, Helsinki, Finland, 24 October 2006.

them to alleviate consequences of impairments and disability.⁶ The shift in perspective is evident in descriptions of legislative purpose. For example, the purpose of the Services and Assistance for the Disabled Act (1986/380) is expressed in terms consistent with the social model: “[...] to improve the ability of a disabled person to live and act as a member of society in equality with others and to prevent and eliminate the disadvantages and obstacles caused by disability.”⁷

In contrast, the definition of an individual with a disability is focused more on functioning: “a person who, because of his or her disability or illness, has special long-term difficulties in managing the normal functions of everyday life.”⁸

It is important to know that alongside the general definition of disability, or rather an individual with a disability, in Section 2 of the Services and Assistance for the Disabled Act, there is a specific, service-related definition. For example, entitlement to transport services is defined in Section 5 of the Act as:

“In the arrangement of transport services and related escort services, a person shall be considered severely disabled if he has special difficulties in moving and owing to his disability or illness, he cannot use public transport without unreasonable difficulty.”⁹

The inclusion of social aspects of disability founded in this particular definition is also apparent in strategy and disability policy documents. The framing of disability around the concepts of participation restrictions and activity limitations in key European policy documents is evident.¹⁰

⁶ See ICF introduction <http://www3.who.int/icf/intros/ICF-Eng-Intro.pdf> (Accessed 4 April 2007)

⁷ *The Services and Assistance for the Disabled Act*, Section 1. (1986/380) <http://www.vane.to/disabilityact1987.doc> (Accessed 29 January 2007).

⁸ *Ibid.*, Section 2, Subsection 1.

⁹ *Ibid.*, Section 5.

¹⁰ *Trends in Social Policy and Welfare 2005*, 15; *Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015*. Adopted by the Committee of Ministers on 5 April 2006, revised European Social Charter (ETS No. 163), Article 15.

Moreover, the Act on Special Care of Mentally Handicapped Persons (519/1977) defines a person with a disability as:

“[One] whose development or mental functions are prevented or disturbed because of an illness, a defect or an injury that is congenital or has arisen at the developmental age and who have no access to the services they are in need of in virtue of some other law.”¹¹

In other laws, such as rehabilitation legislation, people with severe disabilities are defined through assessments of functional capacity or percentage of disability.¹² The Finnish system of disability evaluation uses two approaches: one is based on a “snapshot” of a person’s work capacity at a specified point,” and the other, the “procedural approach,” generally starts from a reference to the person’s previous job. This applies to those who have been working and a capacity profile approach to people without a recent work history.¹³ In fact, the definition of impaired functioning or disability for rehabilitation relies on a loss of capacity: “Rehabilitation benefits are available to individuals who experience a substantial impairment of working capacity or functioning or who are at risk of disability, and whose situation could be helped by means of rehabilitation.”¹⁴

The definitions included in the laws are also the ones that DPOs use. In terms of usage, most DPOs follow the recommendations

¹¹ *The Support and Assistance for the Disabled Decree*; Note of the Author: This has been developed in case law: see Rätty, Tapio. 2003.

¹² Level of disability is determined in percentages. Lack of capacity is measured on a scale - from a normal functioning capacity of 100% (0% disability to a lack of functioning (severe disability or 100% disability). A relevant scale is the classification of functional impairments (0-20). Loss of a finger is evaluated at class 1, and the need of constant daily care in either institutional or outpatient setting as 20). The classification is codified by ministerial decree. www.finlex.fi/fi/laki/ajantasa/1986/19861012. (Accessed 29 January 2007).

¹³ *Definitions of Disability In Europe A Comparative Analysis 2003*, 45. A study prepared by the Brunei University for the European Commission Directorate-General for Employment and Social Affairs Unit E.4, CE-V/5-02-004-EN-C http://ec.europa.eu/employment_social/index/complete_report_en.pdf. (Accessed 29 January 2007).

¹⁴ KELA – The Social Insurance Institution of Finland. *Guide to benefits 2006*, 37. <http://www.kela.fi/in/internet/english.nsf>. (Accessed 29 January 2007).

made in the 1981 International Year of the Disabled National Committee report.¹⁵

Other examples of specific definitions are constituted by:

- The Disability Allowances Act (124/1988), Section 2, which defines a person with disability as a person whose functional capacity can, due to an illness or an injury, be estimated to have decreased over a continuous period of at least one year is paid a disability allowance to compensate for the handicap, necessary assistance, services and special expenses;
- The National Pensions Act (347/1956), Section 30a, which states that a pensioner's care allowance is payable to a person whose functional capacity can be estimated to have decreased over a continuous period of at least one year due to an illness or injury, and who has turned 65 or receives a disability pension under this Act, a full disability pension or an early disability pension;
- The Act on Care Allowance for Children (444/1969), Section 2, which establishes that a care allowance is payable to a child who, for at least six months, due to an illness, a defect or an injury, is in need of care and rehabilitation to the extent that it will cause financial or other strain;
- The Act on Social Enterprises (1351/2003), Section 1, which refers to employment opportunities particularly for people with disabilities and long-term unemployed people. Under this Act, people with disabilities are characterized as employees whose potential for gaining

¹⁵ *Report by Committee of the international year of disabled persons 1981, Annex 2.* Helsinki: Ministry of Social Affairs and Health. Available only in Finnish. Translation by the author. Report not available in electronic format.

suitable work, retaining their job or advancing in it have diminished significantly due to an appropriately diagnosed injury, illness or disability;

- The Public Employment Services Act (1295/2002), chapter 1, Section 7, Subsection 1(6), a person with a disability means a jobseeker client who has considerably lower chances of finding suitable work, keeping his/her job or advancing in his/her job because of a duly confirmed injury, illness or disability.¹⁶

Disability Population

Compiling data on the disability population in Finland is complicated by the categorization of disability and/or health information as sensitive personal data. The collection of such personal information is prohibited by Section 3 of the Personal Data Act.¹⁷ In turn, questions about health or disability are not included in the National Census, and there has been no official survey of the disability population.¹⁸

The difficulties in identifying the disability community are symptomatic of information gaps and the evolving concept of disability. There is no single definition of disability in use. The number of persons with disabilities must, therefore, be estimated on the basis of various indicators: including number of persons eligible for disability services, affiliations or memberships of DPOs. Statistics are only available on specific impairment groups of whom registries are maintained, such as people with visual disabilities. The registry relies on doctors to send information about visual impairment diagnoses, so even this

¹⁶ Council of Europe, http://www.coe.int/t/f/droits_de_l'homme/cse/3_proc%E9dure_de_rapports/1_rapports_nationaux/Finland_2nd_Report.pdf (Accessed 26 January 2007).

¹⁷ Section 11, subsection 3: "the state of health, illness or handicap of a person or the treatment or other comparable measures directed at the person";

Background paper for MERA project. Mannila, Simo, the National Centre for Social and Welfare Research (STAKES), Helsinki, Finland. 2006. Unpublished paper.

¹⁸ Statistics Finland: Penttilä Jaana, Interview 24. November 2006. Ojamo.Matti. The Finnish Federation of Visually Impaired, director of the Register on Visual Impairments. 29 November 2006. Helsinki, Finland.

method is not fully reliable. The number of persons in the visual impairment registry is around 80,000.¹⁹

General estimates on disability vary widely: According to one governmental source, about five percent of the population has a significant impairment in the form of disability or illness.²⁰ Another source states that 12 percent of Finns have some kind of disability, but that only 0.75 percent of the general population has a severe disability.²¹

The 2006 government's review of disability policy includes an overview of existing research and data. This review was compiled by the National Center for Social and Welfare Research (STAKES) for the Ministry of Social Affairs and Health. It is comprehensive and offers a survey of background material, but it recognizes a lack of recent data.²² According to social policy trends and strategy documents for the next decade, the prevalence of disability is expected to rise considerably due to aging population, although the lack of statistics makes it difficult to gauge any major changes statistically. For instance, visual disabilities become markedly more prevalent in adults over the age of 65.²³

While some efforts have been made to gather statistical data regarding the disability community, these tend to offer a limited, disability-specific view of the distinctive community.²⁴

¹⁹ Penttilä Jaana, November 2006. Ojamo.Matti. The Finnish Federation of Visually Impaired, director of the Register on Visual Impairments. Helsinki, Finland 29 November 2006. Interviewed by Author.

²⁰ *Social Welfare in Finland*, 2006, 1 eng., 21 Helsinki: Ministry of Social Affairs and Health. Ministry publications in English series, publication number 2006:11 eng.

²¹ Government review on disability policy, 2006:13-14. *Towards a society for all, National action plan on disability in Finland*. Ministry of Social Affairs and Health 1996, 10.

²² *Background Information for the Government's Disability Policy Report*. Ministry of Social Affairs and Health. Helsinki, 2006.

²³ Matti Ojamo, director of the Register on Visual Impairments, The Finnish Federation of Visually Impaired, interview by author, Helsinki, Finland, 29 November 2006.

²⁴ *Ibid.*

Legislation and Disability Rights

National Protections

The urgency to respond to the needs of disabled war veterans after the Second World War gave considerable impulse to the development of Finnish disability legislation in the 1950s and 1960s. However, discrimination on the grounds of disability was not prohibited specifically until the Constitutional Act of Finland was reformed in 1995. The Constitutional Act of Finland (731/1999)²⁵ cites disability as one of the prohibited grounds of discrimination. Precisely, the Constitutional Act includes a blanket prohibition of disability discrimination in the areas of employment, education, and access to goods and services that are open to the public.

Another legislative milestone was in 1986, when the Services and Assistance for the Disabled Act was adopted. The Act requires municipalities “to ensure that services and assistance for people with disabilities are provided in the form and on the scale needed in the local community.” Services for people with disabilities should also be available in their mother tongue.”²⁶ The services and assistance needed by people with disabilities should be planned to help people live independent lives. “To this end, a service plan should be drawn up in cooperation with the disabled person and his or her parent or guardian, defining the services and support needed. Municipalities are required to provide reasonable transportation services for people with severe disabilities, including escorts, interpreters and service housing. People with severe disabilities should also be reimbursed for necessary alterations in their housing arrangements and the expenses incurred in acquiring equipment and appliances needed in the home.”²⁷

The Act also mentions services and assistance that can be provided by municipalities within the framework of their budget appropriations

²⁵ *The Constitutional Act of Finland (731/1999* <http://www.eduskunta.fi/kirjasto/Lait/constitution.html> (Accessed 29 January 2007).

²⁶ *Statutory social welfare and health care services*. Brochures of the Ministry of Social Affairs and Health 2001:7eng Ministry Of Social Affairs and Health. Helsinki 2002. <http://pre20031103.stm.fi/english/pao/publicat/statutory/statutory.pdf> (Accessed 29 January 2007).

²⁷ *Ibid.*

for the purpose. These include rehabilitation counseling, adjustment training and reimbursement of the cost of hiring a personal assistant. "Municipalities may also provide sheltered work or other forms of occupational activity. A Government bill regarding changes in the sheltered work system was submitted in autumn 2001."²⁸

Indeed, the Non-Discrimination Act prohibits discrimination at work or in educational institutions on the grounds of disability or ethnic origin, for example.²⁹ Another law, the Act on the Status and Rights of Patients (1992/785), is very relevant to people with disabilities. The Act includes a specific chapter—Chapter 2—on the rights of patients, in particular the right of patients to good health care and treatment (Chapter 2, Section 3). The Act also includes the provision that the patient shall be treated in co-operation and in understanding with the patient.³⁰ The Act on the Status and Rights of Social Welfare Clients (812/2000) is also pertinent to social services. The objective of the act is to foster "a client-oriented approach, support the client's right to good social welfare, and further client and welfare personnel commitment to jointly agreed matters. The Act lays down the key legal principles related to client participation, treatment, and legal protection in social welfare matters. It clarifies the implications of fundamental rights in social welfare and specifies the issues covered by data protection. It applies to social welfare provided by both the public and the private sector."³¹

There are protections targeting specific populations such as the Act on Special Care of the Mentally Handicapped (519/1977), which stipulates what special care of people with intellectual and psycho-

²⁸ *Ibid.*

²⁹ *The Non-Discrimination Act* (24/2004), in Finnish Yhdenvertaisuuslaki.

³⁰ *Regulatory Developments in Genetic Testing in Finland Organisation for Economic Co-operation and Development* http://www.oecd.org/document/24/0,2340,en_2649_37437_2404248_1_1_1_37437,00.html (Accessed 4 April 2007).

³¹ Ministry of Social Affairs and Health Website <http://pre20031103.stm.fi/english/pao/publicat/rights.htm> (Accessed 4 April 2007)

Laki potilaan asemasta ja oikeuksista (1992/785). (In Finnish) English translation not available in Finlex data bank.

social disabilities should be provided, including for example special housing services.³²

International Protections

Finland's government actively supported the creation of the United Nations Convention on the Rights of Persons with Disabilities. The department mostly responsible for conducting the negotiations was the Finnish Ministry of Foreign Affairs. The Finnish Ministry of Social Affairs and Health also played a role. Finnish delegations to the Ad Hoc Committee included representatives of Finnish disability NGOs.³³

Furthermore, Finland signed and ratified the European Social Charter of 1961 and the revised European Social Charter of 1996. It also ratified the protocol enabling collective complaints under the European Social Charter.³⁴

Additionally, Finland has inclusive development policies that benefit persons with disabilities. According to the government, the principles and policies according to which Finland acts to improve the circumstances of developing countries and the living conditions of their inhabitants is not only part of Finland's foreign policy, but also involves activities within Finland itself. The main goal of Finland's development policy is to contribute to the eradication of extreme poverty from the world. Finland's development policy is steered by the government resolution on development policy from February 2004. One of the cross-cutting themes in the implementation of the Finnish development policy is the promotion of the rights of equal participation opportunities for people with disabilities.³⁵

³² . *Provisions presented in English in Guide for Disabled Immigrants*. Helsingin Invalidien Yhdistys, HIY. In Finnish Laki kehitysvammaisten erityishuollosta. English translation not available in Finlex data bank.

³³ *Reports of the Finnish Delegation to 3rd, 4th, 5th, 6th, 7th and 8th sessions of the Ad Hoc Committee*. Unpublished reports Ministry of Foreign Affairs.

³⁴ Council of Europe website on European Social Charter http://www.coe.int/t/e/human_rights/esc/5_survey_by_country/Finland_Factsheet_Finland_2006_EN.pdf. (Accessed 27 November 2006).

³⁵ Ministry of Foreign Affairs of Finland Website <http://formin.finland.fi/public/default.aspx?nodeid=15346&contentlan=2&culture=en-US> (Accessed 29 January 2007).

In 2003, the Ministry for Foreign Affairs assigned STAKES, the National Research and Development Center for Welfare and Health, to undertake an evaluation of all development cooperation in disability issues funded by the Finnish government over a ten year period. The study found that the Finnish government has targeted a total of approximately €32.3 million to disability-specific development cooperation since 1991. This is about 5 percent of the total funding for Finnish development cooperation. The lion's share of the funding has been channeled via Finnish NGOs (70 percent). Most of the projects were small and involved a local NGO or a local institute in a developing country as a partner. The assistance had often focused on the development of separate institutions for people with disabilities, but there were an increasing number of projects strengthening DPOs, and some innovative approaches, such as supporting sports activities. Bilateral cooperation between governments has been included in just six projects.³⁶

Legal Barriers

The Finnish Act on Guardianship (449/1999) regulates guardianship or legal representation. With respect to adult people, the objective of guardianship is to look after the rights and interests of persons who cannot themselves take care of their financial affairs due to "illness, disturbed mental faculties, diminished health or another comparable reason."³⁷ The tasks of a guardian are set by the Registry Office or the District Court. Normally, the guardian is assigned to look after the property and financial affairs of the client.³⁸ In addition to financial affairs, the guardian must see to it that the client receives suitable treatment, care and rehabilitation. If necessary, the guardian must be in contact with the municipal medical and health care authorities, for example. He or she must also see to it that the client has enough of his or her own money for personal use and must keep accounts of the client's assets and liabilities and of the events of the

³⁶ Finnish Disabled people's International Development Association. www.fidida.fi. (Accessed 29 January 2007); Ministry for Foreign Affairs of Finland.

³⁷ The Finlex database. <http://www.finlex.fi/en/laki/kaannokset/1999/en19990442.pdf> (Accessed 29 January 2007).

³⁸ Registry Offices operate as guardianship authorities. They supervise the activities of the guardians. The Offices also maintain the register of guardianship affairs, which can be accessed e.g. when there is a need to find out who is the guardian of a given person.

accounting period. The guardian needs the permission of the Registry Office for certain important transactions, for example, to buy or sell real estate.³⁹

If a person is a danger to himself or to others, guardianship can be imposed over the individual's objection. Should a person lack the legal capacity to act, an official guardian may be assigned. Issues under civil law, such as divorce, are not within the limits of power invested in the legal guardian.⁴⁰

In addition, according to this law, if the measure of assigning a legal representative is not considered to be sufficient to secure his or her interests, the court may limit his or her capacity to act by rendering a decision stipulating that:

- “1.) the person can only effectuate certain legal actions or manage certain properties only acting together with the legal representative;
- 2.) the person has no capacity to act in certain legal actions or manage certain property; or
- 3.) the person is declared to have a reduced legal capacity to act.”⁴¹

However, capacity to act can only be restricted to the extent necessary to protect the interest of the individual. The restriction can not extend to any such legal action for which capacity is provided to an individual with reduced legal capacity.⁴²

In terms of enforcement, it is important to note that there are no specific sanctions directly under the Services and Assistance for the Disabled Act. Municipal social welfare officers in their capacity as public officials do fall under the provisions of the Penal Code. However, criminal prosecution is very rare, if not nonexistent,

³⁹ The Ministry of Justice. <http://www.om.fi/Etusivu/Julkaisut/Esitteet/Holhoustoimenpalvelut/Edunvalvojantehavat?lang=en> (Accessed 29 January 2007).

⁴⁰ *The Finnish Act on Guardianship* (449/1999) <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990442.pdf>, (Accessed 29 January 2007).

⁴¹ *Ibid.*

⁴² *Ibid.* <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990442.pdf>, (Accessed 29 January 2007).

against officials for failure to correctly apply the law to protect the rights of people with disabilities. In turn, apart from having a negative decision overturned on appeal, there are no other forms of sanction or compensation available to the individual client for having been unjustly denied necessary assistance.⁴³ The lack of any legal redress for violations of fundamental rights has been highlighted by the Parliamentary Ombudsman, who stated in her Annual Report 2005: “[The] Finnish system as presently constituted does not, however, provide an effective and comprehensive legal remedy in the form of redress for a violation of a fundamental right.”⁴⁴

Additionally, the implementation and availability of disability services remain problematic, despite changes in legislation. There are major differences in availability of services based on both region of the country and type of disability. In relation to the existing need, there are significant shortages of available interpretation, transportation, and personal assistance services. The minimum amounts of service in the Decree on Services and Assistance for the Disabled have become maximum amounts allotted in practical implementation. For instance, a person who is deaf-blind is entitled to 240 hours of interpretation service per year (around 40 minutes per day). However, he or she must file a separate application for any hours needed on top of the minimum, and make a case for why they are necessary. A related problem is an insufficient number of interpreters available and, among this limited group, there are serious disparities between different regions. There are similar problems in availability of personal assistants. In 2004, around 4,300 persons with disabilities had personal assistants, which compares with 1,300 in 1990.⁴⁵

Assistance and services depend on the municipalities’ financial status. Apart from a limited number of protected services, most are

⁴³ Panel discussion 24 November 2006; Toljamo Ilona, services manager, Finnish CP-Association. Iiris. The Service and Activity Center for the Visually impaired, Helsinki.

⁴⁴ Parliamentary Ombudsman, *Summary of the Annual Report 2005*, Helsinki.

¹⁰ <http://www.oikeusasiamies.fi/dman/Document.php?ea/english/annualreports/2005en?folderId=ea%2Fenglish%2Fannualreports&cmd=download> (Accessed 25 January 2007).

⁴⁵ Social Welfare in Finland, *Brochures of the Ministry of Social Affairs and Health 2006:11 eng* Ministry Of Social Affairs And Health. Helsinki. 22

only awarded within discretionary budget limits.⁴⁶ Therefore, even if a person is clearly entitled to services or assistance under the law, the municipal social services can reject a meritorious claim on the basis of lack of funds.⁴⁷ This can lead to unequal treatment, unreasonable delays, and unnecessary appeals for individual clients.

Civic Participation

People with disabilities have the right to vote in Finland and polling places must be accessible. According to the estimate of director of Election Processes at the Ministry of the Interior, the percentage of accessible polling places is 80 to 100 percent.⁴⁸ Voting assistants are available in each polling place, and voters may bring assistants of their own. However, access issues remain, as several voting locations are in old and inaccessible buildings. It is important to highlight that architectural barriers receive more consideration and finding solutions to physical access problems can be easily found. On the other hand, the lack of information in accessible formats is one major barrier to participation in the political process, particularly to people with learning, visual, or communication disabilities.

Election to public office is open to persons with disabilities on an equal basis with persons without disabilities. In terms of participation in political life, it is worth noting that the Finnish Parliament had its first parliamentary member of a person with a disability in 1983. During his term of office (1983-1987), major pieces of disability legislation were enacted.⁴⁹ Indeed, Finnish government and ministries have

⁴⁶ The Act ensures for those people with disabilities who belong to the category of severely disabled, certain services and assistance as subjective rights (service housing, transport services and interpretation services, section 8 (2)). In 2004, there were about 100,000 people using disability services; 80 % of these persons used transportation services and 3.5% interpreter services. Home conversions were carried out for 5% of these persons, while 2.6% were accommodated in service housing. In 2004, about 26,500 people used services for people with intellectual disabilities. Of these, about 45% lived with their families and 12% independently, while 29% were accommodated in housing services, 10% in institutional care and 4% in family care. *Social Welfare in Finland, 2006*, 11 eng. Helsinki: Ministry of Social Affairs and Health, 22.

Jaana Penttilä. Finnish Federation of Visually Impaired. 24 October 2006.

⁴⁷ Tapio Rätty. 2003. *Vammaispalvelut – vammaispalveluiden soveltamiskäytäntö*. Helsinki: Kynnyks ry. Book. Available only in Finnish. Translation by the author.

⁴⁸ Arto Jääskeläinen, Director of Election Processes, Ministry of the Interior, interview by author, Helsinki, Finland, August 2006.

⁴⁹ Biography of Könkkölä, Kalle. *Huoneekseni tuli maailma*. WSOY, Porvoo, 1996.

senior officials with disabilities. There are also people with disabilities employed in middle levels of the government. For example, the National Council of Disability has officials with disabilities, including the Secretary General.

Finally, people with disabilities have the right to immigrate and/or seek asylum on an equal basis with others. The same is true regarding the right to form associations and to have children. In principle, people with disabilities have equal opportunities to be considered as adoptive parents. However, in practice negative attitudes and prejudices may cause adoption officials to reject applications from persons with disabilities. Justification for denial is often grounded in the view that such parents are incapable of providing for the best interests of the child. There is little data available on individual cases, and evidence of prejudice is primarily anecdotal.⁵⁰

Inclusion

Communication

According to the Celia Library, the national library for people with visual impairments, and the Parliament librarian, neither the government nor organizations provide a full Braille version of the Constitution. Furthermore, it is not available in full text in large print or alternative formats.

In national broadcasts, the government communicates its ongoing activities in alternative formats, including sign language interpreters for the Finnish Broadcasting Company's news channel.⁵¹ The national news is not captioned for viewers with auditory disabilities, but there is a subtitling service. The Constitution states that "[t]he rights

⁵⁰ Pirkko Justander.

⁵¹ 35. "YLE is increasing subtitled domestic programs in digital channels". The increase is from current, ca 20% of domestic programming to ca 30% from the beginning of 2007. Source: YLE sign language news, 15 November 2006. <http://www.yle.fi/viittomakielisetuutiset/oikea/id47320.html>.

of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act.”⁵²

In case of a natural disaster, civil emergency, or criminal assault, people with speech impediments or hearing impairments can communicate with authorities through TTY and SMS messages. However, the messaging system has major problems in functioning. The “112” emergency numbers cannot be reached via text messages. While regional centers that receive 112 calls have distributed mobile numbers to deaf clients for emergency use, the system does not serve deaf clients equally or with adequate speed.⁵³

The national library provides materials in alternative formats, which are updated simultaneously with the general material. In practice, the yearly budget for new acquisitions includes a limited amount for alternative formats. The pace of renewal is slower for alternative materials than for others.

In terms of website accessibility, many governmental websites state their compliance with accessibility criteria, including the Ministry of Employment, Ministry of Social Affairs, Prime Ministers/Presidents office. The website of the Parliament has a Section on accessibility.⁵⁴ In March 2005, the Ministry of Transport and Communications published an action program to promote accessibility in communications. The objectives are to address the problems faced by elderly persons and persons with disabilities as users of communication instruments,

⁵² The Finlex Database, <http://www.finlex.fi/pdf/saadkaan/E9990731.PDF>, (Accessed 29 January 2007).

⁵³ Interview with Senior officer Tarmo Kopare, Ministry of Interior Department for rescue services, Helsinki, Finland, 2 August 2006. Interview with Antti Mäkipää, Communications officer, Finnish Federation of the Deaf 2 August 2006.

⁵⁴ “In realising the Eduskunta.fi –web service, special attention has been paid to the needs of specific target groups so as to reach “Conformance Level AA” This means that the service meets all accessibility criteria for levels A and AA The criteria for level AA are found at <http://www.intermin.fi/intermin/hankkeet/juhta/home.nsf/pages/indexeng> that contains Web Content Accessibility Guidelines 1.0 Verkkosisällön saavutettavuusohjeet W3C Recommendation 5-May-1999. The Advisory Committee On Information Management In Public Administration”

This information quoted from <http://web.eduskunta.fi/Resource.phx/eduskunta/tervetuloa/esteeton.htx> (Accessed 30th April 2007).

and to remove accessibility barriers. The program is available in sign language and plain language.⁵⁵

*Education*⁵⁶

In Finnish education legislation, the main principle is normalization. All children from the age 6-16 are under the obligation to receive education. The educational system in Finland is based on a nine year comprehensive school with mandatory attendance. It begins at the age of six-seven and ends at the age of 15-16. After graduation from comprehensive school there is a choice between general upper secondary school and vocational school. 1.) General upper secondary school provides general education leading to the national Matriculation Examination, which gives eligibility to all forms of higher education; 2.) Vocational upper secondary education is provided in multi-field and specialized vocational institutes, as well as in apprenticeship training. An Initial Vocational Qualification takes three years to complete and gives eligibility to all forms of higher education. In vocational further education and training, it is also possible to obtain Further Vocational Qualifications and Specialist Vocational Qualifications, which can only be taken in competence-based examinations and are mainly intended for employed adults⁵⁷.

The Basic Education Act Section 17 special-needs education establishes that a student who has moderate learning or adjustment difficulties is entitled to special-needs education alongside other teaching. If the student has “a disability, an illness, retarded development, an emotional disturbance or a comparable cause cannot be otherwise taught,” he or she must be admitted or transferred to special-needs education.⁵⁸ As far as possible, special-needs education should be organized in conjunction with other education or else in a special-needs classroom or some other appropriate facility. An individual educational plan has to be designed for the student.

⁵⁵ The Ministry of Transport and Communication. <http://www.lvm.fi/scripts/cgiip.exe/WService=lvm/cm/pub/showdoc.p?docid=2462>. (Accessed 25 January 2007.) (In Finnish).

⁵⁶ European Education Directory: <http://www.euroeducation.net/prof/finco.htm>) (Accessed 4 April 2007).

⁵⁷ *Ibid.*

⁵⁸ The Finlex Database. <http://www.finlex.fi/en/laki/kaannokset/1998/en19980628.pdf>. (Accessed 29 January 2007).

In order to make the decision to transfer a student to special-needs education, the parent/care giver of the student has to be consulted. Amendment 477/2003 of the Act requires a psychological or medical examination or a social background assessment of the student and his or her learning capacity, when it is possible. However, according to the law, the decision to admit or transfer the pupil to special-needs education belongs to the local authority of the pupil's place of residence on the education provider's referral. Section 25 on Compulsory education determines that if a child has a disability or illness, and the objectives set for basic education cannot be achieved in nine years, compulsory schooling shall begin one year earlier and be 11 years in duration. Section 39 on Supportive services relating to special-needs education establishes that the relevant Ministry may decide that the education provider must arrange rehabilitation in conjunction with special-needs education and see development, guidance and support relating to such education.⁵⁹

Historically, the segregation of special education and inclusion of pupils with disabilities in their communities dates from the mid-1970s. The existence of special classes within normal schools has underlined the process of integration. However, this process has a long way to go.⁶⁰

In 2005, the estimated number of students in vocational special needs programs (after primary school) was 14,500 students. Of this group, 10,600 studied in general vocational education institutions and 3,900 were in vocational special education institutions. General vocational education institutions provide 75 percent of the training, and vocational special education institutions cover 25 percent. General vocational education institutions arrange special needs education in mainstreamed groups as well as in special groups. It is the school providing the education that has the right to choose the most appropriate form of education. The primary option is that

⁵⁹ *Ibid.*

⁶⁰ Timo Saloviita, "Erityisopetuksen oikeuttaminen ja vammaishuollon mallit," [Justification of special education and models of disability care] in *Vammaisuuden tutkimus*, ed. Antti Teittinen: (Helsinki: Helsinki University Press, 2006), 136-138.

a person in need of special support can study in the same teaching groups as other students.⁶¹

Vocational special education institutions bear the main responsibility for educating students with high support needs. Their provider-specific curricula contain plans for the arrangement of special needs education. A personal teaching arrangement plan shall be prepared in writing for each student with special needs. This plan defines the individual support measures needed by the student. Students who need particular support prior to beginning vocational training or employment may also receive preparatory and rehabilitative teaching and instruction in connection with vocational basic education.⁶²

According to the Act on Vocational Education, a student who receives special-needs education is entitled to assistant services necessary for the studies, other student welfare services, and special aid instruments.⁶³ The Act on Services and Assistance for the Disabled contains provisions on other services and support measures for persons with disabilities, which may include personal assistants, interpreters, or transportation.⁶⁴

The number of students eligible for special-needs programs in basic and vocational education has grown steadily. In 2003, 124,137 pupils received part-time special-needs education. A total of 36,839 pupils (i.e., 6.2 percent of the pupil age group), had been placed or transferred to special-needs education. In 2000, the percentage of vocational education students receiving special education was 8.2; this figure rose to 10.5 percent in 2004.⁶⁵ In 2004, the number of

⁶¹ The Second Periodic Report Of The Revised European Social Charter Submitted By The Government Of Finland, October 2006, 39 http://www.coe.int/t/tf/droits_de_l'homme/cse/3_proc%E9dure_de_rapports/1_rapports_nationaux/Finland_2nd_Report.pdf (Accessed 12 July 2007).

⁶² The Second Periodic Report Of The Revised European Social Charter Submitted By The Government Of Finland, October 2006, 42.

⁶³ In Finnish *Laki ammatillisesta koulutuksesta* (630/1998) <http://www.finlex.fi/fi/laki/ajantasa/1998/19980630> (Accessed 12 July 2007).

⁶⁴ Tapio Rätty, *Vammaispalvelut-Vammaispalvelulain soveltamiskäytäntö*, [Services for the disabled. Practical application of the Services and Assistance for the Disabled Act] 183-184. Only available in Finnish. Translation by the author.

⁶⁵ Background Information for the Government's Disability Policy Report. 2006. Helsinki: Ministry of Social Affairs and Health. Government Review on Disability Policy table 6, 34.

primary school students in special schools was 1,043, or 1.7 percent of all students in primary school.⁶⁶

In terms of teacher training, there is a Master's degree program available in special-needs education in universities of Joensuu, Jyväskylä and Åbo Akademi, a Swedish-language university. Additionally, separate study modules of special-needs education is available for those who have completed teacher training and wish to specialize in this area. Teachers of special-needs pupils or integrated classes would need to complete this study module as a competency requirement. The study module is 90 ETCS credits, requiring a full year of study.⁶⁷

None of the universities in Finland offers full programs and there are no dedicated chairs in Disability Studies. This has led to a fragmented study of disability in the universities, and is mostly dependent on activities of individual professors and researchers.⁶⁸ However, a number of courses are available. These include classes on disability policy, disability rights, and inclusive education. Faculties of law and education have disability-related courses as part of the curriculum for sociologists, lawyers, social workers, and administrators. At universities of Turku, Helsinki, and, most notably Jyväskylä, there is a Finnish Network for Disability Research. In October 2006, the network founded a society of disability research (*Vammaistutkimuksen seury*).⁶⁹

In terms of education, accessibility issues (both in physical access to school buildings and in access to alternative education materials or communication technologies) remain a barrier for students at all levels. National legislation and regulations regarding accessibility

⁶⁶ Five nation wide institutions for deaf, deaf-blind and blind or students with severe mobility disabilities or learning disabilities. These state schools are residential. For more information, see www.ruskis.fi. (Accessed 12 July 2007).

⁶⁷ University of Jyväskylä, Faculty of Education, Department of Education www.jyu.fi/edu.

⁶⁸ Antti Teittinen, "Merkintöjä vammaisuuden tutkimuksen itseyttäryksestä," [Observations on the understanding of disability research] in *Vammaisuuden tutkimus*, [Disability research] ed. Antti Teittinen: (Helsinki: Helsinki University Press, 2006), 31-32. Book only available in Finnish, translation by the author.

⁶⁹ Matti Ojamo, Chair of the network. Personal communication 5 January 2006. Information of the Network on <http://www.cc.jyu.fi/~vamtutk/lomake.html> (Accessed 12 July 2007).

do exist, as described in the Section on accessibility in this report. However, there is no data available at national, regional or even municipal levels on how many schools are in fact accessible for people with various disabilities. School buildings need only meet current criteria for accessibility if they are newly built or undergo extensive renovations. Most of the school buildings are older than the current provisions, and as such do not necessarily need to meet accessibility criteria.⁷⁰ After extensive renovation, the Ministry of Education is fully accessible.

As for other accommodations of disability, such as alternative materials and extra time in examinations, these are awarded at the discretion of the school on an individual basis. At some institutions of higher education, there are disability/accessibility experts employed to assist students in special arrangements needed to accommodate disabilities.⁷¹

Employment

The situation of people with disabilities is presumed to have improved during the recent economic expansion. Their rates of participation in the open labor market, employment, income earning, and level of education between 1995 and 2002, a period of strong economic expansion, revealed that while the position of people with disabilities improved as did that of all Finns, their position in relation to others was weakened. They did not draw the benefits of the expansion, but were left in a more precarious position.⁷² The goals of raising the employment levels of the disability population remain a key policy issue.⁷³

⁷⁰ Currently, there is no accessibility audit system for schools. Access issues for students are dealt with on individual case-by-case basis. Harri Leiwo, expert of the Accessibility project, Personal communication 2 April 2007.

⁷¹ Paula Pietilä, Accessibility expert at University of Turku, interview by author, Finland, 2 April 2007.

⁷² Linnakangas et al. *New beginning or a dead end? Persons with disabilities on their way to equal citizenship Uuden alussa vai umpikujassa? Vammaiset matkalla yhdenvertaiseen kansalaisuuteen*. Helsinki: STAKES Raportteja 15/2006, 81. A report in a series of study reports. Abstract only available in English. Here reference is made to Finnish part of the text, translated by the author.

⁷³ IRDM Panel discussion conclusion 24 November 2006. Finnish Disability Forum policy paper for the next government dated 19 December 2006.

Disability discrimination in employment is prohibited under the Non-Discrimination Act (21/2004) and the Penal Code of Finland.⁷⁴ Indeed, the Public Employment Services Act (2002/1295) states that a person with a disability is a jobseeker client with considerably lower chances of finding suitable work, keeping his or her job, or advancing in his or her job due to a duly confirmed injury, illness, or other disability.⁷⁵

Moreover, the Non-discrimination Act that implemented the EU Framework directive 2000/78 obligated employers to provide reasonable accommodations for people with disabilities. Reasonable accommodation is defined as follows:

“An employer shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such a measure would impose a disproportionate burden on the employer.”⁷⁶

The Non-Discrimination Act contains provisions on improving access for people with disabilities to employment and training services:

“In order to foster equality, a person commissioning work or arranging training shall, where necessary, take any reasonable steps to help a person with disabilities to gain access to work or training, to cope at work and to advance in his or her career. In assessing what constitutes reasonable, particular attention shall be devoted to the costs of the steps, the financial position of the person commissioning work or arranging training, and the possibility of support from public funds or elsewhere towards the costs involved.”⁷⁷

Support for special arrangements regarding working conditions is a discretionary benefit granted to employers on application. This support

⁷⁴ Non-discrimination Act (21/2004), Penal code of Finland (563/1998).

⁷⁵ Public Employment Services Act (2002/1295), section 2.

⁷⁶ Council Directive 2000/78/EC of November 2000 establishing a general framework for equal treatment in employment and occupation.

⁷⁷ Non-discrimination Act (21/2004), Penal code of Finland (563/1998).

is payable to a jobseeker with a disability, to the employer concerned, or to an employee with a disability. This is a compensation of costs for changing the workplace. An employer may be compensated for the costs of such changes on application, as long as the employer is not liable for the costs of reasonable adaptations of the workplace due to the Non-Discrimination Act. The maximum compensation is €3,500. In addition, the employment of jobseekers with disabilities may be supported through a subsidy payable to employers for up to 24 months at a time.⁷⁸

As for solutions to employment, Finland has not used quotas and the attitudes towards quotas for disadvantaged groups remain negative even among those groups.

Regarding official data on the number of employees with disabilities in government or private corporations, such collection is not possible in Finland, as health status is considered sensitive personal data protected under the Personal Data Act. However, a collection of independent reports states that for four out of five persons with a severe disability, the opportunity to access the open labor market, or wage labor market, is limited. For those who acquire disabilities when they are of working age, there is a clear tendency to move (or be moved) outside of the active labor market. Apart from a small minority, equal access to paid employment is not realized by the majority of people with disabilities in Finland. Those who have health deficits combined with low educational levels are most vulnerable to labor exclusion.⁷⁹

In 2005, there were 91,069 jobseekers classified as having a disability or with reduced capacity for work (*vajaakuntoiset*). In these categories, there were 67,325 unemployed persons. The category of jobseeker only includes those who are registered with employment officers as persons who are available to work in the labor market

⁷⁸ Ministry of Labour website www.mol.fi; The *Second Periodic Report of the Revised European Social Charter submitted by Finnish Government*, October 2006, 38-39. (Accessed 12 July 2007).

⁷⁹ Linnakangas et al. *Uuden alussa vai umpikujassa? Vammaiset matkalla yhdenvertaiseen kansalaisuuteen. [New beginning or a dead end? Persons with disabilities on their way to equal citizenship.]* Helsinki: STAKES Raportteja 15/2006, 15-16. Helsinki: STAKES Raportteja 15/2006, 15-16. A report in series of study reports. Abstract only available in English. Here reference is made to Finnish part of the text, translated by the author.

and who are actively seeking work. People who receive disability pensions cannot be registered as jobseekers and are not included in these statistics.⁸⁰

Particularly regarding the private sector, the largest employer in Finland is Nokia Oy. In their Corporate Social Responsibility (CSR) policy document, Nokia states its support of a diverse workplace and non-discriminatory hiring practices, which would include people with disabilities. A 2006 study by Mika Ala-Kauhaluoma and Kristiina Härkäpää for the Ministry of Labor, sheds light on the attitudes of private service sector employers towards employing persons with disabilities, compared with other groups in weak labor market position. About one in three companies reported that they had employees from disadvantaged groups, but only two to four percent of the companies had employed jobseekers with physical, intellectual or psycho-social disabilities. The attitudinal barriers and predominantly negative perceptions of employing people with disabilities were clear. Only a few of the employers surveyed (5 to 14 percent) saw any positive consequences of hiring persons from any of the disadvantaged groups. In contrast, a relatively high number of employers saw the consequences as predominantly negative. This is true in terms of persons with psycho-social disabilities: 59 percent of responding employers anticipated negative consequences for their corporate image after hiring persons with these kinds of disabilities. More than one-third of the respondents made the same claim regarding persons with learning disabilities, and 31 percent responded equally in terms of persons with severe physical disabilities.⁸¹

According to the disability community, the biggest barriers to employment of persons with disabilities were highlighted as: prejudice and fear about potential additional costs incurred for the employer, such as special adapted transfer costs for the employee with disabilities, while non-disabled employees can use public

⁸⁰ *The Second Periodic Report of the Revised European Social Charter* submitted by Finnish Government. October 2006, 42.

⁸¹ Mika Ala-Kauhaluoma and Kristiina Härkäpää, Private service sector and employment of persons with weak labour market position . Labour policy study 312, Ministry of Labour, Helsinki. In Finnish Yksityinen palvelusektori heikossa työmarkkina-asemassa olevien työllistäjänä. 2006. 71-72. http://www.mol.fi/mol/fi/99_pdf/fi/06_tyoministerio/06_julkaisut/06_tutkimus/tp312.pdf (Accessed 12 July 2007).

transport. Another was responsibility to meet the pension costs, should the employee become permanently incapacitated for work. Then there is the general fear of disability related extra costs, or need for colleagues to take time to assist their colleague. As for the employee, the lack of vocational training or experience of working life was emphasized.⁸²

With regards to training and placement programs, they are run by the government, religious organizations, non-religious NGOs, and private and public corporations. There is only anecdotal evidence available. Certain projects within the European social fund target people with reduced capacity to assist them to access the open labor market. But, the number of people entering such programs is very limited compared to the number of people with disabilities outside the labor market.⁸³

Experts in disability and labor issues are concentrated on major cities. In principle, however, labor laws should ensure that people with disabilities receive equal services and placement opportunities in all parts of the country. The 2006 *Government Review on Disability Policy* states that there are regional inequalities between people with disabilities and their peers without disabilities in the current system. People with disabilities do not have easy access to the amount of support services that they need in order to undergo training for work, traineeships, or other activities related to work.⁸⁴

In particular, there are 200 employment offices offering customized services to unemployed people, those currently working or entering the working life as well as employers all over Finland. People with disabilities are entitled to use these services on the basis of equality with non-disabled jobseekers. These offices provide vocational rehabilitation planning and deliver solutions related to work or training

⁸² Panel discussion conclusion 24 November 2006; Finnish Disability Forum policy paper for the next government dated 19 December 2006.

⁸³ Linnakangas et al. Uuden alussa vai umpikujassa? *Vammaiset matkalla yhdenvertaiseen kansalaisuuteen*. [New beginning or a dead end? Persons with disabilities on their way to equal citizenship] Raportteja 15/2006, 72. A report in series of study reports. Abstract only available in English. Here reference is made to Finnish part of the text, translated by the author.

⁸⁴ *Background Information for the Government's Disability Policy Report*. 2006. Helsinki: Ministry of Social Affairs and Health.

specifically targeting people with disabilities. The services under the vocational rehabilitation program include: vocational guidance and career planning services; counseling and advice related to work placement and training; medical examinations and aptitude testing as well as expert consultations; work and training try-outs; other measures supporting work placement; and labor market training.⁸⁵

Sheltered workshops are another employment option and are organized by the municipalities. Special services for people with intellectual disabilities include work experience and day services. The purpose of work experience and day services is to maintain and improve functional capacity, to support autonomy and to promote social interaction. Such alternatives as supported employment and job coaching are being developed through a number of current projects. In practice, transitions from sheltered workshops into the open labor market are very rare.⁸⁶

In sheltered employment, people do not have the same employment rights as do employees in mainstream settings. Since their relationship to the employer is considered not to be an employee-employer relationship, but rather a provision of social welfare, they do not enjoy labor rights, including those related to wages and unionization. Instead, they receive a pension income. Additionally, they may receive tax-free incentive pay, if it does not exceed €12 per day. In most cases, incentive pay does not exceed the taxation threshold. At the end of 2003, the 290 special employment units in Finland had 13,100 clients, or 2,500 more than in 1999.⁸⁷

Finally, in 2004, the total number of people with disabilities eligible for statutory disability benefits was 230,000. Of this number, approximately 72,000 (31 percent) were of working age (between 16

⁸⁵ Act on the public employment service (1295/2002), regulates public employment services. <http://www.finlex.fi/en/laki/kaannokset/2002/en20021295.pdf> General information for jobseekers available in English from Ministry of Labour website www.mol.fi Working in Finland section http://www.mol.fi/mol/en/02_working/05_foreigners/index.jsp. Accessed 25 May 2007.

⁸⁶ Interview with Sirkka Sivula, lawyer, Finnish Association of Societies for Persons with Intellectual Disabilities, Helsinki, Finland, 17 November 2006.

⁸⁷ *The Second Periodic Report of the Revised European Social Charter submitted by Finnish Government*, 42.

and 65).⁸⁸ Two-thirds of people receiving benefits are over 65, but a considerable number of persons with disabilities in the working age are subsisting on benefits outside of the labor market.

Health Services

It is the task of government to promote people's welfare, health and livelihood. It is the duty of local authorities to organize social and health services in practice. The majority of social and health services are statutory, meaning that legislation obliges municipalities to arrange them. In addition, municipalities may organize other kinds of social and health services. Types of services include health counseling, medical treatment and rehabilitation, transportation of patients, dental treatment, school healthcare, student healthcare, screenings, specialized medical treatment, occupational health, environmental healthcare,⁸⁹ and mental health services.⁹⁰

In Finnish medical schools, physician training on provision of care to people with disabilities is available during both medical school and residency. Programs for training in relation to physical and occupation therapy exist, as well as psychiatric training for nurses and other professionals. There is also specialized training in prosthetics and orthotics available as well as speech therapy.⁹¹

Rehabilitation is arranged and financed by many different actors. One-fourth is financed within social welfare and one-fifth within healthcare. One-fifth of the expenditure goes to rehabilitation

⁸⁸ *Ibid.*, 38.

⁸⁹ Environmental Health Care in Finland is surveillance and monitoring of outdoor and indoor air, drinking water, food, consumer products and ionizing radiation in order to minimize the adverse health risks for human beings and to promote the health and well-being of all citizens. Telephone interview and email received from Tuula Putus, chief medical officer, Ministry of Social Affairs and Health, 25 May 2007.

⁹⁰ Social Welfare in Finland, Brochures of the Ministry of Social Affairs and Health 2006:11 eng Ministry Of Social Affairs And Health. Helsinki.

⁹¹ University of Helsinki, Faculty of Medicine website http://www.med.helsinki.fi/foldercontent_english.asp?route=1.56.1341 (Accessed 30th April 2007).

organized by the Social Insurance Institution (SII).⁹² In terms of health promotion and rehabilitation of persons with disabilities, specific funding is available through multiple channels: through basic health care services and through occupational rehabilitation for those who are employed or self-employed. The organizer responsible is the Finnish Center for Pensions, the central body of the Finnish statutory earnings-related pension scheme and a relevant body in pension provision. An increasing number of people participate in rehabilitation arranged within the earnings-related pension scheme. In ten years this number has more than tripled. The typical participant in rehabilitation arranged within the earnings-related pension scheme is a person aged 44 years who works in the private sector.⁹³

Further, SII is responsible for medical rehabilitation to persons with severe disabilities. The availability of rehabilitation from the perspective of individual clients may vary considerably based on the client's age, employment status and disability. The practical implications of the multiple organizers and several laws regulating provision of rehabilitation to various groups are: inherent inequality between clients and risk of not receiving sufficient rehabilitation soon enough.⁹⁴

The complexity of the system is further increased by both legally mandated rehabilitation and optional rehabilitation. Responsibility for funding and organizing rehabilitation falls on social and healthcare authorities as well as social insurance and employment authorities.

⁹² In 2002 the Council of State submitted a Government Report on Rehabilitation to the Parliament, Kuntoutusselonteko 2002. Ministry of Social Affairs and Health publications 2002/6. Only available in Finnish. The report provides an overview of the Finnish rehabilitation system as a whole and examines the changes that have taken place within the rehabilitation services since 1997. It includes an estimate of the total costs of rehabilitation, EUR 1.2 billion in 2000. Only a short presentation in English is available from Heidi Paatero, secretary general of National Council on Rehabilitation. www.kunk.fi (Accessed 12 July 2007).

⁹³ *Rehabilitation pays itself back* 26. October 2006. research summary at Finnish Centre for Pensions webpage <http://www.etk.fi/Page.aspx?Section=41797&Item=27534> (Accessed 25 April 2007).

⁹⁴ *Statutory social welfare and health care services*. Brochures of the Ministry of Social Affairs and Health 2001:7eng Ministry Of Social Affairs and Health. Helsinki 2002 <http://pre20031103.stm.fi/english/pao/publicat/statutory/statutory.pdf>, (Accessed 29 January 2007).

The division of responsibility has been clarified through negotiations and agreements.⁹⁵

According to the 2007 state budget for the SII, rehabilitation funding is provided as follows: for discretionary funding a maximum of €100.1 million, discretionary funds 40 percent of the total funding provided by SII. The total costs of SII provided rehabilitation services are an estimated €251 million for 2007. Further income support for persons undergoing rehabilitation is estimated €63 million.⁹⁶

Responsibility for technical aid services is part of the rehabilitation services of basic health care systems. Costs of technical aids are included in rehabilitation funding. The availability and awarding criteria of technical aids can vary considerably between regions and municipalities. One major reason for lack of availability is limited funding.⁹⁷

Apart from public health care services and the SII as public providers of technical aids, there are also privately funded providers that complement the public system. The private system, however, is only open to those who can pay for their own costs. There is no reimbursement afterwards.⁹⁸

The health care legislation ensuring access to treatment has been made more precise. The Primary Health Care Act (66/1972) and the Act on Specialized Medical Care (1062/1989) have been supplemented with provisions on maximum time frames for arranging a patient's access to treatment. The amendments are intended to "safeguard access to treatment on account of health needs, to reduce

⁹⁵ Kuntoutusselonteko 2002 [Government Report on Rehabilitation] Ministry of Social Affairs and Health publications 2002/6. Only available in Finnish.

⁹⁶ *Social Insurance Institute funding plan for discretionary rehabilitation 2008-2010*. DNRO 3/26/2007, addressed to Ministry of Social Affairs and Health. Unpublished document. Page 13. Not available in English, translation by author.

⁹⁷ Kuntoutusselonteko 2002. [Government Report on Rehabilitation] Ministry of Social Affairs and Health publications 2002/6. *Social Insurance Institute funding plan for discretionary rehabilitation 2008-2010*. DNRO 3/26/2007, addressed to Ministry of Social Affairs and Health. Unpublished document. Page 13. Not available in English, translation by author.

⁹⁸ Observation by the author.

differences in access to treatment, to increase transparency during the waiting time, and to increase fairness and equality in access to treatment.”⁹⁹

Clients shall be guaranteed an immediate access to a health center on working days, during the office hours, as and from the beginning of March 2005. They shall obtain access to a health care professional – not necessarily a doctor – at a health center for an assessment of their need for non-urgent treatment within three working days of contacting the health center, unless their problems can be resolved by telephone.¹⁰⁰

In primary health care, a client shall have access to treatment within three months from the date when his or her need for treatment was established. In specialized health care, the assessment of a patient’s need for treatment shall be arranged within three weeks from the date when the health care unit in question, for instance the outpatient department of a hospital, received the doctor’s referral letter. Clients shall have access to treatment deemed necessary on medical or odontological grounds within six months from the assessment of their need for treatment. If treatment cannot be arranged within this time, the municipality or joint municipal board concerned shall purchase the treatment from other service providers, for example another municipal hospital or the private sector, at no extra charge to patients.¹⁰¹

Housing

According to the principle of mainstreaming and non-discrimination, people with disabilities are eligible for public housing on an equal basis with others. This means that the housing is consistent with general living conditions, integrated into the community, affordable and also accessible. For persons with disabilities to be able to choose

⁹⁹ The second periodic report of the revised European Social Charter submitted by the government of Finland, 24.

¹⁰⁰ *Ibid.*

¹⁰¹ *The Second periodic report of the revised European social charter submitted by the government of Finland*, 24-26.

their housing freely, one key measure is to change current legislation on domicile that restricts the right of individuals with disabilities who need services to change their municipality. As of 2007, it is the prerogative of the municipality to arrange services as they see fit, without consideration to the wishes of the individual with the disability. The individual's needs in terms of assistance and services are considered in order to determine the form of living. The main issue becomes how to ensure sufficient services and assistance.¹⁰²

Subsidies and supports for housing for people with disabilities are available under the Services and Assistance for the Disabled Act's provisions on service accommodation, which are further defined in Section 10 of the Decree as follows:

“Service accommodation comprises housing and related services, which are necessary for the resident in daily life. Services referred to above in paragraph 1 may include assistance in functions pertaining to housing, such as moving, dressing, personal hygiene, food management and cleaning the housing, as well as services which are needed for promoting the health, rehabilitation and well-being of the resident.”

In the arrangement of service accommodation, a person shall be considered severely disabled if, because of his or her disability or illness, he or she needs the assistance of another person in coping with daily functions on a continuous basis at different times of the day or otherwise to a particularly large extent and he or she does not need continuous institutional care definition in Section 11 of the Decree.

Particularly, service accommodation can be arranged in clients' homes, such as through personal assistants, home services, and nursing. Service accommodation can also be organized at group homes. Clients pay their own rent and other costs, but the extra

¹⁰² Panel discussion with Ms Ilona Toljamo, services manager, Finnish CP-Association, Jaana Penttilä, lawyer, Finnish Federation of the Visually Impaired, 24 November 2006.

services they need due to disability, such as personal assistants, are funded by their municipality and are free of charge to the clients.¹⁰³

In addition, municipal authorities compensate people with severe disabilities for expenses incurred in home conversion and the procurement of equipment and devices needed for the home.¹⁰⁴ The most common home conversions involve changes to the bathroom and kitchen, widening doors, removing thresholds, building wheelchair ramps, and installing lifts. There is no upper cost limits set in legislation. The municipality shall...

“...within reason compensate the costs incurred by a severely disabled person in converting his dwelling and in purchasing equipment if, because of his disability or illness, these measures are essential for him to manage his everyday affairs and he is not in need of continuous institutional care.”¹⁰⁵

The criterion “within reason” has been interpreted by the courts to mean so-called average market price and what is in the individual’s case a suitable and realistic solution. This means that any costs exceeding necessary and reasonable expenses will not be covered. Compensable housing equipment and facilities include lifts, alarms, and other equipment and facilities installed permanently in a residence. The municipality may also provide housing equipment and facilities free of charge for the use of a severely disabled person.¹⁰⁶

Finnish NGOs operate the Independent Living Center for people with disabilities. The Threshold Association activities are based on the philosophy of the independent living movement. The Independent Living center in Helsinki was established in 1973, and there are

¹⁰³ Ministry of Social Affairs and Health. <http://www.stm.fi/Resource.phx/eng/subj/socwe/disab/accommodation.htx>. (Accessed 25 January 2007.)

¹⁰⁴ *Support and assistance for the disabled Decree* (1987/759) Section 12 <http://www.vane.to/disabilityact1987.doc> (Accessed 29 January 2007).

¹⁰⁵ *Support and assistance for the disabled Decree*, Section 12 (1987/759) <http://www.vane.to/disabilityact1987.doc> (Accessed 29 January 2007).

¹⁰⁶ Tapio Rätty, *Vammaispalvelut-Vammaispalvelulain soveltamiskäytäntö*. [Services for the disabled. Practical application of the Services and Assistance for the Disabled Act] *102-104 Book. Available only in Finnish. Translation by the author.*

currently six others in major towns. They provide peer support and training for people with different disabilities.¹⁰⁷

Institutionalization

As for placement in psychiatric institutions, Mental Health Act (1116/1999) Section 8 stipulates that:

“A person can be ordered to treatment in a psychiatric hospital against his or her will only:

- (1) if the person is diagnosed as mentally ill;
- (2) if the person needs treatment for a mental illness which, if not treated, would become considerably worse or severely endanger the person’s health or safety or the health or safety of others; and
- (3) if all other mental health services are inapplicable or inadequate.”¹⁰⁸

The criteria specify mental illness that becomes considerably worse or severely endangers the health and safety of either the person or others. It is noteworthy that among the principles of mental

health services, outpatient care is emphasized as the primary form supporting the patient while facilitating independence. “Mental health services must be organized primarily on an out-patient basis and in a way that supports the patients’ own initiative in seeking treatment and their independent coping.”¹⁰⁹

There are a number of institutions in Finland providing long-term (more than one year) housing and care to people with disabilities. The number of individuals living in institutionalized care is 2,629. About 8,400 live in supported housing or service housing in the community.¹¹⁰

¹⁰⁷ Website of The Threshold Association www.Kynnys.fi In English (Accessed 29 January 2007).

¹⁰⁸ *Mental Health Act* (1116/1999) Section 4, subsection 2.

¹⁰⁹ *Ibid.*

¹¹⁰ *Government Review on Disability Policy*, Table 6, 2006, 34.

Regarding abuse in institutions, it is dealt with through an independent reporting mechanism, which is the same as for all populations. It is relevant to indicate that the Penal Code establishes graver punishments for those who have abused people with disabilities. An act of sexual violence committed against a person with a disability may be considered as an aggravated form of the act, with harder sentencing as a consequence.¹¹¹ Conditions in these institutions, including incidence of death and abuse, are monitored by the State provincial offices. According to information received from the South Finland Provincial Office, no investigations of the incidence of death and abuse at any of these institutions have been conducted in 2005. An accessibility survey of shelters concluded that access issues and lack of readiness to receive disabled persons in shelters lead to an invisibility of the abuse problem. This is exemplified in that the crisis shelter for victims of domestic violence in Espoo¹¹² received only a limited number of clients with disabilities over its ten years in operation.¹¹³ The problem lies in lowering the threshold for reporting the cases to the police, and bringing them through the criminal justice system.¹¹⁴

Regarding assistance to disabled victims of violence or abuse, it should be noted that some DPOs have conducted research and projects examining the prevalence of violence against women with disabilities. Research estimates find that women with disabilities are three times as likely to become victims of violence and abuse as their non-disabled peers. DPOs recognize the need to do more empowerment work targeting women with disabilities.¹¹⁵

¹¹¹ *Penal Code of Finland*, Chapter 20, Section 5 - Sexual abuse (563/1998) refers to taking advantage of "the incapacity of another to defend himself/herself or to make or express a decision, owing to unconsciousness, illness, handicap or other helplessness". In the same section, similar reference is also made to "a patient in a hospital or other institution, whose capacity to defend himself/herself is essentially impaired owing to illness, handicap or other infirmity; or a person who is especially dependent on the offender, where the offender blatantly takes advantage of the dependence, shall be sentenced for sexual abuse to a fine or to imprisonment".

¹¹² Espoo is a neighboring city to Helsinki on the southern coast of Finland.

¹¹³ Representative Justander Pirkko.

¹¹⁴ Project to lower the incidence reporting threshold. For more information, see <http://www.seis.fi> (Accessed 12 July 2007).

¹¹⁵ E.g. empowerment project "Dive deeper" www.invalidiitito.fi (Accessed 12 July 2007).

Accessibility

The support and assistance for the Disabled Act Section 8 states that the municipality shall provide severely disabled persons with reasonable transport and related escort among other services. Sections 4, 5, and 6 of the decree specify the scope of the transportation service, which is related to daily life purposes within the municipality of residence of the beneficiary or to municipalities in the immediate vicinity. The municipality may arrange transport services or compensate the reasonable costs of transport.¹¹⁶

On the other hand, the main legislation controlling land use, spatial planning, and construction in Finland is the Land Use and Building Act, which came into force in 2000. Section 117(3) of the Land Use and Building Act stipulates: “[a] building must conform with its purpose and be capable of being repaired, maintained and altered, and, in so far as its use requires, also be suitable for people whose capacity to move or function is limited.” This is complemented by Section 53(1-3) of the Land Use and Building Decree, which states:

“Administrative and service buildings, commercial and service premises in other buildings to which everyone must have access for reasons of equality, and their building sites shall also be suitable for use by persons with restricted ability to move around or function otherwise. ...For purposes of equality, buildings with work space shall be designed and built so that they provide the persons referred to in paragraph 1 with sufficient opportunity to work, taking into account the nature of the work.”¹¹⁷

Finland’s National Building Code contains a series of regulations and guidelines that give detailed guidance on implementation of the provisions in the Land Use and Building Act and Decree. Building regulations must be followed, but guidelines are not obligatory, and other solutions may be used in construction as long as all the

¹¹⁶ The National Council on Disability, <http://www.vane.to/disabilityact1987.doc>. (Accessed 29 January 2007).

¹¹⁷ The Finlex Database.

compulsory regulations are observed. One regulation in particular, F1, called Barrier-free Building is relevant here.¹¹⁸

Implementation of accessibility regulations related to transportation as well as building environment has been relatively successful. Helsinki's public transport system has become increasingly accessible in the past two decades. While it is not yet fully accessible, important progress has been made. The metro is fully accessible. One-third of all streetcars in Helsinki are low floor-models. Ninety-eight percent of buses are low-floor buses; in bus schedules, low-floor is standard, and non-low floor buses are marked separately. Within the metropolitan area, 90 percent of all buses are low-floor. Buses operating long distance routes operate without low-floor buses; this is explained in part by the need to provide more cargo room.

If public transportation is not available or accessible, people use private cars or adapted taxis. The purchase of adapted private cars is supported by a reduction in vehicle-added value tax and by compensating the costs of necessary conversions, in accordance with the Services and Assistance for the Disabled Act and the Decree. Financial support for procuring a private car is limited, as it comes from discretionary funding and is dependent on municipal budgets.¹¹⁹

Many public buildings, including the main post office in Helsinki, were made wheelchair accessible during renovations. Accessibility has improved due to legislative measures.

Culture, Sports, and Recreation

The Ministry of Education is the government body responsible for issues related to culture, sports, and recreation for people with

¹¹⁸ Finland's environmental administration. www.environment.fi. (Accessed 25 January 2007).

¹¹⁹ Customs. http://www.tulli.fi/fi/03_Yksityishenkilöt/02_Autoverotus/07_Invalidiautot/index.jsp. (Accessed 28 January 2007).

disabilities.¹²⁰ There is a separate program of accessibility called Culture for All, managed by the Finnish National Gallery.¹²¹

In 2004, the Ministry of Education published a memorandum on high level sports. The working group proposed that the Finnish Paralympics Committee be developed as one such organization. The working group also emphasized the need for greater cooperation to develop disability sports at the top-level. Another recent project is "Sports for all Kids," which has included organizations that deal with mobility and visual disabilities.¹²²

More interest is being paid to accessibility issues. This has opened additional possibilities for persons with disabilities to participate in athletic, recreational, and cultural activities. For persons with severe disabilities, these possibilities are more limited, as it is difficult to find assistants and travel may pose additional barriers. The issue of tickets for sporting events to personal assistants may form another barrier to participation. Some municipalities meet the costs of tickets for assistants, but many do not. Participation possibilities are also affected by income level. Regional differences in possibilities for culture and leisure are very marked. Similarly, a lack of accessible cultural materials, such as plain text or Braille materials, is a serious barrier. In regard to participation in this sphere, primary obstacles are the need for personal assistants, transportation service and accessibility. In relation to sports a major hurdle is the lack of expertise in sports organizations regarding adapted sports.¹²³

¹²⁰ Panel discussion with Ms Ilona Toljamo, services manager, Finnish CP-Association and Jaana Penttilä, lawyer, Finnish Federation of the Visually Impaired, 24 November 2006.

¹²¹ Finnish National Gallery website <http://www.ateneum.fi/default.asp?docId=11937>. (Accessed 15 January 2007).

¹²² Ministry of education website www.minedu.fi: Telephone interview with Hannu Tolonen, Ministry of Education, 7 August 2006. Telephone interview with Johanna Klemettinen, Secretary, Ministry of Education, 7 August 2006.

¹²³ *Background Information for the Government's Disability Policy Report*, Ministry of Social Affairs and Health, Helsinki, 2006, 117-118.

Disability Action and Awareness

The National Action Plan on disability was formulated in 1995 in response to the UN Standard Rules on the Equalization of Opportunities. Its purpose was to incorporate the Standard Rules into national policy. The Plan followed the Standard Rules closely in its goal and agenda for reaching those goals. It included women and children with disabilities as target groups. Mainstreaming was the key framework and method for promoting the goals. Responsibility for implementation was mainly for ministries in terms of mainstreaming disability issues in their area of responsibility. Its

status as a non-binding ministerial recommendation meant that no budgetary allocations were made.¹²⁴ Major activities during the Matti Vanhanen government (2003–2007) have been the preparation of the government review on disability policy, as well as the forthcoming national program on disability policy.

The National Council on Disability (Valtakunnallinen Vammaisneuvosto, or VANE) was fully involved in formulating the National Action Plan of 1995. Established under the Services and Assistance for the Disabled Act, VANE is a cooperative body for authorities, disability organizations, and organizations for relatives of people with disabilities, meant to serve as a focal point for disability policy and planning at the level of the national government. It is complemented by 120 local councils on disability.¹²⁵

DPOs are also referred to as major stakeholders and partners for the realization of the National Plan. However, during preparations for the 2006 Government Review on Disability Policy, DPOs were involved mainly through the survey prepared by the National Council on Disability. There were few possibilities to directly influence the review, apart from being heard when the document was under discussion at the Parliament.

¹²⁴ *Towards a society for all, National action plan on disability in Finland.* Ministry of Social Affairs and Health 1996, 10.

¹²⁵ The National Council on Disability www.vane.to (Accessed 28 January 2007).

Finnish DPOs are extremely involved in advocacy work. Most DPOs state as their primary objectives the promotion of disability rights and support of their constituents. A key source of funding is the Finnish Slots Machine Association (in Finnish: *Raha-automaattiyhdistys*, or RAY). RAY's Board of Administration proposes contributing a total of €306 million in funding in 2007. According to the proposal, the funding will be divided between 1,103 applicant organizations for 2,393 projects and activities. In addition, the Board proposed to donate €103 million from RAY's profits to the State Treasury for use in the care and rehabilitation of war veterans.¹²⁶ Finnish DPOs appear to work cooperatively, particularly in regard to legislation and advocacy. It is rare to have conflicts of interests, and this occurs only in individual instances. There is general consensus on the important issues facing all groups.

There is an increasing number of cross-disability organizations in Finland. After Finland's entry in the EU, the Finnish Disability Forum was founded in 1999 to represent Finnish DPOs in the European Disability Forum. The Finnish Disability Forum currently has 24 national DPOs as members, including all major disability groups. According to its statute, the Forum is a cross-disability organization.¹²⁷

Many Finnish DPOs identify the promotion and protection of human rights of persons with disabilities as a key objective. One DPO even self-identifies as a human rights organization of the Finnish disability community.¹²⁸ However, in terms of the dialogue between mainstream human rights organizations and DPOs, some improvements are needed. This is especially true in light of the importance of human rights' perspectives in the field of disability. As for the UN human rights issues, according to the disability ombudsman, the activity level varies due to resource constraints. Again, this illustrates the importance of sharing information to ensure that disability advocates and professionals remain informed.¹²⁹

¹²⁶ RAY: Slots Machine Association. <http://www.ray.fi/inenglish/raytietoa/medianurkka/tiedote.php?id=125&l1=1>. (Accessed 28 January 2007).

¹²⁷ Finnish Disability Forum statutes. Available in Finnish only.

¹²⁸ Kynnys ry. In English The Threshold Association, www.kynnys.fi (Accessed 29 January 2007).

¹²⁹ Interview with Jaana Huhta, disability ombudsman, lawyer at Finnish Association of People with Mobility Disabilities, FMD, in Finnish Invalidiliitto ry, Helsinki, 26 January 2007.

According to panel discussions with Finnish disability activists, the most important measures to promote the rights of persons with disabilities and issues of importance to the disability community are introduced and addressed primarily through proactive hearings in the preparatory stage of the new disability policy. It is imperative that key groups and actors keep disability issues on the agenda and in the public sphere. They consider it vital to address the lack of sanctions for failure to comply with the law and to ensure better monitoring at the level of state provincial offices, including sufficient resources for monitoring.¹³⁰

Regarding general awareness about disability and according to the survey conducted by the National Council on Disability and reported as part of the 2006 Government Review on Disability Policy, there is a clear trend towards a more positive attitudinal climate in terms of disability. One particular factor pushing this trend has been that children with and without disabilities now meet and interact in daycare, schools, and during leisure time. The training provided in schools to promote acceptance of people with disabilities has also influenced attitudes positively. Publicity and systems of sanctions remain effective strategies to combat discrimination and human rights abuses against the disability population. The greatest barriers preventing more efficient advocacy are a lack of political will, cultural norms, and attitudes. In short, disability issues remain at the margins of society.¹³¹

Positive changes notwithstanding, much remains to be done. People with disabilities are still seen as “targets,” or people who are most comfortable “among themselves.” They are regarded through stereotypes and as an overly homogeneous group. Persons with disabilities are not seen as individuals, with individual needs, characteristics, roles or life situations. Overall, media portrayals of people with disabilities repeat the stereotype of brave individuals,

¹³⁰ IRDM Panel discussion conclusion, Helsinki 24 November 2006. Finnish Disability Forum policy paper for the next government dated 19 December 2006.

¹³¹ Panel discussion conclusion, Helsinki 24 November 2006. Finnish Disability Forum policy paper for the next government dated 19 December 2006.

who are understanding of others. The stereotypical view of the hero is reflected by the lack of alternative images of people with disabilities in the media.¹³²

¹³² Background Information for the Government's Disability Policy Report. 2006. Helsinki: Ministry of Social Affairs and Health. Survey Results of Disability NGOs, 98-115.



GERMANY

Key Factors

In 1994 the German Constitution, known as the Basic Law, was amended to include the prohibition of discrimination of people with disabilities. Since then, numerous legislative pieces and programs aimed at improving participation of persons with disabilities in all areas of life as well as their equal opportunities and equal treatment entered into force and supported an approach of participation and anti-discrimination.

Traditionally, disability benefits in Germany are strongly linked with its comprehensive social security system and legislation. However, Germany's reform process in recent years—with reference to shifts of population and global economic challenges—has resulted in restrictions of social benefits or higher additional payments for socially insured persons. Persons with disabilities are very often particularly affected by this policy.

Terminology

On 1 July 2001, Book 9 of the Social Code – Rehabilitation and Participation of Disabled Persons – entered into force, introducing a new definition of disability and changed terminology.¹ Instead of 'the

¹ *Social Code (SGB) Book 9 (IX); Rehabilitation and Participation of disabled Persons* (In German), Article 1, 19 June 2001, BGBl. (=Federal Law Gazette) I S. 1046. http://bundesrecht.juris.de/sgb_9/index.html. (Accessed 5 April 2007).

Disabled' now the terms 'people with disabilities' or 'disabled people' are used interchangeably in legislation and documents.

Definition of Disability

The new definition, introduced in Book 9 of the Social Code, is influenced by the concept of participation in the International Classification of Functioning, Disability, and Health (ICF).² According to section 2(1, 1) of Book 9 of the Social Code, people with disabilities are defined as persons whose physical functions, mental capacities or psychological health are highly likely to deviate for more than six months from a condition which is typical for the respective age, and whose participation in major life activities is therefore restricted.³ According to section 2(1, 2), persons are in danger of becoming disabled if the restriction is to be expected.

According to section 2(2) "severely disabled persons" are people with disabilities whose degree of disability is at least 50 – from a possible degree of 100 – and who either lawfully stay in the Federal Republic of Germany, have their ordinary residence there or are employed there.⁴ According to section 2(3), persons are accorded equal status with "severely disabled persons," if they have a degree of disability less than 50, but of at least 30, and if they are, because of their disability, unable to find or retain suitable employment.

The identification of the degree of disability by a formal procedure provided for in Book 9 of the Social Code is relevant for specific forms of assistances and rights, particularly for benefits promoting

² World Health Organization (WHO), *International Classification of Functioning, Disability and Health (ICF)*, <http://www3.who.int/icf/onlinebrowser/icf.cfm> (Accessed 5 April 2007).

³ Federal Ministry of Labor and Social Affairs, *Rehabilitation and Participation of Disabled People* 2006, Paragraph 5, <http://www.bmas.bund.de/BMAS/Redaktion/Pdf/Publikationen/rehabilitation-und-teilhabe-englisch,property=pdf,bereich=bmas,sprache=de,rwb=true.pdf>. (Accessed 5 April 2007).

⁴ *Ibid*, paragraph 7.

vocational participation.⁵ The compensation offices assess the existence of a disability and its degree by determining the impact on the participation in social life.⁶

Since 2001, national statistics, micro census collection, policies, and all legislation covering the rights of persons with disabilities refer to the disability definition determined in Book 9 of the Social Code. The first part of the definition (section 2(1) Book 9 of the Social Code) was introduced into the Federal Act on Equal Opportunities for Disabled Persons (BGG) in May 2002.⁷ Also the new General Equal Treatment Act (AGG) from 8 August 2006, refers to its justification of that definition.⁸

The German social legislation uses legal terms that do not directly refer to persons with disabilities, but may equally affect them and serve to qualify a group at which benefits are targeted. For example:

- The Federal law about provision of victims of war and their survivors (BVG) from 1950 provides social benefits for persons with “impairments” through military service or a similar service.⁹ According to an assessed degree of a “reduction in earning capacity,” impaired persons can also receive financial benefits;¹⁰

5 While all persons with disabilities as defined under section 2(1) (Social Code Book 9) can receive social ‘participation-oriented benefits’ (medical rehabilitation and benefits aimed at participation in working or community life), Book 9 Social Code includes further specific benefits to promote vocational participation of severely disabled persons as defined in section 2(2 and 3), and to grant tax or other compensation for disadvantages. Upon application severely disabled persons may receive a pass which verifies the degree of disability (Social Code, Book 9 (SGB IX), Section 69(5) http://bundesrecht.juris.de/sgb_9/index.html. (Accessed 5 April 2007).

6 *Social Code*, Book 9 (SGB IX), Section 69; The determination is made on the basis of the Points of Reference for those issuing medical reports. The last revised version has been published by the Federal Ministry of Health and Social Security in June 2005. The ministry has been divided after federal parliament elections in October 2005 into the Federal Ministry of Health and the Federal Ministry of Labour and Social Security. www.bmas.bund.de/BMAS/Navigation/Service/suche;did=103142.html. (Accessed 11 April 2007).

7 *Federal Act on Equal Opportunities for Disabled Persons*, (In German), www.gesetze-im-internet.de/bgg/index.html. (Accessed 5 April 2007).

8 Federal Council Printed Matter 329/06, *Federal Government’s Draft Legislation on Implementation European Directives to Realize the Policy of Equal Treatment*, (In German), Berlin, 2006, 31. <http://dip.bundestag.de/brd/2006/0329-06.pdf>. (Accessed 5 April 2007).

9 *Act on Provision of Victims of the War* (In German), Section 1 BVG. <http://www.gesetze-im-internet.de/bvg/index.html>. (Accessed 5 April 2007).

10 *Ibid*, Section 30.

- Book 2 of the Social Code from 2005 provides a basic benefit for indigent employment seeking persons who are capable to work.¹¹ Book 6 of the Social Code (act for the social pension insurance funds) regulates conditions for an early pension for insured persons with a reduction of capability to work.¹² Book 8 of the Social Code (child and youth welfare service) includes aids for psycho-socially disabled children and youths.¹³ Book 11 of the Social Code (social long-term care insurance) grants care benefits based on the term of the “need of long-term care.”¹⁴ And Book 12 of the Social Code (social welfare benefits) provides “rehabilitation benefits” for indigent people with disabilities. Welfare authorities have to provide assistance to persons with disability as defined in Section 2 of Book 9, who are significantly restricted in their ability to participate in the social life. For others, without significant restriction, the authorities can act discretionarily;¹⁵
- When children enter school there is an assessment of a “specific educational need” to provide specific educational support.¹⁶

¹¹ A person is capable to work, if he/she is not unable, on a basis of a disease or disability, to work more than 3 hours a day under common conditions of the labour market (Social Code, Book 2 (SGB II) Section 8). The capability to work is assessed by the responsible fund, if no other fund disagrees (*Social Book (SGB), Second Book (II), Section 44a – Basic Security for Employment-Seekers*), (In German), http://www.gesetze-im-internet.de/sgb_2/index.html. (Accessed 5 April 2007).

¹² Persons are fully incapable to work, if they are not able to work more than 3 hours a day under common conditions of the **labor market on the basis of a disease or disability. They are partially** incapable to work, if they are able to work more than 3 hours, but not more than 6 hours (Social Code (SGB) Second Book, Section 43 – Social Pension Fund). (In German). http://bundesrecht.juris.de/sgb_6/index.html. (Accessed 5 April 2007).

¹³ Children and youths are psycho-socially disabled, if their mental health is highly likely to deviate for more than six months from the condition which is typical for the respective age, and if their participation in society is therefore restricted (Section 35(1) Social Book (SGB) Eighth Book (VIII) - Children and Youth Help). (In German). http://bundesrecht.juris.de/sgb_8/index.html. (Accessed 5 April 2007).

¹⁴ Persons are in need of care, if, due to a physical, mental or psycho-social disease or disability, it is expected that they need help to an extensive or high degree for at least 6 months for ordinary and regularly performances of daily life (*Social Code (SGB), Eleventh Book (XI), Section 14(1)– Social Long Term Care Insurance*). (In German) http://bundesrecht.juris.de/sgb_11/index.html, (Accessed 5 April 2007).

¹⁵ *Social Code (SGB) Twelfth Book (XII). Section 53, Social Welfare* http://bundesrecht.juris.de/sgb_12/index.html. (Accessed 5 April 2007). The complementing ordinance on rehabilitation benefits provided by welfare funds offers closer definitions on significant disabilities in terms of book 12: Ordinance on rehabilitation benefits according to section 60 Book 12 Social Code. http://bundesrecht.juris.de/bshg_47v/index.html. (Accessed 5 April 2007).

¹⁶ Compare assessment of Special Need Education (SNE) in chapter on Inclusion/ Education of this report.

Disability Population

According to the Federal Statistical Office, Germany had a total population of approximately 82.5 million people in 2005, 8.6 million of which had a disability.¹⁷

The most recent data collection about life circumstances of people with disabilities was published in December 2006 using the results of the 2005 Micro Census.¹⁸ The Census collects data on assessed disabilities and their degree. Answering questions on disability is voluntary. In 2005, 86 percent of people polled provided details regarding questions on disability, though only 51 percent of people in residential facilities and homes replied. The census provides information on age, family status, number of private households and of persons living in each household, labor-force participation rate, occupational areas, unemployment rate, school graduation, sources of income and health situation.¹⁹

In comparison to 2003, there was an increase of the disability population by 2.7 percent in 2005. Of that population, 6.7 million people were classified as severely disabled and 1.9 million were classified with less significant disabilities. Also, 54 percent are men, 46 percent women—the higher number in men could be explained by the fact that more men than women are employed and ask for the acknowledgment of their disability to receive adequate benefits.²⁰ 71 percent of officially acknowledged persons with disabilities are 55

¹⁷ Federal Statistical Office, *Population in 2005 slightly declined*, (In German), Wiesbaden, 19

July 2006. <http://www.destatis.de/presse/deutsch/pm2006/p2920021.htm>:

Federal Statistical Office. *More than 8 million disabled persons*, (In German), Wiesbaden, 1 December 2006, <http://www.destatis.de/presse/deutsch/pm2006/p5020085.htm>. (Accessed 5 April 2007).

¹⁸ The Micro Census is the biggest census of households in the European Union and provides detailed information on the economic and social situation of the population. For further reading:

Federal Statistical Office. (In German). http://www.destatis.de/themen/d/thm_mikrozen.php. (Accessed 5 April 2007).

¹⁹ Heiko Pfaff and Colleagues, *Life Circumstances of people with disabilities – Results of the Micro Census 2005*, in: "Economy and Statistics", (In German), Wiesbaden, December 2006 1267. <http://www.destatis.de/download/d/wista/sozialleistungen1206.pdf>. (Accessed 5 April 2007).

²⁰ *Ibid*, 1268.

years or older.²¹ Of the population aged 80 years or older, one-third have a disability.²²

Since 1979 the Federal Statistical Office has been regularly publishing the results of the biennial “Statistics on Severely Disabled Persons.” It includes the compensation offices’ data on persons with a valid pass documenting the degree of disability, their age, sex, nationality, residence, as well as kind, cause and degree of their disability.²³

Table I: Results of the Statistics on Persons with Severe Disabilities 2005 ²⁴

Causes for Disabilities	<u>Rate</u>
Disease	83%
Congenital impairment	5%
Accident or occupational disease	2%
Impairments	
Physical impairment	66%
Affection of viscera	26%
Functional limitation of arms or/and legs	14%
Affection of backbone and torso	13%
Blindness or visual impairments	5%
Hearing, speech or balance impairment	4%
Mental or psychic impairments	9%
Cerebral dysfunction	9%
Not disclosed	16%

²¹ Federal Statistical Office, Press Release, *More than 8 million disabled persons*. (In German). Wiesbaden, 1 December 2006, <http://www.destatis.de/presse/deutsch/pm2006/p5020085.htm> (Accessed 5 April 2007).

²² Heiko Pfaff and Colleagues, 1268.

²³ Federal Statistical Office, *Quality Report Statistics on severely disabled Persons*. (In German), Wiesbaden, 2005. http://www.destatis.de/download/qualitaetsberichte/qualitaetsbericht_schwerbehinderte.pdf. (Accessed 5 April 2007).

²⁴ Federal Statistical Office, *6.7 Million severely disabled Persons in Germany*, (In German), Wiesbaden, 11 July 2006, <http://www.destatis.de/presse/deutsch/pm2006/p2770085.htm>. (Accessed 5 April 2007).

Disabled Peoples Organizations criticize the Statistics on severely disabled persons as medical based information that misses statistics that would provide data from a social perspective, e.g. on how many persons use a wheelchair.²⁵

Further data on life circumstances of people with disabilities can be gathered from the statistical offices or specific studies of the federal states (Bundeslaender). Other specific statistics are the regular labor market reports of the Federal Labor Agency, or the Statistic Publication of the Conference of Ministries of Culture about Special Needs Education at Schools.²⁶ Sources of information are also regular government reports or official government responses to formal queries by opposition parties in the Federal Parliament.²⁷

²⁵ Sigrid Arnade and Guenther Heiden, Journalists, Panel Discussion with Dr Sigrid Arnade and Guenther Heiden of Netzwerk Artikel 3, Klaus Lachwitz of Bundesvereinigung Lebenshilfe, Hans-Juergen Leutloff of Sozialverband Deutschland (SoVD), Martina Puschke of Weibernetz, Barbara Vieweg of Interessenvertretung Selbstbestimmt Leben (ISL), Conducted by the Author, Berlin, 13 December 2006.

²⁶ Federal Labor Agency, <http://www.arbeitsagentur.de> (Accessed 6 April 2007); Statistic Publication of the Conference of Ministries of Culture, *Special Needs Education at Schools 1994 – 2003*, (In German), Bonn, 2005, <http://www.kmk.org/statist/Dokumentation177.pdf>. (Accessed 5 April 2007).

²⁷ Federal Parliament Printed Matter 15/4575, *Governmental Report on the Situation of disabled People and the Development of Participation*, (In German), Berlin, 2004. <http://dip.bundestag.de/btd/15/045/1504575.pdf>. (Accessed 5 April 2007)

- Federal Parliament Printed Matter 15/5922, *Report on the Situation of severely disabled Women and Men on the occupational Training Market*, (In German), Berlin, 2005. <http://dip.bundestag.de/btd/15/059/1505922.pdf>. (Accessed 5 April 2007).
- German Federal Parliament Printed Matter 16/808, *Costs of the integration help (rehabilitation benefits provided by the social welfare) of disabled persons*. The document includes information about the expenses for the rehabilitation benefits of the social welfare and the financial situation of people with disabilities; (In German), Berlin, 2006. <http://dip.bundestag.de/btd/16/008/1600808.pdf> (Accessed 5 April 2007).
- German Federal Parliament Printed Matter 16/1059, *Policies for People with Disabilities – Plans of the Federal Government*, (In German), Berlin, Germany, 2006 <http://dip.bundestag.de/btd/16/010/1601059.pdf>. (Accessed 5 April 2007).
- German Federal Parliament Printed Matter 16/1100, *Report on the Employment of severely disabled persons in the Federal Administration*, Berlin, 2006. <http://dip.bundestag.de/btd/16/011/1601100.pdf>. (Accessed 5 April 2007).
- German Federal Parliament Printed Matter 16/2874, *Recent Developments in the Occupational Rehabilitation*, (In German), Berlin, Germany, 2006 <http://dip.bundestag.de/btd/16/028/1602874.pdf>. (Accessed 5 April 2007).

Legislation and Disability Rights

National Protections

The Basic Law, the German Constitution, is the legal and political basic order for the Federal Republic of Germany. It contains the Basic Rights and the law on the organization of the state. Germany is organized as a federation with 16 federal states, the Laender. The Basic Law determines the particular responsibilities of the Federation and of the Laender. Many areas of legislation that concern people with disabilities are within the jurisdiction of the Laender.²⁸

Article 3 of the Basic Law guarantees the Basic Right of Equality before the Law. In 1994, this right has been complemented by the sentence “No person shall be disfavored because of disability.”²⁹

Another significant step was taken in July 2001 when Book 9 of the Social Code – Rehabilitation and Participation of Disabled Persons – was adopted.³⁰ The new act consolidated existing rehabilitation and participation benefits for persons with disabilities and further developed them with the goal “to promote their autonomy and equal participation in society, and to avoid or counteract disadvantages.”³¹ With this objective, the German rehabilitation law dismissed its welfare approach. Politicians as well as the disability community have marked this event as a legal ‘paradigm shift.’

Book 9 of the Social Code gives entitlement to medical rehabilitation benefits, benefits aimed at participation in working life, and benefits aimed at participation in community life. Seven different rehabilitation

²⁸ E.g.: areas of accessibility of buildings and environments, local public transport, education, social welfare, or housing. The Laender's competences can lead to different legislative and implementation developments. Compare also below on Legal Barriers. The areas of legislation of the Federation are determined in article 70 to 74 of the Basic Law. The Laender basically have the legislation competence in areas that are not assigned to the Federation's exclusive or competing legislation. <http://www.gesetze-im-internet.de/gg/index.html>. (In German). (Accessed 5 April 2007).

²⁹ An English text of the Basic Law can be found on: www.bundesregierung.de/Webs/Breg/EN/Federal-Government/FunctionAndConstitutionalBasis/BasicLaw/ContentofBasicLaw/content-of-basic-law.html__nnn=true#doc48090bodyText2, (Accessed 12 July 2007).

³⁰ Social Code, Book 9 (SGB IX), *Rehabilitation and Participation of disabled Persons*, (In German) http://bundesrecht.juris.de/sgb_9/index.html (Accessed 5 April 2007).

³¹ *Ibid.*, Section 1.

funds can be responsible: the social health insurances, the Federal Labor Agency, the social pension insurance, the occupational accident insurance funds, the funds providing compensation benefits in the event of damage to health, the youth welfare or, in cases of indigence, the social welfare authorities.³² Precedent conditions for each benefit are regulated in the relevant acts of the funds. This structured system is still a core problem as it makes applications difficult. While Book 9 of the Social Code engages funds to cooperate and provide independent consulting, Disabled People Organizations miss implementation of these tasks.³³

Book 9 of the Social Code was the first social act to include a gender perspective. Benefits shall be granted with consideration of the needs of women with disabilities.³⁴

As a basic principle, rehabilitation benefits are provided in kind. But Book 9 of the Social Code also introduced a “Personal Budget.” Instead of receiving benefits in kind, a disabled person can agree with all relevant rehabilitation funds upon a monthly budget to buy rehabilitation services independently, and with proviso of an individually assessed need of support. Elements of the budget are income based, if the accordant benefit in kind would also be income-based. Thus a budget may, for example, include the financial means provided by the social long-term care insurance for assistance with the personal hygiene, the financial means provided by the integration office for assistance at the working place and, on an income based track, the financial means of the welfare fund for assistance to participate in social life. To evaluate the effects of providing a Personal Budget, the government has launched model projects throughout Germany that end in December 2007.³⁵ An

³² *Ibid.*, Section 5, 6.

³³ Panel Discussion with Dr Sigrid Arnade and Guenther Heiden of Netzwerk Artikel 3, Klaus Lachwitz of Bundesvereinigung Lebenshilfe, Hans-Juergen Leutloff of Sozialverband Deutschland (SoVD), Martina Puschke of Weibernetz, Barbara Vieweg of Interessenvertretung Selbstbestimmt Leben (ISL). Discussion conducted by Sabine Haefner. Berlin. 13 December 2006.

³⁴ cp. e.g. *Social Code*, Book 9 (SGB IX)Section 1(2), 13(6), 19(1), 20(3), 21(1,6), 22(1,2), 33(2), 44(1,3), 71(1), 83(2), 104(3), 112(2,3), *Rehabilitation and Participation of disabled Persons* (In German) http://bundesrecht.juris.de/sgb_9/index.html. (Accessed 5 April 2007).

³⁵ *Ibid.*, Section 17.

intermediate report from October 2006 on the experiences with 243 Personal Budgets showed that 77 percent of the budget users feel that their personal situation has improved due to the new service, but many also complain about bureaucratic problems and a lack of information and consulting services.³⁶

If rights as stipulated in Book 9 of the Social Code are violated by a responsible rehabilitation fund, persons with disabilities can take legal action to the Social Courts, according to the general guidelines. They can be represented by associations.³⁷

The federal Act on Equal Opportunities for Disabled Persons (BGG) entered into force on 1 May 2002.³⁸ Its purpose is to implement the ban on discrimination on the grounds of disability, particularly in the area of public life. Meanwhile almost all federal Laender complemented the federal Act by enacting their own laws for their specific areas of legal competence. Main provisions of the federal Act are:

- The ban on discrimination on the basis of a disability for public authorities and the obligation “to enforce equal rights for women and men;”³⁹
- The definition of “barrier-free environments,” the Federal Government’s obligation to construct barrier-free buildings, the obligation of federal authorities to use barrier-free information technology, barrier-free access to Federal and European

³⁶ Heidrun Metzler, Gudrun Wansing and Thomas Meyer, Scientific Concomitant Analysis of the Implementation of Book 9 of the Social Code (SGB IX) – Rehabilitation and Participation of disabled persons – Monitoring and Analysis of the Test of fund spanning Personal Budgets: **Intermediate Report**, (In German), Tuebingen, Dortmund, Ludwigsburg, 2006, 143. www.projekt-persoennesliches-budget.de/cms/?Materialien_und_Literatur:Materialien, (Accessed 5 April 2007).

³⁷ *Social Code* Book 9, Section 63.

³⁸ *Federal Act on Equal Opportunities for Disabled Persons* (In German). www.gesetze-im-internet.de/bgg/index.html. (Accessed 5 April 2007). Compare regarding the definition used in the chapter on definitions.

³⁹ *Ibid*, Section 7, Section 2.

elections, to restaurants, to university studies and; promotion of a barrier-free public transport;⁴⁰

- The right to communicate with public authorities in German Sign Language, by means of signs supporting spoken language or through other adequate communication aids in administrative procedures, and the disability-suited design of notices in administrative procedures;⁴¹
- Associations can take legal action for a declaratory judgment on whether there has been an infringement of the ban on discrimination for public authorities.⁴²

On 18 August 2006, the General Equal Treatment Act (AGG) came into effect.⁴³ It implemented – after an extensive political discussion, and EU action against Germany for violating EU law – the EC Racial Equality Directive (2000/43/EC), the Employment Framework Directive (2000/78/EC), the Amending Directive on Equal Treatment between Men and Women in Employment (2002/73/EC), and the Directive on Equal Treatment between Men and Women in the Access to and Supply of Goods and Services (2004/113/EC). The Act prohibits direct and indirect discrimination based on racial or ethnic background, sex, religion or belief, disability, age, or sexual orientation. Protected sectors include:

- the employment sector according to the provisions of the Employment Framework Directive;⁴⁴
- the sector of bulk business, such as businesses that are generally made to similar conditions independent from a person's standing,

⁴⁰ *Federal Election Act.*, (In German). Section 4 BGG. Section 8 BGG. Section 11 BGG. Section 11 BGG. Section 46(1). 57(1), adapted by the Act on Equal Opportunities for Disabled Persons; *Restaurant Act* Section 1(1 Nr. 2a) , adapted by the Act on Equal Opportunities for Disabled Persons; *University Frame Act* Section 2(4), 16 adapted by the Act on Equal Opportunities for Disabled Persons; *Passenger Transport Act* Section 8(3) ; *Railway Operation Ordinance*, Section 2(3) ; *Air Traffic Act* Section 19d, 20b , adapted by the Act on Equal Opportunities for Disabled Persons.

⁴¹ *Federal Act on Equal Opportunities for Disabled Persons*, Section 6, 9.

⁴² *Ibid*, Section 13.

⁴³ *Equal Treatment Act*, (In German). <http://bundesrecht.juris.de/agg/index.html>. (Accessed 5 April 2007).

⁴⁴ *Ibid*, Section 2(1).

and all private businesses with regard to discriminations based on race or ethnic background;⁴⁵

- the private insurance business;⁴⁶
- the rent of living spaces, if a landlord lets more than 50 flats.⁴⁷

The Equal Treatment Act (AGG) provides legal remedies in cases of violations against the Act. Employees have a right to complain or to refuse performance and may demand compensation.⁴⁸ In the area of private business, the remedies include abolishment of damnification, injunctive relief, and compensation for a non-financial loss.⁴⁹ Anti-discrimination associations may support discriminated persons.⁵⁰

Many are contesting whether or not Article 5 of the Employment Framework Directive (2000/78/EC) with regard to reasonable accommodation for persons with disabilities is duly implemented by the Equal Treatment Act (AGG). While the directive does not distinguish between people with severe and less significant disabilities, the German legislation still foresees a clear obligation for employers only for severely disabled persons.⁵¹ The AGG does not include similarly clear guidelines for employers for providing reasonable accommodation to all persons with disabilities.

The German Criminal Code penalizes crimes in the area of sexual abuse and rape that may particularly affect persons with disabilities.⁵² In 2003 relevant sections have been adapted to improve the protection

⁴⁵ *Ibid*, Section 19(1), 19(2).

⁴⁶ *Ibid*.

⁴⁷ *Ibid*, Section 19(1, 3, 5) .

⁴⁸ *Ibid*, Section 13,14,15.

⁴⁹ *Ibid*, Section 21.

⁵⁰ *Ibid*, Section 23.

⁵¹ *Social Code*, Book 9,, Section 81 (Accessed 5 April 2007).

⁵² cp. *Criminal Code* Section 174a on sexual abuse of persons in public custody and in institutions; Section 174 c : on sexual abuse by exploiting a counselling, treatment or care relationship. Section 177 on sexual coercion and rape in exploiting a situation in which the victim is unprotected and at the mercy of the perpetrator's influence. Section 179 on sexual abuse and rape of persons who are incapable of resisting because of a mental or psychic disease or disability <http://bundesrecht.juris.de/stgb/index.html>. (Accessed 5 April 2007).

for persons with disabilities and their professional legal support in cases of abuse.⁵³

The Violence Protection Act of 2002 provides protection in cases of domestic violence. A person who is affected by the violent behavior of her or his partner can demand that the perpetrator vacates a shared residence.⁵⁴ Considering the fact that only 10 percent of battered women's shelters are accessible, the Violence Protection Act is of high importance for women with disabilities.⁵⁵ But some uncertainty remains and lobbies of women and girls with disabilities are demanding clearly stated violence protection legislation for those living in residential facilities.⁵⁶

International Protections

Germany is party to the following Conventions of the United Nations: International Covenant on Civil and Political Rights, including the Optional Protocol and Second Optional Protocol; International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of all Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women, including the Optional Protocol; Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; and the International Convention on the Rights of the Child, including the Optional Protocol on the involvement of children in armed conflicts.⁵⁷ It is not common to involve Disabled Peoples Organizations into the Monitoring of these Conventions.⁵⁸

⁵³ *Law on the amendment of provisions on crimes against sexual self-determination and on the amendment of other provisions*, (In German), 27 December 2003 <http://www.bgblportal.de/BGBL/bgbl1f/bgbl103s3007.pdf>. (Accessed 5 April 2007).

⁵⁴ *Law on Protection against Violence*, <http://bundesrecht.juris.de/gewschg/index.html>. (Accessed 5 April 2007).

⁵⁵ Federal Parliament Printed Matter 15/3154, *Sexual Violence against persons with disabilities*, (In German), Berlin, 2004. 9, <http://dip.bundestag.de/btd/15/031/1503154.pdf>. (Accessed 5 April 2007)

⁵⁶ Panel Discussion with Martina Puschke, Martina, Project Coordinator, Weibernetz e.V., Lobby of disabled Women.

⁵⁷ Office of the United Nations High Commissioner for Human Rights, *Status of the Countries*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=63&Count=15&Expand=66#66>, (Accessed 5 April 2007).

⁵⁸ Panel Discussion.

As stated by the Federal Government, the Standard Rules for the Equalization of Opportunities for Persons with Disabilities had a big impact on Germany's "paradigm shift" in its disability legislation: from the idea of welfare towards the legal goal of autonomy and equal participation.⁵⁹

The German government supported the idea of a UN Convention on the Rights of Persons with Disabilities and lobbied for a comprehensive Convention with applicable, enforceable and realistic provisions.⁶⁰ Germany's delegation was part of the drafting Working Group of the Convention in 2004. The Federal Ministry for Labor and Social Affairs and the Federal Foreign Office have primarily been in charge of the negotiations. The delegation included Prof. Dr. Theresia Degener, a human rights lawyer who was born without arms. Prof. Degener had also been appointed as facilitator for the inclusion of women and gender aspects into the Convention during the sixth and seventh session of the drafting Ad Hoc Committee. The Government promoted the participation of German DPOs during negotiation on the national level, and also during the Ad Hoc Committee's sessions, particular to lobby for the visible protection of the rights of women and girls with disabilities in the Convention.⁶¹ On 30 March 2007, Germany signed the UN Convention and its Optional Protocol.⁶²

Germany signed and ratified the European Social Charter of 1961 but not the revised version of 1996, or the protocol enabling collective complaints to be brought under the European Social Charter.⁶³ In March 2006, Germany submitted its 24th Report on the European Social Charter for the period between 1 January 2001, and 31

⁵⁹ Federal Parliament Printed Matter 15/4575, *Governmental Report on the Situation of Disabled People and the Development of Participation*, (In German), 2004, 177 <http://dip.bundestag.de/btd/15/045/1504575.pdf>. (Accessed 5 April 2007).

⁶⁰ *Ibid*, 178.

⁶¹ Author's experience (The author has been supported to attend the 7th and 8th session of the AHC).

⁶² United Nations Enable website: <http://www.un.org/esa/socdev/enable/conventionsign.htm>. (Accessed 5 April 2007).

⁶³ Council of Europe, ESC Signatures and Ratifications, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=035&CM=8&DF=07/11/2005&CL=ENG>; Council of Europe, ESC (revised) Signatures and Ratifications, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=7&DF=26/10/2005&CL=ENG>; Council of Europe, ESC Additional Protocol Signatures and Ratifications, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=158&CM=7&DF=26/10/2005&CL=ENG>, (Accessed 5 April 2007).

December 2004, containing a chapter on Article 15 of the ESC with regard to disability.⁶⁴ There are no conclusions by the European Committee on Social Rights on the 24th report of the German government, yet.⁶⁵

Legal Barriers

On 1 January 1992, the German proxy law entered into force displacing policies on guardianship, incapacitation and “frailness care” for adult persons.⁶⁶

The Guardianship Court determines a proxy if an adult person is not able to manage his or her affairs completely or partially alone due to a psychological disease or physical, mental or psychological disability. In the case of a physical disability, a proxy is only possible upon application by the physically disabled person. In 2004 there were 1,157,819 proxies in Germany.⁶⁷

A proxy shall be limited by what is essential and shall not be appointed against a person’s “free will.” Possible support from family, friends and neighbors is paramount. A proxy has to manage the affairs of an attended person according to the person’s well being. It is part of the well being of an attended person that he has the possibility – in line with his abilities – to form his life according to his wishes and ideas.⁶⁸ The attended person is not automatically deprived of his or

⁶⁴ http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/1_state_reports/Germany%2024th%20Report.pdf, (Accessed 5 April 2007).

⁶⁵ Regarding the 2002 report, the Committee asked for clarification on the statistics and steps taken to move towards a more social definition of disability. The Committee requested further information on measures to promote the integration of children with disabilities into mainstream education, it took note of the Law on the Reduction of Unemployment among Severely Disabled People which entered into force in October 2000, and wished to be informed on the success of the measures; Compare also chapter on employment; http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/1_by_state/Germany_XVI-2.pdf, (Accessed 5 April 2007).

⁶⁶ Civil Code (BGB) Sections 1896 to 1908 k, <http://bundesrecht.juris.de/bgb/index.html> (Accessed 5 April 2007).

⁶⁷ Horst, Deinert, *Numbers of proxy in 2004*, www.betreuerlexikon.de/betreuungszahlen2004.pdf. (Accessed 6 April 2007).

⁶⁸ Civil Code (BGB), Section 1901(2), <http://bundesrecht.juris.de/bgb/index.html>. (Accessed 6 April 2007).

her legal capacity to act. Only if the Guardianship Court explicitly orders a reservation of consent for particular areas, the proxy's consent is needed.⁶⁹ In 2004 there were 10,843 ordered reservations of consent.⁷⁰

Disabled People Organizations now expect legal barriers caused by the Reform of the Federalism, which was enacted on 1 September 2006. The Laender's legislative competence has been strengthened in important areas for persons with disabilities, e.g. with regard to the Personal Budget, the Integration Aid of the social welfare, and in the area of public transport.⁷¹

Application for benefits may be rejected by rehabilitation funds. But legal action in front of the Social Courts in Germany can require years.⁷² Social Courts in Germany are overburdened by the amount of cases, and several legislative proposals are in legislative process to make legal action to Social Courts more difficult.⁷³

Civic Participation

Data on how many polling places are accessible are partially provided by local authorities and the federal Laender. During the 2006 elections for the Berlin House of Representatives, 57 percent of the polling places had barrier-free access.⁷⁴ The German Federation of Blind and Visually Impaired People provide voting templates for blind persons and persons with visual impairments that can be

⁶⁹ *Ibid*, Section 1903.

⁷⁰ Horst Deinert.

⁷¹ German Disability Council, *Reform of Federalism is massive setback for disabled persons*, (In German), Berlin, 7 July 2006, <http://www.deutscher-behindertenrat.de/ID53051>. (Accessed 6 April 2007).

⁷² Author's experience who is working for an organization providing legal representation in front of Social Courts.

⁷³ Compare, e.g. Federal Parliament Printed Matter 16/1028 with a draft act for the introduction of Fees for Social Courts; Federal Council Printed Matter 34/05 with a draft act on limiting action, including possibilities of proof at Social Courts.

⁷⁴ Land Election Supervisor for the Berlin elections on 17 September 2006, Berlin *before election*, Berlin, 13 September 2006. <http://www.statistik-berlin.de/wahlen/home.htm>. (Accessed 6 April 2007).

used without help and that are financed by public funds.⁷⁵ Since the 2005 elections for the Federal Parliament (German Bundestag), the Government (again) includes a wheelchair user, the current Federal Minister of the Interior. There is at least one further member of the Federal Parliament who also uses a wheelchair.

Persons with disabilities can be denied their basic right to vote for the German Bundestag if a legal proxy has been appointed for all areas of life by a Guardianship Court or if a person resides in a psychiatric hospital under order of a criminal court.⁷⁶ Official numbers on legal proxy do not show extensions or limitations of a proxy, and the Federal Election Supervisor associated with the Federal Statistical Office does not provide data regarding denied rights to vote. Voters not being able to read or those prevented from independently marking the ballot paper and placing the envelope into the ballot box due to a physical handicap may also be assisted.⁷⁷

The Basic Law guarantees the right to have a family without discrimination on the basis of disability.⁷⁸ In 2005, 51 percent of persons with disabilities at or older than 45 were or had been married.⁷⁹ In a study from 2000 on the situation of women with physical and sensory impairments, 70 percent of the interviewed women had two or more children.⁸⁰ But it seems that forming a family is still difficult for people living in residential accommodations. Living circumstances

⁷⁵ German Federation of Blind and Visually Impaired Persons, URL: <http://www.dbsv.org/Aktuelles/alt-nachr.html#Schablone>, (Accessed 6 April 2007).

⁷⁶ *Federal Election Act*, Section 13 (2, 3), 15, (Accessed 5 April 2007) English version on: <http://www.electionaccess.org/LR/Countries%20A-L/Germany.htm>, (Accessed 6 April 2007); The federal Laender have equal clauses in their Election Acts for the election of regional parliaments. Cp. e.g., *Berlin Election Act* Section 2, and *Bavarian Election Act*, Section 2, http://by.juris.de/by/gesamt/WahlG_BY_2002.htm#WahlG_BY_2002_rahmen. (Accessed 6 April 2007).

⁷⁷ *Federal Election Act*, Section 33(2), 36(2)

⁷⁸ *Basic Law* (GG,)Article 6 and 3(3), <http://www.gesetze-im-internet.de/gg/index.html>, (Accessed 6 April 2007).

⁷⁹ Heiko Pfaff and Colleagues, *Life Circumstances of people with disabilities – Results of the Micro Census 2005*, in: "Economy and Statistics" Wiesbaden, December 2006, 1267 and 1269 <http://www.destatis.de/download/d/wista/sozialeleistungen1206.pdf>.

⁸⁰ Nicole Eiermann, Monika Haeußler and Cornelia Helfferich, *LIVE. Living and lobbying – women with disabilities. Life situation, situations of need and lobby of women with physical and sensory impairments* (Stuttgart, Berlin, Köln, 2000), 88 (is this a book – if so publisher?) <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerenstelle/Pdf-Anlagen/PRM-24436-SR-Band-183,property=pdf,bereich=rwb=true.pdf>, (Accessed 6 April 2007).

very often do not offer particular services for mothers and fathers with psycho-social or intellectual disabilities.⁸¹ Many parents with disabilities fear that youth welfare authorities might question their parental competence and take away their right of custody if they were to ask for assistance. Organizations of parents and women with disabilities demand a clear right for “parent (personal) assistance” that would not question the disabled parent’s ability to raise their children, but still provide practical assistance.⁸² Regarding adoption by persons with disabilities, it’s reported that it is very difficult for parents with disabilities to enjoy that right on an equal basis with others.⁸³

Inclusion

Communication

Government authorities do not offer alternative formats of the German Constitution, the Basic Law.⁸⁴ Editions in Braille or audio format can be borrowed at one of the 13 German libraries for blind users and users with visual impairments.⁸⁵ Federal laws and legislative proposals can be found in the Internet on accessible government sites.

⁸¹ Julia Zinsmeister, *State Support for disabled Mothers and Fathers fulfilling their Education Task*, (In German) (Nuernberg, Cologne, 2004), 4-5, with further evidence, <http://www.kompre.org/elternassistenz/doku/rechtsgutachten.pdf>, (Accessed 6 2007).

⁸² Compare campaign for ‘parent assistance’, <http://www.elternassistenz.de>, (Accessed 6 April 2007).

⁸³ Sigrid Arnade, *Information brochure for disabled girls and women*, (In German) (Bonn, 2003). www.einmischen-mitmischen.de/partner/mschaft.html, (Accessed 6 April 2007)

Section 1741 Civil Code (BGB) regulates that an adoption is acceptable, if it is for the well-being of the child. But many adoption agencies seem to interpret the “well-being of the child” in a way that adoption is ineligible for parents with disabilities. An unofficial argument reported is that it should be prevented that a child moves from one special situation into the next.

⁸⁴ Federal Press Office, Office of brochures of the German Parliament (Bundestag) and Federal Centre for Political Education have been queried by author by phone call.

⁸⁵ The German Central Library for the Blind in Leipzig is the oldest library for blind people in Germany, founded in 1894 and with 150 thousand lending of books and notes (Braille and audio) a year. URL: <http://www.dzb.de>

A list of the libraries for blind persons and persons with visual impairments can be found on the internet site of <http://www.seh-netz.info>; URL: <http://www.seh-netz.info/hoerbuecher/buechereien/index.php>. (Accessed 6 April 2007).

Specific libraries for blind persons and persons with visual impairments have regularly updated collections of audio and Braille literature.⁸⁶ Generally, mainstream libraries in Germany do not provide an extensive collection of books in alternative formats, but the libraries are becoming more and more accessible.⁸⁷ “Phoenix”, a common channel of the two German channels under public law (ARD and ZDF) broadcasts the 8 p.m. news of ARD, the “Tagesschau,” with sign language interpretation. From Monday to Friday “Phoenix” also broadcasts the “heute journal,” a news journal of “ZDF” at 9:45 p.m. with sign language interpreters.⁸⁸

In 2002, the German Sign Language became officially recognized as a language in its own right, and sign supporting spoken language is also recognized as a communication form of the German language. Hearing and speech impaired persons have the right to use the German Sign Language, signs supporting spoken language, or other communication aids in communication with federal authorities.⁸⁹ In addition, sign language interpreters shall be ensured on request and to the extent necessary. The federal authorities have to bear necessary costs.⁹⁰

There is no specific national strategy for people with speech or hearing impairments to communicate with authorities in cases of natural disaster or civil emergency.⁹¹ TV announcements shall also be formatted as subtitles and furthermore included by two German

⁸⁶ Internet sites of libraries for blind persons and persons with visual impairments can be found on the internet site of <http://www.seh-netz.info>, URL: <http://www.seh-netz.info/hoerbuecher/buechereien/index.php>, (Accessed 6 April 2007).

⁸⁷ E.g., the branches of the German National Library in Leipzig and Frankfurt provide workplaces for blind users and users with visual impairments for searching the Catalogue, using Office-programs and CD-ROM databases as well as the internet (Deutsche Nationalbibliothek Frankfurt, Leipzig, Berlin. <http://www.ddb.de>); also, university libraries in Germany provide technical help and working places for blind students.

⁸⁸ Phoenix. <http://www.phoenix.de> (Accessed 6 April 2007); The news programs can also be watched as livestream” in the Internet.

⁸⁹ *Federal Act on Equal Opportunities for Disabled Persons*, Section 6(1,3).

⁹⁰ *Ibid*, Section 9(1).

⁹¹ While the Federation is responsible for the ‘civil protection’ in case of defence, the federal Laender are responsible for disaster protection. The German Emergency Precaution-Information System (deNIS) provides all information regarding a catastrophe also on an internet page for the population, URL: <http://www.denis.bund.de> (Accessed 6 April 2007).

Internet providers.⁹² In the case of a criminal assault or medical emergency, local authorities are responsible for providing proper communication methods. Private websites provide emergency fax numbers in Germany for users with speech and hearing impairments, as well as a pre-printed fax that helps to quickly inform police, fire department or emergency medical service about needed assistance.⁹³

Education

It is estimated that there are about 200,000 children with disabilities aged zero to six years in Germany, 4.7 percent considering the total number of children from zero to six, and 1.9 percent considering the total number of children under 15.⁹⁴ The accuracy of these numbers, however, should be questioned.⁹⁵

According to the Basic Law, the federal Laender hold the primary responsibility for educational legislation and administration.⁹⁶ Consequently, teachers' training is regulated by Laender legislation, but without significant disparities between them. The teachers' education is directed to the types of schools in Germany which can

⁹² It is planned to send text messages to mobile phones, but this plan still needs to find technical solutions to allow priority messaging and masses of messages at the same time. http://www.bbk.bund.de/cln_007/nn_401590/DE/02__Themen/05__Krisenmanagement/04__WarnungderBevoelkerung/03__Warnmittel/Warnmittel__node.html__nnn=true. (Accessed 6 April 2007).

⁹³ *Emergency fax for hearing impaired persons*, <http://www.notfall-telefax112.de/index2.html>, (Accessed 6 April 2007).

⁹⁴ In 2005 there were 4,224,000 children under the age of six in Germany (Micro Census 2005. *Living in Germany - Households, Family, Health. Results of the Micro Census 2005.* 52); Heiko Pfaff and Colleagues, 1268.

⁹⁵ There are no presentable statistics about children with disabilities in Germany. Estimation is based on statistics of severely disabled persons and school statistics regarding a diagnosis of special educational needs cp. Federal Ministry for Family, Seniors, Women and Youth Affairs, *12th Report about Children and Youth*, 2005. 163 <http://www.bmfsfj.bund.de/Kategorien/Publikationen/Publikationen,did=52762.html>, (Accessed 6 April 2007).

⁹⁶ According to article 70 of the Basic Law the Laender have the right to legislate insofar as the Basic Law does not confer legislative power on the Federation. This is not the case for the area of educational legislation and administration.

differ between the Laender, but principally distinguish between the 'mainstream system' and the 'special system.'⁹⁷

In the area of 'special education,' various forms exist alongside each other, such as special educational support through preventive measures, special educational support in joint education or lessons, and special educational support in 'special schools.' Generally, 'special schools' in Germany specialize in impairments: e.g. school for the blind, for the deaf, for the visually impaired, for hearing impaired, for the mentally handicapped, for the physically disabled, for the sick, for children with learning difficulties, for children with speech defects, and for children with behavioral problems. Institutions which cannot be assigned to individual disability categories also exist.⁹⁸

The Laender's school laws include regulations regarding the process of entering school. An application to assess a special educational need can be filed by parents, but also, after informing the parents, by pre-school institutions, class conferences, school psychological services or the public children and youth medical service. The special educational need (SNE) can be assessed before entering a school and during school education. The school controlling

⁹⁷ *National Overview in the Field of Special Needs Education Federal Republic of Germany*, 10 ff. on: European Agency for Development in Special Needs Education. http://www.european-agency.org/nat_ovs/germany/index.html. (Accessed 5 April 2007).

The mainstream system includes primary education with pupils from 6-10/12 years, lower secondary education with an orientation phase and/or different types of school with different final degrees. Upper secondary education for students from 16 to 19 years of age includes general upper secondary schools or a vocational education. For further reading: Eurydice, Directorate-General for Education and Culture, *National summary sheets on education systems in Europe and ongoing reforms*, 200 http://www.eurydice.org/ressources/eurydice/pdf/047DN/047_DE_EN.pdf, (Accessed 6 April 2007).

⁹⁸ Standing Conference of the Ministers of Education and Cultural Affairs of the Laender, *Resolution. Recommendation for the Organisation of Special Education*. 1972.

National Overview in the Field of Special Needs Education, Federal Republic of Germany, 13. (Accessed 6 April 2007).

institution decides about SNE, generally in consultation with the parents/legal guardians and often with others involved (teachers, school director, etc.).⁹⁹

Pupils and their parents or legal guardians rarely have a realizable right to choose between segregated and integrated education. While several Laender have officially included a right for education at a mainstream primary or secondary school, this right can be limited, for example, if a school claims a lack of resources, means or organizational possibilities.¹⁰⁰ Further barriers for integrated education are caused by school laws that limit the places for children with special educational needs in mainstream classes, or demand the ability to reach the same educational goals as non-disabled pupils.¹⁰¹

⁹⁹ cp. e.g. *Berlin Ordinance about Special Need Education*, Section 31 to 36; *Saxony School Law*, Section 30; *Baden-Württemberg School Law*, Section 82; *North Rhine-Westphalia Ordinance about Special Need Education, Home Education and Schools for the Sick*, Section 3 ff; *Bremen School Law and Bremen Ordinance on Special Need Education*, Section 35. Since the school year 1999/2000 all Laender agreed in a joint definition of Special Needs Education (SNE). Pupils experiencing problems as a result of a certain disability or a problematic situation, or pupils with temporary learning difficulties are supported by a combination of measures. SNE is classified with regard to the pupils' special educational requirements into the following categories: "blind, visually impaired, deaf, hearing impaired, mental disabled, physically disabled, pupils with learning difficulties, students with behavioural problems, student with impaired speech and sick pupils". ("National Overview in the Field of Special Needs Education, Federal Republic of Germany". 11, on: European Agency for Development in Special Needs Education. http://www.european-agency.org/nat_ovs/germany/index.html. (Accessed 6 April 2007).

¹⁰⁰ cp. e.g. *Berlin School Law*, Section 37; *Saxony Ordinance on Integrative Education*, Section 4

In 1997 the Federal Constitutional Court decided that referring a pupil to a special school for financial reasons against his/her or the parents' will would not violate the Basic Law and the prohibition of disadvantages on basis of a disability in Article 3(3). A violation of Article 3(3) is to be presumed, if an education at a mainstream school is possible, the necessary personnel and material resources can be covered by available personnel and material means, and if the integrated education is not opposed by the interests of third persons, particular of other pupils. (Federal Constitutional Court. Decision from 8 October 1997. File number: 1 BVR 9/97, <http://www.behinderte.de/BVG/BVG.HTM>. (Accessed 5 April 2007).

¹⁰¹ In Berlin: maximum five pupils in primary schools and three pupils in secondary school, according to Ordinance about Special Needs Education Section 19, 20; cp. e.g. *Berlin Ordinance about Special Needs Education*, Section 35(3); cp. e.g. *Bavarian School Law*, Article 41(1); *Baden-Württemberg Guidelines regarding Children and Adolescents with Special Educational Needs*, Paragraph 1.

Recent figures show that only about 13 percent of children and adolescents with disabilities attend a mainstream school.¹⁰² In 2003 there were 492,700 students with specific educational needs. 52.5 percent had a diagnosis for SNE in the area of 'learning,' as other main focal points are the areas of 'mental development,' 'language,' and 'emotional and social development.'¹⁰³ 12.86 percent (63,369) of students with a diagnosis for SNE visited a mainstream school, while 429,325 students (87.14 percent) attended a special school. In other words, 4.8 percent of all pupils in Germany attended a special school in 2003, compared to 4.3 percent in 1995.¹⁰⁴

Table II: Graduates with a special educational need at special schools in 2003¹⁰⁵

Focal point of promotion	Graduates	Percentage
Total number of Graduates	48,186	100
Thereof:		
No secondary school certificate	38,489	79.9%
With SNE "learning"	28,975	60.1%
With other SNE	9,514	19.7%
Secondary school certificate ¹	8,834	18.3%
O-level certificate ²	797	1.7%
Advanced technical college entrance qualification	3	0%
Higher educational entrance qualification (A-level)	63	0.1%

¹⁰² Federal Parliament Printed Matter 16/1059, *Policy for Persons with Disabilities – Plans of Government*, 15.

¹⁰³ In November 2005 the Conference of Ministries of Education and Culture published statistics about SNE at German schools on the basis of the statistics provided by the Laender. The document includes figures from 1993 to 2003 and distinguishes between the classification of SNE: Learning, seeing, hearing, language, physical development, mental development, emotional and social development, needs without classification and sick students: Statistic Publication of the Conference of Ministries of Culture. Special Need Education at Schools 1994 – 2003. Bonn, Germany. 2005. XI. <http://www.kmk.org/statist/Dokumentation177.pdf>, (Accessed 6 April 2007).

¹⁰⁴ Conference of Ministries of Culture, Special Need Education at Schools 1994 – 2003. Bonn, 2005, XII.

¹⁰⁵ *Ibid*, XV.

There are no cognitions on the federal level about the rates of successful completion of school of students with SNE at mainstream schools.

Table III: Pupils with SNE at mainstream schools in 2003¹⁰⁶

Mainstream School	Number of Pupils
Primary School ³	41,422
Secondary School ⁴	9,522
Secondary Modern School ⁵	1,538
School with multiple educational branches	1,704
Gymnasium (grammar school)	947
Integrated comprehensive school ⁶	4985
Waldorf school	70

Medical examination at schools is based on the Laender's school laws, and is provided by the local public medical services. All children are examined when entering school.¹⁰⁷ Further check-ups are conducted during fourth and eighth class, sometimes at school dismissals, and furthermore at main focus schools like special schools.¹⁰⁸ Examinations include physical check-ups, a screening regarding visual and hearing impairments, a testing of gross and fine motor skills, of language skills and of perceptive abilities. Other tests are conducted for the early detection of disorders and illnesses typical for the particular age, like visual problems, postural deformities, obesity, behavioral disorder or dental caries, which includes the introduction of preventive measures.¹⁰⁹

Teachers of special needs education (SNE) are trained in a particular study branch. Studies are offered at universities and colleges

¹⁰⁶ Conference of Ministries of Culture, 12-19.

¹⁰⁷ The compulsory schooling age starts between 5-7, according to the federal Laender's school laws; The span of compulsory education is between 9 to 12 years.

¹⁰⁸ Federal Parliament Printed Matter 15/4575, "Governmental Report on the Situation of disabled People and the Development of Participation", (In German). Berlin., 2004, 30, <http://dip.bundestag.de/btd/15/045/1504575.pdf>, (Accessed 6 April 2007).

¹⁰⁹ *Ibid*, 31.

throughout Germany.¹¹⁰ Some Laender offer postgraduate studies for teachers for mainstream schools.¹¹¹ At certain universities, students for the mainstream system can visit seminars or courses on 'integration pedagogy,' but courses are rarely obligatory.¹¹²

About two percent of students at German universities have a disability, in which 13 percent are chronically ill.¹¹³ Universities have to make sure that students with disabilities are not discriminated in their studies, and examination regulations have to consider disabled students' needs.¹¹⁴ Students with visual impairments, for example, may use technical devices during examination.¹¹⁵ Several universities also offer complementing e-learning programs.¹¹⁶

Employment

Periodic unemployment statistics from the Federal Labor Agency refer only to people with severe disabilities.¹¹⁷ In November 2006, 4.8 percent (165,136 people) of registered unemployed persons had a severe disability.¹¹⁸ Among other things, the unemployment

¹¹⁰ Baden-Württemberg (Freiburg, Heidelberg, Karlsruhe, Ludwigsburg, Schwaebisch-Gmund, Weingarten), Bavaria (Muenchen, Wuerzburg), Berlin (Humboldt University; also in-service training for special education teacher), Brandenburg (Potsdam), Bremen (University Bremen), Hamburg (University), Hesse (Frankfurt, Gießen), Mecklenburg-Western Pomerania (Rostock), Lower Saxony (Hannover), North Rhine-Westphalia (Dortmund, Essen, Hagen, Koeln, Bielefeld), Rheinland-Pflaz (Mainz, Bad Kreuznach, Speyer, Koblenz), Saxonia (Leipzig), Saxony-Anhalt (Halle), Schleswig-Holstein (Kiel, Flensburg), Thüringen: Erfurt.

¹¹¹ e.g. Baden-Württemberg, Hesse.

¹¹² Schraml, Petra/ Knauer, Sabine, *Education denies teachers necessary tools*, 2005 on: Bildung Plus, (In German), URL: http://www.forumbildung.de/templates/imfokus_inhalt.php?artid=420, (Accessed 6 April 2007).

¹¹³ Federal Parliament Printed Matter 15/4575, 65.

¹¹⁴ *Federal Law providing guidelines for the Laender's university legislation*, Section 2 (4), 16 GHG. <http://bundesrecht.juris.de/hrg/BJNR001850976.html>, (Accessed 6 April 2007).

¹¹⁵ Federal Parliament Printed Matter 15/4575, 66.

¹¹⁶ *Ibid.*

¹¹⁷ Cp. the definition of a "severe disability" in chapter about definitions. The law on severe disabilities, the second part of Book 9 of the Social Code, includes specific benefits for severely disabled persons and their participation in working life, cp. section 68 to 154 *Social Code (SGB) Book 9 (IX) – Rehabilitation and Participation of disabled Persons*, http://bundesrecht.juris.de/sbg_9/index.html, (Accessed 5 April 2007).

¹¹⁸ Federal Labour Agency, "Work and Apprenticeship Market in Germany November 2006, Nu-remberg, 2006, 26.

definition forming the basis for these statistics only considers those with the ability to work for at least 15 hours a week under regular circumstances of the working market and the willingness to be on short-call for the placement efforts of the labor administration.¹¹⁹ Consequently, the labor administration's statistic does not include all people with (severe) disabilities who are economically inactive.

The 2005 Micro Census shows that 70 percent of persons with a disability (compared to 87 percent of non disabled persons) between the age of 25 and 44 have been employed or are looking for employment. Fifteen percent of people with disabilities of the same age are unemployed, compared to 10 percent of the group without disabilities.¹²⁰

According to Germany's rehabilitation and participation legislation, benefits aimed at participation in working life should include all forms of benefits necessary to sustain, enhance, generate or restore the earning power of people with disabilities or persons in danger having a disability in accordance with their capability; thereby assuring their permanent participation in working life, if possible. Benefits aimed at participation in working life include:

- assistance to keep or obtain employment, including counseling and placement services, training measures and mobility aids;
- preparation for reemployment, including basic training necessary due to the disability; vocational adaptation and further training; vocational training;
- allowances for the formation of a company;
- other forms of assistance to promote participation in working life.¹²¹

Special forms of assistance for the participation of severely disabled persons in working life include:

- the duty of public and private employers to fill five percent of the positions with severely disabled persons or pay a

¹¹⁹ *Social Code (SGB)*, Book 3 (III), Section 119, "Employment promotion, http://bundesrecht.juris.de/sgb_3/index.html, (Accessed 5 April 2007).

¹²⁰ *More than 8 million disabled persons*, (Accessed 6 April 2007).

¹²¹ *Social Code(SGB)*, Book 9 (IX), Section 33.

compensatory levy for unfilled compulsory places;

- special responsibilities of employers toward severely disabled employees;
- special protection against unlawful dismissal of severely disabled employees;
- protection of the interests of severely disabled persons at work by representatives for severely disabled persons;
- supplementary benefits by the Federal Labor Agency and the integration offices for severely disabled persons to facilitate.¹²²

In recent years, the Federal Government has undertaken several legislative attempts to combat unemployment of persons with disabilities.

In 2000 the Federal Government reformed the “Act on Severely Disabled Persons”.¹²³ It reduced the employment quota from six to five percent to encourage employers to engage disabled persons. Furthermore, specific placement services, ‘integration arrangements’ in companies and public entities, and the funding of personal assistants at the workplace have been established.¹²⁴

In the course of this revised legislation, the Federal Ministry of Labor and Social Affairs launched a campaign: ‘50,000 jobs for the severely disabled.’ The objective was to reduce the unemployment rate between October 1999 and 2002 by 25 percent. In October 2002, the Federal Employment Agency noticed a reduction of 24 percent. Later analysis showed that this success was mainly based on placement into funded arrangements and occupational training. Also, less people with severe disabilities left their jobs, and a higher

¹²² *Ibid*, Section 7, 81, 85, 93, 101.

¹²³ *Act to combat unemployment of severely disabled persons*, from 29.09.2000; The act has later been integrated into Book 9 of the Social Code in 2001 (Social Code (SGB) Book 9 (IX), (Accessed 5 April 2007).

¹²⁴ The employment quota is the obligation of public and private employers to fill 5% of positions with severely disabled persons or pay a compensatory levy for unfilled compulsory places. *Social Code (SGB IX)*, Book 9, Section 71(1); Section 107 ff; Section 83; Section 102(4).

number than usual retired.¹²⁵ Since the year 2002, the unemployment rate of severely disabled persons has been steadily rising again, also due to reasons of the general employment market. For Disabled People Organizations the general high unemployment rate is one of the major barriers to employment for people with disabilities.¹²⁶

In April 2004, a law was adopted which focuses on promoting occupational training in enterprises for young persons with disabilities.¹²⁷ Additionally, the Federal Ministry for Health and Social Security, supported by further programs of the federal Laender, launched a new campaign: 'j.o.b. – Jobs without Barriers'.¹²⁸ Stakeholders included in that campaign currently conduct about 75 different projects to improve the training and employment situation as well as prevention of occupational diseases or accidents in companies.¹²⁹ In January 2007 the campaign started the program "Job4000" for specially affected people with severe disabilities and included further benefits for employers.¹³⁰

Despite the obligatory employment quota of five percent, connected with a compensatory levy for unfilled compulsory places, the achieved employment quota was at 3.4 percent in October 2002 in the private sector, but 7.1 percent in 2003 in the public service of the Federation.¹³¹

¹²⁵ cp. e.g. Rauch, Angela, Brehm Hannelore, IAB Workshop Report Nr. 6/17.4.2003, *Light at the end of the tunnel? – A recent analysis of the situation of severely disabled persons at the work market.* (Nuremberg, 2004). Between 1999 and 2001 more severely disabled persons retired as from January 2001 the minimum age to go into retirement without pension shortages has been raised from 60 to 63 for people with severe disabilities.

¹²⁶ Panel Discussion.

¹²⁷ *Act for the Promotion of occupational Training and Employment of severely disabled Persons*, (In German). From 23 April 2004, http://www.sgb-ix-umsetzen.de/pdfuploads/gesetz_beschaeftigungsfoerderung_bgb1104s0606-00.pdf. (Accessed 5 April 2007).

¹²⁸ The ministry has been divided after federal parliament elections in October 2005 into the Federal Ministry of Health and the Federal Ministry of Labour and Social Security.

¹²⁹ Further information: Initiative of the Federal Ministry for Labor and Social Affairs. <http://www.jobs-ohne-barrieren.de>, (Accessed 6 April 2007).

¹³⁰ Initiative of Federal Ministry for Labor and Social Affairs, (Accessed 6 April 2007)

¹³¹ cp. *Social Code (SGB IX Book 9)*, Section 71 and 77; Federal Parliament Printed Matter 15/4575. *Governmental Report on the Situation of disabled People and the Development of Participation*, Berlin, Germany. 2004. 107.

Federal Parliament Printed Matter 15/5921. *Governmental Report on the Employment of severely disabled People in the public Service of the Federation*, (In German), Berlin, 2005, 1, <http://dip.bundestag.de/btd/15/059/1505921.pdf>, (Accessed 6 April 2007).

Many employers prefer paying a monthly compensatory levy for not fulfilling the employment obligation. The levy amounts to between €105 to €260 per unfilled compulsory place.¹³²

Employees with severe disabilities can claim the provision of reasonable accommodation from the employer unless it is unreasonable or causing a disproportional burden. The Federal Labor Agency or the Integration Office financially supports the employer.¹³³

In 2004 and 2005, the Federal government rearranged its labor market policy, including a reform of benefits for unemployed persons, a stronger economic focus of the Federal Labor Agency, and the establishment of additional responsible authorities.¹³⁴ Disabled People Organizations criticize that, despite its legal obligation, the Federal Labor Agency has radically reduced actions to promote employment participation of persons with disabilities, and to provide specific consultation.¹³⁵ Also Germany's 50 vocational training centers with around 13,000 places for the initial training of young disabled persons, and the 27 vocational retraining centers with around 15,000 places for retraining of adult persons with disabilities, complain about being affected by the Labor Agency's new business policy.¹³⁶

In 2005, there were 687 sheltered workshops in Germany, with 240,430 persons with disabilities working in 628 of the sheltered workshops. 79.72 percent of the employees had a mental disability, 16.29 percent had a psychological disability and 3.99 percent had a physical disability.¹³⁷

¹³² Social Code Book 9 (SGB IX), Section 77 ; In 2004 the Federal Constitutional Court decided that the compensatory levy is in line with the Basic Law, not least because the levy is tax-deductible and the revenue from the compensatory levy are utilized to support employers fulfilling their employment obligation. Federal Constitutional Court. File Number 1 BvR 2221/03. Karlsruhe, 2003.

¹³³ Social Code (SGB,) Book 9 (IX), Section 81 (4), (Accessed 6 April 2007).

¹³⁴ cp. *Third Act for modern services at the working market*, from 23 December 2003, and *Fourth act for modern services at the working market*, from 24 December 2004.

¹³⁵ According to section Social Code (SGB) Book 9 (IX) **104 the Federal Labor Agency's tasks** are inter alia to provide advice and information on questions of career choice, vocational information, and placement into vocational training places and into the general working market.

¹³⁶ *Alliance for Action for the vocational Rehabilitation*, Position Paper, 13 November 2006 <http://www.sovd.de/1046.0.html>. (Accessed 6 April 2007).

¹³⁷ Data from Federal Consortium of Sheltered Workshops which had 628 members in 2005, with 687 sheltered workshops in Germany, URL: <http://www.bagwfbm.de/page/25> . (Accessed 6 April 2007).

Sheltered Workshops are legally obliged to promote transfer to the open labor market.¹³⁸ Employees in sheltered workshops do not have the same equal legal status as other employees, but legislation of labor protection law shall be applicable in certain instances.¹³⁹ Employees with disabilities have the right to form a workshop council and participate in decisions concerning their interests.¹⁴⁰ Workshops are obliged to pay a reasonable wage (average wage: €160; for persons in training about €67).¹⁴¹ All employed persons with disabilities are socially insured (pension, health, care, accident), and indigent persons with reduced earning capacity for living and accommodation can claim a basic benefit from social welfare authorities.¹⁴²

Persons not capable to work may receive one of the following cash benefits:

- Social Pension Insurance: pension for insured persons with reduction in earning capacity and old age pension (from 63 years) for persons with severe disabilities;¹⁴³
- Social Health Insurance: sickness benefits for a maximum of 78 weeks within three years for insured persons with working incapacity;¹⁴⁴
- Social Occupational Accident Insurance: injury payment for insured persons with working incapacity due to an accident at work and pension for insured persons whose working capacity is reduced for more than 26 weeks after the accident at work;¹⁴⁵
- Social Welfare: benefit for indigent persons with reduced

¹³⁸ E.g. by forming promoted groups or a temporarily employment in the open labour market. Section 136 (1) Book 9 Social Code (SGB IX).

¹³⁹ *Social Code (SGB,)* Book 9 (IX), Section 138(1) and 36,(Accessed 5 April 2007).

¹⁴⁰ *Ibid*, Section 139 (Accessed 5 April 2007).

¹⁴¹ Federal Parliament Printed Matter 15/4575, 114.

¹⁴² *Social Welfare* Section 41ff. Twelfth Book (XII), (In German) http://bundesrecht.juris.de/sgb_12/index.html. (Accessed 6 April 2007).

¹⁴³ *Social Code (SGB, Sixth Book (VI) Section 43, Social Pension Fund, (In German),* http://bundesrecht.juris.de/sgb_6/index.html, (Accessed 6 April 2007).

¹⁴⁴ *Ibid*, Fifth Book (V). Section 44 ff. Compulsory Health Insurance,(In German), http://bundesrecht.juris.de/sgb_5/index.html. (Accessed 6 April 2007).

¹⁴⁵ *Ibid*, Seventh Book (VII) Section 45; Section 56, Statutory Accident Insurance, (In German), http://bundesrecht.juris.de/sgb_7/index.html, (Accessed 1 April 2007).

earning capacity who are not able to earn their living independently;¹⁴⁶

- Compensation benefits, including pensions, in the event of damage to health.¹⁴⁷

Health Services

Health services and medical rehabilitation benefits can be provided by social health insurance, social occupational accident insurance funds, social pension insurance, funds providing compensation benefits, youth welfare service or the social assistance authorities. Social care insurance or social welfare authorities provide long-term care.¹⁴⁸

Germany's social health insurance is passing through a reform process.¹⁴⁹ Since 2004, patients have been burdened with higher costs in addition to regular contributions, and many organizations representing disabled and chronically ill persons criticize the strong barrier to equal enjoyment of health and rehabilitation services.¹⁵⁰

As of 2001, rehabilitation benefits are supposed to be free of access and communication barriers, and people with hearing impairments can demand a sign language interpreter.¹⁵¹ Disabled Peoples Organizations complain about the huge lack of accessible medical facilities, particularly in rural areas, and about the bureaucratic

¹⁴⁶ Social Welfare Book 12 Section 41ff.

¹⁴⁷ *Act on Maintenance of Victims of War*, Section 1; *Act on Compensation for Victims of Crime*; *Act on Maintenance for Soldiers*; *Act on Community Service*; *Infection Protection Act*.

¹⁴⁸ *Social Code (SGB)* Book 9 (IX)Section 6.

¹⁴⁹ The social health system is challenged by financial problems. Less jobs being subject to social insurance contribution, higher expenses caused by a demographic shift, an inefficient and non-transparent system with multiple responsibilities and new medical technologies have led to extensive political discussions regarding the financial basis of the health system and introduced a reforming process. (Advisory Council on the Assessment of Developments in the Health Care System, URL: <http://www.svr-gesundheit.de>) (Accessed 13 April 2007).

¹⁵⁰ cp. e.g. German Disability Council. URL: <http://www.behindertenrat.de> (Accessed 13 July 2007). Additional costs include fees to pay when visiting a doctor, and additional payments e.g. for drugs, dressing material, cures, nursing, rehabilitation services. Cost for eyeglasses, taxi drives for visiting an ambulant medical treatment, or non-prescription drugs are not refunded anymore.

¹⁵¹ *Social Code (SGB)* Book 1 Section 17, General Part of the Social Code, (In German), http://www.gesetze-im-internet.de/sgb_1/index.html, (Accessed 6 April 2007).

conduct of responsible health insurances, and of associations of compulsory health insurance (CHI) physicians.¹⁵² DPOs further criticized insufficient training of physicians, lack of knowledge about the interaction of drugging and disability, and the problem that health insurances do not particularly refund the physicians' need for more time and effort.¹⁵³ Many hospitals are not barrier-free, and expenses for personal assistants are not covered during a stationary stay.¹⁵⁴

During physician training, the academics of public health, rehabilitation and prevention are compulsory.¹⁵⁵ Public health then encompasses disability specific aspects and can be grounds for a doctor's specialization. However, it focuses primarily on the diagnosis of health dysfunction and their effect on productivity in the occupational and social area on the basis of the ICF, than on gaining social competences for the contact with patients with disabilities. CHI physicians are obliged to attend regular further training, but the training's content is the responsibility of their associations.¹⁵⁶ Training programs for health professionals that focus on the provision of services for people with disabilities are not part of regular trainings.

Medical rehabilitation benefits provided include treatment by doctors, dentists and members of other health professions; medicines and dressing; therapeutic remedies including physical therapy, speech therapy and occupational therapy; psychotherapy as medical and psychotherapeutic treatment; certain aids; tolerance-level testing and work therapy; and early detection and early intervention measures for children with disabilities or who are in danger of becoming disabled.¹⁵⁷ These benefits can be amended by further medical, psychological and pedagogic aids (e.g. for handling a situation of medical condition, for activating the potential of self-help or for helping with consulting

¹⁵² Expert talk on barrier-free health services on 16 December 2004, organized by the Federal Government Commissioner for Matters Relating to Disabled Persons. <http://www.sgb-ix-umsetzen.de/index.php/nav/tpc/nid/1/aid/479>, (Accessed 6 April 2007).

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*

¹⁵⁵ *Ordinance for Approbation of physician professionals*, Section 27 (1).

¹⁵⁶ *Social Code (SGB) Fifth Book (V) Section 95 d; Social Health Insurance*, (In German), http://bundesrecht.juris.de/sgb_5/index.html, (Accessed 6 April 2007).

¹⁵⁷ *Social Code (SGB)*, Book 9 (IX), Section 26 (2), (Accessed 5 April 2007).

contacts).¹⁵⁸ Outpatient benefits are to be preferred to in-patient benefits, if the persons entitled to benefits agree and if the required assistance can be provided with the same effectiveness.¹⁵⁹

Auxiliary materials are also part of rehabilitation benefits. Entitlement is given to aids required in each individual case and includes any alterations, repairs and replacements required and training in the use of the aids.¹⁶⁰ Reimbursement of purchased equipment and benefits is only possible if a rehabilitation fund does not react within a legally set time limit after an application for a benefit, and is in line with efficient and economic aspects.¹⁶¹ Aids can also be purchased independently, if a beneficiary and one or more rehabilitation funds have agreed on a Personal Budget.¹⁶²

Finally, there are supplementary benefits, particular cash benefits to guarantee subsistence (e.g. sickness allowance), traveling expenses and/or rehabilitation sports including exercises for women and girls with disabilities to strengthen their self-confidence.¹⁶³

Housing

Housing support services for people with disabilities in Germany can be distinguished between:

- Independent living or voluntarily joint residence with persons with or without disability, possibly supported by ambulant services; and

¹⁵⁸ *Ibid*, Section 26(3).

¹⁵⁹ *Ibid*, Section 19(2).

¹⁶⁰ *Ibid*, Section 31.

¹⁶¹ *Ibid*, Section 15.

¹⁶² *Ibid*, Section 17.

¹⁶³ *Ibid*, Section 44.

- Residential facility, in which a person with disability lives in a non-voluntarily chosen group together with other residents with disabilities.¹⁶⁴

Various rehabilitation funds may support housing for people with disabilities. Welfare authorities can cover the costs for housing and maintenance, as well as further rehabilitation services called 'integration aid,' if a person with disability is not able to afford the costs.¹⁶⁵ The Federal Labor Agency or Social Pension Insurance can accept expenses for housing during a vocational (re)training.¹⁶⁶ For persons with disabilities living independently, rehabilitation funds may cover costs for acquisition, furnishing and care of an accessible flat under certain circumstances.¹⁶⁷

In recent years, the responsible Laender have drawn more attention to the needs of people with disabilities in the area of subsidized housing, including barrier-free flats and adequate service possibilities. However, residential facilities are built and financially supported. In 2003, there were 5,100 stationary facilities with 179,000 places.¹⁶⁸ There is a lack of ambulant services for a rising number of persons with disabilities, addictions and psycho-social disabilities.¹⁶⁹

¹⁶⁴ Federal Ministry for Family, Seniors, Women and Children Affairs, *First Report about the Situation in Homes and the Support of Residents*, (In German), 2006, 230 <http://www.bmfsfj.de/Publikationen/heimbericht/root.html>. (Accessed 6 April 2007). There are residential facilities without a 'structured day', e.g. for employees in sheltered workshops. And there are homes with a 'structured day' that offer training of practical and social competences and leisure activities. Quite often these facilities also have own workshops. And there are smaller forms of living-in-groups which are connected with a residential facility.

¹⁶⁵ *Social Welfare*, Book 12 13(1), (In German), http://bundesrecht.juris.de/sgb_12/index.html. (Accessed 6 April 2007); Legislation includes a preference for ambulant services supporting independent living. However, authorities can refuse support, if an 'adequate' facility is 'reasonable' and an ambulant service would cause disproportional expenses.

¹⁶⁶ *Social Code*(SGB), Book 9 (IX), Section 33 (7), (Accessed 6 April 2007).

¹⁶⁷ cp. *Social Code*, Book 9 (SGB IX), Section 33(8) ; Book 7Section 41 ; Book 12 Section 53; Book 11 Section 40(4, 5).

¹⁶⁸ Federal Ministry for Family, Seniors, Women and Children Affairs, 230.

¹⁶⁹ *Ibid*, 233.

Several Independent Living Centers in Germany provide peer counseling and housing referral services for people with disabilities.¹⁷⁰ The centers are organized as private registered associations, operated by women and men with disabilities and financed by numerous funds, including local communities, responsible ministries, the Federal Labor Agency, Integration Office, European Social Fund, lotteries, or private sponsors.

Institutionalization

Law regulates commitments to an institution of people with psychosocial disabilities, and forced interventions. Basically, they can be initiated by a proxy or by public authorities.

According to the Law, a proxy has to formally encompass decisions about institutionalization and medical treatment. Then, a 'provident' commitment leading to a deprivation of liberty is legally admissible for the 'best interest' of the represented person in danger of suicide or serious health damages caused by a psychic disease or mental or psychic disability.¹⁷¹ Furthermore, a commitment to an institution is admissible, if a necessary examination, a treatment or therapy cannot be operated otherwise, and if the represented person is not able to acknowledge the necessity for the reason of a psychic disease or mental or psychic disability.¹⁷² In 2004, there were 46,381 institutionalizations by proxies.¹⁷³ The permission of the Guardianship Court is necessary for all commitments and also in cases of forced intervention, if a person stays in an institution without a formal commitment.¹⁷⁴ The legislation regulates liberty depriving interventions, medical treatment and forced sterilization on guarded

¹⁷⁰ Centres are located in Berlin, Bremen, Erlangen, Frankfurt, Hamburg, Hannover, Heidelberg, Jena, Kassel, Koblenz, Köln, Künzelsau, Mainz, München, Regensburg, Stuttgart, Würzburg. Centres are connected by the common Representation of Interests for Independent Living - *Interessenvertretung Selbstbestimmt Leben e.V. – ISL*. <http://www.isl-ev.de>. (Accessed 6 April 2007).

¹⁷¹ *Civil Code* Section 1906 (1,1) <http://bundesrecht.juris.de/bgb/index.html>. (Accessed 6 April 2007).

¹⁷² *Ibid.*

¹⁷³ Horst Deinert.

¹⁷⁴ *Civil Code*, Section 1906 (2).

persons in institutions.¹⁷⁵ In 2004 there were 79,391 of such cases.¹⁷⁶ Furthermore, there have been 2,646 cases of approved medical treatment and 154 cases of forced sterilization.¹⁷⁷

The Laender have public laws regulating commitment to institutions of persons with psycho-social disabilities against their will for 'public security.' This is possible, as a last resort, if the persons' health and important rights, as well as protected interests of others are seriously endangered. An analysis of the situation and praxis of forced commitments in the federal Land North Rhine-Westphalia between 2000 and 2002 showed 20,000 forced commitments to institutions a year compared to 18 million inhabitants. According to the study, the numbers of commitments are increasing due to social problems, more cases of old age dementia, and addictions. The researchers suggested the development of more ambulatory psychological services, crises and emergency services, the improvement of services for persons with addictions, homeless and older people.¹⁷⁸

Accessibility

According to the Federation's Act of Equal Opportunities for Disabled Persons (BGG) and the parallel legislation of the Laender, new buildings for civilian purposes and large alterations or extensions to such buildings should be designed without barriers in accordance with the generally recognized engineering principles.¹⁷⁹ According to a research study ordered by the Federal Ministry of Transport, Buildings and Urban Affairs, these requirements are realized in a majority of cases.¹⁸⁰ Other buildings and facilities, public roads, squares, streets, publicly accessible transport facilities shall be designed without barriers in accordance with the relevant Federal legislation.¹⁸¹ Social funds are obliged to work toward the goal

¹⁷⁵ *Ibid*, Section 1906(5); Section 1904, Section 1905.

¹⁷⁶ Horst Deinert.

¹⁷⁷ *Ibid*.

¹⁷⁸ Ministry for Labour, Health and Social Affairs North Rhine-Westphalia/University of Siegen, *Health Reports of local Authorities regarding psychic Commitments and Possibilities for Quality Management. Report of the scientific Monitoring*, (In German), Siegen, 2003.

¹⁷⁹ *Federal Act on Equal Opportunities for Disabled Persons*, Section 8

¹⁸⁰ Federal Parliament Printed Matter 15/4575.

¹⁸¹ *Ibid*.

that benefits are provided in barrier-free facilities, which also include hospitals.¹⁸²

Many Laender included further regulations into their building codes demanding accessibility in public buildings within their jurisdiction, such as cultural and education facilities, facilities for children, sport and leisure facilities, facilities of health care, offices, administrations and court buildings, shops, parking spaces, garages, and public toilets. Old public buildings are basically covered with regard to their maintenance, alteration or extension.¹⁸³ Restaurants, bars and cafes demanding an operation license have to ensure that their rooms are accessible for people with disabilities, if the place is located in a building for which the builder received a building license after November 2002.¹⁸⁴ A big impact has been reached on the public transport systems in local areas as federal financial funds for the promotion of communal traffic are provided only on the condition of setting up accessible transportation.¹⁸⁵

Berlin's public transport system is not completely accessible. About 60 percent of tram lines are accessible. Many tram stations have a guidance system for blind passengers. Over 90 percent of bus lines are operating with accessible buses. On the other hand, only 62 of 170 subway stations are accessible so far, though more and more subway stations are being equipped with a guidance system for blind passengers. Wheelchair users and passengers with hearing impairments can use emergency phones at the stations.¹⁸⁶

¹⁸² *Social Code (SGB)*, First Book (VI) – General Part. Section 17(1,4) http://bundesrecht.juris.de/sgb_1/index.html, (Accessed 5 April 2007).

¹⁸³ cp. e.g. *Bavarian Building Code*, Article 51 http://www.stmi.bayern.de/imperia/md/content/stmi/bauen/rechtundtechnikundbauplanung/_baurecht/baybo/baybo_2006_3_10.pdf, (Accessed 6 April 2007); Or Article 51 *Berlin Building Code* http://www.stadtentwicklung.berlin.de/service/gesetzentexte/de/download/bauen/20060711_bauobln.pdf. (Accessed 11 April 2007).

¹⁸⁴ *Act on licenses for restaurants, cafes, bars etc*, Section 4(1,2a), (In German), <http://www.gesetze-im-internet.de/gastg/index.html>, (Accessed 5 April 2007).

¹⁸⁵ Due to the Reform of the Federation from 2006 the federal Laender will overtake responsibility for this fund of currently 1.66 billion Euros in 2013. DPOs fear a cutback on the objective of barrier-freedom. Press Releases of the German Disability Council on the topic. <http://www.behindertenrat.de>. (Accessed 5 April 2007).

¹⁸⁶ On its website the BVG (Berlin Traffic Company) offers information regarding the accessibility of public transportation in Berlin. <http://www.bvg.de/index.php/de/Bvg/Index/folder/320>. (Accessed 6 April 2007).

In 2004, 80 percent of the 165 urban railway (S-Bahn) stations were accessible.¹⁸⁷

In addition to public transportation, Berlin has an assisted transport service, the Telebus, that is used by about 20,000 people with severe disabilities. Since the service was given into private hands in 2005, there have been many complaints about unreliability and organizational problems. Consequently, several telebus users have been protesting as they feel deprived of their right to equal participation and mobility.¹⁸⁸

Many Laender also have regulations demanding that new (private) living buildings with more than two flats have to provide at least one floor with accessible flats.¹⁸⁹ And as a consequence of a judgment of the Federal Constitutional Court in 2000, the private rent law has been changed in 2001: Tenants can now demand, under consideration of all interests, the landlord's acceptance for alterations in order to make a flat accessible.¹⁹⁰

For the construction of barrier-free buildings, flats and environments, architects, engineers and builders can use technical guidelines published by the German Institute for Norms. For years a new norm (DIN 18030) is expected to replace existing norms (DIN 18024, DIN 18025). The norms particularly consider the needs of blind and deaf persons, persons with visual and hearing impairments, wheelchair users, persons with physical disabilities, older people and children. Seminars and congresses regarding the concept of barrier-free and DIN norms are offered by the Institute for Barrier-Free Designing and Mobility in Mainz.¹⁹¹

¹⁸⁷ S-Bahn (local train) Berlin. http://www.s-bahn-berlin.de/unternehmen/firmenprofil/4_bahnhoeefe.htm. (Accessed 6 April 2007).

¹⁸⁸ cp. e.g. kobinet-nachrichten. *Waiting in the Wheelchair*, 11 November 2006, http://www.kobinet-nachrichten.de/cipp/kobinet/custom/pub/content,lang,1/oid,12454/ticket,g_a_s_t. (Accessed 6 April 2007).

¹⁸⁹ cp. e.g. Article 46(2). *BayBO - Bavarian Building Code*, (In German), http://www.stmi.bayern.de/imperia/md/content/stmi/bauen/rechtundtechnikundbauplanung/_baurecht/baybo/baybo_2006_3_10.pdf. (Accessed 6 April 2007).

¹⁹⁰ *Civil Code*, Section 554a <http://bundesrecht.juris.de/bgb/index.html>, (Accessed 6 April 2007).

¹⁹¹ Institute for barrier-free Designing and Mobility, <http://www.institut-bgm.de>, (Accessed 6 April 2007).

The German Post is planning to close about 400 offices in the next two years, and services are being transferred to local shops without checking for accessibility.¹⁹²

Federal public authorities have to technically design their internet offers and graphic user interfaces in such a way that they may generally be used by disabled persons without restrictions.¹⁹³ The government issued an ordinance (Federal Ordinance on Barrier-Free Information Technology – BITV) which includes further details based on the guidelines of WAI.¹⁹⁴ As of 31 December 2005, all internet sites of offices with more than 250 federal authorities have to be barrier-free.¹⁹⁵ Some recent controls showed that the majority of the websites still need improvement.¹⁹⁶ About 20 percent have been categorized as having good or very good access.¹⁹⁷

Culture, Sports and Recreation

Sport associations for people with disabilities in Germany have 370,000 members. The German Sport Association for People with Disabilities and National Paralympics Committee offers rehabilitation and recreational sports for persons with physical and learning disabilities.¹⁹⁸ Competitive sport can be found in 20 Paralympic and

¹⁹² After protests in such a case in the city of Bochum, the company offered to install a bell outside of the shop. People with disabilities are obviously expected to handle their post and money business outside; Arne Hellinger, *German Post ignores commandment of Barrier-Freedom*, (In German), 20 November 2006,

http://www.kobinet-nachrichten.de/cipp/kobinet/custom/pub/content,lang,1/oid,13379/ticket,g_a_s_t, (Accessed 6 April 2007).

¹⁹³ *Federal Act on Equal Opportunities for Disabled Persons*, Section 11.

¹⁹⁴ WAI = Web Accessibility Initiative of the World Wide Web Consortium (W₃C).

¹⁹⁵ *Federal Ordinance on Barrier-Free Information Technology: BITV*, Section 4 (3), <http://www.einfach-fuer-alle.de/artikel/bitv/>, (Accessed 6 April 2007).

¹⁹⁶ *Barrier-free Information and Communication – BIK*, Project funded by the Federal Ministry for Labour and Social Affairs, <http://www.bik-online.info>, (Accessed 6 April 2007).

¹⁹⁷ Ombudsperson of the Federal Government for the Affairs of Persons with Disabilities, Press Release, 19 Sept. 2006. . In the federal Laender not all regional Acts on Equal Opportunities for Disabled Persons include regulations regarding the use of barrier-free information technology by Laender authorities. Information on the state of legislation on the internet site "Easy For All". Campaign to promote barrier-free internet access. <http://www.einfach-fuer-alle.de/artikel/bitv/bgg/> (Accessed 6 April 2007).

¹⁹⁸ German disability sport association, URL: <http://www.dbs-npc.de>. (Accessed 6 April 2007).

15 non-paralympic sports. Persons with visual or hearing impairments find sport opportunities at the German Sport Association for Deaf People.¹⁹⁹

The promotion of cultural, sport and recreational activities is primarily the responsibility of the federal Laender. The Federal Ministry of the Interior supports competitive sports played by people with disabilities, and their participation at international events.

Several German DPOs have founded a national coordination center (NatKo) to promote the development of tourism without barriers.²⁰⁰ Also, many DPOs and websites provide information regarding accessible tourism, offer barrier-free tours and work with local providers to extend accessible offers. While there are no binding regulations for providers of tours or hotel accommodation, DPOs raise awareness, and strive to achieve arrangements on a voluntarily level or on the basis of a “target arrangement” as described in Section 5 of the Act on Equal Opportunities for Disabled Persons. However, so far DPOs could not reach binding “target arrangement” with the German tourism economy.²⁰¹ Since the adoption of the General Equal Treatment Act in 2006, it may furthermore be regarded as discrimination and have legal consequences if, for example, a hotel or restaurant refuses to serve people with disabilities.²⁰²

Publicly available cultural places like museums or theatres have to be accessible, according to the Laender’s regulations.²⁰³

¹⁹⁹ German Sport Association for Deaf People URL: <http://www.dg-sv.de>. (Accessed 6 April 2007).

²⁰⁰ NatKo (National Coordination Tourism for All). URL: <http://www.natko.de> (Accessed 6 April 2007).

²⁰¹ Compare official register of “target arrangements: Federal Ministry for Labor and Social Affairs, <http://www.bmas.bund.de/BMAS/Navigation/Teilhabe-behinderter-Menschen/Zielvereinbarungen/zielvereinbarungsregister.html>, (Accessed 27 May 2007).

²⁰² *General Equal Treatment Act*, Section 19 AGG. (In German) <http://bundesrecht.juris.de/agg/> (Accessed 11 April 2007).

²⁰³ Compare also chapter on Inclusion/Accessibility.

Disability Action and Awareness

Disability Policy in Germany is not centrally coordinated. Nationally, the Federal Ministry for Labor and Social Affairs is in charge of disability policies while, at a regional Laender level, the ministries for labor, health and/or social affairs monitor policy. In 2002, the Federation established the position of a Federal Government Commissioner for Matters Relating to Disabled Persons. He or she is the contact person for people with disabilities and their organizations, and the Federal Government has to involve him or her in all legislative, regulatory and other important projects in so far as they deal with or affect issues relating to the integration of disabled persons in all aspects of society.²⁰⁴ Many Laender have similar government commissioners.

National disability action plans are not known in Germany. Normally, the government works according to its policy guidelines (coalition contract) that have been agreed between governmental parties at the beginning of an election period.

The ministries regularly involve Disabled Peoples Organizations into their legislative plans as far as persons with disabilities are concerned. DPOs see their most effective strategies as publicity, demonstrations and presenting individual cases.²⁰⁵

The German Disability Council (DBR) has 44 member organizations of people with disabilities and chronic diseases representing both cross- and mono-disability organizations. DBR serves as a platform – not as an umbrella association - where organizations cooperate in order to speak and lobby with one voice on issues of major interest for all people with disabilities and chronic diseases.²⁰⁶ Members appreciate cooperation especially on topics in the areas of equality, anti-discrimination and social entitlements.²⁰⁷

²⁰⁴ *Federal Act on Equal Opportunities for Disabled Persons*, Section 14, 15 BGG (Accessed 6 April 2007).

²⁰⁵ Panel Discussion.

²⁰⁶ For further reading: German Disability Council, <http://www.deutscher-behindertenrat.de/> (Accessed 6 April 2007).

²⁰⁷ *Ibid.*

There are wide disparities with regard to the funding of German DPOs. Possibilities for funding include: member fees, public and private funding, funding for particular projects or campaigns, and donations.

Disability awareness is also increasing at an academic level. A summer university “Disability Studies” program in Bremen brought 500 visitors and exemplified the high interest in information and exchange on the matter.²⁰⁸ It was a starting signal for a new field of research in Germany. Meanwhile, several German universities undertake research and offer courses in disability studies.²⁰⁹

208 For further information: Disability studies in Germany, Summer School 2003. <http://www.bifos.de/sommer/index.html>, (Accessed 6th April 2007).

209 E.g. in Köln, Berlin, Bochum, Bremen, Dortmund, Düsseldorf and Marburg; For further information: <http://www.disability-studies-deutschland.de>, (Accessed 7 April 2007).



GREECE

Key factors

Greece is situated in Southeastern Europe, with an area of 131,957 square kilometers and a population of 10,964,020. Its capital is Athens. The Hellenic

Republic is a Presidential Parliamentary Democracy. Greece joined the European Union in 1981, and the currency is Euro (€). The Greek economy adopts the principles of free enterprise and is bound by the regulations of international organizations such as ECOFIN and the WTO, of which it is a member.¹

Greece is divided into 13 administrative divisions, named “Peripheries” (Districts). The next level of administrative division is the “Nomos” (Prefecture). In total, there are 51 Nomi, and one self-governed territorial division (Agion Oros, on Mount Athos). Local Communities are named either “Dimos” (City) or “Kinotita” (Community) and there are 900 Dimi and 133 Kinotites.

Important changes have taken place in the way the Greek state, Greek society and the national disability movement view disability issues. Greece has made significant progress since the times when disability was defined as a physical, intellectual, mental or sentimental deviation from the “normal” and the relevant problems were associated only with the person with disabilities and his/her functional limitations. Article 21, paragraph 6 of the Constitution of Greece, amended by Resolution 18/2001, states that, “people with disabilities have the right to enjoy measures that guarantee their autonomy, their employment, and their participation in the social, financial, and political life of the country.”²

¹ Ministry of Tourism – Greek National Tourism Organization, <http://www.gnto.gr> (Accessed 13 July 2007).

² Constitution of Greece (NOMOS Forum, <http://lawdb.intrasoftnet.com>, (Accessed 20 May 2007).

In Greece, remarkable efforts have been made to ensure that disability matters are considered a total political responsibility and not a political matter that concerns only the Ministry of Health and the development of special policies related to grants. Although everybody agrees that the principles of non-discrimination and equal rights for all should form the basic objectives of disability policies, these principles quite often appear only as honorary expressions. The consequences of which the society is not ready or eager to face, due to the fact that human diversity is not yet part of the system of principles of the Greek society, and that quite often the political aims and objectives are not accompanied with the necessary financial means for their realization.³

Terminology

The term “people with disabilities” was officially introduced in Greek public and legal documents in 2001.⁴ Before that, the term “people with special needs” was used. Although this term did not have either negative or derogatory connotation, it also included people with alcohol or drug addictions. In response to the active advocacy of the disability community, this term was replaced by the amended Constitution and currently the term “people with disabilities” is used in all official documents. However, a large portion of the general public still uses the outdated term “people with special needs,” due to ignorance of the related amendment.

Definition of Disability

Greece’s Constitution does not include a definition of disability. According to Article 21, paragraph 2 of the Constitution of Greece, “those who suffer from a permanent physical or mental disease have

3 *PEOPLE WITH DISABILITIES: EQUAL CITIZENS – National Action Plan for Disability 2004-2010, Reducing the gap between political aims and reality*, Greek National Confederation of Disabled People, *Report for the 3rd December 2003*, <http://www.esaea.gr>, and http://www.esaea.gr/index.php?module=announce&ANN_id=104&ANN_user_op=view&ns_news=1&MMN_position=38:38, (Accessed on 10 April 2007).

4 *Constitution of Greece*, Article 21, paragraph 6, 85/18.4.2001, NOMOS Forum, <http://lawdb.intrasoftnet.com>, (Accessed 10 April 2007).

the right of special care provided by the State.” Other laws that refer exclusively to disability indirectly define it as a physical or mental, temporary or permanent disease. In Article 6 of the Presidential Decree 3 / 80/ .907/2001 all types of disability according to the Greek law are encoded and we can conclude that disability is conceived as any kind of physical, mental or intellectual, temporary or permanent, disease or health problem. In addition, persons whose disability is certified as higher than 67 percent are entitled to a Disability Card that offers financial and other privileges.⁵

The descriptions of the types of disability that are listed in the Disability Card are very detailed; disability is certified after a medical examination of the person is conducted by a First and Second Degree Committee of Certification.⁶ However, the inclusion of temporary physical conditions in the definition of disability complicates and hinders the government’s ability to properly identify the number of people with disabilities in the country. In article 1, paragraph b of Law 2643/1998, it states that, “Care for the employment and occupation of people of special categories and other issues” are protected and “people with disabilities of more than 50 percent with limited possibilities of employment, due to any kind of long-time physical, intellectual or mental disease or malfunction.”

The Ministerial Decision 4/ 359/ .2046/1999 regarding the Centers for Physical and Social Rehabilitation () refers to “people with special needs” as people with temporary or permanent physical damages as well as people with intellectual disability.

Furthermore, the Ministerial Decision 4 / .225/161/1989 for the “Unification of Programs of Financial Aid to People with Special Needs,” characterizes “people with special needs” as those with serious physical, intellectual or mental disease or disability of at least 67 percent.

5 Presidential Decree, Article 6, 210/1998/ 169/15.7.1998, NOMOS Forum, <http://lawdb.intrasoftnet.com/pls/dnom/nleg8.Legartall?sid=29575&id=255193>, (Accessed 10 April 2007).

6 K. Kosmatos, (Sakkoulas ed., 2002.), “*The institutional framework for people with special needs in Greece – Compilation of basic legislation*,” Ministerial Decision 3 / 80/ .907/2001, *Arrangement of the procedures of grant of disability card to people with special needs, according to Presidential Decree 210/1998, Article 6* p.128-132.

Article 5b of the Law 1846/1951 states that, “the insured person is considered disabled if, due to illness, damage or physical or mental enfeeblement, post to the beginning of his/her insurance and with a minimum duration of one year by medical prediction, cannot earn by work relative to his/her abilities, skills, education, and his/her usual professional activity, more than the one third of the sum that usually earns in the same professional category a physically and mentally healthy person at the same level of education.”⁷

Disability Population

The National Census does not include any questions on disability. A variety of other surveys are used to estimate disability population statistics. According to the Eurostat Survey of 1995, people with disabilities make up 9.3 percent of the total Greek population.⁸ The latest surveys regarding people with disabilities in Greece are the following:

- 1) Eurostat 1995 Statistics in Focus 1995/10 Disabled Persons: Statistical Data;
2) National Statistical Service of Greece Survey on People with Health Problems or Disability, second semester of 2002.⁹

This is the most recent survey on people with disabilities in Greece, which was conducted throughout the country, within the framework of the continuous survey of work force. The size of the sample population for this survey was 77,451 people in 30,057 households that belonged in the sample of survey of work force. According to this survey, 18.2 percent of the population has a health problem or a disability, and out of this number more than half are over 65 years old. The percentage

7 *Law Regarding Social Insurance, 1846/1951*, 179, as amended by Law 3518/2006, 272/21.12.2006, NOMOS Forum <http://lawdb.intrasoftnet.com/pls/dnom/nleg8.Legartall?sid=29575&id=26191>. (Accessed 10 April 2007).

⁸ Statistical Office of the European Communities, <http://epp.eurostat.ec.europa.eu> (Accessed on 10 April 2007).

⁹ General Secretariat of National Statistical Service of Greece, http://www.statistics.gr/deiktes_menu.asp?Dnid=%20-%20%20%20μ%20μ%20%20%20π&D_menu=SJO_10, and http://www.statistics.gr/gr_tables/S301_SJO_10_TB_AH_02_Y.pdf, (Accessed 10 April 2007).

of men who declare that they have a health problem or a disability is 16.8 percent, while the percentage of women who declare a health problem or a disability is 19.6 percent.¹⁰

The following table indicates the health problems or disabilities of men and women who participated in the survey:

Table I: Most serious problem that people who reported a health problem or disability face, divided by sex

Kind of problem	Total number of people	%	Men	%	Women	%
Problems of upper parts, including arthritis and rheumatisms	52,771	2.8	24,208	2.9	28,563	2.7
Problems of lower parts, including arthritis and rheumatisms	270,547	14.3	81,452	9.7	189,095	18.0
Problems of back and neck, including arthritis and rheumatisms	100,508	5.3	33,609	4.0	66,899	6.4
Vision problems	87,198	4.6	38,929	4.6	48,269	4.6
Hearing problems	22,710	1.2	11,419	1.4	11,290	1.1
Speech problems	6,142	0.3	4,310	0.5	1,833	0.2
Skin problems, including serious allergies and deformations	28,021	1.5	9,495	1.1	18,526	1.8
Chest or respiration problems, including asthma and bronchitis	125,210	6.6	63,330	7.5	61,880	5.9
Heart problems, high blood pressure or blood circulation	69,5496	36.8	341,765	40.6	353,731	33.7
Stomach, liver, uric or peptic problems	100,842	5.3	57,221	6.8	43,621	4.2
Kind of problem	Total number of people	%	Men	%	Women	%
Diabetes	124,153	6.6	54,238	6.4	69,915	6.7
Epilepsy	7,101	0.4	4,485	0.5	2,616	0.2

¹⁰ General Secretariat of National Statistical Service of Greece (http://www.statistics.gr/gr_tables/S301_SJO_10_TB_AH_02_Y.pdf) (Accessed 13 July 2007).

Mental, neurological, psychological, or development disorders	97,449	5.1	46,388	5.5	51,061	4.9
Other diseases, including cancers, AIDS, Parkinson	63,606	3,4	26,779	3.2	36,827	3.5
Other chronic health problems or disabilities	110,641	5.8	44,523	5.3	66,118	6.3
TOTAL	1,892,394	100	842,151	100	1,050,244	100

Although the most recent survey was in 2002, the Greek National Confederation of Disabled People and its member organizations believe that there has not been a greater than 10 percent change in the number of people with disabilities in Greece in the last five years.¹¹

Legislation and Disability Rights

National Protection

The laws protecting the rights of people with disabilities in Greece are constitutional guarantees, international or regional covenants, national legislation, national guidelines, social entitlement programs, and judicial protections.

The Greek Constitution of 1975/76 (last reformed on 6 April 2001) is Greece’s highest law. According to Article 2, paragraph 1, the personal rights, dignity, respect of physical persons and property and freedom of religion and thought are guaranteed. Respect and protection of the “value of the human being” is one of the fundamental principles and a “primary obligation” of the Greek State. Article 21 paragraphs 2 and 6 are of particular importance to people with disabilities, as it states that:

“...people with disabilities either as a result of war or during a period of peace, victims of war, widows and orphans of those who have died in war, as well as people with permanent

11 Panel Discussion with leaders of disability organizations, Athens, Greece, 4 September 2006,

physical or mental health disease are entitled to special care provided by the State,” and “People with disabilities have the right to enjoy measures that guarantee their autonomy, their professional inclusion and their participation in the social, financial and political life of the Country.”¹²

Despite the fact that the constitutional provisions are of the highest value, they guarantee only a set of minimum fundamental rights, and should be complemented by ordinary legislation. Numerous other laws, presidential decrees, and regulations have been enacted in order to specify the rights and protection of people with disabilities in all areas of life, such as education, health care services, housing, transportation, accessibility, recreation, etc.

The Ministerial Decision 3 / 80/ .907/2001, gives entitlement to a temporary or permanent Disability Card (that offers many privileges) to the following: Greek citizens; citizens of the former Soviet Union who have Greek nationality; citizens of Albania who have Greek nationality; citizens of European Union Member States; citizens of Member States of the Council of Europe (provided that their countries have signed the European Social Charter of 1961); third country nationals who have a residence permit in Greece; and those considered refugees according to the 1951 Geneva Refugee Convention and its Additional Protocols.¹³

A person qualifies for a temporary or permanent Disability Card if his/her disability is not less than 67 percent and has been certified by an authorized committee, renewed every year, and comprised of three doctors each.¹⁴ The law provides for First and Second Degree Committees. The Committees of First Degree are sited in all public hospitals and are responsible for re-examining all persons with temporary or permanent disability, as well as examining new applications for disability cards. The Committees of Second Degree are sited in all peripheral hospitals of each prefecture, and are

¹² *Constitution of Greece*, Article 2 and 21, (Accessed 10 April 2007).

¹³ The UN Refugee Agency, <http://www.unhcr.org> (Accessed 13 July 2007).

¹⁴ *Establishment of 3rd December as the Day of People with Special Needs. Enactment of the disability card and other provisions*, Law 2430/1996 156/1996, Article 4, <http://lawdb.intrasoft-net.com/pls/dnom/nleg8.Legartall?sid=30978&id=166681> (Accessed 10 April 2007), and Kosmatos, 115-116.

responsible for examining the objections against the decisions of the Committees of First.¹⁵

Some of the national laws protecting people with disabilities are addressed to both legal and physical persons. Examples include Law 3304/2005, "Application of the principle of equal treatment irrespective of racial or ethnic origin, religion or belief, disability, age or sexual orientation," Law 2430/1996 *Establishment of 3rd December as the Day of People with Special Needs, Enactment of the disability card and other provisions*, and Presidential Decree 210/1998 *Definition through a unified way of the procedure of certification of disability for the grant of a Disability Card*. These laws are addressed mainly to the government bodies, as they are mostly of an administrative nature. They have been adopted in order to provide specific and detailed guidelines for the regulation and amelioration of any matter related to the everyday life, education, inclusion, housing rights, health and social insurance, employment, and occupation of people with disabilities.

Law 3304/2005, which implemented the Directives 2000/78/EC and 2000/43/EC, provides civil, administrative, and criminal penalties against anyone not complying with its regulations. During 2006, the Greek Ombudsman, who is the national body responsible for investigating discrimination acts and omissions by the public authorities, received 51 complaints, almost double the number of complaints received in 2005, when the Law 3304/2005 on anti-discrimination was enacted.¹⁶ Out of these, five complaints were related to people with disabilities. According to the Ministry of Justice, there is no data available on the litigation cases before the court in discrimination matters on the basis of the anti-discrimination law.¹⁷ Although national laws, presidential decrees and regulations aim to cover protections for people with all types of disabilities, there is no

¹⁵ *Definition through a unified way of the procedure of certification of disability for the grant of Disability Card*, Presidential Decree 210/1998/ 169/15.7.1998, Articles 1-2, <http://lawdb.intrasoftnet.com/pls/dnom/nleg8.Legartall?sid=29575&id=255193>, (Accessed 10 April 2007).

¹⁶ *Greek Ombudsman's National Report 2006*, page 190.

¹⁷ Reply of the Ministry of Justice on 9 May 2006 to request submitted by the NGO "Antigone - Information & Documentation Center on Racism, Ecology, Peace and Non-Violence," within data collection for the RAXEN project of the Fundamental Rights Agency of the European Union.

law that protects people with disabilities from discrimination on the grounds of having other identities (multiple discrimination).

The Greek National Confederation of Disabled People keeps records of discrimination against people with disabilities in the areas of housing, employment, education, transportation, as well as records of abuse or violence.¹⁸ There is no law specifically addressing violence against people with disabilities.

International Protection

According to Article 28, paragraph 1 of the Greek Constitution, ratified International Treaties have a supra-statutory value. Greece has ratified the European Convention on Human Rights, the United Nations Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and ILO Convention number 111 concerning discrimination with respect to employment and occupation.¹⁹ It has also signed but not yet ratified Protocol Number 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms that broadens, in a general fashion, the scope of application of Article 14 of the Convention on the Prohibition of discrimination, according to which:

“[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”²⁰

Representatives of the Specialized Legal Service of the Ministry of Foreign Affairs have represented the Greek government at the sessions of the UN Ad Hoc Committee of the UN Convention on the

¹⁸ The Greek National Confederation of Disabled People is a Member of the European Disability Forum. It is seated in 236, El. Venizelou Street, 16341 Ilioupoli - Athens, Greece. Tel: +30 210 5238961, <http://www.esaea.gr>, (Accessed 17 April 2007).

¹⁹ European Court of Human Rights, <http://www.echr.coe.int>, and The United Nations, <http://www.un.org>, (Accessed 10 April 2007).

²⁰ Council of Europe, <http://conventions.coe.int> (Accessed 13 July 2007).

Rights of Persons with Disabilities. The delegation did not include any persons with disabilities.

Although Greece has signed and ratified the European Social Charter of 1961 and the protocol enabling collective complaints to be brought under the European Social Charter, it has not ratified the revised version of the European Social Charter of 1996.²¹ In the last five years, Greece has submitted one official report on Article 15 (disability) of the European Social Charter to the European Committee on Social Rights. The European Committee of Social Rights commented that, “efforts have been made to promote the vocational training of persons with disabilities in Greece.”²² However, “noting that Greece has failed to provide evidence of its compliance with this provision in its last seven reports,” the Committee concluded that, “the situation in Greece is not in conformity with Article 15 §1 of the Charter (rights of physically or mentally disabled persons to Vocational Training).”²³ The Committee also noted that “the employment measures (placements) have been made available to an increased number of persons with disabilities, employment subsidies have become more generous and the duration of certain programs has increased.” Regarding dismissal, the Committee noted that, “a person with a disability employed under the quota scheme as laid down in Act No. 2643/1998 can only be dismissed with the permission of the Regional Manager of the OAED (Greek Manpower Employment Organization) when the enterprise or body concerned is facing financial collapse.”²⁴ Finally, the Committee noted that national legislation against discrimination on the grounds of disability and on the promotion of equal opportunities has been prepared and requested details of this in the next report. Meanwhile the Committee found that the situation was not in conformity with Article 15§2 of the Charter as there is no legislation protecting persons with disabilities from discrimination in employment (this conclusion was made before Law 3304/2005 against discrimination on the ground of disability in employment and occupation was enacted).

²¹ Council of Europe, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=163&CM=8&DF=1/3/2007&CL=ENG>, (Accessed on 10 April 2007).

²² *European Social Charter*, Council of Europe, European Committee of Social Rights, Conclusions XVI-2 (Greece), <http://www.coe.int>, (Accessed 10 April 2007).

²³ *Ibid.*

²⁴ Greek Manpower Employment Organisation, <http://www.oeed.gr>, (Accessed on 10 April 2007).

Legal Barriers

People with disabilities face legal barriers because of the limitation of their legal rights due to privative or subsidiary guardianship.

The Civil Code and the Code for the Civil Law Proceedings regulate guardianship and legal representation.²⁵ According to these laws, guardianship or legal representation can be imposed under the following conditions:²⁶

- 1.) When a person, due to a mental health problem or intellectual disability or due to physical disability is no longer able, fully or partially, to take care of his/her personal affairs;²⁷
- 2.) When a person, due to alcohol or drug addiction, puts himself/herself in danger, or his/her spouse, children, or parents.²⁸

In these cases, and upon approval of an application submitted by the person himself or herself, his or her spouse, parents, children or the district attorney, the Court imposes guardianship or legal representation (apart from the person himself or herself, all the other applications can usually be submitted without the person's consent). However, it should be noted that when the person suffers only from a physical disability and not a mental or intellectual disorder or disability, she or he is the only eligible person to submit the application for guardianship or legal representation.²⁹ Apart from the persons mentioned, no one else is eligible to submit an application in order to impose guardianship or legal representation to another person. In addition, it is forbidden for third persons to participate, under any

²⁵ *The Civil Code*, Articles 8, 128-132, 1666-1688 ; *Code for the Civil Court Proceedings*, Articles 62-64, 253, 598, 681, 801-805, (<http://lawdb.intrasoftnet.com>), (Accessed 17 April 2007).

²⁶ *The Civil Code*, Article 1666.

²⁷ It is not required for the problem to be permanent; even a temporary one can lead to guardianship or legal representation, provided that this mental health problem or intellectual disability or physical disability prevents the person to take care of his own affairs. However this measure will be withdrawn when the person's health will be recovered.

²⁸ *The Civil Code*, Article 1666, 2, NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 17 April 2007).

²⁹ *The Civil Code*, Article 1667, NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 17 April 2007).

legal condition, to the trial or submit an appeal against the decision accepting or rejecting the application.³⁰

According to Article 1674 of the Civil Code, the Court makes a decision regarding guardianship or legal representation only after taking into account a report drafted from the relevant social authority concerning the necessity of this measure and the suitability of the potential guardian or legal representative.³¹

Based on each individual case, the Court decides to what extent guardianship or legal representation can negate the person's right to assert his or her own legal rights and declares in the same judgment that:

1.) Either all or some of the legal actions that will be/have been tried by this person will be/are void (total or partial privative guardianship);

or

2.) Declares that for the validity of all or some legal actions of this person, the prior approval of his/her guardian/legal representative is necessary (total or partial subsidiary guardianship);³²

or

3.) Decides on a combination of the two above-mentioned regulations [the Civil Code, Article 1676 (3)].

Total privative guardianship negates the person's right to assert her or his legal rights; the person cannot attempt any kind of legal activity by himself or herself. Alternatively, partial privative guardianship states that the person cannot try certain legal acts, which are explicitly stated in the judgment imposing the guardianship.

³⁰ *Ibid.*

³¹ *Ibid.*, Article 1674.

³² The Civil Code, Article 1676.

Total subsidiary guardianship has as an effect that the person cannot attempt legal acts without the prior approval of his or her guardian. Under partial subsidiary guardianship the person needs his or her guardian's prior approval only for some legal acts, which are exclusively mentioned in the judgment. Any legal act attempted by a person who is under privative guardianship is void, provided that the person has no legal rights at all (total privative guardianship) or has no legal right to attempt the specific act.³³ The legal act attempted by the person without the prior approval of his guardian (total or partial subsidiary guardianship) is also void. In this case, however, the invalidity is relative, as only the guardian and the person under guardianship can propose the invalidity of the action against third parties.³⁴

Although extensive disability legislation exists that cover every possible field, more effort is necessary in order to improve the situation for people with disabilities in Greece. According to the leaders of disability organizations in the country, the lack of political will is the most significant obstacle, especially in the part of applying the existing laws and devoting the necessary budget. In addition, many believe that the legislation regarding guardianship and legal representation should be amended, as some restrictions which aim to protect people with disabilities render their inclusion into society difficult.³⁵

Civic Participation

According to Article 51, paragraph 3 of the Constitution of Greece, universal and equal suffrage is guaranteed to each adult citizen.³⁶

In addition, a specific Presidential Decree states in Article 83, paragraph 3, that, "voters who, due to physical disability are not able to follow the legal procedure of accessing the polling station and voting, have the right to request by the representative of the judicial authority or a member of the polling station committee election officials to help him/her to vote, and these persons are obliged to help

³³ *Ibid*, Articles 128-130.

³⁴ The Civil Code, Article 1683.

³⁵ Panel Discussion with leaders of disability organizations, Athens, Greece, 4 September 2006.

³⁶ *The Constitution of Greece*, Article 51, paragraph 3.

them.”³⁷ According to the law, people with disabilities enjoy absolute priority in accessing their right to vote and the representative of the judicial authority is obliged to facilitate, by any possible way, their access in the polling station or, if the access is not feasible, to help the person with a disability to vote in any accessible place within the polling station.

There is no official data of accessibility of polling places. However, many polling places – which are usually schools – are not fully accessible to wheelchair users.³⁸ People with disabilities have the right to be elected to public office, to immigrate and/or seek asylum, to form associations, to have a family, and to adopt children.³⁹

Inclusion

Communication

The Greek government does not provide a Braille version of the Constitution, nor is it available in alternative formats. In addition, the National Library does not contain books in Braille version.

Article 4, paragraph a, of the Law 2817/2000 officially recognizes sign language. National and regional television channels are obliged to broadcast, each day between 4:00-8:00 p.m., at least one national news program captioned for hearing-impaired viewers, the minimum duration of which should be seven minutes.⁴⁰

³⁷ *Codification of Provisions for the election of Members of the Parliament*, Presidential Decree 351,” *Official Gazette*, 316/3.12.03, NOMOS Forum <http://lawdb.intrasoftnet.com>, (Accessed on 12 April 2007).

³⁸ Based on Authors experience and knowledge of polling stations.

³⁹ ³³ However, as the President of the Panhellenic Deaf Federation has stated during the Panel Discussion in Athens, 4 September 2006, “Deaf people are not allowed to adopt children, not even deaf ones.”

⁴⁰ Law 3021/2002, “*On the Restrictions in the contract of public conventions with persons who are active or participate in enterprises of mass media and other provisions*,” Article 7 paragraph 3, 143/19.06.02, *Official Gazette*, NOMOS Forum <http://lawdb.intrasoftnet.com>, (Accessed 17 April 2007).

Greece does not have a strategy to communicate with people with disabilities in the case of a natural disaster or emergency. However, *Greek Telecom* offers telecommunications solutions that cover specialized needs, such as the *Otealert* service. This service offers subscribers the opportunity to install in their telephones – regular or mobile – a special appliance that allocates an incorporated red button of direct help, and a portable remote control which can be used anywhere within 120 square meters of the device.⁴¹

When the person presses either the red button of the special telephone appliance or the remote control, the Center of Direct Notice of Greek Telecom, which operates 24 hours a day and 365 days a year, is informed. The personal data of the subscriber that calls appears on the computer screens at the center. Then, depending on the incident, the personnel of Center of Direct Notice communicate immediately with a person responsible (relatives, doctor, neighbor, etc.) or the responsible institution (Police, Fire Brigade, Hospitals, etc.), the data of whom the subscriber has given. The cost of the *Otealert* service is €2.90 per month, but the special telephone appliance is offered for free.

Greek Telecom also offers telecommunication solutions for people with speech or hearing impediments. These are appliances that use hearing assistance technologies, including “DirectVibe,” an internationally recognized technological breakthrough that transfers sound throughout the skull when the user softly touches the earphone to any part of his or her head. In addition, Greek Telecom offers special low prices for people with heavy kinetic disabilities, people with serious kidney problems, blind or deaf people and people with rate of disability of more than 67 percent.⁴²

Education

Although free education in Greece is a right for all Greek citizens (9 years of education is obligatory), education for children with disabilities is not necessary obligatory, releasing the state from the obligation to

⁴¹ Media Office of Greek Telecom, e-mail message to Author, 9 January 2007, media-office@ote.gr, 0030-210-6117482.

⁴² *Ibid.*

provide education to them. The constitutional right of these children for equal inclusion in the educational is not safeguarded.⁴³ While this exception is not stated by the Constitution, it is customary that children with disabilities, as a vulnerable group of population, face a bigger danger to experience exclusion from education, either as a deprivation of their right of inclusion in the educational system (as is the case of people with heavy disabilities), as an obligatory exit caused by the educational practices in effect (e.g. due to the lack of adapted educational material), or as recipients of an inferior and downgraded education compared to the education students without disabilities receive.⁴⁴

The total number of special education schools per category, special staff, special education staff, and the total number of pupils per category of school are presented in the table below:

Table II: Special Needs Education (SNE) Statistics⁴⁵

Type of SNE school	SNE schools	SNE staff	SNE Teaching staff	SNE Pupils
Special kindergartens	118	152	Primary Education 352	428
Special primary schools	170	800		3,400
Inclusion classes in mainstream Kindergartens	147	74		352
Inclusion classes in mainstream primary schools	1,325	920		12,500
Type of SNE school	SNE schools	SNE staff	SNE Teaching staff	SNE Pupils

⁴³ *Constitution of Greece*, Article 16, paragraph 3,4.

⁴⁴ *Memorandum to the Chairman and the Members of the 51st Session of Rectors of the Higher Educational Institutes*, 17 February 2006, Greek National Confederation of Disabled People, http://www.esaea.gr/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=22&MMN_position=29:29, (Accessed 12 April 2007).

⁴⁵ Special Needs Education Directorate, 2005, <http://194.78.211.243/Eurybase/Application/frame-set.asp?country=GR&language=EN>(Accessed 12 April 2007).

Special lower secondary schools	10	153	Secondary Education 104	270
Special upper secondary schools	4	78		120
Special Needs Education TEE ¹	9	87		95
Inclusion classes in mainstream lower secondary schools	160	68	KDAY	420
Inclusion classes in mainstream upper secondary schools	13	10	Diagnostic Centers	65
Inclusion classes in TEE	9	2	215	15
EEEEK	72	400		920
TOTAL	2,037	2,744	671	18,585

It is estimated that children with disabilities form 10 percent of the school aged population in Greece.⁴⁶

Enacting the appropriate laws has been a landmark in developing contemporary Special Education in the country. Important acts include Law 1143/1981, Law 1566/1985, and in particular Law 2817/2000, which supplements, updates, and upgrades the existing institutional framework in Special Needs Education.⁴⁷

According to Law 2817/2000, the main body responsible for Special Needs Education on educational issues is the Ministry of National Education and Religious Affairs, which also cooperates with other public authorities in the establishment of the centers and workshops for special vocational training. These institutions fall within the competence of the Ministry of Health and Social Solidarity as long as school-aged persons with special educational needs attend the centers.⁴⁸

⁴⁶ Policies – Education, Greek National Confederation of Disabled People, http://www.esaea.gr/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=22&MMN_position=29:29, (Accessed 12 April 2007).

⁴⁷ Law 2817/2000, NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 20 May 2007).

⁴⁸ *The Education System in Greece*, The Information Database on Education Systems in Europe, <http://www.eurydice.org/portal/page/portal/Eurydice>, 2004/05, (Accessed 12 April 2007).

Along with the mainstream schools of Primary and Secondary Education, special kindergartens, primary, secondary, and upper secondary schools offer education for students with special educational needs. The Directorate of Special Education of the Ministry of National Education and Religious Affairs supervises all the special education schools of primary and secondary education for students between four and 22 years of age.⁴⁹ Special Needs Education (SNE), mainstream education, and technical-vocational education are provided in public mainstream schools and special schools at the expense of the state.⁵⁰ The type of school that is suitable in every case is determined by the kind and level of disability of the child and his or her age (4-22). The Diagnostic Evaluation and Support Center determines the kind and level of disability, but the parents have the right to accept the evaluation, reject it, or ask for another medical-pedagogical diagnosis by hospitals or Centers of Mental Health to be taken in account.⁵¹

Children with disabilities that receive special education in mainstream schools have the possibility to study:

- in a mainstream class, together with pupils without disabilities, with parallel support from a special needs education teacher serving at a Diagnostic Evaluation and Support Center;
- in specially organized, appropriately staffed integration classes with other pupils with disabilities, operating within mainstream and technical vocational education schools.⁵² These integration classes are different from the School Units of Special Education (SMEA) in which the enrolled children cannot follow lessons in mainstream class or in the specially organized integration class due to the type and level of their disability.⁵³

⁴⁹ Department of Special Education, <http://www.dea.gr>, and Ministry of National Education & Religious Affairs, <http://www.ypepth.gr>, (Accessed 12 April 2007).

⁵⁰ Law 2817/2000 "For the Education of People with Special Educational Needs and other provisions," Article 9, NOMOS Forum, <http://lawdb.intrasoftnet.com>, (Accessed 17 April 2007).

⁵¹ *Ibid*, Article 5.

⁵² *Ibid*, Article 11.

⁵³ *Ibid*, Article 12.

The possibility for a child to select between segregated and integrated education exists under the condition that a mutual agreement between the parents of the child with the disability and the school will have taken place in advance. The school is either a special education school or a mainstream school that has a department of special education.⁵⁴

A parent must select an SNE school that is close to the area where the pupil resides, as long as the SNE schools can provide education for children with various kinds of disabilities. This is not always the case. For example, schools for autistic children, impaired sensors, the blind or the mobility-impaired do not exist in all parts of the country. In these cases there is no choice of school based on where the child lives but instead the choice is based on disability and special educational needs. Transportation is provided in these cases at public expense – drivers are paid by the Central Service of the Ministry of National Education and Religious Affairs and the adapted buses are at the expense of the regional administration (Municipality or Prefecture). Where there are no such buses available, the Peripheral Authority of Education provides rented taxis.⁵⁵

In many cases the school is chosen on a recommendation from the Diagnostic Evaluation and Support Centers, which bear the responsibility of: providing diagnosis on the nature and degree of learning difficulties of children; recommending their registration and attendance in the appropriate school of mainstream or special needs education; the necessary psychological, pedagogical, and teaching support; the necessary technical teaching aids and educational material providing advisory guidance to pupils, parents, and teachers; and special pedagogical support at home (in special cases).⁵⁶ The relevant report is valid for three years and is a necessary

54 M. Drossinou, *The rights of children with disabilities in education, Simmetohi, Panhellenic Federation of Parents and Guardians of Disabled People*, (In Greek), (.μ . .), (publisher details? 2005), 3, 16-18.

55 Information provided by Dr. Maria Drossinou, ex-Director of the Directorate of Special Education of the Ministry of National Education & Religious Affairs and Educational consultant of Special Needs-Learning Disabilities at the Hellenic Pedagogical Institute,

56 "Regulation of the Diagnostic Evaluation and Support Centres, (In Greek), 6/4494, 1503/2.11.2001, Hellenic Pedagogical Institute, <http://www.pi-schools.gr>, (Accessed 12 April 2007).

prerequisite for pupils registering with SNE schools. As the center's recommendation is not binding, there are no legal consequences arising from failure to implement it and the final decision on where children attend school lies with the parents or guardians.⁵⁷

Pupils with diagnosed special educational needs, as a result of disability or special learning difficulty (such as dyslexia), are supported by individualized special needs education programs which are related to remedial teaching schemes provided as part of mainstream education. They are implemented by inclusion classes at ordinary kindergartens, primary schools, lower and upper secondary schools, SNE technical vocational education institutes, and Special Vocational Education and Training Workshops (EEEEK).⁵⁸

Apart from the diagnosis made by the Diagnostic Evaluation and Support Centers, there is another national program for the early diagnosis of learning difficulties. The Framework of the Analytical Program of Special Education offers the possibility to all the educational staff employed by the Ministry of National Education and Religious Affairs to ascertain obvious educational needs. It is the first national program that has been developed by special educational staff, school advisors of special education, teachers of special education, and other experts. The program was promoted and enacted through the legal proceedings of the Hellenic Pedagogical Institute. Teachers of special education that work in School Units of Special Education (/SMEA), which include primary and secondary education, are obliged to know and apply the early detection of disabilities based on the Framework of the Analytical Program of Special Education (/PAPEA).⁵⁹ The School Units of Special Education are under the Directorate of Education of their grade and location (Primary, Secondary) and are located in the capital of each Prefecture.⁶⁰

⁵⁷ The Information Database on Education Systems in Europe <http://www.eurydice.org/portal/page/portal/Eurydice>, The Education System in Greece 2004/05 (Accessed on 12th April 2007).

⁵⁸ Law 2817/2000 "For the Education of People with Special Educational Needs and other provisions," Articles 12, 13.

⁵⁹ Information provided by Dr. Maria Drossinou, ex-Director of the Directorate of Special Education of the Ministry of National Education & Religious Affairs and Educational consultant of Special Needs-Learning Disabilities at the Hellenic Pedagogical Institute. (<http://www.pi-schools.gr>).

⁶⁰ Law for the Education of People with Special Educational Needs and other provisions, N.2817/2000, Article 14.

Table III: Schools Units of Special Education (/SMEA) and children with disabilities that study there.⁶¹

School Units of Special Education()		Number of students
A. Students who are enrolled in separate schools	A1. special kindergartens	234
	A2. special primary schools	2,882
	A3. special secondary schools	545
TOTAL		3,661
B. Students who are enrolled in special classes (inclusive education in mainstream kindergartens and primary schools):	B1. inclusive classes in mainstream kindergarten	60
	B2. inclusive classes in mainstream primary schools	9,874
TOTAL		9,934
TOTAL NUMBER OF STUDENTS		13,595

Approximately 150 units of integrated education have been established in mainstream secondary schools (gymnasium, lyceums, and vocational training schools) throughout the country since 2001. Unfortunately, only 50 of these are active, and the teachers that work there do not have certified expertise in special education.⁶²

According to a 2004-2005 study by the Ministry of National Education & Religious Affairs, in primary education 17,010 students with disabilities attend lessons in the same class with students without disabilities, whereas 3,828 students with disabilities study in specialized schools and 144 students take lessons at home.⁶³ Statistics for secondary

⁶¹ Schools Units of Special Education (SMEA) and Children with Disabilities, Centre of Educational Research, 2002.

⁶² Information provided by expert of the Hellenic Pedagogical Institute (<http://www.pi-schools.gr>), (In Greek), 21 September 2006. The expert, who was not willing to disclose his or her name, told the author unofficially that the system is not working well. The same was expressed, again at an unofficial conversation, by a high ranking official of the Panhellenic Federation of Parents and Guardians of Disabled Persons (<http://www.posgamea.gr>). On the website of the National Confederation of People with Disabilities (<http://www.esaea.gr>), there are several articles on the situation of education for people with disabilities in the country. (Website addresses accessed 13 July 2007).

⁶³ Information provided by the Director of the Department of Special Education at the Ministry of National Education & Religious Affairs, 18 October 2006.

education show that 2,117 students with disabilities follow lessons in the same class with students without disabilities under the same regime (20-25 hours/week). In conjunction with regular education these students are included in a separate module to receive support, either in a so call "inclusion class" or within the framework of a specialized class for three-six hours per week. The total of the weekly teaching based on the school curriculum is 30 hours for all students (with or without disabilities) of primary education and 35 for all students (with or without disabilities) of secondary education.⁶⁴ According to this research, 1,405 students study in specialized schools and 91 students take private lessons at home.⁶⁵

Primary education for children with disabilities is provided countrywide, with the only difference being that it is more developed and specialized in the capitals of the prefectures and most developed in Athens and Thessaloniki.⁶⁶ Secondary inclusive education is available in Athens, Thessaloniki, Kalamata, Patra and Irakleion, whereas secondary education in special schools is available in the capitals of the prefectures.

The faculties of special education provide training in special education for teachers of primary schools. There is a two-year full-time study program in special education; however, it does not provide specialized training in any specific type of disability. Eligible to study in these programs are teachers who possess a minimum of five years work experience in schools of general education and have succeeded in the relevant examinations.⁶⁷

⁶⁴ Information provided by Dr. Maria Drossinou, ex-Director of the Directorate of Special Education of the Ministry of National Education & Religious Affairs and Educational consultant of Special Needs-Learning Disabilities at the Hellenic Pedagogical Institute. (<http://www.pi-schools.gr>) (Accessed 13 July 2007).

⁶⁵ Information provided by the Director of the Department of Special Education (<http://www.dea.gr>) of the Ministry of National Education & Religious Affairs on 18 October 2006.

⁶⁶ M. Drossinou, *Special educational needs, school and children with disabilities. Questions and efforts of visualization. Modern Kindergarten*, Theoretical Analysis for the Special Education in Kindergarten, vol. 50, 2006, 82-93.

⁶⁷ M. Drossinou, *Specialisation of teachers and special education teachers. From the needs of people with disabilities to the current practices of the Schools Units of Special Education*, in "Cracks in the school class," vol.15, 2004, 30-34.

Despite the fact that Law 2817/2000 *For the Education of People with Special Educational Needs and other provisions* has enacted the possibility of two-year vocational training programs in special education for teachers of secondary schools, this is not yet in place. As a result, teachers of secondary education are not able to further their knowledge of special education, though some have been relatively trained for 40 or 100 hours as a part of special programs funded by the European Union.⁶⁸

There is no epidemiological survey regarding the number of children with disabilities of zero to five years old, or the number of children with disabilities aged 6-16 who study at school; however, it is estimated that the latter is lower than ten percent.⁶⁹

According to Article 13 of Law 2817/2000, people with intellectual disabilities over the age of 18 have the possibility to enroll in:

- General secondary schools of special education for the age of 18-22;
- First Grade of Technical-Vocational Schools (Technika Epagelmatika Ekpaideftiria – TEE) of special education, where students from 14 to 19 years of age who have completed the primary schools are enrolled for at least five years;
- Second Grade of Technical-Vocational Schools (Technika Epagelmatika Ekpaideftiria – TEE) of special education, in which students of 19 to 22 years old can be enrolled, who have either graduated from Gymnasium (first part of secondary education) or from the TEE of First Grade;
- Workshops of Special Vocational Education and Training (EEEEK), for students between 14 to 22 years of age.

Analytical study programs for every type of disability are published in the website of the Hellenic Pedagogical Institute and teachers who are interested can consult them for the cases of their own students.

⁶⁸ M. Drossinou, "Differences in the identification of the teacher, The case of special education," *Issues of Special Education*, vol. 31, 2006, 48-54.

⁶⁹ M. Drossinou, and E. Kaderoglou, (2005). Early Intervention Services in Greece . Present Situation and Future Prospects. Ch. 19, p. 481- 502. In the Book M. J. Guralnick (2005). *The Developmental Systems Approach to Early Intervention*. Baltimore: Paul H. Brookes Publishing, Co.

However, they are not official national programs established by law and the teachers are not obliged to follow them.⁷⁰

Disability organizations have expressed concern regarding the low percentage (three percent) reserved at national universities for students with disabilities, who may enter the national universities without exams.⁷¹ Moreover and despite the enactment of various legislature acts, education for children with disabilities is still underfunded and under-staffed, lacks appropriate resources and facilities and is often staffed by teachers who possess inadequate training and knowledge.

Employment

Article 22, paragraph 1, of the Constitution of Greece states that, "Work constitutes a right and shall enjoy the protection of the State, which shall seek to create conditions of employment for all citizens and shall pursue the moral and material advancement of the rural and urban working population. All workers, irrespective of sex or other distinctions, shall be entitled to equal pay for work of equal value."⁷²

According to Law 2643/1998, there is a quota system requiring the employment of people with disabilities for both the public and private sector. Public and private organizations and enterprises that employ more than 50 persons are obliged to employ people who are included in the protected categories of Article 1 of the law. The categories include people with disability of at least 50 percent, who have limited abilities for employment due to any kind of physical, psychological or intellectual disability, provided that they are registered in the official list of the Manpower Employment Organization; those who have a

⁷⁰ Information provided by Dr. Maria Drossinou, ex-Director of the Directorate of Special Education of the Ministry of National Education & Religious Affairs and Educational consultant of Special Needs-Learning Disabilities at the Hellenic Pedagogical Institute (<http://www.pi-schools.gr>) (Accessed 13 July 2007).

⁷¹ Panel Discussion with leaders of disability organizations. Athens, Greece, 4 September 2006.

⁷² *The Constitution of Greece*, Article 22, paragraph 1.

child, a sibling, or a spouse with a disability whose gravity is of more than 67 percent; and people with disabilities due to war or armed conflict or due to an accident during their service in the army, whether during war or period of peace. As the rate of eight percent is divided among the protected categories of Article 1 of Law 2643/1998, the rate for people with disabilities of the first category is 2 percent in the private sector and three percent in the public sector.⁷³

Law 3304/2005 that has implemented the Employment Framework Directive (2000/78/EC) and the Racial Discrimination Directive (2000/43/EC), obliges employers to provide reasonable accommodation for people with disabilities. Although this law instigates important positive changes in the entire Greek legal system, it is basically a simple reproduction of the content of the EU Directives.⁷⁴ In detail, the most crucial and innovative aspect of the law transposing the anti-discrimination Directives – the shift of the burden of proof – is implemented solely by repetition of the exact wording of the Directives.⁷⁵ It fails to introduce any new legal and judicial procedures for individual cases, reducing the transposition of such provision to a minor contribution to the existing respective legal framework:

“the wording of the above-mentioned statute, incorporating the two EU Directives adds little to the pre-existing Greek regulatory framework as it reflects the usual practice of the Greek legislator to adopt EU Directives without the necessary additions for them to be truly effective.”⁷⁶

As the President of the Greek National Confederation of Disabled People stated, the only tool in the hands of people with disabilities in Greece to gain equal treatment in the employment sector is Law

⁷³ Law 2643/1998, Article 2, NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 13 July 2007).

⁷⁴ European Commission, DG Employment, Social Affairs & Equal Opportunities, Anti-discrimination Directives, http://ec.europa.eu/employment_social/fundamental_rights/legis/legln_en.htm (Accessed 13 July 2007).

⁷⁵ The Greek Ombudsman 1st Annual Report as National Equality Body, 2006, 1, <http://www.synigoros.gr>, (Accessed 17 April 2007).

⁷⁶ *Ibid.*

2643/98, which is still not fully implemented, as there have been unreasonable delays in administrative procedures.⁷⁷

According to the *Survey on People with Health Problems or Disability (second semester of 2002)*, by the National Statistical Service of Greece, the unemployment rate for people with disabilities is 84 percent.

Table IV: People over 15 years old, who declare a health problem or disability⁷⁸

	Employed	Unemployed	Economically Inactive	
Did not declare a health problem	4,432,190	424,518	4,040,036	8,896,744
Declared a health problem	20,626	2,892	229,863	253,381
Total	4,452,816	427,410	4,269,899	9,150,125
Unemployment rate for people that declared a health problem				12.30
Rate of economically inactive people among the people that declared a health problem				90.72

The abovementioned results may not be indicative of the situation on the ground, as a large number of people with disabilities are not included in the results. An employed person with a disability is included in these results only in the case that he or she works part-time and believes that the reason of his or her part-time employment is his or her disability. In addition, in the results of the table 4 are included people with any kind of health problem (such as cancer).

⁷⁷ The non-governmental organisation, **DISABILITY NOW** (<http://www.disabled.gr>) , was officially founded in 1993. Its website has become the largest and most popular website with regards to people with disabilities in Greece and receives more than 75,000 visitors per month. (Accessed 10 May 2006).

⁷⁸ Information provided by the Director of the Department of Research of Work Force, National Statistical Service of Greece, 4 November 2006.

The national government runs training and placement programs for people with disabilities. Annually, approximately one-third of the people with disabilities who contact the Manpower Employment Organization are placed in a job, according to the Director of the Department for Marginalized Social Groups of the Manpower Employment Organization (O.A.E.D.) in Thessaloniki.⁷⁹

There are two action programs running in the major cities:

a) The National Employment Action Programs for Vulnerable Social Groups includes people with disabilities in its target group. It provides funding to support people with disabilities and access to employment:

- 1.) For a 36-month period, the employer is granted by the state the sum of €25 per day for every day of full-time employment of the person. After the end of the 36 months, the employer is obliged to employ the person for another 12 months without receiving the grant;
- 2.) Self-employed persons of vulnerable social groups are subsidized for two years with the total sum of €16,600;
- 3.) Ninety percent of the total costs of the reasonable accommodation and up to a total amount of €2,500 for each one of the necessary reasonable accommodations is subsidized.

b) The Funding Program for new jobs for unemployed people of Vulnerable Social Groups. This program subsidizes each employer who employs a person with disability the sum of €20 per day for 24 months. After the end of this period the employer has the obligation to further employ the person for six months more (small enterprises with up to 250 personnel)

⁷⁹ Interview with Ms. Dimitra Sakellariidou, Director of the Centre for Special Social Groups, Regional Directorate of the Manpower Employment Organization (O.A.E.D.), Thessaloniki, 14 September 2006.

or 12 months more (large enterprises with more than 250 people personnel).⁸⁰

In addition, there is no restriction for people with disabilities to access mainstream placement services, but these services have fewer advantages, as they are not designed for vulnerable groups. Regarding mainstream professional training programs, according to an order issued by the Direction of the Manpower Employment Organization, 10 percent of the people that enroll every year in the mainstream professional training programs of the Manpower Employment Organization (O.A.E.D.) should be people with disabilities. For people with severe disabilities who cannot participate in the mainstream training programs, there are Special Vocational Training Schools of the O.A.E.D. (K.E.K., A.E.M.A., Centers of Vocational Training – People with Disabilities) where around 260 persons with disabilities are trained annually. There are three such sheltered workshops in Athens, Thessaloniki-Lakkia (for people with intellectual disabilities from up to 14 years old) and Larissa. For the sheltered workshops in Athens and Larissa the duration of the training is two years (1,800 hours) and for the shelter programs in Thessaloniki-Lakkia the programs last four years or more.⁸¹

According to the data collected by the Ministry of Internal Affairs, Public Administration & Decentralization, only 284 public offices, public legal persons, and Organizations of Regional Administration employ people with disabilities, while 501 do not.⁸² Within the abovementioned, 284 public offices, public legal persons, and Organizations of Regional Administration, a total number of 2,232

⁸⁰ People with disabilities submit an application to the Manpower Employment Organization (O.A.E.D.) office of their residence before and then they are offered a job. As the Author was informed by the Director of the Centre for Special Social Groups, Regional Directorate of the Manpower Employment Organization (O.A.E.D.) in Thessaloniki, according to a new Order (Diatagi Reg. N. 111898/29-3-07), they are not allowed to give data for any kind of research to third persons, unless an application is officially submitted and they receive a permit from the Special Direction in Athens.

⁸¹ Greek Manpower Employment Organization, <http://www.oaed.gr> (Accessed 13 July 2007)

⁸² "THE NAYTEMPORIKI," 6 September 2006, published on <http://www.disabled.gr>, (Accessed 12 April 2007).

employees with disabilities are employed, divided according to their level of education as follows: 531 belong to the category of Obligatory Education (lowest level); 1,043 to the category of High-School Education; 209 to the category of Technical Education (vocational training after high-school); 264 belong to the category of University Education; and 185 persons with disabilities have not specified the category they belong to.⁸³

Out of the 284 public offices and directorates that employ people with disabilities, 19 of them referred to problems encountered by the employees with disabilities in their workplace during their duties. Out of these, all 19 public offices/directorates/organizations mentioned the conditions of work, 16 mentioned the access to work, 16 referred to the hours of work (there is a need for flexible hours of work due to pharmaceutical treatment, as well as a need for reduced hours), 11 referred to the granting of special leave, and 11 referred to other problems or suggestions.⁸⁴

People with disabilities receive monthly funding based on the type and gravity of their disability. In addition, they receive a 50 percent price reduction on bus and train tickets for transport throughout the country, and they are entitled to free transport in Athens and Thessaloniki. People with disabilities also get special tax reductions for their cars; they are entitled up to 1,000 units of cable phone per month and a 50 percent price reduction of text messages on mobile phones. A person with a disability is also entitled to pension by the National Insurance Foundation the amount of which is based on the gravity of his or her disability.⁸⁵

Health Services

Article 5, paragraph 5, of the Greek Constitution states that, "everyone has the right to protection of his/her health and his/her sex identity."⁸⁶

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ National Insurance Foundation, Article 28, paragraph 1, Law 1846/1951.

⁸⁶ *The Constitution of Greece*, Article 5, paragraph 5.

In order to provide the special services mandated by Presidential Decree 4/ 359/ .2046/1999, the Ministry of Health and Social Solidarity has established seven Therapeutic Centers of Physical and Social Rehabilitation for People with Disabilities (.) and one Center of Therapeutic Rehabilitation and Social Support for People with Disabilities.⁸⁷ The aim of these centers is the rehabilitation and social inclusion of people with disabilities through various programs and services offered by expert staff.

Throughout Greece there are several institutions and programs of closed and open care. Closed care institutions provide care facilities and accommodations to people with disabilities, whereas open care institutions allow people with disabilities to participate in activities, receive training, etc., while they live in their own place outside the institution. The Ministry of Health and Social Solidarity is responsible for these institutions, which include the Center of Education and Rehabilitation for Blind People, the National Institution of Rehabilitation of People with Disabilities, and the National Institution of Deaf People, to name a few.⁸⁸

Within the amendment of the care model for people with disabilities, from the protected model of segregation to the open units of care and support into society, there is a promotion of measures aimed at the support of people with disabilities and their inclusion into social and economical life. Measure 3.2 of the program, “Health-Support,” puts these measures into effect. This specific measure is composed of different policies but has two objectives:⁸⁹

a) The social and economical inclusion of people with disabilities who live within a segregated (close) care system, through the development of specialized support services and the respect of their rights and their personal choices;

⁸⁷ Ministry of Health & Social Solidarity, http://www.mohaw.gr/gr/index_html (Accessed 12 April 2007).

⁸⁸ Information provided on 3 November 2006 to a written request by the Author of Mr, Georgios Georgakopoulos, Ministry of Health & Social Solidarity, Directorate of People with Disabilities. (I presume this request was made by the author – that’s why I changed above – confirm with author).

⁸⁹ Information provided by the Direction for Protection of People with Disabilities, Ministry of Health & Social Solidarity, 8 September 2006.

b) The support of the inclusion of people with disabilities into working life and the promotion of their autonomous living.

With regard to technical aids, there is no publicly funded organization where persons with disabilities can obtain auxiliary materials. Instead they buy their own equipment at specialized stores and are reimbursed afterwards for 75 percent of the total costs by Social Security Institutions (I.K.A. or T.E.B.E. etc).⁹⁰ According to the 2003 Annual Report of the Greek National Confederation of Disabled People, in Greece the system of provision of technical aids is characterized by the focus on the administrative procedure rather than on the need to emphasize specialized personal needs.⁹¹ The right of provision of technical aids is restricted by several regulations that impose some limits to the provisions and are related to factors such as the rate of disability and category of disability.

Housing

According to Article 31, paragraph b, of the Regulation of the Workers' Housing Organization (O.E.K.), a person with a disability is entitled to housing subsidies if the following conditions are met:⁹²

1.) To have completed some days of work (depending on the kind of disability, between 500-1,600 days), so that his or her social insurance provides him or her with the necessary stamps for the Workers' Housing Organization. If the person with disability has not worked, he or she still might be entitled due to his or her parents contributions to the Workers' Housing Organization (if they are dead), as the person with disability is receiving his or her parents pension;

⁹⁰ *Law Regarding Social Insurance*, No. 1846/1951, 179, as amended by Law 3518/2006, 272/21.12.2006, Presidential Decree 334/1988, Ministerial Decision 35/659/1998, NOMOS Forum, <http://lawdb.intrasoftnet.com>, (Accessed 10 April 2007).

⁹¹ *PEOPLE WITH DISABILITIES: EQUAL CITIZENS – National Action Plan for Disability 2004-2010, Reducing the gap between political aims and reality*, Greek National Confederation of Disabled People, *Report for the 3rd December 2003*, http://www.esaea.gr/index.php?module=announce&ANN_id=104&ANN_user_op=view&ns_news=1&MMN_position=38:38 (Accessed 13 July 2007).

⁹² Interview with Ms Eva Margariti, Head of the Department of Housing Support of the Workers' Housing Organisation, and Ms Chrisoula Mastrogiannopoulou, employee at the same Department, (location?), 28 September 2006.

2.) Provided that the abovementioned condition is met, the person with disability is entitled to a zero interest loan for the purchase of a house/

flat that should be paid back within 25 years. The highest amount a person can receive is €90,000. Under the current regulation, eligible are families with three children, when one of the family members (adult or child) has a disability of more than 67 percent, or families with two children when among the family members two persons have a disability (adults or children or one adult and one child).

Additionally, a new Ministerial Decision was signed, under which the Board of Directors of the Workers' Housing Organization can adopt a decision which can also render eligible a single mother who has worked at least 500 days and either has a disability of more than 67 percent, or a protected member of her family has a disability of more than 67 percent. Criteria for the selection of these persons are the intense social needs, the number of children, the health problem of them or their children, and their annual family income.⁹³

3) The same condition under number 1 (i.e. to have completed some days of work, so that the social insurance provides the person with a disability with the necessary stamps for the Workers' Housing Organization) is valid, for the person with disability to be eligible for public housing. Under the new Ministerial Decision, urgent housing support through a loan without interest for purchase or construction of a house or provision of a house/flat can be provided, irrespective of the family situation, to people with physical (moving) disabilities, people who get a pension due to total disability, and people who get pension – even through a temporary decision – due to blindness or serious disability of their legs or arms.⁹⁴

For a couple without children to be eligible for a zero interest loan with a 25-year payoff, or be eligible for public housing, both adults must have a disability. Otherwise, they are entitled to a loan with the interest rate paid by the Worker's Housing Organization.

⁹³ (Ministerial Decision) 504//2006/B-1620.

⁹⁴ *Ibid.*

Currently, a person with a disability who is not married is eligible only to a loan with an interest rate that is covered by the Workers' Housing Organization, and that depends on the income the person with disability declares. The Workers Housing Organization is the only avenue through which vulnerable groups may receive affordable housing, as there are no other state institutions with this or any other relevant mandate.

Institutionalization

Approximately 50 public institutions are currently operating in Greece, with the specific and exclusive mission of providing long-term housing and care to people with disabilities.⁹⁵ Statistical data regarding the number of private institutions operating in the country do not exist.

There are several different names of these institutions, as following:

- Centers for Therapy, Physical and Social Rehabilitation: total number 7.

And approximately 15 institutions with the following names:

- Centers for Therapy, Rehabilitation and Social Support for People with Disabilities;
- Centers for Rehabilitation of People with Disabilities;
- National Rehabilitation Institution for Disabled;
- Center of Rehabilitation for Children with Disabilities;
- Center of Rehabilitation for Disabled Children;
- Greek Foundation of Protection and Rehabilitation of Disabled Children.

The objectives of these centers are:

1. The provision of therapeutic services, as well as physical and social rehabilitation to people with disabilities irrespective of their age;

⁹⁵ Direction for Protection of People with Disabilities, by the Ministry of Health and Social Solidarity, email message to Author, 3 November 2006.

2. The provision of psychological and social support for people with disabilities and their families;
3. Teaching persons with disabilities about their personal care and job maintenance after becoming disabled due to disease or accident;
4. The operation of protected workshops and movable units of therapy and physical or social rehabilitation, providing in-house treatment for people with disabilities and promoting their re-inclusion into society;
5. The development of research programs on topics related to people with disabilities.⁹⁶

In addition, there are 23 Therapeutic Centers and Institutions of Social Care, which have been founded by Law 162/1973.⁹⁷

The objectives of these centers is the institutional care of people with incurable physical and/or mental disabilities who are not capable of self-support, or people over the age of 65 in need of institutional care.

There are also five Treatment Centers for Children (. .) countrywide, aiming at providing care to children who suffer from incurable diseases, physical disabilities or severe intellectual disability, that are housing approximately 300 children.

There is also the National Institution of Deaf People (E.I.K.), aiming at the treatment of deafness with the appropriate medical-pedagogical care and the provision of education and professional training to deaf people. The Center of Education and Rehabilitation for the Blind (K.E.A.T.) aims at addressing the educational and professional needs of blind people through modern methods, from their birth until the total rehabilitation through their inclusion into society as independent members. They also conduct research for the amelioration of their rehabilitation methods, combat any kind of prejudices and in general

⁹⁶ *Ibid.*

⁹⁷ Law 162/1973 ' 227/15.9.1973 "Regarding measures of protection of aged and long-term diseased persons, NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 11 April 2007).

offer any kind of support or treatment that improve the lives of blind people.⁹⁸

Accessibility

Significant improvements have taken place with regard to accessibility, with the measures adopted not only focusing on the persons with mobility disabilities, but groups with other disabilities, such as visual and hearing impairments.

In general, public transport in Athens is accessible to people with disabilities, although some improvements are still necessary. A large number of buses have been equipped with a system of visual announcement of stops. At pilot level a program of announcement of the stop has been developed in a limited number of stops and routes. However, a significant problem is that the majority of pedestrian sidewalks are not accessible, which often negates the public transportation accessibility improvements.⁹⁹

Regarding taxis, most of them are not accessible apart from a limited number of specially transformed vehicles that have been granted to disability organizations throughout the country (not more than 20). In addition, the Organization of Public Transport of Thessaloniki (the second largest city in the country) has developed a special service with accessible vehicles for people with disabilities. In other Greek cities there are not many accessible public vehicles.¹⁰⁰

What many consider to be a serious deficit in public transport is the lack of information and training of public transport employees on disability issues and communication with people with disabilities. The Greek National Confederation of Disabled People is developing cooperation with the Service of Civil Air Transport, focusing on the

⁹⁸ Centre for Education and Rehabilitation of the Blind, <http://www.keat.gr>, (Accessed 13 April 2007).

⁹⁹ Information provided to Author by Ms. Marili Christofi, Landscape Engineer-Expert in Accessibility, Patision 141-11251 Athens, Greece.

¹⁰⁰ Organization of Public Transport of Thessaloniki, <http://oasth.gr>, (Accessed on 12 April 2007).

training of airport and air companies' employees with regard to the recent European regulation on the rights of people with disabilities when traveling by plane.

The majority of people with disabilities use their own vehicle for city transport. However, apart from some exceptions, there are no special parking places provided in public outdoor places for vehicles of people with disabilities. The situation is better in private parking due to the legislation that ensures the reservation of five percent to vehicles of people with disabilities in parking places of more than 30 vehicles.¹⁰¹

According to the Presidential Decree 3 / .11/ .1350/17.4.2001, people with more than 67 percent disability have the right to a 50 percent price reduction in public regional transport by buses and trains.¹⁰² In addition, they have the right to free city transport in Athens and Thessaloniki, provided that their annual personal income does not exceed €11.738,81 or their annual family income is not higher than €17.608,21. Those who have a higher annual income are entitled to a reduced ticket of 50 percent.

Article 28 of the Law 2831/2000 refers to special measures for the accessibility of people with disabilities in building environment and requires horizontal and vertical accessibility to all new buildings where services of the public administration and municipalities' offices are carried out. Buildings that are being used for meetings, educational purposes, health and social security services, offices and commerce, as well as the parking places of these buildings, and buildings that are used for housing purposes must also be accessible.¹⁰³

The lack of control of the full implementation of this law fails to guarantee the correct application of the construction requirements

¹⁰¹ Ministerial Decision 52488/16-11-2001 (18 . /15-1-2002), Article 5.

¹⁰² K. Kosmatos, (Sakkoulas ed., 2002.), *The institutional framework for people with special needs in Greece – Compilation of basic legislation*, Ministerial Decision 3 / 11/ o .1350/17.4.2001, "Grant of Transport Tickets to People with Special Needs for the year 2001," p.347-352.

¹⁰³ Law 2831/2000 amended Law 1577/1985 "General Construction Regulation and other construction provisions". New buildings are considered, according to this Law, those whose construction license has been issued after the publication of this law in the Official Gazette.

and the avoidance of wrong solutions. There is nothing in place to safeguard the actual application of this law countrywide, in cities, villages, and islands. Additionally, this law ensures the accessibility of the services that are situated in new constructions, but the majority of the public services are seated in older buildings.

However, according to Ministerial Decision 52487/16-11-2001 (18 . ’/15-1-2002) titled “Special Measures for the Access of People with Disabilities in Existing Buildings,” every kind of accessibility should be also ensured in existing buildings (such as large corridors, doors, ramps, entrances, elevators, stairs, WC, telephone, water-provider, etc.).¹⁰⁴ In order for this Ministerial Decision to be realized, all public directorates and services had to draft a program for the accessibility of people with disabilities in their region and submit it to the Ministry of Interior, Public Administration and Decentralization.

In addition, paragraph 10 of Article 12 of Law 3230/2004 (44/ ’/11-2-1004) states the obligation of all public directorates, services, etc. to take all the necessary measures to ensure the accessibility of people with disabilities in their premises.¹⁰⁵

Most of the governmental websites (i.e. the Ministry of Education & Religious Affairs, the Ministry of Employment & Social Protection, the Manpower Employment Organization, the Workers Housing Organization, the Athens Public Transport Organization, the Ministry of Interior, Public Administration and Decentralization, etc.) do not comply with all of the automatic and manual checkpoints of the W3C Web Content Accessibility Guidelines, and require repairs and manual verification.¹⁰⁶

Culture, Sports and Recreation

According to Article 29, paragraph a, of the Law 2725/1999 on “Recreational and Professional Athletics,” “the athletics of people with disabilities is a special division of athletics that is protected

¹⁰⁴ Ministerial Decision 52487/16-11-2001 (18 . ’/15-1-2002) NOMOS Forum, <http://lawdb.intrasoftnet.com> (Accessed 13 July 2007)

¹⁰⁵ Law 3230/2004, NOMOS Forum <http://lawdb.intrasoftnet.com> (Accessed 13 July 2007)

¹⁰⁶ Information gathered from the Author.

by the State” with responsibility attached to the Ministry of Culture and Sports.¹⁰⁷

This law covers the establishment and development of athletics unions of people with disabilities, the subsidies of exceptional athletes with disabilities, etc. Furthermore, the adoption of Presidential Decree 3///2002, “Program of physical training of people with disabilities

of the Ministry of Health and Social Solidarity,” sets as its targets the participation of people with disabilities in programs related to physical exercise and recreation, the development of athletics according to age and kind of disability, encouraging the development of new interests, and the improvement of the physical condition of people with disabilities.¹⁰⁸

The Ministry of Tourism and the Greek National Tourism Organization implement a program of “Tourism for All”, in which, people with disabilities with disability rate of more than 67 percent are included, among other categories.¹⁰⁹ By covering a part of the expenses, this program offers the possibility to enjoy eight-day holidays every year in Greece irrespective of their income, under the condition that they are public servants or pensioners of the public sector or security bodies, employees or pensioners of the private sector, under the condition that they have not participated in the equivalent program of the Workers’ Organization, self-employed professionals or pensioners of the relevant insurance schemes, or people who receive poverty income. In addition, when the person with disability is single, the program covers the expenses of his/her companion/support person. In 2007, the Ministry of Tourism and the Greek National Tourism Organization initiated a pilot program for holidays of people with disabilities exclusively, under which 500 persons with disabilities and their support persons will be eligible to five-days holidays in Greece, irrespective of their profession or income, under the condition that they are characterized as “people with disabilities” by the relevant insurance provider. The persons with disabilities that participate in the program will have to cover the expense of €4 per day, while the

¹⁰⁷ Law 2725/1999, ' 121/17.6.1999, NOMOS Forum <http://lawdb.intrasoftnet.com>

¹⁰⁸ Ministry of Health & Social Solidarity, <http://www.mohaw.gr>, (Accessed 12 April 2007).

¹⁰⁹ Greek National Tourism Organization, <http://www.eot.gr>, (Accessed on 12 April 2007).

Ministry of Tourism provides a daily grant to the collaborating hotels for each participant in the program.¹¹⁰

During the years 2004-2005 the government provided to people with disabilities a Cultural Card, which granted the right to reductions in cultural events, however this was not renewed after the 2004 Olympic Games.

Disability Action & Awareness

The focal points for disability policy and planning are fragmented at the national government level. Each ministry has a special department or service with the target to provide specialized policy and planning for issues concerning people with disabilities, relevant to that particular ministry. Furthermore, most of the municipalities have special departments designed to provide information and services to people with disabilities and coordinate programs funded by the European Union. For very specialized and complex issues related to disability, the ministries sometimes form ad hoc committees.

The Greek National Confederation of Disabled People (E.S.A.E.A.) is the national disability organization of the highest level, and works to further develop disability policy in Greece. It is managed by the General Board, which has 33 members.¹¹¹ The Board is comprised of 19 people with disabilities and 14 members of the Panhellenic Federation of Parents and Guardians of Disabled Persons (P.O.S.G.A.meA.).¹¹²

Of the 19 members with disabilities on the General Board, eight people intentionally represent certain populations: 1) Blind people, 2) People with Mobility Disabilities, 3) People with Kidney Disabilities, 4) People who have had a kidney transplant, 5) Deaf people, 6) People with Mediterranean Anemia, 7) Disabled people, 8) People with Hemophilia. The other 11 members are elected by majority

¹¹⁰ Greek National Tourism Organization, http://www.gnto.gr/EmentorImages/File/egiklios_amea.doc (Accessed on 11 July 2007).

¹¹¹ Greek National Confederation of Disabled People, <http://www.esaea.gr>, (Accessed 12 April 2007).

¹¹² Panhellenic Federation of Parents and Guardians of Disabled Persons, <http://www.posgamea.gr>, (Accessed 12 April 2007).

order. Out of these 14 people of P.O.S.G.A.meA., four represent the following disability categories: 1) intellectual disability, 2) autism, 3) multiple disabilities, 4) brain paralysis (mobility disabilities). The other ten are elected by majority order.

The Greek National Confederation of Disabled People, based on Law 2430/1996 has become a recognized Social Partner of the Greek state in all issues related directly or indirectly to disability. The confederation is fighting for the protection and promotion of human rights of people with disabilities, the combat of social prejudices, the elimination of all forms of discrimination, the equalization of opportunities for people with disabilities in all areas of life, and their full inclusion into society.¹¹³

The Confederation aims to establish a national disability policy plan focusing on the socio-political dimension of disability. Apart from the “National Action Plan for Social Integration as a Tool for Promoting Social Inclusion of People with Disabilities 2003-2005,” there is no national action plan on disability, due mainly to the lack of political will.¹¹⁴ According to a report submitted by the Greek National Confederation of Disabled People, “the establishment of a central focal point (on disability) is necessary, which will be responsible not only for the development of surveys and researches, but also for the mainstreaming of disability in all surveys that are being realized by other public authorities and services.”¹¹⁵

Law 3106/2003 establishes the National Observatory of People with Disabilities, among the objectives of which are, “the design and the development of an information pool and database for the actions, projects and the indications regarding people with disabilities in Greece and internationally.”¹¹⁶ As the Greek National Confederation

¹¹³ Greek National Confederation of Disabled People, <http://www.esaea.gr> (Accessed 13 July 2007).

¹¹⁴ Panel Discussion with leaders of disability organizations. Athens, Greece. 4 September 2006.

¹¹⁵ *PEOPLE WITH DISABILITIES: EQUAL CITIZENS – National Action Plan for Disability 2004-2010, Reducing the gap between political aims and reality*, Greek National Confederation of Disabled People, *Report for the 3rd December 2003*, p.29, <http://www.esaea.gr>, and http://www.esaea.gr/index.php?module=announce&ANN_id=104&ANN_user_op=view&ns_news=1&MMN_position=38:38 (Accessed on 10 April 2007).

¹¹⁶ Law 3106/2003 art. 10, (Official Gazette) A 30/10-2-2003.

of Disabled People states, “for the designing of effective policies for people with disabilities, an essential condition is the conducting of researches and surveys and the collection of statistical data. The National Observatory of People with Disabilities – the activation of which is still pending – can undeniably contribute considerably not only to the research, analysis and promotion of disability issues in our country but also to the successful design of policies and to the evaluation of these measures.”¹¹⁷

¹¹⁷ Giannis Vardakastanis, *The disability movement claims the increase of the items of expenditure for Social Care and Health in the Budget of 2007*, *Disability Issues*, vol. 6, 6.



IRELAND

Key Factors:

Ireland became an independent state in 1921 and has been a member of the European Union since 1972. For more than a decade, Ireland has enjoyed major economic growth. The “Celtic Tiger” phenomenon has resulted in Ireland's per capita GDP being the second highest in Europe.¹ While Ireland has

enjoyed rapid economic growth and wealth over the past decade, 18.5 percent of people are at risk of poverty and 7 percent live in consistent poverty.²

For the most part, people with disabilities in Ireland have not enjoyed the success of the Celtic Tiger, and they continue to face persistent high unemployment rates and the risk of poverty.³ There has been a long battle for the recognition of the rights of people with disabilities in Ireland particularly in the area of education. The Irish government

¹ The CIA World FactBook, *Ireland*, <https://www.cia.gov/cia/publications/factbook/geos/ei.html>, January 2007.

² Central Statistics office, http://www.cso.ie/releasespublications/documents/eu_silc/current/eu-silc.pdf, *EU Survey on Income and Living Conditions* (EU-SILC), 2005.

³ To read more about poverty rates among people with disabilities, refer to Gannon, Brenda and Nolan, Brian *Dynamics of Disability & Social Inclusion*, 2006; Gannon, Brenda and Nolan, Brian, *Disability & Social Inclusion in Ireland*, Economic and Social Research Institute, 2005; Both reports available online at <http://www.equality.ie/index.asp?locID=105&docID=-1>.

created a series of laws in recent years, such as the Education for Persons with Special Education Needs Act 2004, the Disability Act 2005 and the National Disability Strategy, it is too early to comment on the effectiveness of these laws.

Terminology

The most commonly used terminology in Ireland is “people with disabilities.” Official documents, laws, use this term. Some organizations have called for the use of “disabled people,” however, “people with disabilities” remains the dominant terminology. Other phrases used include: “people with special needs,” and “people with physical, sensory or learning disabilities.” New terms, such as “people with intellectual disabilities” and “developmental disabilities” have emerged over the past few years. There are also Irish terms used to describe people with disabilities, such as “*daoine mí chumaseach*,” meaning “an unfortunate person.” In older times, descriptions that would be commonly heard include children with disabilities being described as “special gifts from God.” Today the disability community would consider terms such as ‘handicapped,’ or ‘mentally retarded’ as highly offensive.

Definition of Disability

In Ireland, there are many different official definitions of disability found in various laws and within the policies of State agencies. The Disability Act 2005 is the most current law about disability. Part I of that Act defines disability as:

“disability” in relation to a person means a substantial restriction in the capacity of the person to carry on a profession business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment.⁴

⁴ *Disability Act 2005*, Part 1, Section 2, Acts, House of the Oireachtas (Irish parliament) Website, 2006, <http://www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf> (Accessed 31 May 2007).

The Disability Act also makes provisions for assessment of need and access to services for people with disabilities. It further defines disability in this context by expanding on the meaning of substantial restriction contained in Part I of the Act, as follows:

Substantial restriction meaning a restriction which-

- (a) is permanent or likely to be permanent, results in a significant difficulty in communication, learning or mobility or in significantly disordered cognitive processes; and
- (b) gives rise to the need for service to be provided continually to the person whether or not a child or, if the person is a child, to the need for services to be provided early in life to ameliorate the disability.⁵

Disability is also defined within the National Disability Authority Act 1999. The definition contained in Part I of the Disability Act 2005 is similar to that used in the National Disability Authority (NDA) Act. The NDA Act of 1999 established the National Disability Authority and it defined disability as “a substantial restriction in the capacity of a person to participate in economic, social or cultural life on account of an enduring physical, sensory, learning, mental health or emotional impairment.”⁶

Prior to the enactment of the Disability Act 2005, Ireland’s anti-discrimination legislation, namely the Equal Status Act 2000 and Employment Equality Act 1998, defined disability as follows:

- (a) the total or partial absence of a person’s bodily or mental functions, including the absence of a part of a person’s body;
- (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness;

⁵ *Ibid.*

⁶ *NDA Act*, Part 1, Section 2 Irish Statute Book, http://www.irishstatutebook.ie/1999_14.html (Accessed 31 May 2007).

- (c) the malfunction, malformation or disfigurement of a part of a person's body;
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or
- (e) a condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behavior.⁷

The Employment Equality Act definition differed slightly from the Equal Status Act. With respect to (e) above, it stated that "and shall be taken to include a disability which exists at present, or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person."⁸ Both acts are now consolidated under the Equality Act 2004. The definition of disability used in the anti-discrimination legislation could be described as being more focused on functional disability and, therefore, related to the medical model of disability.

Ireland also has an official definition for people with psycho-social disabilities. In 2001, the Oireachtas (Irish parliament) enacted the Mental Health Act. Section (2) *subsection (1)* of the Mental Health Act defines mental illness, severe dementia, and significant intellectual disability as follows:

'Mental illness' means a state of mind of a person which affects the person's thinking, perceiving, emotion or judgment and which seriously impairs the medical treatment in his or her own interest or in the interest of other persons;

'Severe dementia' means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioral symptoms such as physical aggression;

⁷ *Ibid.*

⁸ *Ibid.*

‘Significant intellectual disability’ means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.⁹

The Mental Health act definitions could also be described as using the medical model of disability, due to their focus on the person’s characteristics.

In its questions about disability, the 2006 Census defines disability based on two aspects. First, it addresses the specific disability types by asking people to check “yes” or “no” alongside a list of disabilities. Secondly, it asks a series of questions related to daily life activities.¹⁰ It relies on self-identification as a person with a disability.

Definitions of disability are also found in government departments. The Department of Social Welfare defines disability in its eligibility criteria for social welfare benefits as:

Having an injury, disease or illness, or have a physical or learning disability that has continued or is expected to continue for at least one year and causes you to be ‘substantially restricted’ in doing work that would otherwise be suitable for a person of your age, experience and qualifications.¹¹

Disability Population

A number of surveys exist alongside the official Census to record data about the disability population in Ireland. These surveys include the Living in Ireland Survey 2000 and the Quarterly National Household Survey. From a European perspective, the European Social Survey records data about disability in Ireland.

⁹ *Mental Health Act*, Part 1, Section 3, subsection 2 (1), <http://www.mhcirl.ie/act/Mental%20Health%20Act,%202001.pdf> (Accessed 28 May 2007).

¹⁰ Central Statistics Office, *Sample 2006 Census form*, http://www.cso.ie/census/documents/censusform_2006.pdf (Accessed 31 May 2007).

¹¹ Department of Social Welfare, *Disability Allowance- SW 29, Who can qualify?* <http://www.welfare.ie/publications/sw29.html#2> (Accessed 31 May , 2007).

Surprisingly, the 2002 Census of Ireland was the first Census to officially ask questions about disability. It found that “almost 324,000 persons, representing 8.3 percent of the total population, had a long lasting health problem or disability.”¹² The Census also found that “the incidence of disability was higher among females than males (8.7 percent compared with 7.8 percent) and, not surprisingly, nearly two-thirds of those with a disability were aged 50 years or over.”¹³

The 2002 Census asked the following questions on Disability¹⁴:

Do you have any of the following long-lasting conditions:

(a) Blindness, deafness or a severe vision or hearing impairment?

Yes ☐ No ☐

(b) A condition that substantially limits one or more basic physical activities such as walking, climbing stairs, reaching, lifting or carrying?

Yes ☐ No ☐

Because of a physical, mental or emotional condition lasting 6 months or more, do you have any difficulty in doing any of the following activities?:

Answer (a) and (b) if aged over 5 years or over

(a) Learning, remembering or concentrating?

(b) Dressing, bathing or getting around inside the home?

¹² Central Statistics Office, *Press Statement*, 2002, Census of Population, Volume 10, Disability & Carers, Date: 11 March 2004.

¹³ *Ibid.*

¹⁴ Central Statistics Office, *Census 2002: Other Information* <http://www.cso.ie/census/documents/censussampleform2002.pdf>, (Accessed 31 May 2007).

Answer (c) and (d) if aged 15 years or over

(c) Going outside the home along to shop or visit a doctor's surgery?

Yes ☐ No ☐

(d) Working at a job or business?

Yes ☐ No ☐

The types of disability were further broken down as a result of the 2002 census questions and the table below outlines this breakdown.¹⁵

Table I: Number of people with disability by type

Disability type	Number of people
Blindness, deafness or a severe vision or hearing impairment	78,000
A condition that substantially limits one or more basic physical activities	176,000
Difficulty learning, remembering or concentrating	106,000
Difficulty dressing, bathing or getting around inside the house	86,000
Difficulty in going outside the home alone	118,000
Difficulty in working at a job or business	181,000

The Census 2006 changed its questions about disability, so as to “capture the difference in data between mental health and intellectual disability, the 2002 Census did not distinguish between them.”¹⁶ Preliminary statistics from the 2006 Census Statistics on disability from Census 2006 will be available in November 2007.¹⁷

Apart from the Census, there are other sources of data that exist on people with disabilities in Ireland. The Quarterly National Household Survey (QNHS), which produces quarterly estimates of the labor force, reported in its special topic of 2004 Disability Update that: “Some 10.9 percent (298,300) of all persons aged 15 to 64 indicated that they had a longstanding health problem or disability in the first

¹⁵ Central Statistics Office, *Census of Population 2002*, vol. 10, Table 1A, http://www.cso.ie/census/documents/vol10_t1_13.pdf, (Accessed May 2006).

¹⁶ Fitzgerald, Eithne, Head of Policy & Public Affairs, National Disability Authority, June 2006, Interviewed by Author.

¹⁷ Information from email from Central Statistics Office, 3 May 2007.

quarter of 2004 compared with 10.3 percent (274,200) in the second quarter of 2002.”¹⁸ However, it concluded the change between years was attributable to changes made in the survey.

Ireland’s population profile changed rapidly over the past 10 years. To date, there are no published statistics on people with disabilities from minority groups. A report entitled “Minority Ethnic People with Disabilities in Ireland” found that “minority ethnic people with disabilities are often absent from national statistics.”¹⁹

Forthcoming initiatives to collect data on people with disabilities include the first National Disability Study, which “will be carried out by the Central Statistics Office as a post censual exercise.”²⁰ To elaborate:

“The National Disability Survey will cover all age groups within the population, including those over the age of 65. It will also cover both people living in private residences and those in institutions. The intention is that this survey will provide for the first time the baseline data required by policymakers and service providers.”²¹

Over the past five years, a number of reports have been produced about disability in Ireland. The latest publication on disability has been produced by the Equality Authority and the National Disability Authority entitled ‘Dynamics of Disability in Ireland.’²² In 2005, “Disability and Social Inclusion in Ireland” was published. This report examined: “social inclusion and exclusion for people with disabilities

¹⁸ Central Statistics Office, *QHNS Disability Update*, First Quarter 2004 <http://www.cso.ie/qhns/documents/qhnsdisabilityupdate.pdf>, (Accessed May 2006).

¹⁹ Pierce, Maria, *Minority Ethnic People with Disabilities in Ireland*, 2003, Department of Social Policy and Social Work, UCD, http://www.equality.ie/getFile.asp?FC_ID=131&docID=78.

²⁰ National Disability Authority, www.nda.ie; *Ageing & Disability: A discussion paper; Disability Data in Ireland*, [http://www.nda.ie/cntmgmtnew.nsf/0/FBE570D7C6D435C28025710D004594B9/\\$File/ageinganddisability_dp2006_04.html](http://www.nda.ie/cntmgmtnew.nsf/0/FBE570D7C6D435C28025710D004594B9/$File/ageinganddisability_dp2006_04.html).

²¹ *Ibid.*

²² Gannon, Brenda and Nolan, Brian, *Disability and Social Inclusion in Ireland*, 2005, Economic Social Research Institute, commissioned by the Equality Authority & the National Disability Authority, http://www.equality.ie/getFile.asp?FC_ID=207&docID=344, (Accessed May 2006).

under four headings: Education, Earnings, Poverty and Deprivation, and Social Life and Social Participation.”²³

In 2004, the National Disability Authority commissioned a survey on Social Participation and Disability “to examine aspects of social inclusion and well being of people with disabilities.”²⁴ The survey was carried out among 500 people with disabilities and 809 people without disabilities. It found “that people with disabilities are significantly more restricted in terms of getting out and about and in their social lives than non-disabled people.”²⁵

Legislation & Disability Rights

National Protections

Ireland addresses disability in a specific national law and also within its anti-discrimination laws. The Disability Act was passed in 2005, and its main provisions include:

- An independent assessment of individual needs, a related service statement and independent redress and enforcement procedures for persons with disabilities;
- access to public buildings, services and information; these are time specific in providing accommodations;
- sectoral plans for 6 key Departments which will ensure that access for people with disabilities will become an integral part of service planning and provision within these departments;
- an obligation on public bodies to be pro-active in employing people with disabilities; there has been a voluntary 3 percent quota in force since 1981;

²³ *Ibid.*

²⁴ National Disability Authority, *Survey on Social Participation and Disability*, Publications; Equality, <http://www.nda.ie/cntmgmtnew.nsf/0/9F11837D4C632B62802570660054EC11?OpenDocument>, (Accessed March 2007).

²⁵ *Ibid.*

- restricting the use of information from genetic testing for employment, mortgage and insurance purposes;
- a Center for Excellence in Universal Design.²⁶

The Disability Act 2005 covers all public bodies. A public body is defined in Section 2 of the Act as: “(a) a Department of State, (b) the Office of the President, (c) the Office of the Attorney General, (d) the Office of the Comptroller and Auditor General, (e) the Office of the Houses of the Oireachtas, (f) a local authority, (g) the Executive.”²⁷ Part 6 of the Disability Act provides for the establishment of a Center for Excellence in Universal Design in the NDA, which began on 1 January 2007.²⁸

The Act also extended the powers of the Office of the Ombudsman “to investigate complaints relating to determinations by inquiry officers and decisions of complaints officers in relation to sectoral plans.”²⁹

To date, there has been no review of the effectiveness of the Disability Act, as it is only a short time in operation. However, during the consultation process there was concerns expressed by many members of the disability community that provisions in the Act related to resources could impact on the delivery of services within a person with a disabilities service statement.

In addition to the Disability Act, Ireland has two anti-discrimination laws, the Employment Equality Act and the Equal Status Act. These laws originated in 1998 and 2002 respectively, and were amended in 2004 due to the transposition of European Council Directives.

The Equal Status Act outlaws discrimination against disabled people in accessing goods and services, accommodation and educations. It defines services as:

²⁶ Department of Justice, *Guide to the Disability Act 2005*, , Equality & Law Reform, [http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6M7GBZ-en/\\$File/DisabilityAct05Guide.pdf](http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6M7GBZ-en/$File/DisabilityAct05Guide.pdf), (Accessed September 2006).

²⁷ *Disability Act 2005*, Section 2.

²⁸ Department of Justice, Email response, 16 October 2006.

²⁹ Office of the Ombudsman Ireland, *What is the ombudsman's role under the Disability Act 2005*, <http://ombudsman.gov.ie/en/DisabilityAct2005/Name,5717,en.htm>, (Accessed 30 May, 2007).

A facility of any nature which is available to the public generally or a section of the public, and without prejudice to the generality of the foregoing, includes—

(a) access to and the use of any place;

(b) facilities for:

(i) banking, insurance, grants, loans, credit or financing;

(ii) entertainment, recreation or refreshment;

(iii) cultural activities; or

(iv) transport or travel.³⁰

The Equal Status Act was amended by Council Directive 2000/43/EC of June 2000, which implemented the principle of equal treatment between persons irrespective of racial or ethnic origin.³¹

The Employment Equality Act 1998 & 2004 covers all aspects related to employment, including: advertising; equal pay; access to employment; vocational training and work experience; and terms and conditions of employment and employees in public and private sector are covered.³²

People with disabilities who wish to take a case under the anti-discrimination laws have two options. First, they can file a case under both anti-discrimination laws through the Equality Tribunal. The Equality Tribunal describes itself as an “impartial forum to hear or mediate complaints of alleged discrimination under equality legislation. It is independent and quasi-judicial and its decisions and mediated settlements are legally binding.”³³ In its 2006 Annual report, the Equality Tribunal reported the number of cases on disability under the Employment Equality Act as 54. Under the Equal Status Act, the

³⁰ *Equal Status Act*, Section 2, Irish Statute Book, Acts of the Oireachtas, 2000, <http://www.irish-statutebook.ie/2000/en/act/pub/0008/sec0002.html#parti-sec2> (30 May 2007).

³¹ *Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*, 2000, OJ L180/22.

³² *The Employment Equality Acts 1998 and 2004, Equality Authority Information Booklet*, http://www.equality.ie/getFile.asp?FC_ID=209&docID=52, (Accessed September 2006).

³³ The Equality Tribunal, *About Us*, <http://www.equalitytribunal.ie/index.asp?locID=2&docID=-1>, (Accessed September 2006).

Equality Tribunal reported that 52 cases were reported representing a 16 percent rise in the number of disability cases from 2005.³⁴

Individuals can request representation from the Equality Authority. The Equality Authority can, at its discretion, provide representation where the case raises an important matter of principle or where it would be unreasonable to expect the person to take the case on their own. In its 2006 Annual report, the Equality Authority reported that out of 366 case files under the Equal Status Act, 109 of them were on the grounds of disability. In 2006, out of 404 case files under the Employment Equality Act, 71 were on the grounds of disability.³⁵

Both anti-discrimination laws prevent discrimination on multiple grounds such as against a disabled gay person or a disabled woman. The Irish Equality Authority has progressive research publications about having such multiple identities.³⁶

International Protections

Ireland has signed and ratified many UN treaties, including: International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Rights of the Child; and the Convention on the Elimination of All Forms of Discrimination against Women.³⁷

Ireland took a leadership role in the early discussions of the UN Convention on the Rights of Persons with Disabilities. During the negotiation process, the Human Rights Unit of Ireland's Department of Foreign Affairs hosted meetings with NGOs working for disability rights and also funded NGOs to attend the Ad Hoc meetings in New

³⁴ Equality Tribunal, About Us, Publication, Annual Report 2006, www.equalitytribunal.ie/upload-edfiles/AboutUs/AnnualReport_English_13_07.pdf (Accessed July 25 2007).

³⁵ Equality Authority, *Annual report 2006*, http://www.equality.ie/getFile.asp?FC_ID=255&docID=536, (Accessed July 2007).

³⁶ Publications can be found on the Equality Authority website, Zappone Katherine E. *Re-thinking Identity- the challenge of Diversity*, Research Publications, 2003; Pierce, Maria *Minority Ethnic People with Disabilities*, 2003, <http://www.equality.ie/index.asp?ACTIVEGROUP=2&locID=105&docID=-1> (Accessed 30 May 2007).

³⁷ Irish Human Rights Commission, *Treaties*; International Human Rights Treaties to which Ireland is a Party, <http://www.ihrc.ie/treaties/treaties.asp>, (Accessed September 2006).

York. The official Irish delegation to the Ad Hoc meetings included a person with a disability.

At the European regional level, Ireland ratified the Revised Social Charter in 2000, and ratified the collective complaints protocol. Ireland has not submitted all required reports within the specific timeframes and did not submit a report on Article 15 in 2005. It was expected to submit a report on Article 15 in late 2006, but has yet to do so. As Ireland failed to report in 2005, the European Social Charter has not assessed Ireland under the revised European Social Charter.³⁸ Ireland is also party to the European Convention on Human Rights (ECHR), which was signed into Irish law in 2003.³⁹

Legal Barriers

At present, there are no procedures to impose guardianship on an adult. There has been much activity about legal capacity and decision making organized by the NGO Inclusion Ireland and also a consultation paper published by the Law Reform Commission of Ireland.⁴⁰ The Irish Senate introduced a Bill in January 2007 to reform the law concerning mental capacity, it also looked to provide for informal decision making on behalf of adult persons. It also addresses the establishment of a guardianship board and personal guardians.⁴¹

There are two forms of substitute decision making: the ward of court system and the enduring power of attorney. The ward of the court system is operated by the High Court under the provisions of the 1871 Act.⁴² Applications are made by a petitioner, after which point the court establishes whether the individual (i.e., respondent) is of sound mind or able to manage his or her person or property. While

³⁸ Council of Europe official, email response, 25 August 2006 and 18 September 2006.

³⁹ *European Convention on Human Rights Act 2003*, *Relate Magazine*, Vol 31, No.2, Comhairle November 2003, <http://www.comhairle.ie/publications/relate/november2003.pdf#search=%22European%20Convention%20on%20Human%20Rights%20Act%202003%22>, (Accessed September 2006).

⁴⁰ For further information see Inclusion Ireland website, EDS Project "Who decides and How" http://www.inclusionireland.ie/projects/projects_6.asp; Law Reform Commission, Consultation Paper on Vulnerable Adults & the Law, <http://www.lawreform.ie/publications/consultpapers.htm>, March 2007.

⁴¹ For further information see the Senate website, Mental Capacity and Guardianship Bill 2007, <http://www.oireachtas.ie/viewdoc.aspx?DocID=6969&CatID=59>, (Accessed June 21, 2007).

⁴² *Lunacy Regulation (Ireland) Act, 1871*, Irish Statute Book, <http://www.irishstatutebook.ie/isbc/bps1871.html> (Accessed 25 June 2007).

an individual is a ward of court, there are limits to his or her rights and abilities. Medical treatment or leaving the jurisdiction requires the permission of the President of the High Court. A ward cannot marry, but may make a will if sufficient capacity is present, as established by a solicitor and medical evidence. In order to be removed from the system of the ward of court, the person must file an application and provide medical evidence that he or she is of sound mind.

Enduring power of attorney must be established while a person is competent to make the decision, and typically applies in mental health or Alzheimer's cases. It would not normally be appropriate for cases involving intellectual disability.

Courts have recently prepared to allow adult access to a Guardian ad Litem, although this is typically for a specified period of time in relation to a legal action.⁴³

Civic Participation

There are no official statistics on the number of polling stations that are accessible to people with disabilities. The Irish Electoral Act sets forth provisions for voters with disabilities. Section 100 of the Act allows for voting at an alternative polling station if a person's local station is inaccessible.⁴⁴ Section 103 of the Act allows voters with visual impairments and literacy difficulties to have a companion assist them with voting.⁴⁵

The Department of the Environment, which is responsible for organizing elections, offers information for voters with disabilities on its website. Examples of these provisions include:

- Postal voting by electors living at home who cannot go to the polling station due to a physical disability or illness;
- The display of a large print copy of the ballot paper in polling

⁴³ Guardian Ad Litem can be described as a person who acts on behalf of an individual in a court of law for a specific case.

⁴⁴ *Electoral Act 1992*, Section 100, Irish Statute Book, [http://www.environ.ie/DOEI/DOEIPol.nsf/0/7b0f5af65995bd3980256f0f003bc80e/\\$FILE/Information%20for%20voters%20with%20disabilities.pdf](http://www.environ.ie/DOEI/DOEIPol.nsf/0/7b0f5af65995bd3980256f0f003bc80e/$FILE/Information%20for%20voters%20with%20disabilities.pdf), (Accessed September 2006).

⁴⁵ *Ibid.* Section 103.

stations to further assist visually impaired people and people with literacy difficulties.⁴⁶

Inclusion

Communication

Communication for people with disabilities in Ireland varies widely. The Disability Act 2005 places obligations on government and public bodies to provide information in an accessible format for hearing and visually impaired people by request. The Irish government does not provide a Braille version of the constitution.⁴⁷ However, it is possible to obtain a Braille copy of the constitution available through the National Council of the Blind.

In the latter part of 2005, the National Library requested the Office of Public Works (OPW) to carry out a universal accessibility audit of the Library to prepare for compliance with the requirements of the Disability Act 2005. OPW hired consultants to carry out the study. It is being considered in tandem with OPW, which is responsible for the Library's buildings, with a view to address accessibility issues identified in the study. While the building and structural issues will fall largely on the OPW, the Library is now considering how best to address service accessibility, taking into account of the recently published *Code of Practice on Accessibility of Public Services and Information provided by Public Bodies*, produced by the National Disability Authority. Under the auspices of the recently re-structured services section in the Library, the Library is reviewing the delivery and management of its services and, accordingly, it will work to develop a formal written policy of disability access.

Following the installation of a lift in its main building in 2004, the Library conducted extensive staff training in the use of the evacuation chair to allow wheelchair/ disabled access via an emergency evacuation

⁴⁶ Department of Environment, *Information for voters with disabilities*, Elections, [http://www.environment.ie/DOEI/DOEIPol.nsf/0/7b0f5af65995bd3980256f0f003bc80e/\\$FILE/Information%20for%20voters%20with%20disabilities.pdf](http://www.environment.ie/DOEI/DOEIPol.nsf/0/7b0f5af65995bd3980256f0f003bc80e/$FILE/Information%20for%20voters%20with%20disabilities.pdf), August 2006.

⁴⁷ Duty librarian, National Library, Dublin, phone interview with the Author, June 2006.

mechanism to the Library's main Reading Room on the first floor. As a result of this now routine training and the purchase of additional evacuation chairs, the Library's main Reading Room and exhibition areas are now accessible. Any wheelchair/disabled customers who do not wish to use the lift or the evacuation chair in an emergency evacuation can avail of services from the ground floor of the main building or in the Manuscripts Department.⁴⁸

In 2003, the library council, in conjunction with Ireland's Equality Authority, organized a joint project to investigate how public libraries can provide reasonable accommodations to their services for people with disabilities. The project resulted in the publication of booklet, "Library Access," and a training program for public library staff on disability issues, "Making Access Happen."⁴⁹ It is worth noting also the Cavan library was one of the winners of the inaugural Excellence through Accessibility Award.⁵⁰

Ireland's public service broadcaster, RTE, has two TV channels. RTE has publicly stated its commitment to providing access for people with disabilities to its programming. In its Statement of Commitment 2006, it said it "will adapt as necessary to meet new requirements taking effect under the Disability Act."⁵¹ Both channels provide subtitles (i.e., captioning) on a variety of programs, including all news broadcasts, as well as current affairs, sports and entertainment programs. According to the RTE website: "During peak time—6.30pm–11.30pm—RTÉ subtitles up to 90 percent of programs on RTÉ One and up to 25 percent of programs on RTÉ Two."⁵² RTE also provides sign interpretation of the news, which follows the news broadcasts. As part of its programming, RTE periodically broadcasts a program called Three 60 which focuses on disability and life issues, both of its presenters have a disability. As of the date of this publication,

⁴⁸ Librarian, National Library, email response, 21 September 2006.

⁴⁹ The Library Council, *Policies & Projects: Reasonable Accommodation for people with disabilities*, <http://www.librarycouncil.ie/policies/access.shtml>, (Accessed June 5 2006).

⁵⁰ Excellence through Accessibility Award, www.nda.ie/eta (Accessed 23 July 2007).

⁵¹ Radio Telefis Eireann, RTE, *About RTE; RTE's policies, programs and reports, Statements of commitments to our audience*, http://www.rte.ie/about/organisation/2006_commitments_english.pdf

⁵² Radio Telefis Eireann, RTE, <http://www.rte.ie/tv/subtitles/>, (Accessed 21 June 2006).

there is no program on Irish Television which has a facility for Audio Description.

RTE Radio broadcasts two radio programs, which focus on disability issues: *Outside the Box* and *Audioscope*. *Outside the Box* describes itself as “confronting issues head on and is not afraid to challenge commonly held assumptions about disabled people and the disability sector.”⁵³ *Audioscope* looks at everyday life “as experienced by visually impaired and blind people.”⁵⁴

Ireland does not officially recognize sign language. Sign interpreters are provided through an agency called Irish Sign Link. According to its website, there are 39 interpreters available throughout Ireland. There are three types of interpreters: Registered Qualified Interpreter (RQI); Registered Trained Interpreter (RTI); and trained interpreters awaiting accreditation and deaf interpreters.⁵⁵ Sign interpretation is available for medical appointments, schooling, job interviews, conferences, and other events. The RQI Interpreters are qualified to work in legal and medical situations, in addition to general interpreting situations. According to Kevin Stanley, Program Development Manager with the Irish Deaf Society: “Sign language interpreters are currently funded on an ad hoc basis and their shortage makes it difficult to get one.”⁵⁶

Education

The right to education is recognized in Ireland under Article 42 of the Constitution.⁵⁷ For many parents of children with disabilities, it has been a long struggle to see this right actualized, and there is a catalogue of legal action taken by parents of disabled children against the Irish state.⁵⁸ Many of the cases are taken by parents of autistic children looking for appropriate education.

⁵³ Radio Telefis Eireann, Radio, <http://www.rte.ie/radio1/outsidethebox/>, (Accessed 27 March 2007).

⁵⁴ Radio Telefis Eireann, Radio, <http://www.rte.ie/radio1/audioscope/> (Accessed 23 July 2007).

⁵⁵ Irish signlink, <http://www.irishsignlink.ie/interpreters.htm>, (Accessed 23 July 2007).

⁵⁶ Kevin Stanley, Program Development Manager Irish Deaf Society, Email response, June 2006.

⁵⁷ Constitution of Ireland, Article 42, <http://www.taoiseach.gov.ie/upload/publications/297.pdf>.

⁵⁸ See *Sinnott v's Irish Department of Education*; <http://www.courts.ie/judgments.nsf/597645521f07ac9a80256ef30048ca52/3fca8f36f238f04880256ccc005d9144?OpenDocument> (Accessed 23 July 2007).

Ireland has two laws that deal specifically with schooling for children with disabilities. The Education Act of 1988 and the Education for Persons with Special Educational Needs Act 2004 address the rights of children with disabilities to education.⁵⁹ The Equal Status Act also covers access to education.

The Education for Persons with Special Needs Act (EPSEN) came into law in July 2004. It provides for a framework of assessment, the development of specialist agencies, and the introduction of an appeals board for parents of children with disabilities. The EPSEN act also establishes the National Council for Special Education (NCSE). The NCSE was established in January 2005 and among its functions is the responsibility for “[p]lanning and co-ordinating provision of education and support services to children with special educational needs.”⁶⁰ This coordination function is supported by a Special Needs Organizer (SENO). Among many roles, a SENO is responsible for identifying the special education needs of a child with a disability, developing an individual education plan for each child, and processing applications for schools to provide the necessary support services for their students.

It is still early to discuss the effectiveness the ESPEN act has had on children with disabilities in terms of access to education. Also, some of its sections have not commenced yet. However, the act has met criticism. According to Seamus Greene, Director of the National Parents & Siblings Alliance: “The provision of support services to children with disabilities is resource constrained, so if the resources are not there, services will not be provided and this limits the role of the SENO.” The National Disability Authority has asserted that the timeframe for the Act allows provisions to be implemented over the course of several years and, in practical terms, implementation could continue until 2011. The section of the Act that provides for assessment for zero to five year olds came into effect on June 1, 2007.⁶¹

⁵⁹ *Irish Statute book*, <http://www.irishstatutebook.ie/ZZA30Y2004.html> (Accessed 23 July 2007).

⁶⁰ National Council for Special Education, *About Us, Our Establishment*, <http://www.ncse.ie/>.

⁶¹ Department of Health Sectoral Plan, *List of Actions*, http://www.dohc.ie/publications/fulltext/disability_sectoral_plan/health_sectoral_plan_12.html, (Accessed 31 May 2005).

Access to education for students with disabilities could be described as having three routes. Students can enroll in an ordinary class in a mainstream primary or secondary school where they would receive additional support from a resource teacher and/or a special needs assistant (SNA); they can enroll in a special class in a mainstream school; or they can attend a special school. However, at times one or more of these routes may not be available.

Department of Education Statistics for 2003-2004 show a total of 6,718 students in special schools and 9,340 students with special needs in ordinary classes.

Table II: Number of persons with disabilities receiving full-time education by Age & Type of institution (Male & Female)⁶²

Age Group	Students in ordinary classes [in a mainstreamed school]	Students in Special Schools	Special needs students in Ordinary schools [taking special class at a mainstreamed school]
3-5 yrs	80, 744	380	1,216
6-11 yrs	314,283	2,284	6,732
12 yrs	32,627	569	1,034
13 yrs	2,204	624	274
14 yrs	113	678	84
15yrs	-	702	-
16 yrs	-	617	-
17 yrs	-	546	-
18yrs	-	240	-
19 yrs	-	47	-
20 yrs	-	14	-
21 & over	-	17	-
Total	429,971	6,718	9,340

Statistics from the Department's Annual report indicate that in 2004 there were more than 2,600 resource teachers; there were also 1,500 learning support teachers in mainstream primary schools. In special schools, there were more than 1,000 teachers and an

⁶² Department of Education & Science, *Statistical Report by Year 2003-2004*, <http://www.education.ie/servlet/blobServlet/statistics03-04.pdf>, (Accessed January 2007).

additional 600 in special classes. In 2004, there were 5,250 special needs assistants.⁶³

There are currently 129 special schools in Ireland and these schools are usually impairment specific.

Table III: Types of Special Schools in Ireland⁶⁴

Type of school/disability	Number
Schools for students with mild general learning disability	30
Schools for students with moderate general learning disability	33
Schools for students with severe & profound general learning disability	6
School for students with emotional and behavioral disturbance	10
Schools for students with sever emotional and behavioral disturbance	9
Schools for students with physical disability	7
Hospital School	6
Schools for students with hearing impairments	3
School for students of traveling families	3
School for students with multiple disabilities	1
Schools for students with visual impairment	1
School for students with reading disability	4
School for students with autism	5
Schools for young offenders & disadvantaged students	11
Total	129

Other agencies involved in the framework for educating children with special needs include the National Education Psychological Service (NEPS) and the National Council for Curriculum and Assessment

⁶³ Department of Education & Science; *Annual Report 2004*, Objective 1.3 pg 16, http://www.education.ie/servlet/blobervlet/dept_annual_report2004.pdf, (Accessed January 2007).

⁶⁴ Special Education Support Service, *Types of special schools in Ireland*, Information for and about special schools, http://www.sess.ie/sess/Main/Special_Schools.htm, (Accessed September 2006).

(NCCA). NEPS states that its mission is “to support the personal, social and educational development of all children through the application of psychological theory and practice in education, having particular regard for children with special educational needs.”⁶⁵ The NCCA is responsible for advising the Minister of Education on school curricula.

Education options for adults with intellectual disabilities once they have reached 18 years old are limited. The National Institute for Intellectual Disability (NIID) offers opportunities for ‘lifelong learning for individuals with intellectual disability’ and offers a certificate course for students with intellectual disabilities in Contemporary Living.⁶⁶

There is a range of courses available for teachers to take in special needs education. In 2003, the Department of Education established Special Education Support Service, and courses delivered within this support have expanded to 160 positions funded by the Department of Education. There are additional courses in special education available, including the Special Education Diploma course for primary teachers offered by St Patrick’s College, Drumcondra, St. Angela’s College Sligo, Mary Immaculate College Limerick, and UCD Education Department. Diploma courses for support teachers of the visually or hearing impaired are offered by University College Dublin (UCD) Education Department.

Students with disabilities also have opportunities to attend third level institutions, which include college and universities. Many universities have support staff called Disability Officers who provide assistance to students with disabilities. A non- profit organization called AHEAD works with third level institutions and students with disabilities in order to achieve full participation of students at third level. AHEAD’s website provides resources to existing and potential students with disabilities through their online Inclusive Education Information Center (IEIC). They have also produced a guide entitled “Accessing Third

⁶⁵ National Educational Psychological Service Agency, *Introduction*, Department of Education Website, <http://www.education.ie/home/home.jsp?pcategory=33437&ecategory=33446&language=EN>.

⁶⁶ National Institute for Intellectual Disability, <http://www.tcd.ie/niid/about/> (Accessed 17 July 2007).

Level Education in Ireland – A Guide for Students with Disabilities & Learning Difficulties,” which is available on the website.⁶⁷

Employment

The Employment Equality Act was amended on foot of two Council Directives.⁶⁸ The amendments to the Employment Equality Act altered employers’ obligations to provide reasonable accommodations. Under the amended law, employers must prove they would be disproportionately burdened by making reasonable accommodations to employ a person with a disability. Measures that employers might have to implement range from adapting the physical workplace to offering varied work schedules to providing integration resources. Regarding the impact of the transposition of the Council Directives, the Equality Authority’s CEO said: “The effect of this amendment which changed the original exemption of nominal cost in relation to making reasonable accommodation to one of disproportionate burden has increased the rights of peoples with disabilities under this law.”⁶⁹

Ireland has a few sources for data on employment and disability. Statistics are derived from the Quarterly Household Survey and Living in Ireland Study, which are administered to a sample population, and the Census, which is administered to all of the population.

Table IV outlines employment rates of people with disabilities using the different statistical sources. The disparity in statistics is caused by differences in questions asked.

⁶⁷ Association for Higher Education and Disability, The Inclusive Education Information Centre (IEIC) www.ahead.ie (Accessed 23 July 2007).

⁶⁸ Council Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions, 2002 OJL2 69/15; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, 2000, OJ L 303/16.

⁶⁹ Chief Executive, Equality Authority, interviewed by the Author 4 September 2006.

Table IV: Employment Rates of People with and without Disabilities ⁷⁰

	Living in Ireland Survey (LIS) 2000	Census 2002	Quarterly Household National Survey QHNS (2002)	Quarterly Household National Survey QHNS (2004)
People with Disabilities	44.3%	25.0%	40.1%	37.1%
People without a Disability	71.7%	63.3%	68.5%	67.0%

The QHNS 2004 survey identified that just over 37 percent of all persons of ages 15-64 with a disability/health problem were employed, compared to 63.8 percent for the total population in the same age category. It also found that the most commonly reported disabilities/health problems were cardiac, blood pressure, or circulation problems, followed by back or neck problems, and chest or breathing problems. Persons reporting a disability/health problem worked an average of 34.9 hours a week, compared to 36.8 hours a week for the total population in the same age category.⁷¹

A further breakdown of statistics from the 2002 Census shows the difference in employment rates between men and women with disabilities, indicating that men with disabilities have higher employment rates.

⁷⁰ Table adapted from report by the National Disability Authority, *A strategy of engagement*, National Disability Authority, <http://www.nda.ie/cntmgmtnew.nsf/0/6C8A0158BE18C5F9802571AA0041FB14?OpenDocument>, (Accessed September 2006).

⁷¹ *Quarterly National Household Survey*, Special Module 2004, <http://www.cso.ie/qnhs/documents/qnhsdisabilityupdate.pdf>, September 2006.

Table V: Gender breakdown of employment rates of people with disabilities⁷²

Age	Man	Woman
15-19	7.0	2.1
20-24	31.1	25.8
25-34	49.1	37.7
45-54	53.9	35.9
55-64	49.2	22.2

By law, an employer in Ireland must provide reasonable accommodations for people with disabilities. The Employment Equality Act of 1998 & 2004 requires an employer to take appropriate measures to enable a person who has a disability to:

- 1. access employment;
- 2. participate or advance in employment;
- 3. undergo training.

These measures are required unless they impose a disproportionate burden on the employer. Section 16(3) of the Act states: “a person who has a disability shall not be regarded as other than fully competent to undertake, and fully capable of undertaking any duties if, with the assistance of special treatment or facilities, such person would be fully competent to undertake, and be fully capable of undertaking these duties. Section 16(3)(b) states that an employer “shall do all that is reasonable to accommodate the needs of a person who has a disability by providing special treatment or facilities.” It further states under Section 16 3(d) “a refusal to provide for special treatment or facilities shall not be deemed reasonable unless such provision would give rise to a cost other than a nominal cost to the employer.”

The following factors determining whether implementing a measure imposes a disproportionate burden:

- (a) the financial and other costs entailed;
- (b) the scale and financial resources of the employer’s business and;

⁷² Census 2002, Principal Economic Status “at work.”

(c) the possibility of obtaining public funding or other assistance.⁷³

The Irish government provides grants to help employers meet their reasonable accommodation obligations. Funding is administered through the agency FAS (Training and Employment Authority). Training and placement services are also provided by FAS.⁷⁴

If a person with a disability has received a job offer and the place where they will be working needs adaptations to suit their needs, then the person with a disability or the employer can apply for a work adaptation grant. The maximum grant available is €6348.70 and examples of relevant accommodations include making changes to toilets, installing ramps and adapted equipment such as voice synthesizers for computers.

FAS agency also provides grants for disability awareness training; there are additional funds for people with disabilities to attend job interviews. The grant for people who are deaf or have auditory disabilities covers the cost of having a sign language interpreter during a job interview; it may also be possible to fund an interpreter for the induction period when the hearing impaired person starts work.⁷⁵

FAS also has a dedicated Disability Policy and Development Unit to encourage more people with disabilities to use its services for entry into the open labor market. Its website has a Disability Portal, where information can be accessed on services and grants provided by FAS. Research commissioned by FAS was carried out in 2002 on people with disabilities satisfaction with their services for employment and placing.⁷⁶ The primary vehicle through which FAS is advised and

⁷³ Explanatory booklet on the *Employment Equality Act 1998* and the changes made to it by the *Equality Act 2004*. <http://www.equality.ie/index.asp?locID=106&docID=52>, September 2006.

⁷⁴ FAS (Foras Áiseanna Saothair) is the national training agency and has responsibility for providing a wide range of services to the labor market in Ireland. These services range from placement services, training and re-training, to apprenticeships. FÁS activities are funded by the Irish Government, the National Training Fund and the European Union and they have offices throughout Ireland.

⁷⁵ FAS, *Disability Grants/Schemes & Allowances*, <http://www.fas.ie/disability/GrantSchemes.htm>, (Accessed September 2006).

⁷⁶ Conroy, Pauline Dr. and Brennan, Aoife, *Disability Customer Survey 2002*, , FÁS publication commissioned in February 2003.

consults with people with disabilities on its services is an advisory group called the National Advisory Committee on Disability (NACD). This Group includes: organizations of and for people with disabilities; employer and business representatives; Department of Enterprise Trade & Employment; Department of Health and Children; Department of Social and Family Affairs; and FAS and representatives from the community sector.⁷⁷

FAS also funds supported employment programs. Currently, there are 23 sponsoring organizations delivering Supported Employment on behalf of FAS.

Ireland also has national policies regarding people with disabilities and employment. The Department of Enterprise Trade & Employment in its sectoral plan as part of the National Disability Strategy outlines initiatives, which are aimed at promoting equal opportunities for people with disabilities in the open labor market. The plan also focuses on the following: strategies for developing a comprehensive employment strategy for people with disabilities; implementing policies for recruitment and retention of people with disabilities; and enhancing training opportunities for people with disabilities to gain access to gainful employment.⁷⁸

Employment targets for people with disabilities within the civil and public service have been put on a statutory footing by the Disability Act 2005.⁷⁹

Other employment policies for people with disabilities are under broader government programs. Ireland operates a partnership agreement between government, trade unions, employers, and business representatives; farming and community sector called Social partnership which negotiates pay deals and government commitments on social inclusion. Previous agreements included references to people with disabilities and employment. "Towards

⁷⁷ Chapman, Alan, FAS Disability & Policy Development, email response, 4 September 2006,

⁷⁸ Department of Enterprise, *Sectoral Plan under the Disability Act 2005*, Trade and Employment, <http://www.entemp.ie/labour/strategy/sectoralplan.htm>, September 2006,

⁷⁹ , *Acts*, House of the Oireachtas Website. 2006, <http://www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf>, Part 5, (Accessed 31 May 2007),

2016,” the new agreement includes references to the employment of people with disabilities.⁸⁰ There is also a unique awards ceremony that takes place on an annual basis called the Ability Awards, the purpose of these awards is to recognize Irish companies for their employment and inclusion of people with disabilities.⁸¹

In 2000, as part of the government mainstreaming strategy, FAS took responsibility for vocational training and employment services for people with disabilities. Prior to that, training took place under the auspices of the National Rehabilitation Board funded by the Department of Health and Children and would have occurred primarily in specialist settings.⁸²

The numbers of people ‘In Training’ in FAS (excluding apprenticeships) during 2004-05 were as follows: 24,953 for 2005 and 17,071 for 2004. Further analysis of these figures indicates that 1,555 people with disabilities (i.e., the total of persons in receipt of disability-related payments Disability Benefit, Disability Allowance, Blind Pension and Invalidity Pension) were ‘In Training’ in 2005, representing 6 percent of the total number of trainees. The figure for 2004 was 1,662 people with disabilities, which represent a little less than 10 percent of the total for that year. Of the 1,555 people with disabilities ‘In Training’ in 2005, 1,175 were referred to Specialist Training Provision. In 2004, of the 1,662 people with disabilities; 1,246 were referred to Specialist Training Provision. This represents 75 percent of the people with disabilities ‘In Training’ for 2005 and 2004.⁸³ Specialist training provisions for people with disabilities are provided by such agencies as the National Learning Network (NLN). The NLN describes itself as “Ireland’s largest non-government[al] training organization with more than 50 purpose built training and employment units nationwide catering for over 4,500 students each year.”⁸⁴

⁸⁰ Department of the Taoiseach, Towards 2016, Ten-Year Framework Social Partnership Agreement 2006 – 2015, <http://www.taoiseach.gov.ie/index.asp?locID=181&docID=2755>, (Accessed 23 July 2007).

⁸¹ Ability Awards, <http://www.theabilityawards.com/aboutawards.htm>, (Accessed 23 July 2007)

⁸² FAS, *Annual Report*, http://www.fas.ie/annual_report/annual_report00/jobseekers03.html, September 2006.

⁸³ Chapman, Alan.

⁸⁴ Rehab Group, National Learning Network, <http://www.rehab.ie/nln/about.aspx>, (Accessed 21 September 2006).

The Irish government provides a variety of welfare payments/pensions to people with disabilities. Payments are administered through local social welfare offices and range from pensions for people who are blind, to benefits for people who have acquired a workplace injury. Disability Benefit is available for those who are unable to work due to illness and have made social insurance contributions through tax payments in previous employment.⁸⁵

To qualify for Disability Allowance you must “have an injury, disease or illness, or have a physical or learning disability that has continued or is expected to continue for at least one year and causes you to be ‘substantially restricted’ in doing work that would otherwise be suitable for a person of your age, experience and qualifications”.⁸⁶ This allowance is income-tested, so if an individual has additional sources of income it might be taken into consideration when deciding to grant the allowance. Additional income could be savings, investments, or property owned other than one’s home.⁸⁷

Blind pension is “paid to blind people and certain people with low vision, aged 18 or over who are normally living in the State and satisfy an income test.”⁸⁸ Table 6 below outlines the numbers of people in receipt of disability allowances/disability related allowances.

Table VI: Number of Recipients of Illness, Disability & Caring payments by payment type⁸⁹

Type of Payment	2003	2004	Change 2004 over 2003
Disability Benefit	57,464	58,726	2.2%
Invalidity Pension	53, 414	55, 864	4.6%
Interim Disability Benefit	295	316	7.1%

⁸⁵ Department of Social & Family Affairs, *What is Disability Benefit*, <http://www.welfare.ie/publications/sw9.html#1>, (Accessed 21 September 2006).

⁸⁶ Department of Social & Family Affairs, *Who can qualify?* <http://www.welfare.ie/publications/sw29.html#2>, (Accessed 31 May 2007).

⁸⁷ *Ibid*, Department of Social & Family Affairs, *What is Disability Benefit* <http://www.welfare.ie/publications/sw119.html>.

⁸⁸ Department of Social & Family Affairs, *What is Blind Pension*, <http://www.welfare.ie/publications/sw76.html#1>, (Accessed September 2006).

⁸⁹ Department of Social & Family Affairs, *SWS Statistical Information Report*, 2004, <http://www.welfare.ie/publications/annstats/04/2004stats.pdf>, (Accessed September 2006).

Carer's Benefit	639	679	6.3%
Disability Allowance	67,720	72,976	7.8%
Carer's Allowance	21,316	23,030	8.0%
Blind Pension	2,061	2,027	-1.6%
Injury Benefit	821	915	11.4%
Type of Payment	2003	2004	Change 2004 over 2003
Death Benefit Pension	664	652	-1.8%
Disablement Pension	11,898	12,162	2.2%
Total	216, 292	227, 347	5.1%

Ireland has some tax benefits for people with disabilities. For parents of children with disabilities they can claim a tax allowance of €3,000 called "Incapacitated Child Tax Credit."⁹⁰ Other tax allowances given include; people with visual impairments, Value Added Tax refunds on aids and appliances used by people with disabilities and tax relief for disabled drivers and passengers.⁹¹

Health Services

Ireland's health service has gone through a reform program since 2005. The Health Service Executive (HSE) is responsible for providing health and personal social services for everyone living in the Republic of Ireland.⁹² If you are ordinarily resident in Ireland (for more than one year), you are entitled to a range of free public health services.⁹³

The Irish health system distinguishes among a universal system, a system covering those who pay Social Insurance deducted from their salary, and a private health insurance system. A medical card gives

⁹⁰ Citizens Information Website, http://www.citizensinformation.ie/categories/money-and-tax/tax/tax-credits-and-reliefs-for-people-with-disabilities/incapacitated_child_tax_credit, (Accessed 31 May 2007).

⁹¹ For further reading about tax relief/allowances for people with disabilities, please consult *Tax credits for people with disabilities*, Citizens Information Website, <http://www.citizensinformation.ie/categories/money-and-tax/tax/tax-credits-and-reliefs-for-people-with-disabilities> (Accessed 31 May 2007).

⁹² Health Service Executive, *About the Health Service*, <http://www.hse.ie/en/AbouttheHSE/>, (Accessed 30 May 2007)

⁹³ Department of Health, *Entitlement to Health Services*, http://www.dohc.ie/public/information/entitlement_to_health_services/entitlement_to_public_health_services.html (Accessed 30 May 2007).

free access to a range of services including; doctor visits; prescription drugs; inpatient and outpatient hospital services.⁹⁴ Non-medical card holders are entitled to limited free services such as public hospital services. In order to hold a medical card, a person must be in receipt of welfare allowances and/or below an income threshold, the amount for a single person in 2005 was €184 (living alone); €164 living with family, for a married couple it was €266.50.⁹⁵ People with disabilities whose sole income is the state's Disability Allowance and Blind Persons pension are entitled to a medical card.

The future framework for how people with disabilities receive health and personal social services is outlined in the Department of Health's Sectoral Plan. The plan sets out how the Department of health will meet the needs of people with disabilities and it includes assessment of need. Commitments in the plan outline that assessment of need of children with disabilities between zero to five years will come into effect in June 2007; for children aged between 5-18 will come into effect in tandem with the Educational Persons with Special Educational needs and for adults (over 18) will come into effect no later than 2011.⁹⁶

Access to health and personal social services varies for people with disabilities despite a significant level of funding from government.⁹⁷ A recent Value for Money review of the Comptroller and Auditor General found problems in relation to the financial and governance arrangements of services for people with disabilities in Ireland. The majority of health services for people with disabilities are provided by non-profit organisations which are funded through the Health Service Executive to the amount of €877 million per annum. The Comptroller and Auditor General found that, in general these nonprofit service providers remain largely unaccountable for the large amounts of money they receive, with an absence of contracts and proper procurement

⁹⁴ *Medical Cards in Ireland*, Citizens Information Website, http://www.citizensinformation.ie/categories/health/entitlement-to-health-services/medical_card (Accessed 30 May 2007).

⁹⁵ For further reading on list of allowances, go to *Medical Cards in Ireland*.

⁹⁶ *Sectoral Plan for the Department of Health & Children and the Health Services Act 2005*, http://www.dohc.ie/publications/fulltext/disability_sectoral_plan/health_sectoral_plan_12.html (Accessed 30 May 2007).

⁹⁷ For further reading on this report, go to Office of the Comptroller and Auditor General, <http://www.audgen.gov.ie/ViewDoc.asp?DocId=-1&CatID=5> (Accessed 30 May 2007).

and quality standards that have not yet been implemented and services are not inspected or regulated.⁹⁸

People with disabilities can experience difficulty in accessing health insurance. The Equal Status Act outlaws discrimination in insurance. However there are exemptions. The Acts allow people to be treated differently in this area if the differences are based on actuarial or statistical data or other relevant underwriting or commercial factors and if the difference is reasonable having regard to the data or other relevant factors.

There is no uniform course for students training to be medical professional on disability issues. However, a number of universities as part of the undergraduate medical degree provide some training on disability issues. The Royal College of Surgeons Ireland (RCSI) Neuroscience Module (taken in junior cycle years) contains lectures on cognitive deficits and assessment, developmental disabilities and chronic pain management. Students also receive teaching on developmental disabilities in the senior cycle and also receive teaching and practical sessions in the orthopedics Program on Rehabilitation.⁹⁹

University College Dublin School of Medicine and Medical Science offers a unique program on disability studies to its students. The program ran for the first time in 2005/06 and will continue as a core subject in the curriculum. The aim of the program is to give students embarking on medical professions a holistic view on disability, the program covers subjects such as introduction to models of disability; living with different types of disability. Lecturers presenting on the program are from the medical field and also from the disability community.¹⁰⁰

⁹⁸ *Ibid.*

⁹⁹ Email response from Fintan Foy, Associate Director, Faculty of Medicine & Health Services, June 15 2007.

¹⁰⁰ Dr Jason Last, University College School of Medicine and Medical Science, email and phone call, July 20, 2007.

Housing

The Department of Environment has responsibility for housing in Ireland. The Departments sectoral plan published under the Disability Act 2005 contains a number of important targets in relation to housing and disability. Some of these targets include; revising the current legislation, which provides for housing access; introducing a Disability Access Certificate and developing a National Housing Strategy for People with Disabilities by year end 2009.¹⁰¹ The Sectoral Plan also stresses the importance of lifetime adaptable housing.

There are different options for housing for people with disabilities in Ireland. Specifically, one can buy one's own home, rent a house or apartment, or be housed by a local authority. Options for people with disabilities remain limited, with physical accessibility being a major barrier. In addition, proper and adequate support services to enable them to live in the community are not readily available. Housing authorities are obliged by the Housing Act to carry out assessments of the need for the provision of housing for persons who require housing and are unable to provide it from their own resources. An assessment carried out in 2002 showed that 423 people with disabilities were in need of housing, the same survey carried out in 2005 showed that 480 were in need of housing representing a 13 percent rise.¹⁰² Statistics from the 2002 Census, show that over 45,000 people with disabilities live in housing built by local authorities either as social tenants or as tenant purchasers.¹⁰³

¹⁰¹ Department of the Environment, Heritage & Local Government, www.environ.ie/en/Publications/LocalGovernment/Administration/FileDownload,2030,en.doc-35.5KB (Accessed 25 July 2007).

¹⁰² 2005, Annual Housing Statistics Bulletin, Regular Publications, [http://www.environ.ie/DOEI/doeipub.nsf/0/daac160e1d73c27d80256f0f003dbc05/\\$FILE/Bulletin%2005.pdf](http://www.environ.ie/DOEI/doeipub.nsf/0/daac160e1d73c27d80256f0f003dbc05/$FILE/Bulletin%2005.pdf).

¹⁰³ Central Statistics Office, Census Reports 2002, Volume 10, Disability & Carers, (Accessed July 25, 2007) www.cso.ie/census/documents/vol10_t14_40.pdf.

Table VII: Persons with a disability in permanent housing units, classified by nature of occupancy and type of disability¹⁰⁴

Nature of Occupancy	Total persons with a disability	Persons with a disability as % of total persons
Owner occupied with loan/mortgage	66,659	4.0
Owner occupied without loan/mortgage	134,820	11.1
Being purchased from a Local Authority	16,148	11.0
Rented Local Authority	29,004	10.7
Private rented unfurnished	5,141	7.8
Nature of Occupancy	Total persons with a disability	Persons with a disability as % of total persons
Private rented furnished/part furnished	12,209	4.4
Occupied free of rent	5,751	13.2
Not stated	8,686	8.9
Total	278,418	7.4

When planning housing developments, local authorities are required by the Planning and Development Act of 2000:

“To ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the planning authority, and including the special requirements of elderly persons and persons with disabilities.”¹⁰⁵

Local authorities also provide two types of grants for people with disabilities. A grant scheme exists to give people with disabilities the

¹⁰⁴ *Ibid.*

¹⁰⁵ *Planning and Development Act 2000*, Section 94(3) (c), Irish Statute Book, <http://www.irish-statutebook.ie/ZZA30Y2000S94.html>, (Accessed December 2006).

financial support to reconstruct or carry out improvement works to their houses. Examples of work covered by this financial aid include: provision of ramps; installing a ground floor bedroom; stair lifts; and grab rails. The maximum grant that is payable is €20,320 or 90 percent of the approved cost of the adaptation. The Local Authority can then recoup two-thirds of this grant from the Department of the Environment. Statistics from 2005 show that there was a total of 6,130 grants paid to make adaptations/improvements.¹⁰⁶ However, the grant does not cover the cost of any major adaptation and the cost of an accessible bedroom and bathroom extension is in the region of €75,000 and more if houses are located in the catchment's areas of major cities.¹⁰⁷

There is also an adaptation scheme available for people with disabilities living in government housing, which allows the local authority to adapt the house/flat at no cost to the tenant. It covers works such as: "provision of level access to the shower; suitable bathroom facilities, heating, stair lifts, grab rails."¹⁰⁸

There has been some NGO activity on disability and housing. In a publication *Housing – The Vital Element*, the Disability Federation of Ireland (DFI) identified policy issues that impact housing options for people with disabilities, including: continued use of long stay institutional areas and the reliance of people with disabilities on social welfare payments which removes the options of home ownership.

People with disabilities in Residential Care are not allowed to identify themselves as homeless in any study that is done. In many instances, with the proper supports, a large number of people in residential care could be accommodated in the community.¹⁰⁹

Other developments regarding accessible housing for persons with disabilities include a report "Housing in Ireland" by The National

¹⁰⁶ Department of the Environment, *Housing Statistics Database*, Regular Publications, <http://www.environ.ie/DOEI/DOEIPub.nsf/wvNavView/RegularPublications?OpenDocument&Lang=en#I2>, (Accessed January 2007).

¹⁰⁷ Frank Mulcahy.

¹⁰⁸ Dublin City Council, *Services for people with disabilities*, http://www.dublincity.ie/Images/Services%20for%20People%20with%20Disabilities_tcm35-27451.pdf.

¹⁰⁹ Frank Mulcahy, Disability Advocate, e-mail response, June 24, 2007.

Economic and Social Council (NESC) who have also recognized the difficulties faced by people with disabilities in securing a place to live.¹¹⁰

Ireland has a very active Independent Living movement. The first Center for Independent Living (CIL) in Ireland was founded in 1992 in Dublin. Its main aim was to “ensure that people with disabilities achieved independent living, choice, and control over their lives and full participation in society as equal citizens.”¹¹¹ There are approximately 26 CIL’s throughout Ireland and they are involved in providing personal assistant services so that people with disabilities can live in the community.

Institutionalization

Involuntary and voluntary admission to mental health facilities in Ireland is covered by the Mental Health Act 2001. Section 9(1) provides for the admission of a person to an approved center on the basis of “an application for a recommendation that the person be admitted to a doctor by spouse, health authority official or member of the police force.” Section 8 of the Act permits involuntary admission of a person on the grounds of a ‘mental disorder,’ following an examination of a person by a registered doctor. Section 12 of the Act permits members of the police force if they have ‘reasonable grounds to believe that a person suffering from a mental disorder may cause harm to themselves’ may apply for involuntary admission. Section 13 of the Act gives further powers to the police force to enter if needs be by force any dwelling or other premises where they believe the person to be and also use reasonable measures necessary for the removal of the person; including where necessary, ‘the detention; or restraint of person concerned.’

Ireland’s mistreatment of people who live in institutions has received much media attention over the years.¹¹² The Irish section

¹¹⁰ National Economic & Social Council of Ireland (NESC), *Housing in Ireland: Performance and Policy*, No.112, November 2004 <http://www.nesc.ie/dynamic/docs/NESCHousingReport.pdf>.

¹¹¹ Center for Independent Living.

¹¹² For further information read: Hennessy, Mark *Restraints on patients criticized in report*, The Irish Times, January 27, 2003; RTE, *States of Fear* documentary, April 1999.

of Amnesty International launched a report in 2003, *The Neglected Quarter: Mental Illness outlining its concerns from a human rights perspective*.¹¹³ As recent as January 2007, the Irish Mental Health Commission published its inquiry into Ireland’s central mental hospital and found “a number of unacceptable practices that require urgent attention.”¹¹⁴ In the 2007 Irish government elections, a candidate ran his campaign specifically on the rights of people with psycho-social disabilities and this raised awareness of the treatment of people with psycho-disabilities in institutions.

The 2006 Census shows that there are 3,389 people living in Irish psychiatric units and hospitals. 46 percent of these residents were long-stay residents (over one year) and 27 percent of residents were there for five years or more.¹¹⁵

There are currently 56 hospitals in Ireland providing long-term care. Table VII below outlines the hospital type.

Table VIII: No of Hospitals by Hospital Type¹¹⁶

Hospital Type	Number
General Psychiatric Units	22
Psychiatric Hospitals	22
Children’s Centers	2
Private Hospitals	6
Central Mental Hospital	1
Carraig Mor, Cork	1
St Joseph’s Intellectual Disability Service	1
Total	55

¹¹³ Amnesty International – the Irish Section, Action Briefing on Mental Health Policy, http://www.amnesty.ie/amnesty/upload/images/amnesty_ie/campaigns/Mental%20Health/Mental%20Health%20ets%20make%20it%20happen%20briefing%20policy.pdf (Accessed 23 July 2007).

¹¹⁴ Mental Health Commission Ireland, *Central Mental Hospital Report*, Press Releases, January 2007, <http://www.mhcirl.ie/pressreleases.htm>.

¹¹⁵ Health Research Board, *Census 2006*; <http://www.hrb.ie/storage/publications/hrbpublications/mentalhealth/Census2006.pdf>.

¹¹⁶ Health Research Board, *Activities of Irish Psychiatric Unites & Hospitals 2005*, http://www.hrb.ie/storage/publications/hrbpublications/mentalhealth/Activites_report2005.pdf.

The Activities of Irish Psychiatric Units and Hospitals 2005 shows that there were 299 deaths in 2005 in Ireland's psychiatric units and hospitals.

Apart from psychiatric units, people with disabilities receive institutional care from other services. The National Intellectual Disability Database shows the 3,334 people with intellectual disabilities live in full-time residential centers. The National Physical and Sensory Database shows that 500 people with physical/sensory disabilities resided in full-time residential services. People with disabilities within residential centers have only recently been entitled to a Welfare Benefit. Prior to this they received a 'Pocket money Allowance.' This was discretionary and it depended on what area of the country was your birthplace and the amount that you received. New legislation has given those in long-term care the Welfare Benefit (Disability Allowance) but the regulations on disabled and elderly people paying a portion of their care costs mean that each person must pay 80 percent of the Benefit to the person or organization providing them with residential care.

Accessibility

In Ireland, people with disabilities do not have unlimited access to the built environment or to the public transport infrastructure and can encounter many barriers.

There are various laws providing accessibility for people with disabilities. The most recent of these is the Disability Act of 2005.¹¹⁷ Part 3 of the Disability Act provides for access to public buildings and requires that all public buildings be made accessible to people with disabilities by 2015.¹¹⁸ Public Buildings in the Act are defined as buildings owned by the Government or Local Authorities. This act does not cover privately owned buildings. Access to heritage sites is also included in the Act, as it states that the "head of a public body shall, as far as practicable, ensure that the whole or part of a heritage

¹¹⁷ Oireachtas, Irish government Website, <http://www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf> April 2006.

¹¹⁸ Department of Justice, *A Guide to the Disability Bill 2004*, www.justice.ie; *Disability Act 2005*, Part 3, Section 25, subsection 3(a) Official Government Publications. <http://www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf> (Accessed April 2006).

site in its management of control to which the public has access is accessible to people with disabilities.” However, there is a clause that states this shall not apply if providing access has a “significant adverse effect on the conservation status of a species or habitat” or if it “compromises the characteristics of the site.”¹¹⁹

In addition, Part 3 of the Act states that “the Minister for Justice may request the National Disability Authority to prepare and submit to him/her a draft code of practice relating to the accessibility of public buildings.”¹²⁰ If the Minister accepts the code, a public body shall comply with it. Part 6 of the Disability Act provides for the establishment of a Center for Excellence in Universal Design in the NDA, which began on 1 January 2007.¹²¹

The accessibility provision contained in the Disability Act builds on existing regulations that are covered by Part M, *Access for People with Disabilities*, of the Building Controls Act.¹²² The responsibility for developing building regulations and giving guidance on how to comply with this law falls on the Department of the Environment, Heritage and Local Government.¹²³ The Building Regulations were established in 1992 and updated in 2000 with specific amendments to extend the provisions on access. Prior to 2000, regulations were primarily focused on the requirement stating that buildings “shall be made to enable disabled people to have safe and independent access to a building and to those parts of the building to which it is appropriate to have access.”¹²⁴ In 2000, amendments extended the requirements to include dwellings to ensure access for people with disabilities.¹²⁵

119 Oireachtas.

120 *Ibid.*

121 Department of Justice, Email response, 16 October 2006.

122 *Building Control Act 1990*, (No 3 of 1990), <http://www.irishstatutebook.ie/ZZA3Y1990.html>, (Accessed May 2006).

123 Department of the Environment, *Heritage and Local Government*, <http://www.environ.ie/DOEI/DOEIPol.nsf/wvNavView/wwwConstruction?OpenDocument&Lang=en>. (Accessed May 2006).

124 *Building Control Act 1990*, “Access for Disabled People”, first Schedule [to S.I. No. 306 of 1991], Part M. Regulations commenced 1 June 1992 <http://www.irishstatutebook.ie/ZZSI306Y1991.html>, (Accessed May 2006).

125 *Building Regulations (Amendment) Regulations 2000*, Statutory Instruments, S.I. No. 179 of 2000, <http://www.irishstatutebook.ie/ZZSI249Y2000.html>, (Accessed May 2006).

A review commissioned by the National Disability Authority in 2005 on the effectiveness of Part M of the Building Controls Act concluded that "there is significant evidence of the ineffectiveness of Part M of the Irish Building Regulations, in the application of the regulations, the limitations of the guidance and the poor levels of control and enforcement."¹²⁶ The report continues by listing recommendations for accessibility. For example, the report states that "a national strategy towards achieving an accessible environment should be developed with clear policies and targets that are monitored and reviewed on a regular basis."¹²⁷

Section 19 of the Equal Status Act of 2000 requires curb cuts within sidewalks for people with disabilities.¹²⁸ It states that:

The purpose of facilitating the mobility of persons with a disability, provide, or require the provision of, ramps, dished curbs or other sloped areas at appropriate places at or in the vicinity of any pedestrian crossing or intersection used by pedestrians in that part of the footway or pavement so constructed or altered.¹²⁹

Another initiative that promotes access for people with disabilities is the Barcelona Declaration, first referenced at a conference entitled "The City and the Disabled" in 1995.¹³⁰ Although the Barcelona Declaration has no legal enforcement, it is comprised of 17 agreements, of which local authorities or municipalities can become signatories. These agreements range from promoting disability awareness to training and policy development on inclusive design. Of 114 local councils in Ireland, the Barcelona Declaration has been ratified by 97.

¹²⁶ Rogerson, Fionnuala, McNamara, Michael, Winters, Jim and Marsh, Kathryn, *Review of the Effectiveness of Part M of the Building Regulations*, Fionnuala Rogerson Architects. <http://www.nda.ie/cntmgmtnew.nsf/0/D7B9326DE8BF2CBA802570CF00348A4C?OpenDocument>, (Accessed April 2006).

¹²⁷ *Ibid.*

¹²⁸ *Equal Status Act 2000*, Section 19 <http://www.irishstatutebook.ie/ZZA8Y2000S19.html>, (Accessed April 2006).

¹²⁹ *Ibid.*

¹³⁰ Institute of Design and Disability, Website section: *About the Declaration*, http://www.idd.ie/barcelona_declaration.htm, (Accessed April 2006).

There are currently no available statistics on the percentage of accessible buildings within Ireland.¹³¹ The main post office in Dublin is accessible to people with disabilities. The government as part of the National Disability Strategy promised an investment of capital to increase to the number of accessible public buildings. €18 million is available under the National Disability Strategy to:

“undertake accessibility audits, adapt information systems and equipment for people with disabilities, and to provide and improve, where needed, accessibility to public buildings, roads and pavements, parks, amenities, heritage sites and other public areas for which local authorities have responsibility.”¹³²

Regarding accessible transportation, the Department of Transport is responsible for the transport infrastructure. The Department of Transport convenes a committee called the Public Transport Accessibility Committee (PTAC), which is comprised of transport service providers and organizations representing people with disabilities. Under the Disability Act 2005, PTAC is responsible for monitoring the implementation of the government’s Sectoral Plan for providing access to transportation for people with disabilities.¹³³ The Sectoral plan outlines the Department of Transport’s plans for including people with disabilities in its service delivery. It sets targets for accessible transport; for example, by 2006 it plans to make all bus stations accessible for people with mobility and sensory impairments.

Dublin’s transport system includes: a public bus service, Dublin Bus; private bus services, a private tram service, Luas; the Dublin Area Rapid Transport (DART); private taxi services and private Hackney services for hire. According to Dermot Walsh, an Access Consultant for Dublin Bus, 53 percent of the Dublin buses and 20-40 percent of

¹³¹ O’Meara, Cearbhall, President, Institute of Design and Disability. Telephone Interview by the Author, 10 April 2006.

¹³² Department of the Environment, *Minister Roche Announces €18 Million for National Disability Strategy for Local Authorities*, Heritage and Local Government, Media Centre, Minister Press Releases, <http://www.environ.ie/DOEI/DOEIPub.nsf/0/fc8025e67d7fb22480257>, (Accessed May 2006).

¹³³ *Disability Act 2005; Disability Act 2005*, Part 3, Section 34 (a-d).

bus routes are accessible to people with disabilities.¹³⁴ The DART's access for people who are wheelchair users can be difficult, as there is a wide gap between the platform and the train. In 2004, Iarnoid Eireann, the national rail transport organization, started a project updating all of the DART stations, which included installing elevators, ramps, and the like.¹³⁵ Dublin Bus also published a Transport for All brochure which gives details of accessible bus routes. The Dublin Bus website offers a facility for visually impaired customers where they can access bus timetables.¹³⁶ The website also provides relevant details, such as accessible bus routes and guidelines for using the bus system in a safe manner. Dublin Bus and Iarnoid Eireann have specific sections on their websites detailing their commitment to providing access to people with disabilities.¹³⁷ People with disabilities who hold a travel pass issued by the Department of Social Welfare can travel for free on buses within the public transportation system.¹³⁸

The Luas, a tram with low floor access that provides roll-on and roll-off access for people with mobility disabilities, is a recent addition to Dublin's transport system. It started to operate in 2004. The Luas also has access provisions for people with hearing and visual disabilities and accepts the Department of Social Welfare travel passes for free travel for people with disabilities.¹³⁹

Additionally, people with disabilities can hire accessible private taxis. The Commission for Taxi Regulation, established in September 2004, states as part of its mission "to promote access to small public service vehicles by persons with disabilities."¹⁴⁰ A 2004 study, *Towards*

¹³⁴ Walsh, Dermot, Access Consultant to Dublin Bus, Email response, 11 April 2006..

¹³⁵ Irish Railway Record Society, Irish Railway News- Journal 153, <http://www.irrs.ie/Journal%20153/153%20News.htm>, (Accessed April 2006).

¹³⁶ Dublin Bus, http://www.dublinbus.ie/about_us/accessibility.asp, (Accessed April 2006).

¹³⁷ Walsh, Dermot; Dublin Bus ; Iarnoid Eireann http://www.iarnrodeireann.ie/your_journey/disabled_access.asp.

¹³⁸ Department of Social Welfare, <http://www.welfare.ie/publications/sw40.html#1>, (Accessed April 2006).

¹³⁹ LUAS, Website Section: *Free travel*, Accessible Travel; <http://www.luas.ie/document/index.asp?head=4>, (Accessed May 2006).

¹⁴⁰ The Commission for Taxi Regulation was established on the 1st of September 2004 by Statutory Instrument No. 523 of 2004 under the Taxi Regulation Act 2003, taken from the Taxi Commission website. Website Section: *About Us*, <http://www.taxiregulator.ie/taxi/publisher/index.jsp?plD=93&nID=94>, April 2006.

an Accessible Taxi Service, found serious problems regarding the provision of taxi transport for people with disabilities:

There is a marked and continuing decline in the number of wheelchair accessible taxis; in some areas there is no service. In addition, the report finds that there is widespread dissatisfaction with the current level of taxi service among people with disabilities.¹⁴¹

The study also highlighted the importance of the Commission for Taxi Regulation in addressing issues it had raised concerning people with disabilities access to taxi services. There is no regulation for Hackneys to be accessible. Each Hackney car and driver must be approved and registered by their local authority.

There are also numerous companies that provide door-to-door transport services for people with disabilities who cannot access mainstream transportation. These are subsidized by the government. For example, the ride service Vantastic Dial is funded through the Department of Equality and Law Reform.¹⁴²

The Irish government policy on web accessibility is stated in the 2002 report, "New Connections" It states that: "Under the Europe Action Plan, all public sector websites are required to be WAI (level 2) compliant by end of 2001."¹⁴³ It is unclear if this commitment has been achieved, as there is no published progress report. The websites of the government Departments of Employment and Social and Family Affairs indicate they are WAI compliant, but that of the prime minister does not.

The National Disability Authority (NDA) provides guidance to government departments and public bodies on web accessibility for people with disabilities. In 2002, the NDA published IT Accessibility

¹⁴¹ Transportation Planning (International) Ltd., *Towards an Accessible Taxi Service for All*, February 2004.

¹⁴² Vantastic, Dial a Ride Service, <http://www.vantastic.ie/index.htm>, May 2006.

¹⁴³ New Connections, *A strategy to realise the potential of the Information Society*, Department of the Taoiseach, <http://www.taoiseach.gov.ie/index.asp?docID=557>, June 2006.

Guidelines v 1.1, which will be redeveloped in 2006.¹⁴⁴ The NDA Centre for Universal Design is mostly concerned with technology access.

There is considerable activity in NGO and academic areas in Ireland about website accessibility. The Center for Inclusive Technology, an initiative of the National Council of the Blind, provides services and advice for users and providers of technology.¹⁴⁵ Dublin City University has the eAccessibility lab at the Research Center for Networks and Communications Engineering (RINCE), which carries out research and outreach on the accessibility of websites and services to users with disabilities.¹⁴⁶

Culture, Sports and Recreation

In 2003, Ireland was the first country to host the Special Olympics outside of the US. Special Olympics Ireland operates throughout Ireland with a support network of more than 6,000 volunteers and currently has 11,000 athletes.¹⁴⁷ There are a variety of other organizations focusing on sports and disability. Irish Blind sports is responsible for organizing sporting activities for blind and visually impaired people.¹⁴⁸ The Paralympic Council of Ireland is working towards the 2008 Beijing paralympics. Organizations such as the Irish Wheelchair Association provide their membership with access to sports facilities. The Irish teams usually do extremely well at the Paralympics and come home with major honors. They have been competing at this level since 1960.

Ireland is famous worldwide for its arts and culture. People with disabilities access to the Arts has improved over the years. The Arts Council of Ireland, which is Irelands government agency for developing the arts, has a discussion document on Disability & the Arts Council.

¹⁴⁴ National Disability Authority, *ICT Accessibility*,

¹⁴⁵ National Council for the Blind.

¹⁴⁶ Dublin City University, eAccess Lab, <http://eaccess.rince.ie/>, (Accessed June 2006).

¹⁴⁷ Special Olympics Ireland, <http://www.specialolympics.ie/en/?page=default>, (Accessed 31, May 2007).

¹⁴⁸ Irish blind Sport, www.ibsports.ie, (Accessed May 31 2007).

They also have a funding scheme for artists with disabilities working in all forms of art.¹⁴⁹

Some entertainment venues offer reduced prices to people with disabilities. MCD concert promotions allow people with disabilities' personal assistants to attend concerts for free.¹⁵⁰

Disability Action and Awareness

As such, there is no overall coordinating body for disability in Ireland. Disability crosscuts many government departments. The National Disability Strategy, announced in September 2004, encompasses the Disability Act 2005, sectoral plans by six governments that set out their plans for including people with disabilities and finally a multi annual budget. Its implementation is the responsibility of the government and is monitored by the National Disability Strategy Stakeholders Monitoring Group.

Ireland has various agencies whose remit includes people with disabilities, while others sole remit is to work on disability issues, such as the NDA. The function of the main state sponsored agency, the National Disability Authority and its Policy and Public Affairs as "developing, co-ordinating and advising on all aspects of policy and legislation in relation to disability and issues of concern to people with disabilities."¹⁵¹ The NDA conducts research and develop policies on areas such as employment, transport, and education for people with disabilities.

¹⁴⁹ Arts Council, Ireland, Arts & Disability Award, http://www.artscouncil.ie/en/view_fund.aspx?fid=cc0fa966-1345-4100-b9b3-d1802be1f67b (Accessed 31 May 2007).

¹⁵⁰ MCD promotions, *Disabled Access*, <http://www.mcd.ie/access/access.php>, (Accessed 31 May, 2007).

¹⁵¹ NDA Website: <http://www.nda.ie/cntmgmtnew.nsf/policyhomepage?OpenPage> (Accessed August 2006).

Other agencies such as the Equality Authority and the Human Rights Commission have also provided policy development and commentary on disability issues.¹⁵²

Some Irish universities offer courses on disability. The National University of Ireland (NUI) at Galway has a Disability Law Unit and, for the summers of 2005 and 2006, has offered courses on Disability Law.¹⁵³ University College Dublin (UCD) offers a variety of postgraduate courses in disability studies and UCD's school of justice offers a Masters and PhD in Equality Studies which includes teaching on disability.¹⁵⁴

Ireland has a long history of consulting people with disabilities, their families and their organizations. The most significant event that put disability in the political arena was the establishment of the Commission on the Status of People with Disabilities in 1993. The Commission initiated a consultation mechanism to listen to the voices of people with disabilities in Ireland, produced the Report "Strategy for Equality" in November 1996 on completion of its consultation. Over 10 years later, this strategy is considered to be the most significant blueprint for disability in Ireland.¹⁵⁵ Since its publication, there has been one monitoring report published and as of July 2007, many of its recommendations have not been implemented.

In 2003, after the failure of the first attempt to enact disability laws, a consultation group was set up by the Irish government and included key stake holders in the disability community. The Disability Legislative Consultative Group provided recommendations to government on the essential elements for a law that would protect the rights of persons with disabilities.

¹⁵² The Irish Human Rights Commission provided observations on the Disability Act 2005, see its website at <http://www.ihrc.ie/documents/article.asp?NID=123&NCID=6&T=N&Print=> (Accessed 31st May, 2007).

¹⁵³ National University of Galway, Law, Disability Discrimination Summer School, http://www.nuigalway.ie/law/Disability_summer_school/index.html, (31 May 2007).

¹⁵⁴ University College Dublin, School of Psychology, Postgraduate courses in Disability Studies, http://www.ucd.ie/psychology/disabilities_programmes.htm, (Accessed May 31st, 2007).

¹⁵⁵ Panel Discussion, Dublin, 5 December 2006.

For a small country, Ireland has a plethora of organizations that represent, work on behalf of, and provide services for people with disabilities. It is estimated that there are more than 500 organizations with connections to people with disabilities.¹⁵⁶ There are many active non-governmental organizations in Ireland that promote disability rights. Organizations such as People with Disabilities Ireland operate at a country-wide level with cross disability membership. Inclusion Ireland and the National Parents and Siblings Alliance promote the rights of people with intellectual disabilities and their families. There are many disability-specific organizations that provide services to their constituent group; the Irish Wheelchair Association; the National Council for the Blind, and Muscular Dystrophy Ireland are a few of them.

Ireland also has a number of federations. Disability Federation Ireland (DFI) describes itself as “the national support organization and advocate for voluntary disability organizations in Ireland who provide services to people with disabilities and disabling conditions.”¹⁵⁷ DFI is active as a social partner with the government and has been involved in the development of the new partnership agreement that outlines future policy developments in disability policy. The National Federation of Voluntary Bodies describes itself as the “national umbrella organization for voluntary/non-statutory agencies who provide direct services to people with intellectual disability.”¹⁵⁸

Disability organizations in Ireland have come together on different occasions for joint work. Sometimes this has happened in situations of crisis. In late 2002, with the publication of the government's first attempt at a Disability Law, many organizations came together to voice their outrage at the proposed legislation. Public meetings were organized throughout Ireland and a campaign to have the proposed law removed from government debate was successful. On other occasions the collaboration has been pro-active, such as the *Get your Act Together* conference organized to discuss the need to improve

¹⁵⁶ Author's observation.

¹⁵⁷ Disability Federation Ireland, *About Disability Federation Ireland*, <http://www.disability-federation.ie/about.htm> (Accessed 31 May, 2007).

¹⁵⁸ National Federation of Voluntary Bodies, providing services to people with intellectual disability, <http://www.fedvol.ie/home/default.asp>.

Irish Disability Law. The European year of People with Disabilities brought together many disability organizations through its funding mechanisms with a partnership approach.

Some research has been carried out on the Irish public attitude to people with disabilities. In 2001, the National Disability Authority commissioned research on attitudes of the Irish public toward people with disabilities. This research consisted of a survey carried out on 1,000 adults. In answer to the question, “How fairly are people with disabilities treated in society?” Responses from the survey showed that 53 percent of the population felt that people with a physical disability/hearing or visual loss were treated fairly; 47 percent responded that people with a learning disability were treated fairly and 42 percent felt people with mental health difficulties were treated fairly.¹⁵⁹ The media provide coverage on disability issues, events such as the European Year of People with Disabilities and the Special Olympics, both held in 2003, received media attention.

¹⁵⁹ National Disability Authority, *Attitudes to Disability in Ireland*, 2001 <http://www.nda.ie/cntmg-mtnnew.nsf/0/910C72601D161DE580256CCC005373D5?OpenDocument>.



NETHERLANDS

Key Factors

The Netherlands is a geographically small, but densely populated country with more than 16 million inhabitants. It is relatively wealthy and has a strong orientation toward international trade and transport. Due to its economic prosperity and political traditions, the Netherlands has an extensive welfare state in

which vulnerable groups receive care. In the last 15 years, however, the welfare system has experienced constraints due to economic recession, population growth, a rise in conservative politics, and an aging population.

Nevertheless, legal protections for people with disabilities and chronic illness have improved in recent years. Hopefully the disability population will benefit from improved economic conditions, especially in the labor market, where their participation is still very low.

Terminology

People with disabilities are generally referred to as “gehandicapt,” which means “disabled” or “handicapped.” More specific terminology has recently emerged, however. In official language, for instance, “visually disabled” tends to be used in place of “blind” and “hearing impaired” typically replaces “deaf.” In addition, “intellectually handicapped” is used in lieu of “mentally handicapped” and, more recently, “people with intellectual limitations” has become common. In popular language, however, derogatory terms are still used, especially regarding individuals with intellectual or psycho-social disabilities.

The former may still be called “retarded” or “mongoloid,” although it is generally recognized that these terms are improper. Most frequently, derogatory terminology is directed towards people with psycho-social disabilities who are indistinctly called “lunatics,” “psychopaths,” or “schizophrenics.”

Definition of Disability

Varying definitions of disability are used in policy papers and surveys. The Ministry of Health confines its definition of disability, which is used in policy decisions, to “physical, sensory and learning impairments.”¹ Psycho-social disabilities are not included, as they fall outside of the area of disability policy.

The Law on Provisions for the Disabled defined an individual with a disability as: “A person who as a consequence of disease or ailment experiences demonstrable limitations in the field of living in a house or moving within or outside the house.”² While this definition does not preclude psycho-social disabilities, the law’s provisions were confined to providing adjustments and appliances in the house, transport facilities and wheelchairs.³

The Report on Disability by the Social and Cultural Planning Bureau defines the disabled population as: “people who face limitations in their functioning and who experience difficulties in their participation in society due to their health.”⁴ Although this is a broader definition, the report only focuses on people with physical and intellectual disabilities, since those with chronic diseases are considered to be less impaired in the context of social participation.⁵

1 Ministry of Public Health, Welfare and Sport, *Dossier on the Disabled*, (in Dutch), <http://www.minvws.nl/dossiers/gehandicaptent/default.asp>, (Accessed 1 September 2006).

2 “Law on the Rules Regarding Provisions for the Disabled,” (in Dutch), *State Journal 1993 - State Journal 1996*, <http://wetten.overheid.nl>, (Accessed 15 September 2006). Since 1 January 2007, the Law on Provisions for the Disabled has been replaced by the Law on Social Support (in Dutch), <http://wetten.overheid.nl> (Accessed 30 April 2007).

3 *Ibid.*

4 M.M.Y. de Klerk, *Report on the Disabled 2002*, Social and Cultural Planning Bureau, (in Dutch), Den Haag, <http://www.scp.nl/zorg/projecten/lopend/rapgehand.html>, (Accessed 15 September 2006).

5 *Ibid.*

Despite the report by the Social and Cultural Planning Bureau, disability advocates in the Netherlands continue to assert that disability is viewed primarily in medical, rather than social, terms, and focuses on pathology. Advocates strongly prefer a definition based on limitations to functioning and lack of access to social participation.⁶

Disability Population

There is no general agreement on the number of people with disabilities in the Netherlands, due to the lack of a consistent definition of disability. Statistics are complicated further by the fact that many people with disabilities have multiple disabilities. There is also a lack of consensus as to whether senior citizens with functional limitations should be included in the demographic.⁷

The Ministry of Health has a conservative estimate of the disability population, stating simply that the population of people with physical or intellectual disabilities is more than one million. According to the Ministry, there are 51,000 people with a severe physical disability, 158,000 people with a visual disability, 290,000 people with an auditory disability, and 103,300 people with an intellectual disability.⁸

The Central National Statistics Bureau states that in 2005 more than two million people, or approximately 13 percent of the population, had “functional limitations.”⁹ Disability advocates estimate that the actual figure, using a definition of disability based on the limitations of social participation, would approach three million.¹⁰

The Social and Cultural Planning Bureau (SCP) in the Hague regularly issues disability reports. The most recent comprehensive report

⁶ Panel discussion led by author, Trimbos Institute, Utrecht, 2 October 2006.

⁷ *Ibid.*

⁸ Ministry of Public Health, Welfare and Sport, *Care for the Disabled: Facts and Figures*, (in Dutch), Version 2.1., 18 May 2005 http://www.brancherapporten.minvws.nl/object_class/br_care_gehandicapt_en_feiten.html, (Accessed 20 October 2006).

⁹ Central Statistics Bureau, *Reported Health and Life Style*, (in Dutch), <http://statline.cbs.nl/StatWeb/Table.asp?LYR=G2:0,G3:5&LA=nl&DM=SLNL&PA=03799&D1=183,186-189,194&D2=0-17&STB=G1&HDR=T>, (Accessed 20 October 2006).

¹⁰ Panel discussion.

(*Rapport Gehandicapten*) was published in 2002. In 2006, the SCP published two thematic reports: one on young people with disabilities, and another on provisions for people with disabilities for housing, care, transport, and welfare. A new comprehensive study on disability by the SCP was in progress during the research period for this report.¹¹

Legislation and Disability Rights

National Protections

Article 1 of the Constitution states: “All those who find themselves in the Netherlands will be treated equally in equal cases. Discrimination on the grounds of religion, conviction, political affiliation, race, sex or on any ground whatsoever is not permitted.”¹²

This principle appears to apply to all citizens, since it prohibits discrimination “on any ground whatsoever.” However, it has been argued by legal professionals and by the Commission on Equal Treatment, the advising body for discrimination, that the principle does not provide sufficient legal protection against discrimination that is not mentioned specifically in the Constitution.¹³ The Council for the Chronically Ill and Disabled, the main umbrella organization for disability organizations in the Netherlands, argues for the inclusion of disability in Article 1.¹⁴ Although the Dutch Parliament supported this measure, with a majority voting on 20 December 2001, the Executive Branch did not back the revision. The government’s stance was supported by the Commission on Legal Consequences of Adoption of Non-Discrimination Grounds in Article 1 of the Constitution, which asserted that including discrimination due to disability in the article

¹¹ *Report on the Disabled 2006*, (in Dutch), Social and Cultural Planning Bureau, <http://www.scp.nl/zorg/projecten/lopend/rapgehand.html>, (Accessed November 8 2006).

¹² *Constitution for the Kingdom of the Netherlands*, (In Dutch), 14 August 1815, <http://wetten.overheid.nl>, (Accessed 10 November 2006).

¹³ See *Advice of the Commission for Equal Treatment on article 1 of the Constitution*, cbg-advice/2004/03, (in Dutch), http://www.cgb.nl/_media/downloadables/advies%202004%2003.pdf, (Accessed 20 October 2006).

¹⁴ See *Letter by the Chairman of this organization to the Parliamentary Committee for Home Affairs, October 4, 2004*, (in Dutch), Council of the Chronically Ill and the Disabled, <http://www.cg-raad.nl/gelijkebehandeling/20041004gw.doc> (Accessed 3 May 2007).

would not guarantee increased legal protections. Furthermore, the Commission argued that the disability ground is a special case, as discrimination against people with a disability or chronic illness may, in certain circumstances, be justifiable (in the case of job applications, for instance).¹⁵

The Law on Equal Treatment of the Disabled and Chronically Ill came into force in December 2003. It prohibits discrimination and outlines the obligation to make necessary accommodations for people with a disability or chronic illness. Article 2 states: "The prohibition of unequal treatment includes that the one to which this prohibition is directed is obliged to make effective adjustments as needed, unless these would mean an unequal burden to him."¹⁶

The Law on Equal Treatment is confined to the employment, education, and public transportation sectors. Regarding employment, it prohibits unequal treatment in hiring, promoting, and terminating employees based on disability. Article 2 also requires employers to make necessary accommodations in the workplace (e.g., increased accessibility) for employees with disabilities.

Similarly, education and public transportation must be fully accessible for people with a disability or chronic illness. Since the stipulations on education apply only to vocational education, disability organizations argue for the inclusion of all types of education in the law, as well as the accessibility of public buildings and spaces and the provision of goods and services on an equal basis with others.¹⁷ In terms of accessibility and public transportation, the law states that additional administrative measures are necessary to provide for accommodations in the area of public transportation. The law is expected to expand its scope to

¹⁵ *Report of the Commission on Legal Consequences of Adoption of Non-Discrimination Grounds in Article 1 of the Constitution*, (in Dutch), 12 April 2006.

www.minbzk.nl/aspx/download.aspx?file=/contents/pages/65577/commissieboekje.pdf (Accessed 8 December 2006).

¹⁶ *Law on Equal Treatment of the Disabled and Chronically Ill*, (in Dutch), 1 April 2003, <http://www.overheid.nl>, (Accessed 8 December 2006).

¹⁷ See letter of the chairman of the Council for the Chronically Ill and Disabled to the Minister of Home Affairs, *Reaction of the CG-Council and the Federation of organizations of Parents to the draft Act on the Equal Treatment of the Disabled and Chronically Ill*, (in Dutch), June 2001, <http://www.cg-raad.nl/gelijkebehandeling/reactiejuni2001.html>, (Accessed 8 November 2006).

the sectors of housing and the provision of goods and services, but this has not yet been realized.¹⁸

Individuals who experience discrimination in violation of the Law on Equal Treatment can file a complaint with the Commission on Equal Treatment – whose decisions are not legally binding – or opt to take their case to civil court.

In 2006, the Dutch Penal Law was revised to protect people with disabilities. Insults and incitement of hate, discrimination, or violence against such individuals are now a criminal offence. This revision also holds corporations and other organizations legally responsible for ensuring accessibility, and renders them liable to prosecution if they fail to do so. Article 429 of the Penal Law states:

“With the same penalty he will be punished whose acts or omission to act without a reasonable ground in the course of carrying out a profession or enterprise, have the intention or the consequence that as regards people with a physical, psychiatric or learning disability the recognition, enjoyment or exercise on a foot of equality of human rights and fundamental political, economic, social or cultural freedoms are annulled or hampered.”¹⁹

The anti-discrimination provisions in the Penal Law carry penalties of up to two years imprisonment.

International Protections

The Netherlands is bound by the equality and anti-discrimination provisions in:

- the Universal Declaration of Human Rights;
- the UN Convention on Civil and Political Rights;

¹⁸ See letter of the State Secretary of Health, Welfare and Sports to Second House of Parliament, *Equal Treatment of People with a disability or a chronic disease*, (in Dutch), 7 December 2003, <http://www.overheid.nl>, (Accessed 8 December 2006).

¹⁹ *Penal Code*, Article 429 quarter, (in Dutch), <http://www.overheid.nl>, (Accessed 30 April 2007).

- the UN Convention on Economic, Social and Cultural Rights;
- the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- the European Social Charter of 1961;
- the Charter of Luxembourg of 1996;
- the Treaty of Amsterdam of May 1999;
- the Employment Guidelines agreed upon by the European Council in Helsinki 2000;
- the European Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.²⁰

Furthermore, the Netherlands adopted the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities and declared publicly its intention to ratify the new UN Convention on the Rights of People with Disabilities.²¹ The Dutch delegation to the Convention negotiations included a representative of a Dutch platform of disability organizations.

The Netherlands voted for the European Charter of Fundamental Rights, which not only affirms the prohibition of discrimination against people with disabilities, but also, as stated in Article 26: “recognizes and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.”²²

The Netherlands also signed the European Social Charter of 1961. In the past five years, the Netherlands has reported twice on

²⁰ Council Directive 2000/78/EC: Establishing a general framework for equal treatment in employment and occupation, Council of Europe, 7 November 2000, http://ec.europa.eu/employment_social/news/2001/jul/directive78ec_en.pdf, (Accessed 30 October 2006).

²¹ *Equal Treatment for People with a Disability or a Chronic Illness*, Statement of the Minister of Health in Parliament, General Meeting, Second House of Parliament, (In Dutch), 14 September 2006, Report of a General Meeting (34), 27 September 2006, 29355 No. 34, <http://parlando.sdu.nl/cgi/login/anonymous>, (Accessed 1 November 2006).

²² *The Charter of Fundamental Rights of the European Union*, European Parliament, 18 December 2000, http://www.europarl.europa.eu/charter/pdf/text_en.pdf, (Accessed March 2006).

Article 15, which relates to disability issues. The European Social Committee reacted with a request for clarification relating to, inter alia, the number of students with disabilities in specialized and mainstream educational settings, the measures in place to facilitate integration of people with disabilities in mainstream education, the number of persons working in sheltered employment facilities, and the protection offered against employment discrimination.

The Dutch development policy, administered by the Minister of Development Cooperation, follows a “mainstream” course, in which the position of vulnerable groups, including people with disabilities, is integrated into general development policy.²³ Recently, the Minister has been criticized in Parliament for not devoting sufficient attention to the interests of the disability population in developing countries. In response, the Minister stated her intention to promote the inclusion of disability interests in the domestic poverty and education programs of such countries, and to offer these countries financial support to register people with disabilities in order to facilitate such inclusion.²⁴

The Dutch Minister of Development Cooperation claimed that she would continue to offer support and special assistance to NGOs working to promote disability rights in developing countries. She also stressed that the focus should be on the prevention of disability. The Minister promised to inform Parliament by early 2007 how she intended to implement the new UN Convention on the Rights of People with Disabilities in her policy.²⁵

In 2000, the Dutch Coalition on Disability and Development was founded by representatives from development and disability organizations, as well as service providers.²⁶ This foundation campaigns strongly for a more inclusive development policy by the Netherlands.

²³ Dutch Coalition on Development and Disability, *Letter to the Chairman of Parliament*, (In Dutch), 29 June 2006, DSI/SB-222/06, <http://www.dccd.nl/?3006>, (Accessed 8 November 2006).

²⁴ *The Right to a Decent Living: The Disabled and Development Cooperation*, Report of a parliamentary meeting, Second House of Parliament, 5 October 2006, 30-540, No. 4, [http://www.dccd.nl/data/1162395264543_Verslag%20AO%20BuZa%20over%20Gehandicapt%20en%20OS%20\(27-okt-06\)%20txt%20versie.txt](http://www.dccd.nl/data/1162395264543_Verslag%20AO%20BuZa%20over%20Gehandicapt%20en%20OS%20(27-okt-06)%20txt%20versie.txt), (Accessed 3 May 2007).

²⁵ *Ibid.*

²⁶ Dutch Coalition on Development and Disability, <http://www.dccd.nl>, (Accessed March 2007).

Legal Barriers

There are laws that have a negative impact on the ability of people with disabilities to obtain their basic human rights. Many people with intellectual disabilities or psycho-social disabilities are declared legally incompetent, thus losing the capacity to make financial transactions or other decisions that have legal consequences. Requests for a court order to declare a person incompetent can be made by the individual him or herself, by his or her spouse, family member, guardian, or a District Attorney. The court assigns a curator, who is authorized to represent the concerned individual in legal matters. Legal incompetence lasts as long as the court deems the reasons for the original decision valid.²⁷

The law on involuntary commitment to psychiatric hospitals was enacted in 1994. It allows authorities to commit people with psycho-social disabilities against their will if they pose a danger to themselves or others. There are current efforts to widen the scope of this law to increase the legal possibilities for involuntary treatment as well.

People with disabilities regularly face problems asserting their right to provisions and benefits as a consequence of disagreements about their needs and functional impairments. This happens, inter alia, with assessments of disability related to employment. The assessment of whether a person is unfit to work as a consequence of an illness or disability is determined on an individual basis and left largely to the discretion of the controlling physician.²⁸ However, an administrative measure made in July 2000 specified that physicians assessing inability to work should apply the International Classification of Impairments, Disabilities and Handicaps of the World Health Organization.²⁹

The Minister of Social Affairs stated in September 2005 that he intends to improve the quality and uniformity of work-disability

²⁷ *Civil Code*, Articles 378-91, (In Dutch), <http://www.overheid.nl>, (Accessed 30 September 2006).

²⁸ For the directives guiding work-disability assessments, see <http://cba.uvw.nl>, (In Dutch), (Accessed 25 November 2006).

²⁹ "Estimation Decision Laws on Work-Disability," *State Journal* 2000 307 1 (In Dutch), 8 July 2000, published on the Internet by the Netherlands Society for Insurance Medicine, http://www.nvvg.nl/download/vatools/STB307_schattingbesluit.pdf (Accessed April 30 2007).

assessments through the adoption of protocols that outline the course and prognosis of specific conditions.³⁰

Civic Participation

Individuals with disabilities have the right to vote, with the exception of people who have been declared incompetent. Unfortunately, even people who are legally able to vote face considerable barriers to exercising this right. Disability advocates estimate that only one-third of voting booths are fully accessible to people with disabilities, due to limited accessibility of voting sites, as well as problems using the voting machine or filling out a ballot.³¹ Other barriers include limited transportation and assistance in polling stations.

Regarding voting booth accessibility, the Kiesraad, an advisory body of the government, recently issued recommendations for improvement. It proposed arranging a minimum of one polling station per municipality with special adjustments for voters with disabilities. Examples of potential accommodations include voting computers adapted for use by people with visual disabilities, extra room for wheelchair-users, and personnel members who speak sign language and can assist voters with auditory disabilities.³² Dutch legislation requires municipal authorities to make as many polling stations as possible accessible to people with disabilities.³³

At the municipal elections on 7 March 2005, 11 municipalities experimented with voting machines for voters with visual disabilities. Although results were satisfactory overall, an important number of voters with visual disabilities were unaware of the accommodations, due to the lack of publicity regarding the provisions.³⁴

³⁰ *Government View on the Advice of the Health Council on Judgment, Treatment and Counseling*, (In Dutch), Ministry of Social Affairs and Employment, Letter to the Second House of Parliament, 27 September 2004, SV/AL/05/74470, <http://www.cg-raad.nl/aib/20051006a.pdf>, (Accessed 30 November 2006).

³¹ Panel discussion.

³² *Spontaneous Advice on the use of Accessible Provisions in Voting Booths*, Kiesraad, 2006. http://www.kiesraad.nl/adviezen_kiesraad/adviezen_2006/spontaan_advies, (Accessed 10 November, 2006).

³³ Voting Act. Enacted on 28 September, 1989, <http://wetten.overheid.nl> (Accessed 10 November 2006).

³⁴ *Spontaneous Advice on the use of Accessible Provisions in Voting Booths*, 2006.

In terms of holding political positions, people with disabilities are allowed to take public office, and at least one Member of Parliament has a physical disability.

Inclusion

Communication

The national library does not provide materials in alternative formats, such as Braille or compact discs, nor do local public libraries. At present, only special libraries provide materials in alternative formats. These libraries are subsidized by the government and located in Nijmegen, the Hague, Ermelo and Grave. Their collections include books and magazines in Braille, audio, or digital form, Braille versions of sheet music, and tactile maps.

In a policy paper dated November 2005, the government stated its intention to integrate the supply of materials in alternative formats into the work of public libraries by 1 January 2009. Public libraries will be responsible for meeting the demand of customers with reading disabilities.³⁵

Television news broadcasts have subtitles to accommodate viewers with auditory disabilities. One public television channel uses sign language interpreters daily for its morning news program.

In the event of an emergency, there is an alarm service with which people with auditory disabilities can communicate using a text telephone. Although the number of this service is found on the national police website, it is not widely advertised.³⁶

In the event of an emergency, the national alarm service coordinates an immediate response by sending either the police or medical

³⁵ Minister of Culture, *Policy Paper on Library Provisions for the Blind and the Visually Impaired 2006-2008*, MLB/LB/2005/53.249, November 2005, www.dedicon.nl/documentAttachment.do?parentId=88087&objectId=89709&itemIndex=0, (Accessed 3 May 2007).

³⁶ National Police Website, <http://www.politie.nl>, (Accessed December 2006).

services to the place of emergency. It is possible for people with disabilities to obtain a mobile alarm device, which is especially important for situations in which they cannot reach a telephone (e.g. if they have fallen). This device sends a signal to a reporting station, from which contact is made with a neighbor or family member. People with disabilities can apply for the alarm device through their health insurance company.

Education

Education for children with physical, intellectual, or certain psychosocial disabilities is provided by “special schools,” which are separate from the mainstream school system. In 2005, 34,000 children with disabilities attended special primary schools, whereas 19,000 attended mainstream schools with personalized assistance. Almost 24,000 children attended special secondary schools.³⁷

It is often difficult to find a place for a child in a special school, as there are long waiting lists. Fundamentally, the dual system is criticized for continued segregation and social exclusion. The government now directs its policy toward increased efforts to develop inclusive education.³⁸

Since 1 August 2003, parents have had a legal right to choose between regular and special education for their children with disabilities. If a child needs special care but his or her parents prefer placement in a regular school, he or she may receive a “backpack.” A backpack is a personalized program that includes the following: a personal budget for support services, extra personnel assistance, and accommodating and appropriate learning materials. Although the number of children with disabilities making use of backpacks is growing, it continues to lag far behind the number of pupils in special schools.³⁹

³⁷ *Growth of (Secondary) Special Education*, (In Dutch), Policy Paper of the Ministry of Education, Culture and Science, PO/ZO/0631958, 28 August 2006, <http://www.minocw.nl/documenten/31958.pdf>, (Accessed 8 November 2006).

³⁸ *Paper on the Innovation of Care Structures Basic Education*, Ministry of Education, Culture and Science, 30 September 2005, <http://www.minocw.nl/po/kamerbrieven/>, (Accessed 8 November 2006).

³⁹ *Growth of (Secondary) Special Education*, 28 August 2006.

At present, regular schools are not obligated to accept students with disabilities. If a school proves that it cannot provide a student with an appropriate educational program, it may decline to admit the child. If a school does so, it must ask the advice of the independent Advisory Committee of Admission and Support, which can appoint a mediator or issue formal advice. Parents may bring the matter into civil court after the Advisory Committee is consulted

In September 2005, the Minister of Education announced a plan to introduce a “care duty” for regular schools. In 2010, the legal distinction between regular and special schools will be terminated. All schools will be required to provide an appropriate education for every child, regardless of disability. If the school cannot offer a suitable program, it must arrange alternative services at another school.⁴⁰ This policy encounters resistance from some of the school administrators who argue that they will not be able to meet the special needs of all students with disabilities. Parents of children with disabilities are also concerned about this shift, and many fear that their children will not receive the assistance they need in a fully inclusive school system. The Council of the Chronically Ill and Disabled holds that the expertise built up by the special schools should be retained, and that parents should remain able to choose between regular and special education. However, they assert that the education system needs to be more diverse and inclusive, and should have a greater variety of options, such as holding separate classes in regular schools and/or providing special and regular education within the same building.⁴¹

Higher education in the Netherlands is not segregated. According to estimates in 2002, nine to twelve percent of all higher education students have a disability.⁴² Secondary vocational institutions and universities are not permitted to discriminate against people with disabilities in their enrollment procedures, and must make any necessary and reasonable accommodations for students with disabilities. There are special facilities to support students with

⁴⁰ *Paper on the Innovation of Care Structures Basic Education*, 30 September 2005.

⁴¹ Council on the Chronically Ill and Disabled, *Education as Needed: The Right to Education for Everyone*, (In Dutch), Future Vision of the Policy Group Education, November 2005, <http://www.cg-raad.nl/onderwijs/onderwijsopmaat.doc>, (Accessed 13 November 2006).

⁴² M.M.Y. de Klerk.

disabilities, such as financing for an additional year of studies; however, many students are unaware of these provisions and do not make use of them.⁴³

There is no general curriculum for all teachers in the Netherlands. The different training centers determine, within certain general guidelines, their own policy and curriculum. However, more attention is being given to teaching children with disabilities within regular schools; several teacher-training centers provide exploratory training periods in special education. There are two colleges that provide specific training for teachers in special needs education.⁴⁴

Employment

A national survey in 2002 of labor participation in the Netherlands showed that only 38 percent of people with physical disabilities were involved in the workforce.⁴⁵ The figure for people with a chronic disease was 52 percent, while only 36 percent of those with both a chronic disease and physical limitations held paid positions. The survey also found that in addition to physical disabilities, other factors of labor discrimination were age, gender, and educational attainment. An individual with a disability who possesses other characteristics or skills that are advantageous for the labor market might experience less of a negative impact due to his or her disability.

According to disability advocates, the primary cause of low levels of labor participation among the population with disabilities is the continued resistance of employers to hire people who require accommodations in the workplace and/or may need to take regular sick leave.⁴⁶ The effects of the recent 2003 Law on Equal Treatment, which forbids employers to discriminate against job applicants with disabilities and requires them to make necessary accommodations, have yet to be determined.

⁴³ *Ibid.*

⁴⁴ Information supplied via the official government information service, the Council for Higher Education and an expert on teacher training.

⁴⁵ *Ibid.*

⁴⁶ Panel discussion.

In recent years, the Dutch government adopted a reintegration policy for people with disabilities in the workforce. On the one hand, the criteria for assessment of work-related disability and the corresponding right to benefits are stricter. On the other hand, provisions may be made for employees with a long-term functional condition caused by illness or disability to enable them to perform effectively in the workplace, such as transport facilities, personal support in the working environment, or an interpreter for deaf employees.⁴⁷

In addition, the Sheltered Employment Act of 1998 offers adapted employment for people with a physical, intellectual, or psychiatric disability who would not otherwise be able to participate in the labor market.⁴⁸ Sheltered employment is financed by the central government and is dispersed to local authorities. Local governments must use the allocations to create as many jobs as possible.⁴⁹

*Health Services*⁵⁰

Health care for people with disabilities is provided in part through residential institutions, such as nursing homes, institutions for people

⁴⁷ *Law on Employment and Income According to Work-ability*, 10 November 2005, <http://wetten.overheid.nl>, (Accessed 13 November 2006).

⁴⁸ *Law on New Regime for the Social Employment Provision*, 1 January 1998, <http://wetten.overheid.nl>, (Accessed 30 October 2006).

⁴⁹ See also *The Netherlands*, 19th Report on Implementation of the European Social Charter.

⁵⁰ The Dutch healthcare system rests in part on financing by private health insurance companies, which compete with each other in the insurance market, and in part on the AWBZ. Health insurance is regulated by law under the Health Insurance Act, which states that every citizen is obliged to have health insurance. Every health insurance company is obliged to provide a basic package of coverage, the content of which is determined by law. Furthermore, insurance companies are legally bound to accept everybody for this basic package, disabilities or chronic illness notwithstanding. However, for supplemental health insurance the insurance companies have the right to determine their own selection criteria. The health insurance companies negotiate contracts with specific care providers. Specialized care is available both in hospitals and in private practices. Access to specialist care is mostly dependent on referral by a general practitioner. The AWBZ provides for costs that are not covered by a person's own insurance, such as longer term care in nursing homes or in a psychiatric hospital. Every citizen is insured under the AWBZ, which is paid out of income tax premiums. Care under the provisions of the AWBZ is regulated by Regional Indication Committees.

with intellectual disabilities, and psychiatric hospitals. Care in these institutions is financed by the Exceptional Medical Expenses Act (AWBZ).

People living independently can receive nursing and housekeeping services in their homes. The recently introduced Law on Social Support (WMO) states that the responsibility for and financing of care for people with disabilities is transferred largely to the local authorities. To be eligible for home care, it is necessary to have an indication (or referral) from the municipal government. An indication means that a person is deemed in need of a certain type and volume of care. Medical treatment falls within the scope of a person's health insurance and is available from the regular health care services and, if needed, from specialized institutions.

There are a number of special services supporting people with disabilities, including day care and projects in which people living in a cluster of accessible houses are able to call local nursing posts for assistance. Wheelchairs are provided free of charge under the Law on Social Support.⁵¹ Health insurance companies also fund necessary medical devices on an individual basis. People buying or leasing medical devices or aids often have to apply for authorization from their health insurance company or from the service supplying the device. Without such authorization, they run the risk of non-reimbursement. Insurance companies have considerable latitude in their regulation of this provision. Although all individuals have a legal right to adequate medical devices or aids, the rules of the health insurance company often require the client to contribute additional funding.

During both medical school and residency, physician training on provision of care to people with disabilities is available. Medical training includes programs for physical therapy, occupational therapy, psychiatry training, prosthetics and orthotics training, and speech therapy. However, disability training is optional. No data were found as to the percentage of medical professionals who participated in it.

⁵¹ *Law on new Rules regarding Social Support* (in Dutch), 29 June 2006, State Journal 2006, 351. <http://wetten.overheid.nl>. (Accessed 1 May, 2007).

Housing

Under the Law on Social Support (WMO) citizens with disabilities can file a request to receive compensation from the municipal authorities for adjustments to their residences, after which the local authorities assess whether the requested adjustment is necessary and determine an appropriate financial contribution from the applicant in accordance with his or her economic status.

The Law on Social Support has only been in force since January 2007. Its predecessor, the WVG program, faced considerable criticism from the disability population. Opponents argued that it failed to define clearly the rights of individuals with disabilities and, in turn, has led to a decrease in the level of provisions offered. Furthermore, there were complaints regarding the procedures used to determine which applications to accept, as well as the lack of input individual applicants had regarding the actual accommodations.⁵² Under the new WMO-program, local authorities retain considerable latitude regarding provisions offered to their citizens.

Disability advocates state that there is an overall shortage of adequate housing for individuals with disabilities, and argue that this problem must be a higher priority for municipal authorities.⁵³

Institutionalization

In 2002, 783 people with physical disabilities lived in special large-scale homes, while 1,607 were in smaller facilities. Eight hundred thirty-four children with physical disabilities lived in family-substituting homes, 50,433 people with intellectual disabilities lived in intramural or semi mural institutions, and 54 individuals with sensory disabilities lived in special facilities.⁵⁴ Apart from living in these special institutions, some individuals with disabilities resided in nursing homes.

⁵² Council for the Chronically Ill and Disabled, *Law on the Provisions for Disabled and Medical Appliances*, Article, (In Dutch) <http://www.cg-raad.nl/wvg/index.html>, (Accessed October 11, 2003).

⁵³ Panel discussion.

⁵⁴ *Branch Reports VWS*, (In Dutch), Ministry of Public Health, Welfare and Sport, Version 2.1, 18 May 2005, http://www.brancherapporten.minvws.nl/object_class/br_care_gehandicaptten_feiten.html, (Accessed October 20 2006).

In the past decade, the official policy of the Dutch government has focused on de-institutionalizing and re-integrating people with disabilities into the mainstream community. This also applies to people with psycho-social disabilities. There has been a marked increase of homes with residential support services placed in the community. In 2004, 7,378 people with psycho-social disabilities lived in these homes.⁵⁵

Nevertheless, there is substantial criticism regarding the lack of adequate community care in the Netherlands. Some advocates argue that homes with residential support services actually function as “little institutions,” and that de-institutionalization has not resulted in a significant decrease of the capacity of institutions. The capacity of institutions to serve people with intellectual disabilities has actually increased between 2000 and 2004.⁵⁶ In mental health care, the total number of beds in intramural facilities decreased by just one percent between 2000 and 2004.⁵⁷

Accessibility

Accessibility of public buildings and public transport remains a major problem in the Netherlands. The National Bureau for Accessibility has monitored building accessibility and has determined that only 353 buildings in the country are eligible to receive the International Accessibility Symbol.⁵⁸

In January 2003, the government issued updated regulations for the buildings, including new provisions for accessibility for people with disabilities.⁵⁹ However, these regulations apply only to new buildings or those in which extensive renovations are executed.

In regard to public transportation, only 55 percent of all buses are wheelchair accessible. There are plans to increase this figure to 98

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ National Bureau of Accessibility, <http://www.lbt.nl>, (Accessed 20 October 2006). This website has since been terminated.

⁵⁹ Building Decision 2003, State Journal 2001, 410; State Journal 2002, 203, 516, 518; State Journal 2005, 1, 528, 249, <http://www.wetten.nl/bouwbesluit%202003>, (Accessed 13 November 2006).

percent by the year 2010.⁶⁰ Furthermore, specialized services for travelers with disabilities are now part of the training for bus drivers, thanks in large part to the efforts of disability organizations.⁶¹

Train travel poses further obstacles for passengers with disabilities, as many railway stations are inaccessible to wheelchairs. The Minister of Transport has announced that she aimed at making only 60 percent of the railway stations accessible by 2030.⁶²

Moreover, many schools lack elevators. Although the 2003 government regulations for the building sector stipulate that newly constructed schools must be totally accessible, there is no such rule for existing schools.⁶³ However, if a school admits a pupil with a disability, it is required to make necessary accommodations.⁶⁴ In practice, this is often accomplished by holding classes on the ground floor of the building, thus restricting students with disabilities from many of the additional activities and services open to their non-disabled peers. Under the recently revised Penal Law, school administrations may be held accountable for a lack of accessibility.⁶⁵

At this time, the government does not yet as a rule release its publications or documents in alternative formats, although it has pledged to make all government websites fully accessible by 2010.⁶⁶ Currently, only the departmental websites of the Prime Minister's office, the Ministry of the Interior, and the Ministry of Health meet this standard. Research conducted in 2005 found that 96 percent of the

⁶⁰ Council for the Chronically Ill and the Disabled, *Public Transport*, Letter of the Minister of Transport to Parliament, October 12, 2005, 23 645, nr.112, <http://www.cg-raad.nl/mobiliteit/20051024.pdf>, (Accessed 13 November 2006).

⁶¹ Initiative of the Taskforce Disability and Society in Foundation Perspective.

⁶² Minister of Transport, *Public Transport*, Letter to the Second House of Parliament, 23 645, nr. 112, 12 October 2005. <http://www.overheid.nl> (Accessed 3 May 2007).

⁶³ Building Decision 2003.

⁶⁴ *Making the school accessible for the child*, http://www.leerlinggebondenfinanciering.nl/5_toegankelijk.html, (Accessed 3 December 2006).

⁶⁵ *Penal Code*, Article 429 quarter.

⁶⁶ *Decision on the Quality of Government Websites*, Minister of Home Affairs, 30 June 2005, <http://webrichtlijnen.overheid.nl/besluit/tekst-besluit-en-toelichting>, (Accessed 26 November 2006).

13,000 government websites were not fully accessible to people with disabilities.⁶⁷

The government has issued 125 guidelines for web accessibility. All new government websites must comply with these directives. The guidelines are generally recommended, but are not binding for private actors.⁶⁸ The independent foundation Bartiméus Accessibility tests websites on demand for accessibility and accords a quality mark (“waarmerk drempelvrij”). It has also issued a list of certified accessible website builders.⁶⁹

Culture, Sports, and Recreation

Participation by people with disabilities in mainstream cultural, sports, and recreational activities is limited by the lack of accessibility and support services.

Individuals with disabilities can participate in Paralympics sports, such as wheelchair basketball or hockey. There are also recreational activities specifically established for people with disabilities, such as wheelchair dancing and adjusted gardening. Also, dozens of private organizations offer trips and holidays for people with disabilities.

Specifically regarding persons with psycho-social disabilities, recreational activities are usually provided for by day care centers. Although integration into regular social activities is preferable from a rehabilitation perspective, this proves very difficult for many, mainly because there are settings in which people with disabilities do not feel welcome. There are local initiatives, however, to include people with psycho-social disabilities in community activities.⁷⁰

⁶⁷ Council on the Chronically Ill and Disabled, *Accessibility Monitor 2005*, (In Dutch), <http://www.cg-raad.nl>, (Accessed November 12 2006).

⁶⁸ See government website, <http://webrichtlijnen.overheid.nl>, (Accessed 15 March 2007).

⁶⁹ Foundation Bartiméus Accessibility, <http://www.accessibility.nl>, and <http://www.drempelvrij.nl>, (In Dutch), (Accessed 19 March 2007).

⁷⁰ See Leonie de Goei, Annette Plooy, Jaap van Weeghel, *Guide to the fighting of stigma and discrimination on the ground of a psychiatric disability*, (In Deutch) Utrecht, 2006.

Disability Action and Awareness

There is a wide variety of organizations of and for people with disabilities in the Netherlands. Some focus on specific disabilities, such as the Dutch Society for the Visually Handicapped (NVBS), Strong Among Ourselves, the organization of intellectually handicapped, and Anoiksis, the organization of people with schizophrenia.⁷¹ Other organizations focus on advocacy related to general disability interests. Two prominent examples are the Dutch Organization for the Disabled (ANGO) and Foundation Perspective, which seek to further social inclusion.⁷²

The main umbrella organization for disability issues is the Dutch Council of the Chronically Ill and the Disabled (CGR). The CGR provides information on various issues of general interest to people with disabilities via printed publications and its website. The group also engages in the public debate concerning disability. For example, they advise the government on disability matters and issue comments on proposed measures and legislation.⁷³

Advocacy organizations were a driving force behind the 2003 Law on Equal Treatment of the Disabled and Chronically Ill. Furthermore, they were instrumental in obtaining government support for the new UN Convention on the Rights of Persons with Disabilities.⁷⁴

Advocacy groups also campaigned successfully for the Personal Care Budget (PGB) in 1995, whereby people with disabilities receive

⁷¹ Dutch Society for the Visually Handicapped, <http://www.nvbs.nl>, (Accessed 8 December 2006), Strong Among Ourselves, (In Dutch - Onderling Sterk), <http://www.onderlingsterk.nl>, (In Dutch), (Accessed 8 December 2006), Foundation Anoiksis, <http://www.anoiksis.nl>, (Accessed 8 December 2006).

⁷² General Dutch Organization for the Disabled, <http://www.ango.nl>, (Accessed 8 December 2006). Foundation Perspective, (In Dutch - Stichting Perspectief), <http://www.perspectief.org>, (Accessed 13 July 2007)

Stichting Perspectief has, among other things, organized three work conferences in the fall of 2005 on inclusive education. See "Op weg naar passend onderwijs in een inclusieve samenleving," by Anouk Bolsenbroek, Douwe van Houten, and Mario Nossin. CPS Onderwijsontwikkeling en advies, Amersfoort, August 2006.

⁷³ Dutch Council of the Chronically Ill and the Disabled, (In Dutch), <http://www.cg-raad.nl>, (Accessed 8 December 2006).

⁷⁴ Per Saldo, PGB stands for the Personal Care Budget, <http://www.pgb.nl> (Accessed 9 December 2006).

personal funding to arrange their own care. With this budget, they can choose their own caretaker and the time and manner in which to receive care. Disability advocates, most notably the organization Per Saldo, have fought vigorously for this, due to ongoing dissatisfaction with existing services.⁷⁵ The PGB is also available to people with psychiatric disabilities, so that they can choose their preferred forms of psycho-social support. The amount of each PGB is determined on an individual basis. To receive a PGB, one must submit an application specifying the relevant care needs to the Center for Indication Care (CIZ). Depending on the amount of care awarded by the CIZ, a PGB can run up to €13,000 a year for housekeeping, €31,130 per year for personal care, and €42,741 per year for nursing.⁷⁶

The current agenda of disability advocates is dominated by the following issues: improving accessibility; extending the scope of the Law on Equality for the Disabled and Chronically Ill to the sectors of housing, primary and secondary education, and goods and services; raising the level of labor participation of people with disabilities; and achieving social inclusion. Advocates argue for stronger cooperation between different disability organizations, initiatives to create “good practices,” and media action to improve the public image of people with disabilities and awareness of both their problems and their strengths.⁷⁷ Changing the public’s mentality towards people with disabilities is the focus of the government-instituted Taskforce Handicap and Society.⁷⁸ It is also a central aim of the movement by users of psychiatry. Recipients of mental health services have fought hard for de-institutionalization and community care, but nonetheless continue to face social exclusion. To remedy this, anti-stigma campaigns are sorely needed.

⁷⁵ *Ibid.*

⁷⁶ Council of Health Insurances, http://pgb.cvz.nl/resources/PGB-tarieven%202006_tcm17-16929.pdf (Accessed 27 November 2005).

⁷⁷ Panel discussion.

⁷⁸ Taskforce Handicap and Society (In Dutch), <http://www.handicapensamenleving.nl>, (Accessed 9 December 2006).



POLAND

Key Developments

Poland has a long history of occupation by other countries, between 1772 and 1795 it was partitioned between Russia, Prussia and Austria. Poland became an

independent state in 1918, only to be taken over by Germany and the Soviet Union at the time of World War II. Then, up to 1989, there was a period of communism and Soviet Union dominance. Today, Poland is an independent country and is considered a progressive economy in Europe. Poland became a member of the European Union in 2004 and joined NATO in 1999.

In preparation for its membership of the EU, Poland had to implement the EU legislation and adjust to its standards. The membership of EU influenced the significance of civil dialogue, human rights issues, social awareness, etc. It empowered non-governmental organizations and other grass-root community based initiatives in actions aimed to achieve European standards in social policy, including disability policy.

Terminology

Terms commonly used in legislation, official documents, reports, etc. include “osoba niepełnosprawna” – disabled person, “niewidomy” – blind, “głuchy” – deaf “upo ledzony umysłowo” – with mental handicap, “osoba z niepełnosprawno ci . Other terms used include “intelektualn” for a person with intellectual disability, “osoba z niepełnosprawno ci fizyczn” for a person with physical disability and “wózkowicz” for wheelchair user.

Disability Population

According to the National Census, which was carried out in 2002, the number of people with disabilities is 5,457,000 which makes 14.3 percent of the total population. Within that population, 83 percent have been formally certified as having a disability.¹ The National Census includes some questions related to disability; for example, the issue concerning the rate of people with disabilities according to the age, and according to the declared type of disabilities.

Other statistics on disability in Poland can be obtained through the numbers recorded as unfit or certified as incapacity to work. At 7 percent, Poland has one of the highest rates of people within working age recorded as unfit to work. Being declared unfit for work entitles people to disability pension.

Definition of Disability

The first official Polish definition of disability was published in the Polish Parliament on August 1, 1997. It defines disability as persons “whose physical or mental state constantly or temporarily impedes, restricts or prevents them from leading everyday life, taking advantage of education, work and taking up social roles according to the legal and common norms.”²

The current definition of disability is stated in the Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, as a person who has “a physical or mental impairment which reduces, or renders difficult or impossible, permanently or temporarily, full participation in the life of society, and in particular, access to employment.”³ The act also establishes three degrees of disability:

¹ Central Statistical Office, http://www.stat.gov.pl/cps/rde/xbcr/guspubl_osoby_niepelnosprawne_oraz_ich_gospodarstwa_domowe_2002_cz_1_osoby_niepelnosprawne.pdf.

² Acerish Project Website, National Typologies of Disability, Typology of Disability in Poland, <http://www.acerish.org/typologies.html>, (Accessed July 4 2007).

³ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities (Official Journal No 123 item 776 (1997).

- Low degree of disability – people who have a physical or mental impairment, which decreases their capacity to work, in comparison with a person with similar vocational qualifications but without disabilities. This degree of disability also applies to people whose ability to perform social roles is limited, but can be compensated by orthopedic or technical equipment;
- Moderate degree of disability – people who have a physical or mental impairment, which means that they are unable to take up employment or are only able to take up employment in sheltered workplace conditions. In order to perform social roles, they require the partial or periodical assistance of a third person, due to a limited constraint on their ability to lead an independent life;
- Significant degree of disability – people who have a physical or mental impairment, which means that they are unable to take up employment or are only able to take up employment in sheltered workplace conditions. Due to a significant constraint on their ability to lead an independent life, these people require permanent or long-term care or assistance in order to participate in social life.⁴

There is another classification of disability used for pension purposes, but is also recognized in case of various concessions.⁵ That classification specifies three levels of disability as follows:

- A person who is totally incapable of working and incapable of independent living;
- A person who is totally incapable of working;⁶
- A person who is partially incapable of working.

⁴ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities (Official Journal No 123 item 776, 1997).

⁵ The two kinds of certificates are equally recognized as the documents proving eligibility for various kind of concessions like transport concessions – reduction in the price of tickets; they are also equal documents proving for example eligibility for financial assistance for rehabilitation equipment, adaptation of living place, etc.

⁶ The act on retirement pay and pensions from Social Insurance Fund (Official Journal, 2004 no 39, item 353).

Legislation and Disability Rights

The rights of people with disabilities in Poland are protected by international and domestic laws. The Republic of Poland has ratified major international conventions relating to people with disabilities, including the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the Standardized Rules for Providing Equal Opportunities for Persons with Disabilities. Pursuant to the Polish Constitution, provisions of these conventions, after their promulgation in the Official Journal, constitute part of the domestic legal order and apply directly unless their application depends on the enactment of a statute.

The protection of the rights of people with disabilities consists of constitutional guarantees. Areas covered by the law include employment, education, and access to goods and services.

According to Article 32:

“1. All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.

2. No one shall be discriminated against in political, social or economic life for any reason whatsoever.”⁷

Article 67 reads:

1. A citizen shall have the right to social security whenever incapacitated for work by reason of sickness or invalidism.”⁸

Two other articles also directly secure the rights of people with disabilities:

Article 68

“3. Public authorities shall ensure special health care to children, pregnant women, handicapped people and persons of advanced age.”⁹

⁷ The Constitution of the Republic of Poland. April 2, 1997 (Official Journal No.78, item 483 (1997) Art. 32.

⁸ The Constitution of the Republic of Poland. April 2, 1997 (Official Journal No.78, item 483 (1997). Art 67.

⁹ The Constitution of the Republic of Poland. April 2, 1997 (Official Journal No. 78, item 483 (1997)). Art 68

Article 69

“Public authorities shall provide, in accordance with statute, aid to disabled persons to ensure their subsistence, adaptation to work and social communication.”¹⁰

Polish labor law extended the prohibited grounds for discrimination to include sex, age, disability, race, religion, nationality, political attitudes, membership of a political party or trade union, ethnic origin, belief, sexual orientation, during employment for a specified or unspecified period and full-time or part-time employment.¹¹

The basic obligatory principles of Polish labor legislation state that all people (with the exception of cases specified) have the right to freely choose their occupation; that no person is prohibited from working; and that the employer must respect the employee's dignity and other personal goods.¹²

The Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities specifically references the rights of people with disabilities. It covers the following areas: the appointment and competence of a plenipotentiary for people with disabilities; ideas, objectives and organization of the PFRON (State Fund for Rehabilitation of Disabled People) as a contributory fund; a system of support for the employment of people with disabilities; some social rehabilitation issues; and a disability certification system (for employment purposes and for the privilege and right to receive assistance of various kinds). The act is also a legal basis for the appointment and functioning of the National Consultative Body for People with Disabilities as an advisory and consultative organ, a plenipotentiary of social boards at the level of administrative provinces and powiats.¹³

¹⁰ The Constitution of the Republic of Poland. April 2, 1997 (Official Journal No. 78, item 483 (1997), Art 69.

¹¹ The Labor Code, 1974, (Official Journal No. 21 item 94 (1998), Art.183.

¹² The Labor Code, 1974, (Official Journal No. 21 item 94 (1998), Art.10 and 11.

¹³ Poland is divided into 16 regional administrative units – provinces (voivodeships), provinces are divided into powiats - the second level of local government administration, and powiats are divided into local districts..

There is a special law referring to survivors of armed conflict. The act, established on January 24, 1991, contains further amendments on veterans and others such as victims of repressive measures of the war and postwar period of World War II.¹⁴ The other regulation related to people who developed disabilities due to war and postwar repressions deals with benefits and other provisions for them. The act of May 29, 1974, contains further amendments on the provision concerning war and military veterans who developed disabilities, and their families.¹⁵

Poland does not have a specific law addressing violence against people with disabilities; however, a general law states that violence against people is prohibited. According to Article 40 of the Constitution:

“No one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment. The application of corporal punishment shall be prohibited.”¹⁶

There is no record, kept by any agency or institution, of violence or abuses in violation of this provision. However, there are various NGOs created by and for people with disabilities that do keep such records. One example is the Polish Association for Persons with Mental Handicaps, which keeps records of abuse or violence against people with intellectual disability.¹⁷

There are also some provisions on people with disabilities in other regulations:

- The Law on Employment Promotion and organs of labor market from 20 April 2004;¹⁸

¹⁴ Official Journal No. 42 item 371 (2002).

¹⁵ Official Journal No. 9 item 87 (2002).

¹⁶ The Constitution of the Republic of Poland of Apr 2, 1997, No.78, item 483 (1997), art. 40.

¹⁷ Krystyna Mrugalska, The president of the Polish Disability Forum and Polish Association for Persons with Mental Handicap. Warsaw 2007.

¹⁸ The Law on Employment Promotion and organs of labor market from April 20, 2004, Official journal 2004.99.1001.

- The Law on Health Care Benefits financed from public resources of 30 July 2004;¹⁹
- The Education System Law of 7 September 1991²⁰ (with many amendments);
- The Law on Family Benefits of 28 November 2003;²¹
- The Law on Pensions and Old Aged Benefits paid from the social insurance of 17 December 1998;²²
- The Social Pension Law of 27 June 2003;²³
- The Social Assistance Law of 12 March 2004;²⁴
- The Law on Public Utility Activities and Voluntary Work of April 24, 2003;²⁵
- The Law on Mental Health Care of August 19, 1994;²⁶
- Construction regulations established on July 7, 1994;²⁷
- The Road Traffic Law of 20 June 1997;²⁸
- The Transport Law of 15 November 1984;²⁹
- The Law on the Right to concessions in public transport of 20 June 1992;³⁰
- The Postal regulations of 12 June 2003.³¹

¹⁹ The Law on Health Care Benefits financed from public resources of July 30, 2004, Official journal 2004.210.2135.

²⁰ The Education System Law of September 7, 1991, Official journal 2004.256.2572.

²¹ The Law on Family Benefits of November 28, 2003, Official Journal 2006, Nr 139 item 992.

²² The Law on Pensions and Old Aged Benefits paid from the social insurance of December, 17 1998, Official journal 2004.39.353 (with further amendments).

²³ The Social Pension Law of June 27, 2003, Official journal 2003.135.1268.

²⁴ The Social Assistance Law of March 12, 2004, Official Journal April 15, 2004, Nr 64, item 593, with amendments.

²⁵ The Law on Public Utility Activities and Voluntary work of April 24, 2003, Official journal 2003.96.873.

²⁶ The Law on Mental Health Care of August 19, 1994, Official Journal 1994. No 111, item 535 (with amendments).

²⁷ Construction regulations established on July 7, 1994, Official journal 2006.156.1118, with further amendments.

²⁸ The Road Traffic Law of June 20, 1997, Official journal 2005. 108.908.

²⁹ The Transport Law of November 15, 1984, Official journal 2000. 50.601.

³⁰ The Law on the Right to concessions in public transport of June 20, 1992, Official journal 1992.175.1440.

³¹ The Postal regulations of June 12, 2003, Official journal 2003.130.1188.

International Protection

Poland became a signatory to the United Nations Convention on the Rights of Persons with Disabilities on March 30, 2007.³² Poland has signed a number of international and regional agreements:

- International Covenant on Economic, Social & Cultural Rights (ratified March 18, 1977)
- International Covenant on Civil and Political Rights (ratified March 18, 1997)
- International Convention on the Elimination of All Forms of Racial Discrimination (ratified December 5, 1968)
- Convention on the Elimination of All Forms of Racial Discrimination (ratified July 30, 1980)
- Convention on the Rights of the Child (ratified June 7, 1991)³³

Poland is also a signatory on, and has ratified, several European conventions such as the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the European Social Charter of 1961 on June 25, 1997.³⁴

It signed the revised version of the European Social Charter (ESC) of 1996 on October 25, 2005.³⁵ However, Poland has not signed or ratified the protocol enabling complaints to be brought under the European Social Charter. The country has submitted an official report on Article 15 regarding disability in the European Social Charter in the last five years. In 2003, the European Committee of Social Rights refrained from giving conclusions on Poland or article 15 until it received information about why the number of people with disabilities who are employed had fallen since 1998. It also asked the Polish government for further information on the monthly fine employers have to make if they do not reserve employment for

³² United Nations, Enable website, List of Signatory States and Regional Integration Organizations, <http://www.un.org/esa/socdev/enable/convbycountry.htm#countrytp>, (Accessed July 3, 2007).

³³ Right to education, International obligations and access to remedies, http://www.right-to-education.org/content/rights_and_remedies/poland.html, (Accessed July 3, 2007).

³⁴ *ibid.*

³⁵ Council of Europe, Survey by Country, Poland, http://www.coe.int/t/e/human_rights/esc/5_survey_by_country/Poland_Factsheet_2006.pdf.

people with disabilities. Finally, it asked for further information on how the general provisions of the Polish Labor Code protects people with disabilities against discrimination and wrongful dismissal.³⁶

Legal Barriers

In Poland, there are two different kinds of guardianship: plenary and partial. Under plenary guardianship, a guardian is appointed and acts on behalf of the ward in all matters. Under partial guardianship, a supervisor is appointed who must consent to all legal acts the ward undertakes to do.³⁷ People who are aged 13 and over can be placed under plenary guardianship, and people who are aged 18 and over can be placed both under plenary or partial guardianship.

Legally, the ward cannot make any personal decisions:

“1. Any legal act completed by a person who does not have legal capacity is invalid.

2. However, if a person who does not have legal capacity enters into an agreement belonging to common contracts made in small, current matters of everyday life, such a transaction is valid unless it implies flagrant harm to the ward.”³⁸

Regarding a person under partial guardianship – “A person who has a limited legal capacity can enter into an agreement belonging to common contracts made in small, current matters of everyday life without the agreement of the supervisor.”³⁹ These everyday matters include activities like shopping for food. According to a provision of the Polish Civil Code, a person who has limited legal capacity can also manage his or her own income without supervisor permission.⁴⁰

³⁶ European Social Charters Committee 2003 conclusion on Poland's compliance with article 15, http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/1_by_state/Poland_index.asp#TopOfPage, (Accessed July 3, 2007).

³⁷ the Civil Code, Art. 13, 16 and 17.

³⁸ the Civil Code Art. 14.

³⁹ the Civil Code Art. 20.

⁴⁰ the Civil Code Art. 21.

A person with limited legal capacity has “the right to be employed and to sign an employment contract. However, if the employment is harmful to the ward, the supervisor (with the agreement of the guardianship court) has the right to terminate employment.”⁴¹

Guardianship can be imposed despite a person’s objection. A motion for the initiation of a guardianship procedure can be submitted by:

- 1) The spouse of the individual in question
- 2) Close relatives or siblings
- 3) A legal supervisor⁴²

The same article states: “Whoever submits a notion for guardianship with bad intention or recklessly is subject to a fine up to €261.58.”⁴³

One of the existing legal barriers, experienced most frequently by blind people, is the following provision: “If a person who is not able to read must make a statement of will in written form, that statement must be made in the form of a notarial act.”⁴⁴ This means that any contract signed by a blind person (i.e. any transaction in the bank, insurance company, etc.) should be made in the form of a notarized act, which is a significant barrier for them as the need for a notary generates a prohibitive cost.

Civic Participation

People with disabilities in Poland have the right to vote, but it is not absolute.⁴⁵ Exclusion from voting is permitted under Article 62, section 2, which states, “Persons, who by a final court judgment have been subjected to legal incapacitation or deprived of public or

⁴¹ The labor code, Art. 22.

⁴² The Code of civil procedure (Official Journal of 1st December 1964 with further amendments). art. 545

⁴³ The Code of civil procedure (Official Journal of 1st December 1964 with further amendments). art. 545 (497).

⁴⁴ The civil code, art.80.

⁴⁵ Article 96, section (2) of the Polish constitution states that “ Elections to the Sejm shall be universal, equal, direct and proportional and shall be conducted by secret ballot.”

electoral rights, shall have no right to participate in a referendum or have the right to vote.”⁴⁶ This is further emphasized by Article 7 of the 2001 Electoral Law which states: “The following persons shall not be entitled to vote: (a) those deprived of legal capacity by final ruling of the court.”⁴⁷

The Electoral Law of 2001 also provides for voter assistance. Article 69 provides that, “a disabled voter, upon request, may be assisted in voting by another person who is not a member of a ward electoral commission or a poll observer authorized by the candidate.”⁴⁸ This allows people with visual impairments to vote.

There are also facilities for off-site voting alternatives. Article 30 and 31 of the 2001 Electoral Law allow for polling wards to be established in hospitals and welfare homes. An off-site facility can be established if the hospital or home has more than 50 residents.⁴⁹

The last elections in Poland, which took place in 2006, were local government elections. The data below presents the number of election districts, and the places in those districts that were well suited for people with disabilities.

⁴⁶ Polish Constitution, Article 62, section 2.

⁴⁷ The electoral law for Parliament of Polish Republic and Senat of Polish Republic from 12 April 2001 (Official Journal 2001, no 46. item499).

⁴⁸ The electoral law for Parliament of Polish Republic and Senat of Polish Republic from 12 April 2001 (Official Journal 2001, no 46. item499).

⁴⁹ The electoral law for Parliament of Polish Republic and Senat of Polish Republic from 12 April 2001 (Official Journal 2001, no 46. item499).

Table I: Number of Accessible Polling Stations⁵⁰

The type of the polling district	Accessible		total
	No	Yes	
A (preventive detention)	69	1	70
K (polling districts in a prisons)	61		61
L (the polling districts in a hospitals)	531	151	682
O	3	0	3
P (general)	19,019	4,865	23,884
Z (the polling districts in the institutions of social welfare)	300	155	455
Total	19,983	5,172	25,155

According to the decree of the Minister of Inner Affairs and the administration, where there are communities of 15,000 citizens or less, there should be at least one election district that is adequately accessible for people with disabilities. If a community population exceeds 15,000 people, then for every 15,000 people there should be another accessible election district (30,000 – 2 districts; 45,000 – 3 districts). Additionally, the decree specifies the necessary modifications for the polling places: broadness of doors, voting cabins, the height on which notices should be hung, etc. Legal regulations enable people with disabilities to exclude themselves from an unsuitable election district and register to an accessible one.⁵¹

People with disabilities have the right to be elected to public office. In the Polish Parliament there are three parliamentarians with disabilities. In Poland, there is more than one focal point for disability. The Secretary of State in the Ministry of Social Policy acts as the Government Plenipotentiary for Disabled Persons'

⁵⁰ National Electoral Office, statistics related to voters,electoral committees and election candidates, IV. Voting districts, http://www.pkw.gov.pl/pkw2/index.jsp?place=Menu01&news_cat_id=1929&layout=1.

⁵¹ The regulation of the Minister of Internal Affairs and Administration from 31 July 2001 on pooling stations adapted to the needs of disabled voters, (Official Journal 7 August 2001, no 01.81.888).

Affairs and is responsible for supervising tasks arising from the Act on Rehabilitation.

People with disabilities in Poland have the right to immigrate and/or seek asylum. People with disabilities have the right to have a family. People with disabilities have the right to adopt; however, this is conditional on the adoptive parent's full legal capacity.⁵²

Inclusion

Communication

The national library provides materials in alternative formats. The available materials are: Braille, audiocassette, large print, and electronic books. People with disabilities do not have to pay for this service as the government funds the materials. The National Library is available to the public and is based in Warsaw. Despite many attempts, it was impossible to obtain the precise date of the last update of the collection from the staff of the National Library.

The largest quantity of materials in alternative formats is offered in the Central Library of the Polish Association for the Blind in Warsaw, and it has branches all around Poland. The library offers about 6,000 titles in all the alternative formats.⁵³ Alternative formats (mostly audio books) are also available in many public libraries throughout the country. Most of the collection is produced by the Polish Association of the Blind. The majority of the production of alternative format materials is financed through government funds from grants obtained from ministries (the Ministry of Education, Ministry of Culture, etc.). Nevertheless, the availability of publications in alternative formats is not sufficient. Individuals deal with accession to publications, for example, by scanning printed publications, using the help of a reader, etc. Some universities organize their own services for students and

⁵² The Family and care Code from 25 February 1964 with further amendments (Official Journal 64.959), Art. 1141.

⁵³ Central Library of the Polish Association of the Blind, official webpage <http://www.biblioteka-pzn.org.pl/>.

produce their own alternative materials (mostly digital and audio).⁵⁴ Poland's public television offers two kinds of services for hearing impaired people:

Programs with captioning or subtitles (two kinds of daily news, movies, and a few other kinds of programs).⁵⁵

Programs with translation in sign language (a few movie series, one regional news per day, and two to three other kinds of programs).⁵⁶

Polish Public TV is funded primarily by citizens, and regards to the hearing impaired community, the network does not cater fully for their needs. About 40 hours of programming a month (a little more than one hour a day) is offered in both closed captioning and sign language. And most of those programs are broadcasted very early in the morning (5 or 6 a.m.), so they are not very useful.⁵⁷

Education

In accordance with Polish law, the education system comprises of: pre-school institutions; primary schools (normally children aged 7-13); gymnasia, also called lower secondary schools (age 13-16); and post-gymnasium schools, also called upper secondary schools (usually age from 16 through 18 or 19). Children are also obliged to have one year of pre-school education by the age of six.⁵⁸ This current system was formed in 2000.⁵⁹ The previous establishment included just primary school that lasted eight years instead of the two current levels: primary school (six years) and gymnasium (three years), and then post-primary schools. In light of the existing law, institutions of higher education are excluded from the system, as they form a separate higher education system.

⁵⁴ Teresa Dederko, the director of the Central Library of Polish Association of the Blind, Warsaw 2007.

⁵⁵ Official website of public TV, <http://ww2.tvp.pl/1772.dzialy> (Accessed July 28 2007).

⁵⁶ *ibid.*

⁵⁷ Bogdan Szczepankowski, Board member of the Polish Association of the Deaf, Warsaw 2006.

⁵⁸ School Education Act of 7 September 1991 with further amendments (Official Journal 2004. No 256 item 2572).

⁵⁹ The Act on the implementation of the education system reform of 8 January 1999.

The legislation providing general regulations for the educational system in Poland includes provisions that apply to education for children with disabilities. Principles are described as follows:

- Available adjustment to the content, methods and organization of education according to pupils' psychological and physical abilities.
- Availability of psychological and pedagogical support and special forms of teaching.
- The opportunity for all children with disabilities and socially maladjusted children to be taught at all types of schools.
- Individual teaching and care for children with serious disabilities and socially maladjusted children via the use of individual curricula and participation in remedial classes.⁶⁰

Education for children with special needs can be provided in general schools, integration divisions or integration schools, special divisions and special schools, and special educational centers.⁶¹

The assessment regarding need for special or individual education states that requests for appropriate education arrangements for a child should be directed to the special psychological-educational counseling centers. The detailed procedures are described in the Regulations of the Minister of National Education.⁶² As always, the decision to put a child into segregated education depends on requests from parents or legal guardians.

According to the Regulation of the Minister of National Education of February 2001, "On (Upon) notification of the parents (legal guardian) of the child with the opinion/certificate for special education need,

⁶⁰ The School Education Act of 7 September 1991 (with further amendments), chapter I

⁶¹ The School Education Act of 7 September 1991 (with further amendments), art. 2.

⁶² Regulation of the Minister of National Education of 12th February 2001 (with amendments on 29th January 2003) on the recognition of needs to follow special education or individual teaching of children and youth and on detailed rules on directing pupils to special education or individual teaching, (Official Journal 2003. no23, item 192),

the local authority will provide the form of education assigned to the child in that opinion/certificate.”⁶³ Thus, if the parents do not agree to a segregated education, the child can’t attend such classes.

In Poland all children at every stage of education are recorded, including children with disabilities. Records include personal details of the children, type of disability, etc. The statistics that are recorded are available on the website of the Central Statistical Office. Every school year the office updates a report about education, which gives information on students divided in various categories, for instance: data for students with disabilities, according to school levels, type of school, country provinces, and number of different types of schools.⁶⁴

During the 2005-2006 school year there were 6,003,094 pupils total, and among those 168,662 had disabilities. Thus, 2.8 percent of the students had a disability. The number of special schools: primary, gymnasium and post-gymnasium was 2,476 with 100,156 students. The number of students with disabilities that received individual education was 17,918.⁶⁵

In 2005, 24,189 students with disabilities were enrolled in residential special education centers. This number includes: 888 children who were blind or visually impaired; 2,662 were deaf or hearing impaired; 121 were chronically ill; 550 mobility impairment, 9,407 had mild intellectual disability and 6,053 with moderate and severe intellectual disabilities.⁶⁶ In 2005, there were 4,195 residents in special education and care centers.

⁶³ Regulation of the Minister of National Education of 12th February 2001 (with amendments on 29th January 2003) on the recognition of needs to follow special education or individual teaching of children and youth and on detailed rules on directing pupils to special education or individual teaching (Official Journal 2003. no23, item 192), §12.

⁶⁴ Central Statistical Office, Education 2005/2006 http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL_oswiata_wychowanie_2006.zip.

⁶⁵ Ministry of National Education, Access of people with disabilities to education - present situation, chances and threats”, (In Polish) Warsaw April 2006, Official webpage of the Ministry of Social Policy, http://www.mps.gov.pl/_download.php?f=userfiles%2FFile%2FBON%2FDebata%2FSzkolnicstwoOgolneSpecjalne.doc. (Accessed 28 July 2007).

⁶⁶ Central Statistical Office, Education 2005/2006 http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL_oswiata_wychowanie_2006.zip.

Special education for children with disabilities is generally available in the majority of small and large towns nationwide. Students with disabilities who live in areas with no suitable schools have the option of enrolling in boarding schools offered in 50 special residential education centers and 94 special care and education centers.

In the school year 2005-2006, the number of primary school students with disabilities was 78,667, 33,383 in special primary schools and 45,284 in mainstream and integrated education. The number of lower secondary schools (gymnasium) students with disabilities was 64,846 and 36,077 of them in special lower secondary schools. The number of various upper secondary (post-gymnasium) school students was 33,838.⁶⁷

Table II: Students with disabilities enrolled integrated education in 2003 ⁶⁸

	Type of school				Total
	Kindergartens	Primary schools	Lower secondary schools	Secondary schools	
NUMBER OF SCHOOLS					
Integrated schools	298	505	164	41	1,008
Integrated classes in mainstream kindergartens and schools	664	1,917	481	134	3,193

Training in special education is available at universities and teacher training centers. The Academy of Special Education (Akademia Pedagogiki Specjalnej) in Warsaw offers the best choice of faculties related to special education. It offers a five-year program on special

⁶⁷ Ministry of National Education, „Access of people with disabilities to education - present situation, chances and threats”, Warsaw April 2006, Official webpage of the Ministry of Social Policy, http://www.mps.gov.pl/_download.php?f=userfiles%2FFile%2FBON%2FDebata%2FSzkolnictwoOgolneSpecjalne.doc. (Accessed 28 July 2007).

⁶⁸ Bogucka J., calculation by Wapiennik E. based on data from the Central Statistical Office “Education in the School Year 2002/2003 in: Open Society Institute Mental Health Initiative, „Rights of People with Intellectual Disabilities. Access to Education and Employment. Monitoring Report 2005. Poland”, Warsaw 2005.

education for children who are blind and partially sighted, hearing impaired, or have cognitive or mobility disabilities, etc. The academy also offers a variety of other post-graduate studies regarding special education.⁶⁹

The Polish Ministry of National Education is among others involved in a government pilot program established in 2005 and continuing to the present. The program specializes in early, multi-expert, complex, coordinated, and continuous help for children with disabilities, and their families. One of its objectives is to improve detection of disabilities among children.⁷⁰ However, according to the president of the Polish Disability Forum and Polish Association for Persons with a Mental Handicap, “Each and every child with various kinds of disorders diagnosed by the doctor is not guaranteed to benefit from the program. The reason is that the services specified in the program are not located in each region or administrative unit but are appointed in the national tender. So, we cannot say it is a system solution since there are parts of the country without any service specified in that government program.”⁷¹

According to current regulations, all newly constructed public buildings, including schools, must fulfill the required standards of adjustments for the needs of people with disabilities.⁷² However, the adjustments mainly concern wheelchair users (installing elevators and ramps) and the adaptations usually do not take visually impaired people into consideration. Buildings already constructed are not obliged by this regulation to undergo any change, yet they are being adjusted over time depending on funding. The Ministry of National Education is an example of a public building not easily accessible for wheelchair users.

⁶⁹ Official webpage of Academy of Special Education, <http://www.aps.edu.pl/index.php?md=692#1>).

⁷⁰ Official webpage of Ministry of National Education, http://www.men.gov.pl/menis_en/education/pilot_projekt.pdf.

⁷¹ Official webpage of Ministry of National Education, http://www.men.gov.pl/menis_en/education/pilot_projekt.pdf.

⁷² Polish Construction Law, 1994 (Official Journal No. 156 item 1118 (2006)), art. 5.1.4.

Employment

The rate of unemployed people with disabilities, as registered in the office of labor, is 15.3 percent – but this number is misleading. In reality, Polish legislation dictates that people with disabilities who have rights to a permanent disability pension cannot be registered as unemployed.⁷³ They may only be registered as people not in employment or as seeking a job, and thus are not included in the total number of unemployed people. That is why more accurate information can be found in the quarterly published reports of the Central Statistical Office.⁷⁴ In these reports, the CSO also includes those who do not work but are not classified as unemployed because they have some kind of income – usually social pension.

Table III: Activity, employment and unemployment of persons with a disability⁷⁵

	Activity rate	Employment rate	Unemployment rate
Total	15.2%	12.9%	15.3%
Severe level of disability	3.6%	3.2%	14.3%
Moderate level of disability	13.6%	11.6%	14.4%
Mild level of disability	24.0%	20.2%	16.0%

The activity rate, which includes people who are employed/eager to work, and people who are unemployed, strictly depends on the disability level as described in the table above. The total activity rate is very low (15.2 percent) and this means that 84.8 percent of people with disabilities in Poland are inactive. And 96.4 percent of people with a severe level of disability are inactive.

In December 2006, 174,100 people with disabilities worked in 2,251 sheltered workshops, and 38,000 people with disabilities worked in

⁷³ The act on promotion of employment and labor market institutions, (Official Journal 2004, no 99, item 1001).

⁷⁴ Labor Force Survey in Poland IV quarter 2006, Central Statistical Office 2007.

⁷⁵ Labor Force Survey in Poland IV quarter 2006, Central Statistical Office 2007.

5,698 places of open labor market.⁷⁶ This information is prepared by the State Fund for Rehabilitation of Disabled People, which count only people registered in its information system of reimbursement. It means that the total number of employees with disabilities may be higher.

In Poland, sheltered workshops are special workplaces employing at least 25 employees, at least 40 percent of which have disabilities – or at least 30 percent of which are blind, have intellectual disabilities or mental health disabilities. Sheltered workshops must be fully adapted to special needs of people with disabilities.⁷⁷ Sheltered employment companies are not obliged by law to have a transition scheme to integrate or reintegrate people with disabilities into the mainstream labor market.

Employers hiring at least 25 employees have a legal duty to employ people with disabilities. The required percentage of disabled employees is usually 6 percent, and if employers do not meet this obligation it results in the paying of a fine to the State Fund for Rehabilitation of Disabled people.⁷⁸ The Act on Social and Vocational Rehabilitation and Employment of People with Disabilities views some groups of people with disabilities as more difficult to employ. So, in order to encourage the employer to provide employment opportunities to these individuals, they use a system of weighing one disability against another. Such groups include the blind, deaf, paraplegic, epileptic, etc. State and local administration and cultural institutions have a transition period to adapt to this system and will be obliged to fulfill the 6 percent quota in 2008.⁷⁹ Another quota system is used in educational units like schools and universities. They are obliged to fulfill a 2 percent quota, but they are permitted to count not

⁷⁶ The act on promotion of employment and labor market institutions, (Official Journal 2004, no 99, item 1001).

⁷⁷ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 28.

⁷⁸ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 21.1.

⁷⁹ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 21.2a.

only employees with disabilities, but also to double the total number of students with disabilities.⁸⁰

Employees with disabilities have specific rights concerning working hours. Employees with mild disabilities must not be obliged to work more than eight hours per day and 40 hours per week. Employees with moderate and severe disabilities must not be obliged to work more than seven hours per day and 35 hours per week. They also cannot work overtime or night shifts.⁸¹ Work breaks for employees with disabilities are 15 minutes longer than for others, thus, the total duration of work breaks is 30 minutes.⁸² Employees with moderate and severe disabilities have 10 days of vacation time over and above what other employees receive.⁸³ They have a right of release from work for medical examinations and treatment, and to purchase or repair orthopedic equipment, without losing income. They also have a right to 21 days per year for rehabilitation leave.⁸⁴

In Poland, employers receive financial incentives in return for the employment for people with disabilities. Employers can receive resources for workplace adaptation according to the needs of the person with disabilities. This includes the purchase of a special computer program that will be suitable for a visually impaired person, adapting the office and furniture, etc. Costs of workplace adaptation can be refunded from public resources up to the value of 20 times the average monthly salary.⁸⁵ The employer can also diminish the cost of social insurance fees paid for an employee with disabilities because

⁸⁰ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 21.2b-d.

⁸¹ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 15.1-3.

⁸² The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 17.

⁸³ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 19.

⁸⁴ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 20.

⁸⁵ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 26.

a major part of it is refunded from public resources.⁸⁶ Additionally, the employer may receive regular reimbursement for the remuneration of an employee with disabilities from the State Fund for Rehabilitation of Disabled People – up to €470.75 per month.⁸⁷ Funding is higher for sheltered workshops than for employers on the open labor market. Finally, other sources of reimbursement are available only for employers who fulfill the required quota of employees with a disability. The Act on Vocational and Social Rehabilitation of People with Disabilities, states that local employment agencies must ensure assistance to employers that hire people with disabilities. Examples of assistance include information about the possibilities to apply for funding for work place adaptations.

People with disabilities who are unemployed can benefit from two main kinds of pensions paid by the government:

1. Insurance disability pension paid from the Social Insurance Fund for people who acquire a disability during employment.⁸⁸ Currently, there are about 1,594,400 beneficiaries of this pension.⁸⁹

2. Social disability pension paid from the state budget for people who were born with or acquired a disability before the age of 18, or during their education.⁹⁰ There are about 236,200 beneficiaries of this pension.⁹¹

In fact, people can combine salary and disability pension, but with some limitations. Social pension is at least 16 percent lower than insurance pension and is only available for totally unemployable

⁸⁶ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 25.

⁸⁷ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776) 26a.

⁸⁸ The act on retirement pay and pensions from Social Insurance Fund (Official Journal, 2004 no 39, item 353).

⁸⁹ Official webpage of the Ministry of labor and social affairs, Information about pensions from Social Insurance Fund and several other pensions of social security system in IV quarter 2006, Social Insurance Institution, Warsaw 2007.

⁹⁰ The act on social disability pension, (Official Journal 2003, no 135, item 1268).

⁹¹ Information about pensions from Social Insurance Fund and several other pensions of social security system in IV quarter 2006, Social Insurance Institution, Warsaw 2007.

people. Insurance pension is also available for partially unemployable people. Both pensions are paid for by the Social Insurance Institution or another pension institution (for example, for farmers or soldiers).

In the labor policy of the Polish government we can find the National Employment Strategy for the years 2007-2013, which is part of the new National Development Plan for 2007-2013. The main goal of this strategy is to reduce the rate of people with disabilities who are reluctant to seek employment. There are four main methods to reach this goal:

- a. Developing incentives for employers to hire people with disabilities
- b. Facilitation of self-employment
- c. Promotion of traditional forms of employment (for example tele-work)
- d. Implementation of individual activation plans such as joining vocational trainings, job clubs, workshops, and others⁹²

During the previous period of funding (2004-2006), the majority of activation projects were established in the State Fund for the Rehabilitation of Disabled People.⁹³ Many kinds of institutions were able to implement various projects aiming to make people with disabilities more active. Such institutions include local and state agencies, public administration, authorities, non-governmental organizations (including religious ones), and public employment services. Yet, long-term results are unknown because the projects have yet to be evaluated.

Health Services

The law on health care benefits is financed from public resources law of July 30, 2004. The health service in Poland is funded from public assets and contributions paid by each Polish citizen. Therefore, the

⁹² National Employment Strategy for years 2007-2013, Official webpage of Ministry of Economy and Labor, Warszawa 2005.

⁹³ Sector Operating Programme – Human Resources Development 2004-2006, annex to Disposition of Ministry of Economy and Labor (Official Journal, 2004, no 166 - 81, item 1743).

access to public medical care is equal for all citizens and cannot discriminate against anyone for any reason.⁹⁴

The State Fund for the Rehabilitation of Disabled People (PFRON) plays an important role in matters concerning the rehabilitation of people with disabilities. This fund addresses the vocational and social rehabilitation of people with disabilities, as well as their employment issues. The financial responsibilities of PFRON relate to, among others, the following areas:

- Co-financing salaries for people with disabilities
- Employing people with disabilities
- Adaptation of new and existing work places for the needs of people with disabilities
- Sport and recreation for people with disabilities
- Supplying with rehabilitation equipment
- Eliminating architectural and transport barriers
- Enhancing the education of people with disabilities
- Realization of various PFRON programs

The State Fund for Rehabilitation of Disabled People provides local government centers, responsible for assisting families and people with disabilities with resources such as special everyday life equipment, equipment enabling efficient movement, adaptation of living places, etc.⁹⁵

Specialized rehabilitation and other kinds of assistance and services are often provided by different NGOs. Information for some of them can be found on various websites, such as www.niepelnosprawni.info, www.ngo.p.l etc.

There is no official statement from the government as to whether or not community based rehabilitation exists in Poland. Legislation specifies possibilities for occupational therapy within a vocational

⁹⁴ The Constitution of Polish Republic, Preamble and art. 68.

⁹⁵ Official webpage of State Fund for Rehabilitation of Disabled People, <http://www.pfron.org.pl/zwi/zwi.nsf/0/>.

rehabilitation scheme.⁹⁶ Medical rehabilitation is included in the health care system and is covered by legislation related to that area.⁹⁷

Housing

The following are options for housing or home assistance services available to, among other groups, people with disabilities – as specified in legislation:

- 1) Care services or specialized care services at home
- 2) Care services or specialized services in daily support centers (peer centers, daily care centers, etc.)
- 3) Family care homes: private houses that have more than three people who require care and have registered officially
- 4) Sheltered housing: independent living places for people who do not need all- day support but do need some assistance. It aims to prepare people for independent living or replaces full day care services and offers integration with the community
- 5) Social welfare homes or centers.⁹⁸

According to the disability movement, “The government agencies treat social welfare homes as the only and best solution for housing for severely disabled people. They usually house over 100 persons that (is the number required by the legislation) or more. For the disability movement, the most interesting form of housing is the sheltered/ supported housing which is specified in the legislation but very rarely used by people with disabilities. One of reasons is the lack of clearly stated resources for that kind of support. Most sheltered housing places are organized by various NGOs.”⁹⁹

⁹⁶ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities, (Official Journal 1997, no 123, item 776).

⁹⁷ Law on health care benefits financed from public resources of 30 July 2004 (Official journal 2004.210.2135).

⁹⁸ The Act on Social Welfare from 12 March 2004 (official Journal 15 April 2004, no 64. item 593, with further amendments, art. 50-54.

⁹⁹ Krystyna Mrugalska, President of the Polish Disability Forum and the Polish Association for Persons with Mental Handicaps, Warsaw 2007.

Institutionalization

It is extremely difficult to state the exact number of organizations in Poland with a specific mission to provide long-term housing and care for people with disabilities. Many institutions might also provide care for the elderly. The institutions concerning people with disabilities

offer these forms of services: psychological counseling, psychiatric counseling, rehabilitation services, education/training, and acute care services. These institutions are not closed institutions and occupying them is completely voluntary. They should be clearly distinguished from closed medical units, in which one might be placed involuntarily. One can also be placed in a closed medical unit against his or her will due to the decision of a statutory guardian, a court, or when the person is unable to live alone. That kind of placement is possible in social welfare homes, as well as in psychiatric hospitals.¹⁰⁰

“Admission of a person with a mental health disorder or an intellectual disability to a psychiatric hospital, is possible after court acceptance even if that person is incapable of expressing his agreement or attitude towards treatment,”¹⁰¹

“(...) A person with a mental health disorder can be admitted to a psychiatric hospital without having agreed, as required in art. 22, only when one’s previous behavior indicates that the person can directly threaten his own life or the life or health of another person.”¹⁰²

Such institutions are subject to inspections by the public authorities. The act on mental health protection gives the judge the right to some control: “The judge has a right to enter at any time the psychiatric hospital or social welfare house where persons with the mental health disorder or intellectual disability are residents.” The law provides the legal basis (conditions which must be fulfilled in order to observe the

¹⁰⁰ The Act on the Mental Health Protection from 19 August 1994 with further amendments (official Journal of 20 October 1994, 94.111.535).

¹⁰¹ The act on the Mental Health Protection from 19 August 1994 with further amendments (official Journal of 20 October 1994, 94.111.535), art. 22, 2.

¹⁰² The act on the Mental Health Protection from 19 August 1994 with further amendments (official Journal of 20 October 1994, 94.111.535), art. 23.1.

law in admission of people to institutions like psychiatric hospitals) and “the judge may control the legal base for admission to such a hospital or house of people with mental disorders and monitor respect for their rights and living conditions.”¹⁰³

Public authorities (ministries) impose various regulations that describe the control procedures of health care system units or social welfare houses.¹⁰⁴ One of the entities entitled to inspect and control the psychiatric hospitals is the commissioner for the protection of the rights of patients in psychiatric hospitals.

The objectives of that position include:

1. Assistance in claiming rights related to admission, treatment, and conditions of residence, and to discharge from the hospital
2. Clarification or assistance in clarification of verbal and written complaints by residents,
3. Cooperation with family, legal supervisors, and legal or practical guardians of the person, (...)”¹⁰⁵

As it is public health care, institutions can undergo any kind of control the authorities are legally able to perform. Citizens themselves inspect the institution, as do organizations, associations, and foundations. On the other hand, there are mechanisms of inner control like the Supreme Chamber of Control or the Commissioner for Civil Rights Protection.

It is difficult to find the exact number of residents in Poland’s institutions because the data is gathered on a local level – powiats and local districts. The National Census 2002 states that about 2 percent of people with disabilities lived in various institutions.

¹⁰³ The act on the Mental Health Protection from 19 August 1994 with further amendments (official Journal of 20 October 1994, 94.111.535), art. 43.

¹⁰⁴ The regulation of the Minister of Social Policy from 23 March 2005 on the supervision and control in social welfare (Official Journal from 15 April 2005., No 61, item 543).

¹⁰⁵ The Act on the Mental Health Protection from 19 August 1994 with further amendments (official Journal of 20 October 1994, 94.111.535), art. 10b.

Accessibility

The building housing the Main Post Office is accessible to people with disabilities, especially wheelchair users.¹⁰⁶ According to current law, newly built public buildings are to be adjusted to the needs of

people with disabilities.¹⁰⁷ However, the legislation does not require, for example, all new apartment buildings without elevators to provide accessibility features but simply obliges them to “ensure the possibility of installing a ramp or adequate technical devices that would enable persons with a disability to access apartments located on the ground floor.”¹⁰⁸

The above-mentioned regulations define only the requirements concerning newly built constructions. There are also provisions requiring the adaptation of buildings for public use when and if they undergo major remodeling, reconstruction, etc.¹⁰⁹

In 2003, the Association of Architects of the Republic of Poland (a national association uniting all architects having the right to perform their profession in the Republic of Poland) organized a conference on accessibility.¹¹⁰ One of the projects in the area of accessibility that is quite well known in Poland is called “Barrier-free Poland,” organized by the Association of Friends of Integration. The important part of the project is a contest announced every year in some Polish cities. The most popular contest is organized in Warsaw – “Warsaw without Barriers.” The award is granted to the most accessible buildings.¹¹¹

One of the activities of that association was also the translation and dissemination of universal design guidelines.¹¹² Currently, courses

¹⁰⁶ Autor observation with wheelchair user.

¹⁰⁷ Polish Construction Law, 1994, No. 156 item 1118 (2006)), art. 5.

¹⁰⁸ The regulation of the Minister of Infrastructure from 12 April 2002 on technical conditions that buildings and their location should correspond to (Official Journal no 75, item 690), §55.

¹⁰⁹ The regulation of the Minister of Infrastructure from 12 April 2002 on technical conditions that buildings and their location should correspond to (Official Journal no 75, item 690), §2.

¹¹⁰ Official webpage of the Association of Architects of Republic of Poland.

¹¹¹ The webpage of the Association of Friends of Integration, <http://www.integracja.org>.

¹¹² The official webpage of the Association of Friends of Integration, <http://www.niepelnosprawni.pl/ledgex/11520>.

are available that include faculties or special lectures at technical higher education schools.¹¹³

Not all public transport vehicles in the capital are accessible to the needs of people with disabilities. According to the information from

the website of the Warsaw Public Transport Company, the amount of accessible buses on the streets is about 50 percent on weekdays and almost 80 percent on weekends; however, the frequency of buses is much less on weekends. The amount of accessible trams is estimated at about 15 percent. However, almost 80 percent of routes have an accessible vehicle in the schedule. The accessible buses and trams are marked in the schedule with brackets, and the time the accessible vehicle arrives inside the brackets.¹¹⁴ In fact, almost 80 percent of routes include accessible vehicles in its schedule. However, in most cases there is only one per hour, or less.¹¹⁵

There are also special transportation services available for people with disabilities, which are funded mostly by the State Fund for the Rehabilitation of Disabled People. Local authorities are provided with funds for the transport of people with disabilities to schools.¹¹⁶

Public websites are not fully accessible for visually impaired users. Most sites have some components that do not work with assistive technology for blind people. Only some of them have text-only versions or options to change the size of fonts, colors, etc. Thus far, there is no official report or other document concerning Internet-based communication. According to the members of the Board of Internet Society Poland, the legislation and practice of Polish public administration do not take into account accessibility of the information

¹¹³ The information based on telephone conversation with the staff person of the Association of the Architects of Republic of Poland, Warsaw 2006.

¹¹⁴ Official webpage of the Warsaw Public Transport Company, <http://www.ztm.waw.pl/index.php>

¹¹⁵ Official webpage of the Warsaw Public Transport Company, the example of schedule on 9th July 2007, <http://www.ztm.waw.pl/baza/20070707/2/trasy.htm>.

¹¹⁶ the School Education Act of 7 September 1991 with further amendments (Official Journal 2004. No 256 item 2572), art. 14.4.

on their websites. Those websites usually do not comply with basic WAI principles.¹¹⁷

Culture Sports & Recreation

The Department of Sports for People with Disabilities, in the Ministry of Sports, is the organ responsible for the sport and recreation of people with disabilities. Among its objectives, the Ministry of Sports

commissions external organizations with some of the state's tasks related to sports culture and recreation. Within that ministry, funding is provided for different activities for people with disabilities such as:

- Participation in sport and recreation activities and sections
- Participation of athletes with disabilities in the Paralympics, world and European championships, as well as in other international and national championships
- Participation of people with disabilities in summer and winter sports camps

In 2007, the Ministry started a new program for elderly people with disabilities that offers funding for sports and recreation activities.¹¹⁸ Sport and recreation activities are also included as one of the issues co-funded by the State Fund for the Rehabilitation of Disabled People.¹¹⁹

Disability Action and Awareness

The attempts to create an umbrella organization representing the interest of people with disabilities in Poland have taken place over many years. The first organization that should be mentioned, whose goal was to represent and coordinate the disability movement is

¹¹⁷ Piotr Wagłowski and Władysław Majewski, "Easy, clearly and comfortably." *Computer World*; April 2004.

¹¹⁸ Official webpage of the Ministry of Sport, <http://bip.msport.gov.pl/content.php?id=892>.

¹¹⁹ Official webpage of the State Fund for Rehabilitation of Disabled People, <http://www.pfron.org.pl/zwi/zwi.nsf/text?openframeset>.

the National Parliament of People with Disabilities (OSON), called also the National Council of People with Disabilities (KRON).¹²⁰ The first assembly of OSON took place in 1992.¹²¹ Unfortunately, the organization worked only for a few years and finally become inactive and dissolved. There were some other initiatives aimed at creating new representation, especially on the regional level, but none became national coordinating organizations.¹²²

In 2004, with support from the European Disability Forum (EDF), a new national disability council called the Polish Disability Forum (PFON) was created from four of the biggest Polish disability organizations. These included the Polish Federation of Organizations of People with Physical Disabilities, the Polish Association of the Blind, the Polish Association of the Deaf, and the Polish Association for People with a Mental Handicap.¹²³ The PFON became a full member of the EDF in May 2004 after Poland acceded to the European Union.¹²⁴ One of PFON's objectives is to create a united voice for the representation of people with disabilities and their families – if self-representation is not possible.¹²⁵ However, the organization needs more representation and strength to take over the role of a national coordinating organization and provide a real impact on disability policy in Poland.

According to legislation, the consulting role of the government, and particularly that of the plenipotentiary for people with disabilities, fulfills the National Consulting Council for disability issues.¹²⁶ The council is a forum for cooperation on public administration, local

¹²⁰ In fact, the National Disability Council (KRON) was a executive body of the National Parliament of People with Disabilities but those two names seem to function as equivalent names.

¹²¹ Barbara Szczepankowska, "National Parliament of People with disability – Equalization of opportunities", in *Social policy for people with disability. Ways to integration (org. "Polityka społeczna wobec osób niepełnosprawnych. Drogi do integracji")*, ed. J. Mikulski, J. Auleytner, Warszawa 1996, WSP TWP, 173-186.

¹²² Piotr Stanisławski, "Who represents people with disabilities", *Integration magazine*, 23 March 2004, <http://www.integracja.org/ledge/x/7814>.

¹²³ Official webpage of Polish Disability Forum, <http://www.pfon.org.pl>.

¹²⁴ Official webpage of European Disability Forum, http://www.edf-feph.org/en/about/membership/memli_co.htm#observer.

¹²⁵ Official webpage of Polish Disability Forum, <http://www.pfon.org.pl/strona.html>.

¹²⁶ The Act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities (Official Journal 1997, no 123, item 776), art. 42.

authorities, and social organizations. However, its role is mainly advisory in nature. Also, the composition of that body gives the least voice to DPOs (disabled people's organizations).

The Council consists of:

- 1) Five representatives of public administration
- 2) Five representatives of local authorities
- 3) Representatives of NGOs, including:
 - a. One representative from each employer organization fulfilling representation conditions stated in the act on the tri-partite commission on socio-economic issues(...)¹²⁷
 - b. One representative from each trade union fulfilling representative conditions of the act on the tri-partite commission on socio-economic issues (...)¹²⁸
 - c. Eight representatives other than those specified in points (a) and (b), i.e. non-governmental organizations."¹²⁹

The legislation guarantees the obligation of the government to consult every law related to socio-economic life, not only those related to employment, with the tri-partite commission.¹³⁰ The representation of people with disabilities could have a much stronger influence on disability policy if legislation would empower its role as it did in the case of the tri-partite commission.¹³¹

¹²⁷ The act on TRI-partite commission on socio-economic issues and county commissions of social dialogue from 6 July 2001 with further amendments (Official Journal No 100, item 1080) zm.)

¹²⁸ The act on TRI-partite commission on socio-economic issues and county commissions of social dialogue from 6 July 2001 with further amendments (Official Journal No 100, item 1080) zm.)

¹²⁹ The act on Vocational and Social Rehabilitation and Employment of Persons with Disabilities No 123 item 776 (1997), art. 43.

¹³⁰ The act on TRI-partite commission on socio-economic issues and county commissions of social dialogue from 6 July 2001 with further amendments (Official Journal No 100, item 1080) zm.)

¹³¹ Krystyna Mrugalska, the president of the Polish Disability Forum and Polish Association for Persons with Mental Handicap, the member of National Consulting Council for Disability Issues, author interview, Warsaw 2007.

In Poland, there are no disability-specific policies. Disability issues are incorporated into other broad policies and strategies. The major, and the most recent, strategy that includes disability issues is related to social inclusion in the *National Report on Strategies for Social Protection and Social Inclusion 2006-2008*.¹³² That document was prepared in order to meet the European Commission obligation. The report includes four main areas: social inclusion, pension scheme, health care, and long-term care. It deals also with the mainstreaming of inclusion policy.¹³³ People with disabilities are included as one of many social groups. According to the text, the strategy is designed mainly for the government and its ministries, but participation of other entities, like NGOs, is also included.

The document was open for social consultation by all organizations, including those representing disability movements. "However, most of the amendments proposed by disability NGOs were ignored, such as the conditions for an effective supporting services system that would provide assistance to the active lives of people with disabilities. Especially, since people with disabilities are among the poorest ones."¹³⁴

There was a great change in the situation of NGOs after the political and economic change that took place in Poland in 1989. New legislation allowed the freedom to form associations.¹³⁵ Since then, the number of organizations, including those working in the disability field, increased significantly. It is extremely difficult to estimate the number of organizations working for the benefit of people with disabilities, or within the community as a whole. Organizations are not obliged to state their profile while registering in the National Registration Court and furthermore, they do not have to inform the

¹³² National Report on Strategies for Social Protection and Social Inclusion 2006-2008", drafted by Ministry of Labour and Social Policy and accepted by Polish government on 9 October 2006, http://www.mps.gov.pl/integracja/pliki/NAP_2006_10_16_poRM.doc (Accessed July 30, 2007).

¹³³ . National Report on Strategies for Social Protection and Social Inclusion 2006-2008", drafted by Ministry of Labour and Social Policy and accepted by Polish government on 9 October 2006, http://www.mps.gov.pl/integracja/pliki/NAP_2006_10_16_poRM.doc (Accessed July 30, 2007).

¹³⁴ Krystyna Mrugalska, the president of the Polish Disability Forum and Polish Association for Persons with Mental Handicap, the member of National Consulting Council for Disability Issues, author interview, Warsaw 2007.

¹³⁵ The law on associations on 7 April 1989 (Official Journal No. 20, item 104).

Court of their dissolution.¹³⁶ Nevertheless, the Ministry of Labor and Social Policy estimates the number of various organizations involved in the disability field to be over 7,000.¹³⁷ According to author knowledge, about 3,000 of these groups consider themselves to be DPOs, and many of them undertake cross-disability actions. Examples of the well known organizations that work mostly for people with disabilities are: the Polish Society for Combating Disabilities, the Association of Friends of Integration, the Polish Federation of Associations of Unions of Disabled Persons, and the Wroclaw Council of People with Disabilities.¹³⁸

In 2003, new legislation was adopted¹³⁹ due to great involvement and effort by NGOs. The legislation increased the status of organizations by establishing the status of “public benefit organizations,” which have special privileges such as the possibility of receiving donations of 1 percent of income tax of individual people. It also created a new advisory and consulting body for the minister responsible for social protection, the Council for Public Benefit Activities (RDPP). However, it still does not solve some major problems.

Most existing organizations are rather small, lack influence, and act on a local level. Their infrastructure and staff is often insufficient, and operation is based on project funding that does not provide for stable development of infrastructure. Of course, there are some stronger and well-funded organizations, but they are not totally free from financial concerns either.

Most disability NGOs are active in social assistance, rehabilitation, and recreation, and are self-help oriented organizations. They are the largest service and consultation providers for their members or

¹³⁶ Information of the government of Polish Republic on activities undertaken in 2005 to realize the resolutions of the Charter of rights of People with disabilities, http://www.mps.gov.pl/_download.php?f=userfiles%2FFile%2FBON%2F864.pdf.

¹³⁷ Official webpage of Ministry of Labour and Social Policy, English version, <http://www.mps.gov.pl/indextxt.php?gid=385> (Accessed July 30, 2007).

¹³⁸ Contact details of listed organizations and many others is accessible on the NGO website: <http://bazy.ngo.pl> (Accessed July 30, 2007).

¹³⁹ Law on public benefit activity and voluntary work from 24 April 2003 with further amendments (Official Journal no 96, item 873).

clients, their families, and the integrated community. Human rights, equal opportunities, and integration are included in the statutes of most of those NGOs. However, the projects related to those areas are the least likely to be awarded by grant providers. Unfortunately, most of the organizations do not have sufficient resources, financial or human, to focus more on influencing general disability policy, active participation in social dialogue, social consultation, etc.¹⁴⁰

140 Author observation and general outcome of discussion with disability advocates.



RUSSIAN FEDERATION

Key Factors

Russia is the largest country in the world by land mass (17,098,242 km²) and has the world's ninth-largest

population (142. 499 000 people).¹ Administratively, the Russian Federation is divided into 86 subjects, consisting of the following: 21 republics, seven krais (federal territories), two federal cities, 48 regions, one autonomous region, and seven autonomous districts.² Since the dissolution of the USSR in 1991, Russia has struggled to build a democratic political system and market economy. As a result of positive legislative and administrative actions and the work of disability organizations over the past two decades, the overall living conditions and social status of people with disabilities has improved markedly. Despite this progress, much remains to be done to enable people with disabilities to reach their full potential, ensure the protection of their rights, and promote their integration into society.

Terminology

Terms used to describe people with disabilities include: “invalid” (person with disability), “slabovidjashiy” (person with visual impairment), “slepoy” (blind person), “slaboslyshashiy” (person

¹ United Nations Statistics Division, UN Demographic Yearbook, p. 9

<http://unstats.un.org/unsd/demographic/products/dyb/DYB2004/Table03.pdf> (Accessed, 16 April 2007).

United Nations, World Population Prospects The 2006 Revision, 2007, p. 40

http://www.un.org/esa/population/publications/wpp2006/wpp2006_highlights.pdf (Accessed, 30 May 2007)

² *The Constitution of the Russian Federation*, Article 65, First Section, Chapter 3, Internet Department of the Presidential Press and Information Office, President of Russia Official Web Portal, <http://www.kremlin.ru/eng/articles/ConstEng3.shtml> (Accessed, 25 May 2007).

with hearing impairment), “gluhoy” (deaf person), “nemoy” (dumb person), and “kolyasochnik” (handicapped). These words are used in a positive context, and are widely spread in colloquial speech and formal documents.

The most common term is “invalid,” which appeared in Russian in the eighteenth century and is accepted by the majority of people.³ “Invalid” has been translated in this report as a “person with disability.”

Definition of Disability

The definition of “a person with disability” is determined by the federal law: *On Social Protection of Persons with Disabilities in the Russian Federation*. Article 1 of the Law states: “a disabled person has impaired health with steady disorder of body functions caused by diseases, consequences of a trauma or defects, leading to limited vital activities and bringing the necessity of social protection.”⁴ The Law clarifies limited vital activities as complete or partial loss of the ability to serve oneself, move independently, orient oneself, communicate, control one’s own behavior, learn and/or work.⁵

A person is given disability status by the Bureau of Medical and Social Expertise, which is composed of doctors and rehabilitation specialists.⁶

Depending on one’s limitations on daily activities, an individual is classified as having a Group I, II, or III disability; all people with

³ *Reference book on social work*, 1997,116; Perspektiva Regional public organization of disabled people *Disabled people: language and gestures*, booklet, <http://www.perspektiva-inva.ru/index.php?id=297>, (Accessed, 23 August 2006).

⁴ *The Federal Law on social protection of persons with disabilities in the Russian Federation*, Article 1, November 24, 1995, N 181-FZ, Consultant Plus Legal server Consultant Plus, 1 June 2006, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57513;div=LAW;mb=LAW>, (Accessed, 1 July 2006).

⁵ Ibid.

⁶ *Resolution of the Government of the Russian Federation on the order of organization and activities of federal state institutions of medical and social expertise* December 16, 2004, N 805”, Consultant Plus Legal server ConsultantPlus,1 June 2005. <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=50733;div=LAW;mb=LAW>, (Accessed, 1 July 2006).

disabilities under the age of 18 are categorized as “children with disabilities.”⁷ Group I denotes severe disabilities, whereas Group III disabilities are more minor.⁸ Consider the example of a person with a mobile disability: if a person is unable to move, he or she has a Group I disability; if a person is able to move with the assistance of other people or with assistive technology (cane, crutches, etc.), he or she has a Group II disability; if a person is able to move independently but does it more slowly than people without disabilities, he or she has a Group III disability.

Following an assessment of doctors and rehabilitation specialists, individuals who are deemed to have a disability receive a certificate stating their disability and their corresponding group. This serves as a primary legal document that ensures an individual’s right to state subsidies, pensions, and benefits connected with the disability.

Disability Population

There are no reliable statistics regarding disability in Russia. The most recent National census was conducted in 2002 and included only one question connected with disability: “Do you receive a disability pension?”⁹

State statistics on disability are compiled annually based on government data. The main bulk of the information is prepared by the Ministry of Health and Social Development, the Pension Fund, and the Ministry of Education and Science.

⁷ *The rules of qualifying of a disabled person*, Item 7, Approved by the Resolution of the Government of the Russian Federation of 20 February 2006, N 95, 8 Consultant Plus, Legal server Consultant-Plus, March 2006, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=58610;div=LAW;mb=LAW>, (Accessed, 8 July 2006).

⁸ *Classifications and criteria used in the medical and social expertise of the citizens by the Federal state institutions of medical and social expertise*, Approved by the Order of the Ministry of Health and Social Development of the Russian Federation of 22 August 2005, N 535. Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=55572;div=LAW;mb=LAW>, (Accessed, 9 July 2006).

⁹ *A model for the All-Russian Census 2002*, Approved by the Order of the Government of the Russian Federation of 20 April 2002, N 537, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=249760;div=LAW;mb=LAW>, (Accessed, 20 August 2006).

Russia's population in 2005 was 143,474,200 people, out of which 11,484,000 people, or eight per cent, were persons with disabilities.¹⁰ Comparisons with figures from 2001, show that the total number of people with disabilities increased by less than 10 percent.¹¹ Data on the total disability population is incomplete because it is based exclusively on information about people with disabilities receiving a pension. Moreover, people with disabilities receiving certain kinds of pension (for example, pension for the loss of the bread-winner and long service pension) are not taken into account. Investigations conducted by the Central Research Institute of Expertise of Working Activities and Organization of Work of People with Disability suggest that up to 12 percent of all people with disabilities do not apply for the pension.¹²

In 2004, 1.18 percent of children up to the age of four years, and 2.15 percent of children between the ages five and 17 had a disability, according to official statistics.¹³ Independent specialists say that the true number of children with disabilities is much higher than the official figures, and includes no less than one million people.¹⁴

According to the data of the Federal Bureau of Medical and Social Expertise in 2005, 1.7 million people over the age of 18 were diagnosed as having a disability for the first time.¹⁵ Of them, 57.7 percent were women, 42.3 percent were men, 31.5 percent were of

¹⁰ Federal State Statistics Service, *Social state and the level of life of the people in Russia, 2005: Collected Statistics*, 2005, 48, 358.

¹¹ *Peculiarities of the general contingent of disabled people in the Russian Federation*, Medico-Social Expert Evaluation and Rehabilitation, N 4 2005, 3.

¹² Federal Scientific and Practical Center of Medical and Social Expertise, *Problems of disability in Russia: State and perspectives*, 2002, 9-10, (Since 2004, this Center has been called The Federal Bureau of Medical and Social Expertise).

¹³ *Written replies by the Government of the Russian Federation concerning the List of issues (CRC/C/Q/RUS/3) received by the Committee of the Rights of the Child relating to the consideration of the Third Periodic Report of the Russian Federation (CRC/C/125/Add/5)*, 2005, 2, 24, <http://www.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.RESP.94.pdf>, (Accessed, 15 July 2006).

¹⁴ *Comments to Russia's Federal 'Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child in 1998-2002'*, Russian NGOs' Alternative Report, 2005, 33, http://www.pravorebenka.narod.ru/docs/alt_report_rus_2005.doc, (Accessed, 15 July 2006).

¹⁵ Federal Bureau of Medical and Social Expertise, *Main indices of adult disability in the Russian Federation in 2005: Collected statistics*, 2006, 19

active age (women under 55, men under 60), and 68.5 percent were elderly.

Table I: Percentage of People over 18, first disability detected in 2005, by Causes of Disability¹⁶

#	Causes of Disability	%
1	Cardio-vascular diseases	54.7%
2	Malignant tumors	11.1%
3	Diseases of bones and muscular system	7.4%
4	Traumas, poisoning and other external effects	4.3%
5	Eye diseases	3.7%
6	Endocrine diseases	3.5%
7	Pulmonary diseases	3.3%
8	Psychic disorders	3.1%
9	Nervous diseases	2.6%
10	Tuberculosis	2%
11	Diseases received during the service in the army	1.1%
12	Disabled from childhood	0.9%
11	Ear diseases	0.7%
12	Occupational injuries	0.4%
13	Professional diseases	0.2%
14	Participation in liquidation of the aftermath of radio-active accidents and catastrophes ¹	0.1%
15	Traumas received by military men in conflicts	0.1%

In 2004, 84,585 children under 18 were qualified as having a disability.¹⁷ 54.5 percent were boys and 45.5 percent were girls.

¹⁶ Ibid, 9, 20

¹⁷ Federal Bureau of Medical and Social Expertise *Main indices of child disability in the Russian Federation in 2004. Collected statistics*, 11

Table II: Percentage of Children First Qualified as Having Disabilities in 2004 by Age and Causes of Disability¹⁸

Age	Total	% by Age	Causes of disability	% by causes of disability
0 – 3	29 078	34.4%	Congenital anomalies	20%
4 – 7	14 739	17.4%	Psychic disorders and behavior disorders	19.1%
8 – 14	26 147	30.9%	Nervous diseases	15.3%
15 and older	14 621	17.3%	Traumas	5.7%
			Diseases of bones and muscular system	5.5%
			Eye diseases and eye appendage diseases	5.5%
			Endocrine diseases, nutrition disorder and metabolism disorders	5.3%
			Tumors	3.4%
			Ear diseases and mastoiditis	3.2%
			Tuberculosis	2%
			Cardio-vascular diseases	1.5%

Analysis of numerous statistics of disability in Russia indicates that they adhere to the medical model of disability, and fail to elucidate approaches for developing and implementing state social policies for the disability population.¹⁹

Legislation and Disability Rights

National Protection

Articles 7 and 39 of the Russian Constitution state that all individuals

¹⁸ Ibid, 9, 11, 12, 13

¹⁹ Alexandr Lysenko, a leading specialist of All-Russian public organization of disabled people, Response sent by email, Moscow, Russia, 12 July 2006.

with disabilities receive social security.²⁰ The federal law *On Social Protection of Disabled Persons in the Russian Federation* was adopted in 1995, and was the first effort to codify the rehabilitation of people with disabilities.²¹

The Preamble to the law states:

The aim of the state policy in the sphere of social protection of disabled persons in the Russian Federation is to provide the disabled persons with equal opportunities with other citizens in realization of their civil, economic, political and other rights and freedoms in accordance with the Constitution of the Russian Federation and the principles and norms of the International Law and international treaties signed by the Russian Federation.²²

The law offers guidelines related to the following issues:

- competence of federal bodies of state authority and the bodies of state authority of the subjects of the Russian Federation in the sphere of social protection for people with disabilities (Art. 4, 5);
- competence of federal bodies of medical and social expertise (Art. 8);
- organizing and financing of rehabilitation of people with disabilities (Art. 9 – 11.1);
- rendering medical assistance to people with disabilities (Art. 13);
- ensuring unhindered access to sources of information (Art. 14);
- ensuring unhindered access of people with disabilities throughout mainstream society (Art. 15, 16);
- providing housing for people with disabilities (Art. 17, 28.2);

²⁰ *The Constitution of the Russian Federation*, 14 October 2005, Consultant Plus, Legal server Consultant Plus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=2875;div=LAW;mb=LAW>, (Accessed, 15 July 2006).

²¹ Federal Scientific and Practical Center of Medical and Social Expertise, *Problems of disability in Russia: State and perspectives*, 2002, 98.

²² *Law on social protection of persons with disabilities in the Russian Federation*.

- educational services for people with disabilities (Art. 18, 19)
- employing people with disabilities (Art. 20 – 24);
- providing social amenities for people with disabilities (Art. 28);
- endowments for people with disabilities (Art. 27, 28.1);
- peculiarities of the legal status of public disability organizations (Art. 33).²³

In addition, many national laws contain provisions concerning people with disabilities and their rights. These include federal laws on retirement pensions, veterans, and social services for people with disabilities and older people.

- *The Laws On Retirement Pensions in the Russian Federation, On State Pension Security in the Russian Federation, On Pension Security of Persons who Served in the Army, in Law Enforcement, in State Firefighting Service, Anti-Drug Services, in Departments of Penitentiary System, - and Their Families* regulate the order of fixing and payment of disability pension to various categories of people with disabilities.²⁴
- The Federal Law *On State Social Assistance* regulates the order of providing people with disabilities with a set of social services (including free of charge medication, free of charge vouchers to health resorts, free of charge trips on local trains,

²³ "Ibid

²⁴ *The Federal Law of 17 December 2001 on retirement pensions in the Russian Federation*, N173-FZ, Articles 8, 15, Consultant Plus, Legal server ConsultantPlus
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=60688;div=LAW;mb=LAW>, (Accessed, 19 June 2006),

The Federal Law of 15 December 2001 on state pension security in the Russian Federation, N166-FZ, Articles 3, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18,
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=49361;div=LAW;mb=LAW>, (Accessed, 1 January 2005),

The Law of the Russian Federation of 12 February 1993 on pension security of persons, who served in the Army, in law enforcement, in State Firefighting Service, anti-drug services, in departments of penitentiary system, - and their families, N 4468-1,
<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=58238;div=LAW;mb=LAW>, (Accessed, 26 June 2006).

and free of charge long-distance trips to the place of treatment and back).²⁵

- The Federal Law *On Veterans* lists benefits for persons becoming disabled in armed conflicts (Art. 14).²⁶
- The law of the Russian Federation *On Social Protection of Citizens Exposed to Radiation as a Result of the Accident at Chernobyl Atomic Power Station* establishes categories of citizens who became disabled due to the accident at Chernobyl (Art. 13), and a list of benefits for these persons (Art. 14).²⁷
- The Federal Law *On Social Service for Elderly and Disabled People* establishes the rules of social service for disabled persons, including the rules of work for institutions and the legal status of disabled persons living there.²⁸ It is the only Law which contains special norms protecting disabled persons from violence (Art. 7, 12, 21). The norms refer to disabled persons living in the institutions.
- The Labor Code of the Russian Federation establishes benefits for people with disabilities in the sphere of work and employment (Art. 92, 94, 96, 99, 113, 128, 179, 224).²⁹

²⁵ The Federal Law of 17 July 1999 on state social assistance, , N178-FZ, Articles 6.1, 6.2, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=49260;div=LAW;mb=LAW>, (Accessed, 1 January 2005).

²⁶ The Federal Law of 12 January 1995 on veterans, N 5-FZ, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57188;div=LAW;mb=LAW>, (Accessed, 1 February 2006).

²⁷ The law of the Russian Federation of 15 May 1991 on social protection of citizens, exposed to radiation as a result of the accident at Chernobyl Atomic power Plant,, N 1244-1, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=61661;div=LAW;mb=LAW>, (Accessed, 20 July 2006).

²⁸ The Federal Law of 2 August 1995 on social service of elderly and disabled people, , N 122-FZ, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=49314;div=LAW;mb=LAW>, (Accessed, 1 January 2005).

²⁹ The Labor Code of the Russian Federation, Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=53330;div=LAW;mb=LAW>, (Accessed, 12 August 2005)

All subjects of the Russian Federation issue local disability regulations and some local authorities are taking more initiative to produce supplementary policies. For example, Moscow enacted the disability law *On additional measures of social support of disabled persons and other people with limited abilities in the city of Moscow*. A similar law is in place in the Vologda region.³⁰

International protection

Russia has signed and ratified the following conventions and international agreements:

- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination Against Women;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Rights of the Child.³¹

30 *The law of Moscow of 26 October 2005 on additional measures of social support of disabled persons and other people of limited abilities in the city of Moscow* T N 55, 9 January 2006, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=MLAW;n=67985;div=LAW;mb=LAW>, (Accessed, 26 July 2006)

Alexandr Lomakin-Rumyantsev, *Results of monitoring of the state of social protection of disabled persons in the subjects of the Russian Federation in 2005 (based on the materials of the All-Russian organization of disabled people)*, Analytical bulletin of the Council of Federation, N 4, 292, 2006, 30 http://www.council.gov.ru/inf_sl/bulletin/item/250/index.html, (Accessed, 26 July 2006).

31 Office of the United Nations High Commissioner for Human Rights, *International Covenant on Civil and Political Rights*, Russian Federation, http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/80256404004ff315c125638b005f1bc9?OpenDocument#_Section1, (Accessed, 30 August 2006); *International Covenant on Economic, Social and Cultural Rights*, Russian Federation, <http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/80256404004ff315c125638b005e3d7d?OpenDocument>, (Accessed, 30 August 2006); *International Convention on the Elimination of All Forms of Racial Discrimination*, Russian Federation, <http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/80256404004ff315c125638b005eb8f1?OpenDocument>, (Accessed, 30 August 2006); *Convention on the Elimination of All Forms of Discrimination against Women*, Russian Federation, <http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/80256404004ff315c125638b005e0ec0?OpenDocument>, (Accessed, 30 August 2006); *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Russian Federation, <http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/>

Russia supports the “Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.” It also supports the “Standard Rules on the Equalization of Opportunities for Persons with Disabilities.” Russia has incorporated the Standard Rules into certain elements of current legislation.³²

On the regional level, Russia signed and ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms.³³ In 2000, Russia signed the revised version of the European Social Charter of 1996, but has not yet ratified it.³⁴

Russia supported the development of the Convention of the Rights of Persons with Disabilities.³⁵ A Russian delegation composed of representatives from the All-Russian Society of the Deaf Persons participated in the Ad Hoc Committee meetings.³⁶

Legal Barriers

Russian law does not prohibit discrimination against people with disabilities.³⁷ In fact, certain legal barriers impede participation of individuals with disabilities in mainstream society. The list of diseases with which a person can not adopt a child, become a guardian (trusteeship), become a foster parent, approved by the Decision of the Government of the Russian Federation , includes

80256404004ff315c125638b005e84f5?OpenDocument (Accessed, 30 August 2006); *Convention on the Rights of the Child, Russian Federation*, <http://www.unhchr.ch/tbs/doc.nsf/22b020de61f10ba0c1256a2a0027ba1e/35fd5515aaf9afcac1256b670064d9c6?OpenDocument>, (Accessed, 30 August 2006).

32 *Problems of disability in Russia. State and perspectives*,” 122 -125.

33 Council of Europe, Official Treaty web site, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=7&DF=8/30/2006&CL=ENG>, (Accessed, 30 August 2006).

34 Council of Europe, *The implementation of the European Social Charter in the Council of Europe's member states, Russia*, http://www.coe.int/t/e/human_rights/esc/5_survey_by_country/Russia_Fiche_2005.asp#TopOfPage, (Accessed, 31 August 2006).

35 Disabled Peoples' International, *Disability Negotiations Daily Summaries*, Second Session of the Ad Hoc Committee, 19 June 2003, Volume 2, N4, 3 http://v1.dpi.org/files/uploads/adhoc2/190603_gb.doc, (Accessed, 31 August 2006).

36 A reply of the Ministry of Foreign Affairs of 4 July 2006, N 5236/grny.

37 A Special report of the Ombudsman of the Russian Federation *Rights and opportunities of disabled persons in the Russian Federation*, 2001, <http://ombudsman.gov.ru/doc/spdoc/0101.shtml> (Accessed, 28 July 2006)

people with disabilities classified as Groups I or II status who cannot work³⁸

According to the Civil Code, a person declared by a court as lacking legal capacity to act due to a mental disorder receives guardianship.³⁹ The wish of a disabled person is not taken into consideration when appointing guardianship, as it is assumed that he or she cannot understand the significance of his or her actions or control them.⁴⁰

If a person is declared legally incompetent due to a psycho-social disability, he or she cannot choose where to live, conduct transactions, marry, adopt children, work, vote, or appeal in a court of law.⁴¹ Russian law considers only full incapacity of persons with psycho-social disabilities and does not implement individually-tailored guardianship programs, such as partial guardianship. According to independent experts, this is a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms.⁴²

³⁸ *List of diseases with which a person can not adopt a child, become his/her guardian (trusteeship), accept in a foster family*, Approved by the Decision of the Government of the Russian Federation of May 1, 1996, N 542, 19 March 2001, Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=10265;div=LAW;mb=LAW>, (Accessed, 28 July 2006).

³⁹ *The Civil Code of the Russian Federation*, Part 1, Article 32 Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=60733;div=LAW;mb=LAW>, (Accessed, 11 June 2006).

⁴⁰ *Ibid*, Article 31; *the Civil Law*, Moscow State University, Textbook, 2000, V 1, 142.

⁴¹ *The Civil Code of the Russian Federation*, Articles 20, 29:

The Family Code, Articles 14, 127

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=60687;div=LAW;mb=LAW>, (Accessed, 20 June 2006).

Alexey Guev, *Clause-by-clause commentaries to the Labor Code of the Russian Federation*, 2003, 79; *Federal Law of 12 June 2002 on main guarantees of voters' rights and the right to participate in referendum of the citizens of the Russian Federation*, N 67-FZ, Article 4, 1 January 2006 Consultant Plus, Legal server ConsultantPlus,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=56598;div=LAW;mb=LAW>, (Accessed, 20 June 2006); *The Civil Procedural Code of the Russian Federation*, Article 37, 1 January 2006,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57452;div=LAW;mb=LAW>, (Accessed, 20 June 2006).

⁴² Mental Disability Advocacy Center, *Russia's guardianship system challenged at the European Court of Human Rights*, Press Release, April 8 2005, <http://www.mdac.info/>, (Accessed, 20 June 2006).

Civic Participation

According to current voter and election laws, disability is not an obstacle for citizen participation in elections.⁴³ The law establishes rules to facilitate voting among individuals with disabilities. If a person cannot fill out a voting paper independently, he or she has the right to use the help of an elector. A person who is physically unable to come to the polling station can vote at home.⁴⁴

Despite existing guarantees, accessibility remains a major obstacle to voting. No more than 20 percent of polling stations are located in accessible buildings. There is no information about election campaigns or materials in alternative formats. Furthermore, there are no technical means or accommodations to help voters with disabilities fill out voting papers independently.⁴⁵

According to the Constitution and current voter and election laws, "Citizens who are recognized as incapable by a court, and citizens who are kept in places of imprisonment under a court sentence, shall not have the right to elect and be elected."⁴⁶

Inclusion

Communication

According to federal law, the state shall guarantee people with disabilities the right to receive necessary information.⁴⁷ People with visual disabilities are entitled to receive documents in alternative

⁴³ *The Federal Law of 12 June 2002 on main guarantees of voters' rights and the right to participate in referendum of the citizens of the Russian Federation*, N 67-FZ, Article 4.

⁴⁴ *Ibid*, Articles 64, 66

⁴⁵ Panel Discussion for leaders of public organizations of disabled persons, Moscow, Russia, 29 June 2006.

⁴⁶ *The Constitution of the Russian Federation*, Article 32, First Section, Chapter 2, Internet Department of the Presidential Press and Information Office, President of Russia Official Web Portal, <http://www.kremlin.ru/eng/articles/ConstEng2.shtml>, (Accessed, 13 July 2007);

The Federal Law of May 18, 2005 on Election of the Deputies of the State Duma of the Federal Assembly No. 51-FZ

Assembly <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=65022;div=LAW;mb=LAW;opt=1;ts=1494CFFE9B0C2B656D30AC21681D3D24>, (Accessed, 13 July 2007)

⁴⁷ *Law on social protection of persons with disabilities in the Russian Federation*

formats (e.g., Braille books, cassettes, open reels) at certain state and public libraries.⁴⁸

The Russian State Library for the Blind, in Moscow, is a scientific and methodological center for a network of 72 specialized state libraries for the blind country-wide.⁴⁹ In Russia, the Constitution was released in the following alternative formats: six Braille editions, two talking editions on audiocassette, and one edition in large print.⁵⁰

Sign language is recognized as an official form of communication.⁵¹ One state television channel subtitles the news twice daily, although it does not offer this accommodation for its main newscast in the evening.⁵²

The government plans to establish a strategy through which people with speech or auditory disabilities can communicate with authorities during a natural disaster, civil emergency or criminal assault.⁵³ Until this plan is implemented, people with disabilities must rely on volunteers or relatives for communication.

According to the Criminal Procedural Code, the Civil Procedural Code, and the Code of Administrative Offense, individuals who communicate primarily using sign language have the right to utilize

⁴⁸ *The Federal Law of 29 December 1994 on librarianship* No. 78-FZ, (Article 8), 1 January 2005, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=49438;div=LAW;mb=LAW>, (Accessed, 3 August 2006).

⁴⁹ The chief data-processing center of the Federal Agency on culture and cinema, An information portal of special libraries for the blind, 9 June 2006, <http://www.rusblind.ru/index.php>; (Accessed, 3 August 2006); Tatjana Efimova, Deputy director on library work at the Russian State Library for the Blind, interview by author, Moscow, Russia, 31 May 2006.

⁵⁰ The results of search in a Unified electronic catalogue of specialized libraries for the blind of the Russian Federation, 31 May 2006, <http://212.45.26.197/pioner/d1.asp>, (Accessed, 3 August 2006).

⁵¹ *Law on social protection of persons with disabilities in the Russian Federation*, Article 14, (Accessed, 1 July 2006).

⁵² Channel One Russia, Programs, <http://www.1tv.ru/>, (Accessed, 3 August 2006).

⁵³ A reply of the Ministry of the Russian Federation on civil defense, extraordinary situations and liquidation of consequences of natural disasters of 11 July 2006, N 16-1-1163.

an interpreter for criminal or civil court proceedings, as well as in cases concerning administrative offenses.⁵⁴

Education

According to federal education laws, citizens are guaranteed the right to an education regardless of their disability, however, there are some limitations regarding the right to vocational training.⁵⁵

In the 2001-02 school year, 19,843,000 children of school age (ages seven to 17) were enrolled in school.⁵⁶ 267,250, or 1.35 percent, had a disability. 125,000 children with disabilities attended mainstream schools, while approximately 31,000 studied at home.⁵⁷ The approximate estimates hold that 110,950 children with disabilities studied at special schools and/or classes intended specifically for students with special needs.⁵⁸

⁵⁴ *The Criminal Procedural Code*, Articles 18, 59, *Consultant Plus*, *Legal server ConsultantPlus*, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=61943;div=LAW;mb=LAW>, (Accessed, 4 August 2006); *Civil Procedural Code* Articles 9, 97, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57452;div=LAW;mb=LAW>, (Accessed, 1 January 2006) *Code of Administrative Offence*, Articles 24.2, 25.10, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=61331;fld=134;dst=4294967295;div=LAW;from=61154-0>, (Accessed, 1 July 2006).

⁵⁵ *The Law of the Russian Federation of 10 July 1992 on education*, N 3266-1, Article 5, *Consultant Plus*, *Legal server ConsultantPlus*, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=61463;div=LAW;mb=LAW>, (Accessed 1 July 2006).

⁵⁶ Federal State Statistics Service, *Social conditions and the living standard of people of Russia. 2005: Russian Statistics*, 2005, 376

⁵⁷ *Written replies by the Government of the Russian Federation concerning the List of issues (CRC/C/Q/RUS/3) received by the Committee of the Rights of the Child relating to the consideration of the Third Periodic Report of the Russian Federation (CRC/C/125/Add/5)*, 2005, 24, <http://www.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.RESP.94.pdf> (Accessed, 10 April 2007).

⁵⁸ The calculation was made in the following way – from the total number of disabled children of school age there was deducted the number of children receiving education at general schools and at home, as well as those who do not get any education (Calculation was done by author. Calculation is based on information from the footnotes 62, 60, 63. Concrete numbers are represented in main text.).

In total, there were 467,251 children with disabilities of school age in 2001-02.⁵⁹ As human rights organizations reported, approximately 200,000 children with disabilities did not receive education.⁶⁰ For example, according to the Ministry of Education's 2003 figures for the Saratov region, out of the 5,788 school age children with disabilities, only 2,200 children had formal study; in the Magadan region, only 235 out of 752 children with disabilities received schooling.⁶¹

Students with disabilities have the right to study secondary school coursework at their residence.⁶² In practice, this means that mainstream secondary schools are attended primarily by students with disabilities who can participate in school work without additional assistance.⁶³

In Russia, little progress has been achieved in the sphere of inclusive education.⁶⁴ The Institute of Correctional Pedagogic of the Russian Academy of Education developed a Russian concept of inclusive education of children with disabilities.⁶⁵ In some regions, inclusive schools have been organized as part of an experimental effort.⁶⁶ The official position regarding inclusive education states:

⁵⁹ *Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child in 1998-2002*, 2004, 35, items 186, 187
[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/bb8eec5d7497ba60c1256fdc0052adcb?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/bb8eec5d7497ba60c1256fdc0052adcb?Opendocument), (Accessed, 8 August 2006).

⁶⁰ *Special report of the Ombudsman of the Russian Federation On observing the rights of disabled children in the Russian Federation*, 2006, <http://ombudsman.gov.ru/doc/spdoc/0206.shtml>, (Accessed, 8 August 2006).

⁶¹ *Comments to Russia's Federal 'Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child in 1998-2002'*, Russian NGOs' Alternative Report, 2005, 39, http://www.pravorebenka.narod.ru/docs/alt_report_rus_2005.doc, (Accessed, 15 July 2006).

⁶² *Law on social protection of persons with disabilities in the Russian Federation*, Article 18, *Law On Education*, Article 16

⁶³ *Comments to Russia's Federal 'Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child in 1998-2002'*, 36 (Accessed, 15 July 2006)

⁶⁴ *Children and Disability in Transition in CEE/CIS and Baltic States*, UNICEF Innocenti Research Center, 2005, 20, http://www.unicef-icdc.org/cgi-bin/unicef/main.sql?menu=/publications/menu.html&testo=download_insert.sql?ProductID=387, (Accessed, 8 August 2006).

⁶⁵ Federal Scientific and Practical Center of Medical and Social Expertise, *Problems of disability in Russia. The present state and perspectives*, 2002, 298

⁶⁶ *Ibid.*, 302

“Due to objective reasons at present it is impossible and pointless to reduce the number of special schools following the example of western developed countries. In the Russian Federation special schools remain the basic type of educational

organizations for disabled children, because only they have successful experience in special education for these children, and they have skilled specialists in defectology.”⁶⁷

A legal, normative, and methodological basis for inclusion has not yet been developed or implemented, nor have there been systematic efforts to train and organize specialists in this area.⁶⁸

According to federal law, special schools serve children with auditory, visual, mobility, speech, and intellectual disabilities.⁶⁹ Children with disabilities are assigned to special schools only with consent from their parent(s) or guardian(s). In order to be admitted to a special school, it is necessary to obtain an assessment from a commission of psychological, medical, and pedagogical professionals as to whether it is necessary for the child to attend the school in question.⁷⁰ As of the 2004-05 school year, there were 1,967 special schools and 19,018 special classes in the country.⁷¹

According to the federal law *On Social Protection of Persons with Disabilities in the Russian Federation*, children with disabilities who are unable to study in mainstream or special schools for health reasons shall receive alternative services. The Government provides them with full, general or special home education using a full, general or individual curriculum. Teaching at home is carried out only with the parents' consent.⁷²

⁶⁷ Ibid, 303

⁶⁸ *On observing the rights of disabled children in the Russian Federation*

⁶⁹ *Standard provision on special (corrective) educational organizations for pupils with special needs*, . Approved by the Decision of the Government of the Russian Federation of 12 March 1997, N 288, 22 February 2005 Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=51873;div=LAW;mb=LAW>, (Accessed, 8 August 2006).

⁷⁰ *Law on education*, Article 50

⁷¹ *Social conditions and the living standard of people of Russia, 2005: Russian Statistics*, 378.

⁷² *Law on social protection of persons with disabilities in the Russian Federation*, Article 18,

Russian law guarantees people with disabilities the right to primary and secondary vocational training and the right to higher education.⁷³ The Ministry of Health and Social Development has 42 special educational organizations to provide primary and secondary level vocational training to people with disabilities. These include 11 federal colleges as well as 31 local vocational schools and technical colleges. Programs include 34 specialties of primary vocational training and 29 specialties of secondary vocational training.⁷⁴ According to independent experts, Russia lacks a vocational and social rehabilitation system for teenagers and young people with autism or others requiring intense support.⁷⁵

18 universities have special faculties, centers, or groups for teaching people with disabilities. Also established is the Moscow Special Institute for People with Mobile Disability.⁷⁶ During the 2002/03 school year 11,949 students with disabilities attended Russian universities.⁷⁷

Under the decision of the panel of the Ministry of Education, teachers at most pedagogical institutions receive training for work with children with disabilities, as of 1996.⁷⁸ In 2005, the teachers' curriculum was supplemented by a new section, *Fundamentals of Special Pedagogic and Psychology*.⁷⁹ There are currently 94 organizations offering auxiliary vocational training on corrective pedagogies such as speech therapy, teaching students who are blind, and psychology, among others. Teachers can also receive secondary specializations

⁷³ *Law on Education*, Article 5

⁷⁴ Federal Bureau of Medical and Social Expertise, *Legal, organizational and methodical basis of rehabilitation of disabled people*, 2005, 386

⁷⁵ Dimenstein Roman, Larikova Irina *Lost children. The position of a "special" child in the capital: view from inside*, School review, N 3, 2005, 5.

⁷⁶ *Problems of disability in Russia. State and perspectives*, 310

⁷⁷ Federal State Statistics Service, *Education in Russia. 2003: Russian statistics*, 2003, 279.

⁷⁸ Boris Belyavsky. Deputy Chief of the Department of Protection of Childhood and Special Education, The Ministry of Education and Science of the Russian Federation, response sent by email 22 August 2006, Moscow, Russia.

⁷⁹ Information from the analysis of the State standards of higher professional education of teachers: State research institute of information technologies and telecommunications, Federal portal, "Russian Education, the State educational standards of higher professional education (e.g. The teacher of Russian and literature, The teacher of geography, The teacher of physical training)," <http://www.edu.ru/db/portal/spe/index.htm>, (Accessed, 10 August 2006).

in these fields through correspondence courses via 36 universities. The government funds training for teachers who are employed by schools for students with special needs.⁸⁰

According to the author's observation, most mainstream schools are not accessible.

Employment

The Russian Constitution secures the right of every citizen to a free choice of types and forms of labor: "Labor is free. Everyone shall have the right to freely use his labor capabilities to choose the type of activity and profession."⁸¹ In accordance with the Labor Code, persons with disabilities are entitled to privileges in the sphere of work and employment.⁸² For example, the standard length of the working time (40 hours per week) shall be reduced by five hours per week for employees who are classified as having a group I or II disability.

There are no official statistics on disability and employment in Russia.⁸³ According to data from the Federal Service of Labor and Employment, 70 percent of the disability population in Russia is unemployed.⁸⁴ Other scientific research indicates that 62.6 percent of all people with disabilities need vocational rehabilitation.⁸⁵

According to Article 21 of the Federal Law: *On Social Protection of Disabled People in the Russian Federation*, public and private enterprises with more than 100 staff are given a quota by the subjects of the Russian Federation for employing disabled people: no less than two percent, and no more than four percent of the staff.⁸⁶ This

⁸⁰ Boris Belyavsky.

⁸¹ *The Constitution of the Russian Federation*, Article 37

⁸² *The Labor Code of the RF*, Articles 92, 94, 96, 99, 113, 128, 179, 224, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=53330;div=LAW;mb=LAW>, (Accessed, 12 August 2006).

⁸³ *Legal, organizational and methodical basis of rehabilitation of disabled people*, 393.

⁸⁴ Official of the Federal Service of Labor and Employment, response sent by email, 7 September 2006, Moscow, Russia.

⁸⁵ *The conditions of life of disabled people in the Russian Federation*, 154

⁸⁶ *Law on social protection of disabled persons in the Russian Federation*

quota system, however, has not made an appreciable difference on the work situation for people with disabilities.⁸⁷ In practice, most employers want to dodge fines and arrange fictitious labor agreements with people with disabilities. People with disabilities do not work, but in accordance with these agreements receive a small sum of money.⁸⁸

Employment Centers of the Population, the public offices responsible for handling issues pertaining to disability and employment, are affiliated with the State Employment Service (SES). The service consults the disability population regarding employment issues and organizes training courses.⁸⁹ In 2004, the SES gathered the following data regarding people with disabilities: 166,570 were unemployed, 9,687 received training, and 64,298 found employment.⁹⁰ It is important to note that these Employment Centers are often inaccessible to people with disabilities and also lack disability specialists on their staff.⁹¹

There are specialized enterprises that primarily employ people with disabilities. These enterprises are supported by the state, and greater assistance is given to those established by the All-Russian Societies of Disabled People. Between 2006 and 2010, there are plans to transfer € 63.2 million to the All-Russian Societies of Disabled People to support these tax-exempt enterprises.⁹²

87 Mihail Novikov, Natalya Prisetskaya and Vyacheslav Kotov, *Forming a model of employment of young disabled people. Booklet on the results of the project*, 2006, 45, 73 <http://rabota.perspektiva-inva.ru/?143>, (Accessed, 13 August 2006)

88 Maxim Topilin. Head of the Federal Service of Labor and Employment, *Disabled person on the labor market*, Country and we, N 3, 2006

89 *Problems of disability in Russia. State and perspectives*, 194 – 195.

90 Federal State Statistics Service, *Social state and the level of life of the people in Russia. 2005: Collected Statistics*, 2005, 107

91 Mikhail Novikov, *A manager of the project, Creating a Job Placement Model for Young Disabled People*, Regional public organization of disabled people, “Perspektiva,” interview by author, Moscow, Russia, 16 June 2006.

92 *Federal special purpose program: Social support of disabled persons in 2006 – 2010.*, Approved by the Decision of the Government of the Russian Federation of 29 December 2005, N 832, Chapter 5, 10 January 2006, Consultant Plus Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57780;div=LAW;mb=LAW> , (Accessed, 13 August 2006).

There are no federal programs that provide people with disability to full access of services of Employment Centers of the Population. Efforts are being made to establish an effective quota system and create additional workplaces for people with disabilities, though current systems are still not comprehensive. As a result, only a small percentage of disabled people can be employed through government structures.⁹³

There are NGOs that handle issues related to employment and disability. In Moscow alone there are 25 private organizations working in this sphere.⁹⁴ However, the activities of NGOs have yet to produce desired results. The main obstacles are the lack of awareness of disability issues, the shortage of accessible transportation, and employers' refusal to provide reasonable accommodations.⁹⁵

Sheltered employment is offered through treatment and vocational workshops, which are organized at state institutions and psycho neurological facilities, as well as NGOs. There is no information on the number of people with disabilities participating in these programs. Russian law specifies that such training should be carried out at state work and treatment workshops.⁹⁶

⁹³ Mihail Novikov, Natalya Prisetskaya and Vyacheslav Kotov, 42, 45, 51, 73, 121, 138, (Accessed, 13 August 2006);

Mikhail Novikov, interview by author, Moscow, Russia, 16 June 2006.

⁹⁴ *Reference book of enterprises and organizations, which use labor of disabled people*, Committee of public relations of Moscow, 2005, 8 – 20

⁹⁵ Panel Discussion for leaders of public organizations of disabled persons, Moscow, Russia, 29 June 2006.

⁹⁶ *The rules of participation of elderly and disabled people, living in stationary institutions of social service, in treatment and work activities*, Approved by the Decision of the First Deputy Prime Minister of Moscow of 25 March 1996, N 346-P3П, 5 August 2006, Consultant Plus, Legal server ConsultantPlus

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=MLAW;n=3084;div=LAW;mb=LAW> (Accessed, 15 August 2006);

Provision on treatment and work state enterprises for labor therapy, training in new specialties and employment at these enterprises of the people with psychic disorders, including disabled people, Approved by the Decision of the Government of the Russian Federation of 25 May 1994, N 522, item 1, 5 August 2006,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=3822;div=LAW;mb=LAW>, (Accessed, 15 August 2006).

Since 2001, the majority of disability pensions have been fixed according to the Degree of Limitation of Work Abilities (DLWA).⁹⁷ Since 2005, most federal benefits for people with disabilities have been replaced by a monthly cash allowance (MCA), which is determined by DLWA.⁹⁸ The pension and MCA are calculated with respect to the degree of limitations faced by an individual. Pensions for people with disabilities are typically quite low.

MCAs range from 800 to 2000 Rbs.⁹⁹ Part of the sum of MCA (450 Rbs) is kept back by the government to pay for the assortment of social services which included: free of charge medication, vouchers to sanatorium-and-spa treatment, free trips by a local commuter train, or travel costs to and from the treatment site. A person with disabilities can refuse from getting these services (in full or partially) and receive MCA net, without any deduction. But, an MCA does not equate to the commercial value of these services.

⁹⁷ *Law on retirement pensions in the Russian Federation*, Article 8, 15, (Accessed, 19 June 2006); *Law On state pension security in the RF*, Article 3, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18. (Accessed, 25 June 2006).

⁹⁸ *Law on introducing changes in acts of legislation of the Russian Federation and acknowledging invalid some acts of legislation of the Russian Federation in connection with the adoption of federal laws*, *Law On general principles of organization of legislative (representative) and executive government bodies of the subjects of the Russian Federation*, and *Federal Law of 22 August 2004, On general principles of organization of local government in the Russian Federation*, N122-FZ, 1 July 2006, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=59267;div=LAW;mb=LAW>, (Accessed, 15 August 2006).

⁹⁹ *Law on social protection of disabled persons in the Russian Federation*, Article 28.1; *Law On veterans*, Article 23.1, *Law On social protection of citizens, exposed to radiation as a result of the accident at Chernobyl Atomic power Plant*, Article 27.1; *Law On state social assistance*, Article 6.1, 6.2

Table IV: The average amount of some pensions paid to people with disabilities and living wages as of the end of 2004.¹⁰⁰

(The chart shows the living wage established by the Government of the Russian Federation)

Type of pension	Amount of pension (in Euro.)	Living wage of a pensioner (in Euro.)
Persons with the III grade of DLWA	60	
Persons with the II grade of DLWA	44	
Persons with disability from childhood with the III grade of DLWA	38	49
Persons with disability from childhood with the II grade of DLWA	38	

According to independent specialists, the existing pension system establishes an extremely low level of pension security for the majority of the disability population. It will continue to provide inadequate assistance in the foreseeable future unless significant changes are made.¹⁰¹

In Russia, there are approximately 95,000 children with high support needs, and/or multiple disabilities.¹⁰² Most families with such children find themselves in difficult socio-economic conditions.¹⁰³ A child with a disability is entitled to a social pension of approximately € 44, as well as a monthly social allowance of € 29, which is three times less than the cost of living.¹⁰⁴ For children residing in special facilities (e.g., institutions), the state provides a monthly allowance of € 412.

¹⁰⁰ Ministry of health and social security of the Russian Federation, *Information on the average amount of disability pension*, 12 September 2005 http://www.mzsrff.ru/inform_fz/84.html, (Accessed, 15 August 2006); *Social state and the level of life of the people in Russia. 2005: Collected Statistics*, 2005, 158.

¹⁰¹ Mikhail Zakharov and Elvera Tuchkova, 225.

¹⁰² *On observing the rights of disabled children in the Russian Federation*

¹⁰³ *Comments to Russia's Federal "Third Periodic Report on Realization in Russian Federation of the Convention on the Rights of the Child in 1998-2002,"* 32, 35, 42, 43, (Accessed, 15 July 2006).

¹⁰⁴ *Ibid*, 34

The majority of children with high support needs and/or multiple disabilities are not admitted to kindergarten or primary school. Those able to gain admission in special schools typically have no option but to attend a program far from their place of residence. As a result, most mothers of such children do not work; rather, they stay at home to care for their offspring.

In theory, the existing law to protect people with disabilities seeks to provide partial compensation for rehabilitation and education to parents of children with disabilities. However, as a result of the following legal reforms of 2004, opportunities to receive such compensation are considerably restricted:

1. The legal grounds for rehabilitation compensation payments to the parents of disabled children are stated in the *Federal*

List of Rehabilitation Actions, Means of Rehabilitation and Free-of-charge Services, which provides rehabilitation and free-of-charge services which can be potentially used by a person with a disability. The List does not include financing of the rehabilitation measures which are vitally important for the rehabilitation of the majority of disabled children, and consequently it is not possible for parents to receive compensation payment from the federal budget.

2. Introduction of changes into Article 18 of the Federal Law *On Social Protection of Disabled Persons in the Russian Federation* abolished federal obligation to define the way for parents to receive education compensation. Now the way and amount of the compensation is established by each subject of the Russian Federation depending on its financial means. Strong “geographical” inequality in receiving compensation for education for children with disabilities is the natural outcome of such a reform. Besides, a regulation about the compensation of expenses on education at non-governmental educational institutions was entirely excluded.¹⁰⁵

¹⁰⁵ Ibid, 32, 35, 42, 43

Health Services

Russian law mandates that all citizens hold state medical insurance.¹⁰⁶ This is intended to ensure free and equal medical care to all citizens. This insurance program covers both out-patient and in-patient treatment of various conditions, as well as necessary medications in hospitals.¹⁰⁷

The state also provides additional financing for treatment of people with disabilities, which are funded by the federal budget.¹⁰⁸ This helps to provide the disability population with free additional care, medications at out-patient treatment facilities, vouchers for sanatorium-and-spa treatment, and long-distance public transportation to and from the treatment site.¹⁰⁹

According to available research, 97.7 percent of adults with disabilities and 100 percent of children with disabilities need medical rehabilitation.¹¹⁰ The state system for medical rehabilitation includes more than 40 hospitals, 820 departments and rooms (cabinets) of medical rehabilitation, specialized out-patient and in-patient treatment centers, 149 medical exercise dispensaries, 470 tuberculosis prophylactic centers, 170 psycho neurologic dispensaries, 600 sanatoriums, and 400 rehabilitation centers

¹⁰⁶ The Law of the Russian Federation of 28 June 1991 on medical insurance of citizens of the RSFSR, N 1499-1, Article 1, 9, 27, 23 December 2003, *Consultant Plus, Legal server ConsultantPlus* <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=45802;div=LAW;mb=LAW> (Accessed, 18 August 2006).

¹⁰⁷ "The program of state guarantees of rendering free medical care to the citizens of the Russian Federation in 2007," approved by the Decision of the government of the Russian Federation of 30 December 2006, N 885, *Consultant Plus, Legal server ConsultantPlus*, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=65871;fld=134;dst=100014;div=LAW> (Accessed, 13 May 2007).

¹⁰⁸ Ibid.

¹⁰⁹ *Law on state social security*, Article 6.1, 6.2, (Accessed, 25 July 2006);

The rules of rendering an assortment of social services, Approved by the Ministry of Health Care and Social Development of the Russian Federation of 29 December 2004, N 328, 25 July 2006, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=61365;div=LAW;mb=LAW>, (Accessed, 18 August 2006).

"*The rules of rendering primary medical and sanitary care to the people, entitled to getting an assortment of social services*".

¹¹⁰ *The conditions of life of disabled people in the Russian Federation*, 154, 155.

specifically for children. Reconstructive surgery is performed at large medical research institutes and centers.¹¹¹

In 2005, the All-Russian Society of Disabled People conducted a study to monitor the implementation of existing laws on the social protections of people with disabilities. The results illustrated serious problems in supplying people with disabilities with free medicines. Specifically, the research found that both the variety and supply of such medications were inadequate. Drug stores frequently lacked necessary medications requested by patients and, furthermore, individuals often experienced problems obtaining prescriptions for free treatments.¹¹²

Research indicates that 56 percent of adults and 88.3 percent of children with disabilities need to receive technical rehabilitation services.¹¹³ Russian law requires the federal budget to provide funding for technical means of rehabilitation (TMR).¹¹⁴ The government has approved a list of free TMR for people with disabilities.¹¹⁵ The system of public companies that manufacture TMR includes 67 prosthetic and orthopedic enterprises, two orthopedic shoe factories, and one treatment-and-production firm.¹¹⁶

The All-Russian Society of Disabled People's study revealed serious problems in providing disabled people with the TMR at the expense of the state. The list of TMR provided by the government is

¹¹¹ Federal Bureau of Medical and Social Expertise *Legal, organizational and methodical basis of rehabilitation of disabled people*, 2005, 371, 376, 378 – 381;

Federal State Statistics Service *Health care in Russia. 2005: Collected statistics*, 2006, c. 203.

¹¹² Alexandr Lomakin-Rumyantsev, *Results of monitoring of the state of social protection of disabled persons in the subjects of the Russian Federation in 2005 (based on the materials of the All-Russian organization of disabled people)*, Analytical bulletin of the Council of Federation, N 4, 2006, 15 – 20, http://www.council.gov.ru/inf_sl/bulletin/item/250/index.html, (Accessed, 26 July 2006).

¹¹³ *The conditions of life of disabled people in the Russian Federation*, 154, 155.

¹¹⁴ *Law on social protection of disabled persons in the Russian Federation*, Article 11.1, (Accessed, 1 July 2006).

¹¹⁵ *Federal list of rehabilitation measures, technical means of rehabilitation and services, provided to a disabled person*, approved by the Decision of the Government of the Russian Federation of 30 December 2005, N 2347, 30 December 2005, Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57539;div=LAW;mb=LAW>, (Accessed, 18 August 2006).

¹¹⁶ *Problems of disability in Russia. State and perspectives*, 244.

limited and, furthermore, the procedures necessary to obtain such services are quite complicated.¹¹⁷ The state is legally obligated to compensate individuals who use their personal funds to obtain TMR that are included in the government list of free services.¹¹⁸ Unfortunately, there are multiple complicated steps involved in receiving such compensation.¹¹⁹

There are private organizations that manufacture, repair, and sell TMR in Russia, including more than 70 in Moscow.¹²⁰

Housing

According to the Russian Legislation, all citizens have the right to live in state-owned houses. People with disabilities who have a very low income are granted their housing free of charge. All individuals with disabilities, as well as families of children with disabilities, receive a discount of no less than 50 percent for their house rent and communal services. According to the Federal Law *On Social Protection of Disabled People in the Russian Federation*, the living space occupied by a disabled person shall be equipped with special accommodations.¹²¹

Russia provides a variety of social services for people with disabilities in an effort to facilitate long-term residence in their own homes, rather than in institutions. There are 2,082 social service centers within the Ministry of Health and Social Development. These include specialized departments to provide such varied services as buying food, cleaning residences, and providing medical care and first aid in the home. There are 1,185 departments of day care

¹¹⁷ Alexandr Lomakin-Rumyantsev, 25 – 28, (Accessed, 26 July 2006).

¹¹⁸ *Law on social protection of disabled people in the Russian federation*, Article 11,

¹¹⁹ *The Rights of disabled people and their protection: Individual program of rehabilitation: good intentions and reality*, Perspektiva, Regional public organization of disabled people, <http://pravo.perspektiva-inva.ru/?117>, (Accessed, 18 August 2006).

¹²⁰ “A disabled person in Moscow, 2004. Reference book,” Moscow city public organization of the All-Russian society of disabled people, 2004, 176 – 195.

¹²¹ *Law on social protection of disabled persons in the Russian Federation*, Article 17, (Accessed. 1 July 2006).

The Housing Code of the Russian Federation, Chapter 7, 1 July 2006, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57517;div=LAW;mb=LAW>, (Accessed, 21 August 2006).

centers, where people with disabilities stay during the day and receive necessary services (e.g., medical care, food), as well as 710 departments of temporary residence, which provide housing for a maximum period of 24 days.¹²² There are also 2,100 departments of social emergency.

The state created more than 2,800 social apartments, which now house about 35,000 elderly citizens with disabilities. Different social services are available in each apartment building (or house) free of charge.¹²³ Most social departments are accessible. Free meals are provided to people with disabilities at 2,100 dining facilities. Russia also has 3,400 public and private social shops selling food and essential goods to people with disabilities at reduced prices.¹²⁴

Social services for children with disabilities and their family members are provided primarily through 597 centers. These are governed by the Ministry of Health and Social Development, and are located throughout the country. Centers include departments of social emergency, medical care, psychological and pedagogical assistance, day care for children and teenagers, and rehabilitation services for children with disabilities.¹²⁵ In 2005, 219,635 families with children with disabilities received assistance at these centers.¹²⁶

Institutionalization

Russia's system of institutions includes various types of facilities. Types of institutions include:

¹²² *Legal, organizational and methodical basis of rehabilitation of disabled people*, 416 – 425; Federal State Statistics Service, *Social state and the level of life of the people in Russia. 2005: Collected Statistics*, 2005, p. 233.

¹²³ *Legal, organizational and methodical basis of rehabilitation of disabled people*, 416 – 425; *Social state and the level of life of the people in Russia, 2005: Collected Statistics*. 233.

¹²⁴ *Ibid.*

¹²⁵ The Ministry of Health and Social Development of the Russian Federation, *The moving forces and trends of development of the network of organizations of social service of families and children in 1995 – 2005*, 21 April 2006, <http://www.mzsrff.ru/stat/345.html>, (Accessed, 21 August 2006); *Legal, organizational and methodical basis of rehabilitation of disabled people*, 443

¹²⁶ The Ministry of Health and Social Development of the Russian Federation, *The number of families with disabled children served at organizations of social service of families and children in 1997 – 2005*, 21 April 2006, <http://www.mzsrff.ru/stat/351.html>, (Accessed, 21 August 2006).

- general institutions organized for individuals in disability groups I and II, with residents ranging from 18 years of age to the elderly;
- psycho neurological institutions for people with chronic psycho-social disabilities;
- rehabilitation centers for young people with disabilities;
- gerontological centers for older adults, including those with disabilities;
- homes for individuals of varied age and disability groups who are unable to move independently without assistance; and
- facilities for children between the ages of four and 18 that have intellectual and/or physical disabilities.¹²⁷

127 "Provision on the institution for old age and disabled people of the Ministry of Social Protection of the RSFSR, Approved by the Order of the Ministry of Social Protection of the RSFSR of 27 December 1978, N 145, 5 August 2006, Consultant Plus, Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ESU;n=3324;div=LAW;mb=LAW>, (Accessed, 24 August 2006);

Provision on psycho neurological institution of the Ministry of Social Protection of the RSFSR, Approved by the Order of the Ministry of Social Protection of the RSFSR of 27 December 1978, N 145, 5 August 2006,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ESU;n=3324;div=LAW;mb=LAW>; (Accessed, 24 August 2006);

Nomenclature of social care institutions (departments) for old age and disabled people, from the Letter of the Ministry of Labor and Social Development of the Russian Federation of 5 January 2003, N 30-ТК, 30 September 2006,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=311448;div=LAW;mb=LAW>, ; (Accessed, 24 August 2006);

Methodical recommendations in organization of work of state and municipal organizations of social service of the population Gerontological center, Approved by the Decision of the Ministry of Labor and Social Development of the Russian Federation of 14 November 2003, N 76, 30 September 2006,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=45239;div=LAW;mb=LAW> (Accessed, 24 August 2006);

Temporary Provision on the charity home (department) for old age and disability people, Approved by the Order of the Ministry of Social Protection of the Russian Federation of 11 October 1993, N 180, 30 September 2006.

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=306424;div=LAW;mb=LAW>, (Accessed, 24 August 2006);

Methodical recommendations in organization of work of state (municipal) institution, Institution for mentally retarded children, Approved by the Decision of the Ministry of Labor and Social Development of the Russian Federation of 8 August 2002, N 54, 20 August 2002.

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=307417;div=LAW;mb=LAW>, (Accessed, 24 August 2006).

Table V: Number of institutions and their residents as of 2004.¹²⁸

Institution type	Number of institutions	Number of its residents
Institutions of the general type	708	88,000 disabled and older people (men over 60, women over 55)
Psycho neurological institutions	442	128,000 disabled and older people
Rehabilitation centers for young disabled people	28	3,000 disabled people
Institution type	Number of institutions	Number of its residents
Charity homes	103	3,000 disabled people of the I and II disability groups and older people
Gerontological centers	27	27,000 older people (including disabled people of the same age)
Institutions for disabled children (institutions for developmentally disabled children and institutions for children with physical defects, charity homes)	152	29,000 disabled children
Total	1460	278,000 people

Federal law specifies that an individual must give voluntary consent to be placed in an institution. An individual with a disability can be sent to an institution against his will if his relatives or legal representatives do not provide care and he cannot take care of himself, move actively, or if he has been declared legally incompetent. A person can be placed in an institution without consent via a court decision and can be discharged only upon receipt and acceptance of a written application from his or her legal representative. That is,

¹²⁸ *Social state and the level of life of the people in Russia. 2005: Collected Statistics, 232.*

the representative must assume responsibility to provide care and meet his or her special needs.¹²⁹

Institutions in Russia have traditionally been quite large, housing between 600 and 1,000 people. Almost all institutions are arranged with six to eight individuals per room. According to the Ministry of Health and Social Development, 483 institutions are in need of reconstruction, 214 are dangerously in need of repair, and 317 are dilapidated. Only a small number of institutions employ psychologists, social workers, and qualified occupational therapeutics.¹³⁰

Russia does not have independent organizations that monitor the living conditions at institutions. Cases of death and allegations of abuse are not investigated, nor is there a monitoring body to oversee this area of concern. However, there are certain cases of participation of independent organizations in inspections carried out by the Office of the Ombudsman of Russian Federation.¹³¹

Ombudsmen of the Russian Federation and human rights organizations have reported cases of abuse and violence in institutions for children with developmental disabilities, such as verbal, emotional and physical abuse, neglect, exploitation and not providing education for children with high support needs and/or multiple disabilities.¹³²

¹²⁹ Law on social service of elderly and disabled people, Article 9, 15, (Accessed, 26 July 2006).

¹³⁰ "Legal, organizational and methodical basis of rehabilitation of disabled people," 407, 408, 411.

¹³¹ Letter from the Office of the Ombudsman in the Russian Federation, N HM 23034,-25, 3, July 2006.

¹³² *Law on observing the rights of disabled children in the Russian Federation*, (Accessed, 8 August 2006);

Far From Justice in the Russian Federation / Rough Justice: The law and human rights in the Russian Federation, Amnesty International, 2003, 59 – 69,

<http://www.amnesty.org/russia/pdfs/justice-report-eng.pdf>, (Accessed, 1 April 2007);

Mental Disability Rights International & UNICEF, *Children in Russia's Institutions: Human Rights and Opportunities for Reform*, 1999,

<http://www.mdri.org/publications/Russia1.html>, (Accessed, 1 April 2007).

Accessibility

Moscow residents with disabilities are entitled to receive free trips on the city's public transportation system.¹³³ Only five percent of Moscow's public transportation system has been adapted to meet the needs of people with disabilities. At this time, 274 buses have a low-level floor, 33 buses and nine minibuses have elevators for wheel-chairs, and 75 buses and four trams are equipped with audio information about routes.¹³⁴

Moscow also has "social taxis," which provide service exclusively to customers with disabilities. Social taxis charge riders according to a fixed reduced tariff.¹³⁵ In all, there are 62 social taxis in operation.¹³⁶

Public organizations for people with disabilities are provided by the city authorities with buses equipped with wheelchair lifts, which are funded by the city administration.¹³⁷ To provide this service, city bus parks have 12 adapted buses.¹³⁸

¹³³ Law on the measures of social support of particular categories of citizens of Moscow, The Law of Moscow of 3 November 2004, N 70, sub item 1, 3, Article 3, sub item 1, Article 8), 30 December 2005. Consultant Plus, Legal server ConsultantPlus <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=MLAW;n=68574;div=LAW;mb=LAW>, (Accessed, 27 August 2006).

¹³⁴ *On organization of transport services for disabled people in Moscow, including implementation of a pilot project Convenient transport*, The Site of the Department of the Social Protection of the Citizens of Moscow, 4 August 2006, <http://www.kszn.ru/kszn/index.jsp?page=18&id=410>, (Accessed, 24 August 2006); *Information on adaptation of objects of infrastructure in Moscow for the needs of disabled people and people with limited moving abilities (results of 2001 – 2003)*, The Department of the Social Protection of the Citizens of Moscow, 2004, 6, 48.

¹³⁵ *Social taxi for disabled people*, The Department of the Social Protection of the Citizens of Moscow, <http://www.kszn.ru/kszn/index.jsp?page=18&categoryId=2&period=200609>, (Accessed, 27 August 2006).

¹³⁶ *Information on adaptation of objects of infrastructure in Moscow for the needs of disabled people and people with limited moving abilities (results of 2001 – 2003)*, 6.

¹³⁷ *Ibid*, 46;

On organization of transport services for disabled people in Moscow, including implementation of a pilot project Convenient transport

¹³⁸ *Ibid*, 46;

Information on adaptation of objects of infrastructure in Moscow for the needs of disabled people and people with limited moving abilities (results of 2001 – 2003).

Two micro-districts of Moscow have two bus routes for people with disabilities. The buses take these passengers from their places of residence to such important destinations as health care facilities, drug stores, and rehabilitation centers.¹³⁹

According to federal law, new buildings must be constructed to accommodate the needs of people with disabilities. Existing buildings are made accessible during renovations. In cases where it is not possible to make an existing building fully accessible, measures must be taken to render the structure as accessible as possible. Despite these provisions, accessibility remains a significant issue, as existing requirements are not enforced sufficiently. This is partially because adaptations are subject to the financial limitations of state funding.¹⁴⁰

In Moscow, there are 114,257 state residential and non-residential houses.¹⁴¹ No more than 20 percent of these buildings are accessible for people with disabilities. Between 2001 and 2003, 3,000 entrances to community facilities were accommodated with handrails and ramps, and 200 buildings were equipped with elevators for wheelchairs.¹⁴² 7,000 entrances to residential houses were adjusted for wheelchair users, and more than 3,000 apartments were accommodated.¹⁴³ Specialized enterprises installed 400 telephones for people with visual disabilities and 1,000 "Dialogue" text phones which are special telephones for people with auditory disabilities.¹⁴⁴

139 Social taxi for disabled people; Law On organization of transport services for disabled people in Moscow, including implementation a pilot project Convenient transport

140 Law on social protection of persons with disabilities in the Russian Federation, Article 15, (Accessed, 1 July 2006).

141 Official server of the Moscow Government, The capital of the Russian Federation shown in figures, facts and events, Moscow 2005/2006, (Accessed, 27 August 2006).

142 Information on adaptation of objects of infrastructure in Moscow for the needs of disabled people and people with limited moving abilities (results of 2001 – 2003), 6.

143 Ibid.

144 Ibid.

Civil engineers are required to study issues related to Design for All as part of their compulsory training.¹⁴⁵

There are no government websites designed according to the WAI Web Accessibility Initiatives standards, nor does the law require the development of such sites.

Culture, Sports and Recreation

The Ministry of Culture and Mass Communications is responsible for integrating people with disabilities into cultural activities. To meet this end, it created a working group to coordinate activities related to the social and cultural inclusion of the disability population.¹⁴⁶

In an effort to integrate the disability community into this sphere, some theaters in Russia use actors who have disabilities and many cities have music schools for children who are blind. Festivals, competitions, and exhibitions of creative works by people with disabilities are often held as annual events. The charitable foundation Philanthropist has organized three national art festivals for people with disabilities, as well as three in Moscow. Many museums have special programs for people with disabilities.¹⁴⁷ That being stated, however, most museums and mainstream cultural sites are not accessible.

The Federal Agency of Physical Culture and Sport, Olympic Committee of Russia, and the Paralympics Committee of Russia are responsible for developing programs to include the disability

145 Russian education, State educational standard of higher vocational education, Speciality 653500 – Construction, State scientific research institute of information technologies and telecommunications, Federal portal, Approved by the Ministry of Education of the Russian Federation 7 March 2000, <http://www.edu.ru/db/portal/spe/index.htm>, (Accessed, 1 September 2006).

146 *The Provision on the Work Group to coordinate activities in the sphere of social and cultural rehabilitation of disabled people in the Russian Federation*, Approved by the Order of the Ministry of Culture and Mass Communications of the Russian Federation of 9 June approved by the Order of the President of the Russian Federation and Sport is in charge of work with disabled people in the sphere of sport the Rt 2006, N 257,
<http://www.mkkm.ru/fileadmin/template/law/order/09/06/2006/1/image/3342.html>, (Accessed, 1 September 2006).

147 *Legal, organizational and methodical basis of rehabilitation of disabled people*, 448 – 452

population in sports and other athletic activities.¹⁴⁸ There are 346 sport clubs for people with disabilities, which are attended by more than 30,000 individuals. There are 50 to 60 annual competitions in more than 30 different sports held for people with disabilities.¹⁴⁹

Russia has 25 newspapers and four magazines focused on obstacles facing the disability population.¹⁵⁰ The most popular of these is the newspaper *Russian Disabled*. There are also more than 200 Russian websites regarding disability issues.¹⁵¹

Disability Action and Awareness

There is no national coordinating body for disability policy in Russia. State disability policy is handled by the Department of Development of Social Protection, a division of the Ministry of Health Care and Social Development.¹⁵² In 2004, the Council in Affairs of Disabled People was formed with the office of the Chairman of the Council of the Federation. The Council consists of the members of the Council of the Federation, leaders of Russian public organizations of disabled people, charity organizations, medical institutions, and industrial enterprises.¹⁵³ It focuses on the implementation and enforcement

¹⁴⁸ *The Federal Law of 29 April 1999 on physical culture and sport in the Russian Federation*, N 80-FZ, *Consultant Plus* Legal server ConsultantPlus, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=50807;div=LAW;mb=LAW>, (Accessed, 20 December 2004);

International Paralympics Committee, National Paralympics Committees, Europe, http://www.paralympic.org/release/Main_Sections_Menu/Contacts/National_Paralympic_Committees_NPCs/contacts.html?region=Europe, (Accessed, 1 September 2006).

¹⁴⁹ *Legal, organizational and methodical basis of rehabilitation of disabled people*, 453 – 454.

¹⁵⁰ A state report *On the conditions of life of disabled persons in the Russian Federation*, 1998, p. 150

¹⁵¹ The first Russian Internet portal for disabled persons, references, 7 September 2006. <http://www.disability.ru/links/>. (Accessed 13 July 2007)

¹⁵² The Ministry of Health Care and Social development of the Russian Federation, The Department of Development of Social Protection. 30 July 2006, www.mzsrrf.ru/dep_razv_s_z/; *Provision on the Department of Development of Social Protection of the Ministry of Health Care and Social Development of the Russian Federation*, Approved by the order of the Ministry of Ministry of Health Care and Social development of the Russian Federation of 24 January 2005, N 80. 30 July 2006, http://www.mzsrrf.ru/dep_razv_s_z/294.html, (Accessed, 10 September 2006)

¹⁵³ Department of work adaptation of disabled and young people of the Committee of Public Relations of Moscow, Moscow news, 13 October 2004, http://www.kwota.ru/news.php?action=view_news&type=4&id=1558, (Accessed, 10 September 2006).

of laws on social protections for people with disabilities. Council decisions are not legally binding, nor are they published.¹⁵⁴ Leaders of Russian DPOs, who are members of the Council, take part in the decision making process.

Two federal programs are designed to address the rehabilitation and social integration of people with disabilities. They are the Social Support of Disabled People for 2006-2010 and Disabled Children, a sub-program of the Children of Russia program. Two more federal programs are aimed at disability prevention: Health, for Years 2006-2007 and a federal program, Prevention and Control of Social Diseases (2002 – 2006).¹⁵⁵

There are also regional programs that focus on rehabilitation and social support for the disability population, which are approved and funded by regional governments.¹⁵⁶ According to the All-Russian Society of Disabled People, approximately 20 subjects of the Russian Federation (regional governments) abolished, suspended, or reduced programs of social support of people with disabilities following the social reforms of 2004. This resulted in a poorer quality of life for people with disabilities.¹⁵⁷

¹⁵⁴ Telephone interview with Makarenko Olga, Vice-President of the All-Russian Public Organization of Disabled People with Disseminated Sclerosis, Member of the Council on the Affairs of Disabled People, Moscow, Russia, 28 September 2006.

¹⁵⁵ *Social support of disabled persons in 2006 – 2010*, Approved by the Decision of the Government of the Russian Federation of 29 December 2005, N 832, Consultant Plus, Legal server ConsultantPlus

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=57780;div=LAW;mb=LAW>, (Accessed, 10 January 2006);

Sub-program "Disabled children" of the special federal program "Children of Russia for 2003 – 2006," Approved by the Decision of the Government of the Russian Federation of 3 October 2002, N 732, <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=358679;div=LAW;mb=LAW>, (Accessed, 30 December 2005);

Directions, chief events and parameters of the priority national project "Health" approved on 21 December 2005 by the Presidium of Council with the President of the Russian Federation on Realization National Priority Projects, <http://www.rost.ru/projects/health/p05/docs.shtml>; (Accessed, 13 July 2007) *Prevention and control of social diseases (2002 – 2006)*, Approved by the Decision of the Government of the Russian Federation of 13 November 2001, N 790, 21 October 2004, *Consultant Plus, Legal server ConsultantPlus*,

<http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=239610;fld=134;dst=100010;div=LAW>, (Accessed, 13 July 2007)

¹⁵⁶ *Problems of disability in Russia. State and perspectives*. 331 – 335.

¹⁵⁷ Alexandr Lomakin-Rumyantsev, 28, 30, (Accessed, 10 September 2006).

Higher education institutions teach courses on disability policy, disability rights, and disability studies. Some classes connected with this topic, including “Social protection of persons with disability” and “Complex rehabilitation of patients and people with disability,” are taught at the Russian State Social University and the Moscow City University of Psychology and Education, two top universities in the areas of social work and psychology.¹⁵⁸

Russia has 140 nationwide public organizations comprised of people with disabilities.¹⁵⁹ The largest organizations are: the All-Russian Society of Disabled People, the All-Russian Society of Blind People, the All-Russian Society of Deaf People, and the Russian Public Organization of People Disabled in War in Afghanistan.

158 Laptev Leonid, Doctor of Psychology, professor, vice-chancellor of the Russian State Social University, interview by author, Moscow, Russia, 2 October 2006; Faculty of Clinical and Special Psychology of the Moscow City University of Psychology and Education, Sub-faculty Special Psychology, List of subjects, 2 October 2006. <http://sp.mgppu.ru/523>; State scientific research institute of information technologies and telecommunications, Federal portal “Russian education,” State educational standard of higher vocational education, Specialty 031900 – Special psychology. Approved by the Ministry of Education of the Russian Federation 31 January 2005, <http://www.edu.ru/db/portal/spe/index.htm>, (Accessed, 10 September 2006).

159 *Problems of disability in Russia. State and perspectives*, 342.

Table VI: General information on the largest public organizations of people with disabilities.¹⁶⁰

Organization	Members	Branches	Commercial enterprises	Social organizations
All-Russian Society of Disabled People	Over 2,300,000	80 regional organizations, 2,200 local organizations, 25,600 primary organizations	1499 enterprises	950 social work organizations for people with disabilities
All-Russian Society of the Blind People	274 371 people	74 regional organizations, 932 primary organizations	192 enterprises	3 rehabilitation centers, 3 specialized sanatoriums, 2 publishing houses, 2 editorial offices, Institute of Advanced Education, Central House of Culture, Central Museum, Republican Center of Computer Technologies
All-Russian Society of the Deaf People	170 000	74 regional organizations	68 enterprises	72 Houses of Culture and Clubs, Theater of Mimics and Signs
All-Russian Public Organization of People Disabled in war in Afghanistan	10 000	60 regional organizations		Center of medical rehabilitation after M.A. Likhodey

Public disability organizations receive financial support from the government, charitable donations, fundraising activities, and

¹⁶⁰ Ibid, 342-343.

independent endeavors.¹⁶¹ They provide various types of practical assistance for citizens with disabilities. However, with the large number of people with disabilities in need of assistance and the diversity of the assistance they require, the services available are not sufficient to satisfy everyone in need. There is a lack of coordinated efforts by various disability NGOs to collaborate on advocacy for cross disability issues, and as a result the effective protection of the rights of people with disabilities does not yet exist.¹⁶²

161 *Social support of disabled persons in 2006 – 2010*, Chapter 5;

Information server for people with hearing impairment “Deafnet.ru,” <http://www.deafnet.ru/dn/index.phtml?c=4>, (Accessed 10, September 2006);

Perspektiva, Background Activities, 18 March 2006, <http://eng.perspektiva-inva.ru/index.php?about>, (Accessed, 10 September 2006);

Problems of disability in Russia. State and perspectives, 343, 346.

162 Panel Discussion for leaders of public organizations of disabled persons, Moscow, Russia. 29 June 2006



SERBIA

Key Factors

Serbia is slowly recovering from the turbulent and traumatic 1990s, marked by war in the former Yugoslav republics, the UN sanctions, armed conflict in the southern province Kosovo, and NATO air strikes.¹ Since the end of Milosevic's rule in 2000, Serbia has slowly embraced a multi-party political system and the rule of law, and

it has made efforts to control corruption and organized crime. Serbia is undergoing a painful transition from a centralized non-democratic economy to a market economy. Despite indications of economic recovery and growth, employment has yet to rise significantly and the country continues to have one of the highest unemployment rates in the region.² Serbia began the process of accession to the European Union, but negotiations halted due to the lack of sufficient cooperation with the Hague Tribunal for War Crimes in former Yugoslavia.³ Still, there are positive economic developments in progress, as foreign investments have grown and the financial situation is beginning to stabilize. For the population of persons with disabilities in Serbia, the 2000s have shown signs of promise in the areas of education,

¹ Government of Serbia officially refers to the province as Autonomous Province of Kosovo and Metohia, the UN use term Kosovo after the UN Mission started its temporary administration of the Province.

² Source: Global Monitoring Report 2006 p. 33 et (Worldbank), Investment Climate Surevey 2005, Serbia & Montenegro, (Worldbank); Region: Albania, Bosnia & Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Romania, Slovenia, Serbia & Montenegro.

³ Media reports May 2006: National TV RTS, TV B 92, „Politika“ daily newspaper.

accessibility, and anti-discrimination policy. Results from the various initiatives, however, are yet to be known, as the most important laws and amendments have just recently been passed.

Terminology

Serbian disability terminology is rather varied. Previously, “invalid” (“disabled”) was the most commonly used term, though it originally pertained to veterans whose disabilities resulted from wars. “Hendikepirani” (“handicapped”) is less common, although it is generally thought to be more politically correct by the public. While some politicians and experts for special education and rehabilitation use the term “osobe sa posebnim potrebama” (“persons with special needs”), the disability rights movement strongly opposes this phrase⁴. “Invalidna lica” (“disabled persons”) is the most commonly used alternative in legislation, and children with all types of disabilities are generally referred to as “deca sa smetnjama u razvoju” (“children with developmental difficulties/ disorders”), though experts for special pedagogy sometimes use the term more narrowly and apply it solely to children with intellectual disabilities. “Mentalno nedovoljno razvijena lica” (“persons with mental deficiencies” or “persons with insufficient mental development”) is also used in legislation, such as in the Law on Social Protection.

Since 2003, the disability movement, civil sector, and disability professionals have advocated the use of “lica sa invaliditetom” and “osobe sa invaliditetom” (“persons with disabilities”). This has been used consistently in most recent legislative efforts, including the Law on Prevention of Discrimination against Persons with Disabilities and the draft of the National Strategy for Improvement of Status of Persons with Disabilities.

⁴ Session of National Disability Council December 2003, discussions of representatives of Union of Paraplegics and Quadriplegics of Serbia and Center for Independent Living of Persons with Disabilities of Serbia.

Definition of Disability

The National Strategy for Enhancement of Status of Persons with Disabilities, which was adopted on December 28, 2006, uses the definition provided by the 2006 Law on Prevention of Discrimination against Persons with Disabilities:

Persons with disabilities are persons with physical, sensory, intellectual or emotional impairment acquired at birth or a later stage of life, who due to social and other barriers cannot fully participate, or are limited in their participation, in social activities at the same level as others.⁵

This is the most recent definition and it is more consistent with the social model of disability. It is important to note that older legislation tends to follow the medical model of approach to disability. It is also important to note that in Serbia persons with psychosocial and psychiatric conditions traditionally aren't viewed as part of the disability population.

One example of a definition derived from the medical model of approach to disability is found in the Law on Retirement and Disability Insurance from 2003:

[Disability is the] total lack of capacity to work due to the change of health conditions caused by an accident at work, professional disease, or injury or disease contracted outside of work that cannot be improved by medical care and rehabilitation.⁶

The Law on Primary School from 1992 is also deeply rooted in the medical model.⁷

⁵ *The National Strategy for Enhancement of Status of Persons with Disabilities, Law on Prevention of Discrimination against Persons with Disabilities*, Official Gazette of Serbia, no. 33/ 2006.

⁶ *The Law on Retirement and Disability Insurance from 2003*, Official Gazette of Serbia, no. 34/ 2003.

⁷ *The Law on Primary School*, Official Gazette of Serbia, no. 50 / 92, 53 / 93, 67 / 93, 48 / 94, 66 / 94, 22 / 2001.

Disability Population

There is no official figure on the number of people with disabilities in Serbia, although World Health Organization (WHO) estimates indicate that 7-10 percent of the total population has a disability.⁸ It is very difficult to estimate a more exact figure, since there have been no official surveys conducted using statistically significant numbers. When asked about the size of the disability population, officials from several main government offices responded that such data does not exist in Serbia.⁹ However, it is safe to assume that the number of people with disabilities grew as a result of the armed conflicts in the region in the 1990s, when hundreds of thousands of refugees and internally displaced persons from afflicted areas fled to Serbia. During the 1999 NATO air strikes, there were almost 10,000 civilian injuries, as well as several thousand military and police injuries. Furthermore, hundreds of Serbians were injured in the conflicts in Croatia and Bosnia, either as members of the Yugoslav army in 1991-92 or acting as volunteer fighters in the Republic of Srpska in Bosnia from 1992 onwards.¹⁰

Figures on people with disabilities is limited to registries from various institutions, such as the Disability Pension Fund or the National Employment Bureau, which list the number of people with disabilities who access their services and benefits. However, these figures only represent the individuals who are registered for services and/or benefits. According to National Employment Service data from October 2005, more than 25,000 persons with disabilities were registered as unemployed. Disability Retirement Fund had a database of 375,000 users of disability pensions and 55,000 users of allowances for assistance and care from other persons.¹¹

⁸ Cucic, V (editor): *Persons with Disabilities and Environment* (In Serbian) , Belgrade, 2001, 18.

⁹ Interviews conducted in Belgrade in 2006 by Handicap International staff for the purposes of this research.

¹⁰ Data given to media by Serbian officials after the conflict has ended. Estimates by "Red Cross" after the conflict presented by National TV RTS in March 2000.

¹¹ *A Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe*, Budapest, the survey was conducted in 2005 but has not yet been published.

The questionnaire for the 2001 census had no questions about disability.¹²

In 2001, research was conducted in 12 out of Serbia's 180 municipalities by Handicap International and the Center for Study of Democratic Alternatives, a Non Governmental Organization (NGO) from Belgrade.¹³ The findings indicated a disability population smaller than WHO estimates, falling closer to 6.5 percent of the total population (close to 500,000 people). However, such results should not be surprising as the researchers primarily interviewed persons with locomotor impairments aged 14 to 75, so young children and elderly persons with disabilities were not within the scope of the research. The study defined disability as "loss or limitation of opportunities to participate in society at [the] same level with others due to social and environmental barriers, and impairments are identified as sensory, locomotor and combined impairments," deriving heavily from the World Health Organization's 2000 definition.¹⁴

Another study, the "Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe" was conducted by local researchers and commissioned by the International Labor Organization (ILO) in 2005. It contains data pertaining to the number of people with disabilities who are employed, as well as those using social welfare allowances. This survey used information gathered from the Retirement Fund, the National Employment Service and Ministry of Labor, Employment, and Social Affairs. As of May 2007, the report has yet to be published.

In the spring of 2006, experts from Holland, Germany, and Serbia conducted a feasibility study on employment reforms for people with disabilities in Serbia. It was funded by the European Agency for Reconstruction and commissioned by the Ministry of Labor,

¹² Author established the fact by insight in the text of the above- mentioned questionnaire.

¹³ Cucic, Viktorija (editor), *Persons with Disabilities and Environment* (In Serbian) , Belgrade, 2001, 31, 52. As there is total of 180 municipalities in Serbia and 12 were researched there may be a challenge with representativeness of such small sample of municipalities.

¹⁴ Ibid, 24.

Employment and Social Affairs of Serbia.¹⁵ Data was obtained from the Retirement Fund, National Employment Service, Ministry of Labor, and Employment and Social Affairs, as well as organizations of persons with disabilities (DPOs) and the union of sheltered workshops.

In 2006, the Institute for Informatics and Statistics conducted a statistical survey of the city of Belgrade, titled “Handicapped Persons in Belgrade.” The results have not been published yet.

A “Living Standards Measurement Survey” will be carried out in 2007. This will include questions on disability designed to measure the implementation of Serbia’s Poverty Reduction Strategy.¹⁶ It is unknown what types of questions will be included, but the sample population will mainly come from the membership databases of large DPOs.

Legislation and Disability Rights

National Protections

In 2003, during the transition stage from the former Federal Republic of Yugoslavia, Serbia and Montenegro adopted the State Union of Serbia and Montenegro Charter on Minority and Human Rights. Leading figures in the disability movement, such as the Center for Independent Living of People with Disabilities of Serbia, lobbied successfully for the inclusion of a disability non-discrimination clause in the Charter, following the tradition of countries like Finland, Austria, Germany and Switzerland.¹⁷

After the separation of Montenegro, following the referendum for its independence in 2006, Serbia assumed its independence. At this time, it incorporated provisions of the Charter of Minority and Human

¹⁵ Leerentweld, Henry, Rauschenbach, Birgit, Savcic, Ruzica and Tatic, Damjan, *Integration Step by Step: A Report on Development of Employment Policy for Persons with Disabilities in Serbia* (Feasibility Study), Belgrade, 2006,

¹⁶ The research is yet to be conducted.

¹⁷ Author coordinated campaign for inclusion of explicit prohibition of discrimination on basis of disability in Constitutional Charter of Serbia and Montenegro in fall of 2002.

Rights into the draft of its new Constitution. The Constitution was confirmed by a referendum in October 2006, and was enacted by Parliament the following month.¹⁸ It explicitly prohibits discrimination on the grounds of disability in Article 21, clause 3: “Any discrimination on [the] grounds of physical or intellectual disability is prohibited.”¹⁹

Serbia’s Parliament adopted the Law on Prevention of Discrimination against Persons with Disabilities on April 17, 2006.²⁰ In 2002, the disability movement and human rights NGOs lobbied for the adoption of such an anti-discrimination law. Experts from the Institute for Advancement of Legal Studies in Belgrade, as well as disability leaders, drafted the legislation in 2003. The Law was adopted by the government in September 2005. Parliament adopted it in April 2006, after incorporating some amendments to implement monetary punishments for engaging in the forms of discrimination prohibited, an initiative led by disability organizations.²¹

Success of the law in preventing discrimination against persons with disabilities remains to be seen, as selected provisions of the law only entered force in January 2007.

The Law on Prevention of Discrimination against Persons with Disabilities also provides measures for promoting equal opportunities for persons with disabilities. The provisions correspond closely to the UN Standard Rules and are an attempt to make the Standard Rules legally binding in Serbian legislation.

The Law on Prevention of Discrimination against Persons with Disabilities prohibits direct and indirect discrimination, victimization, and instigation of discrimination, and requires affirmative action. It

¹⁸ *Constitution of the Republic of Serbia*, Official Gazette of Serbia, no 83/ 2006

¹⁹ Ibid.

²⁰ *The Law on Prevention of Discrimination Against Persons with Disabilities*, Official Gazette of Serbia”, no 33 / 2006.

²¹ Author coordinated campaign for adoption of amendments to draft Law, in accordance with original proposals of Working group that had subsequently been altered by Ministry of Justice. Campaign begun in September 2005 and successfully ended in April 2006 with adoption of number of amendments to draft Law, For more details in Serbian see: „Zakon o sprecavanju diskriminacije osoba sa invaliditetom“ („The Law on Prevention of Discrimination against Persons with Disabilities“) D. Tatic (foreword), Belgrade, 2006.

details prohibited forms of discrimination in such varied situations as violations involving public authorities, membership in civic associations, access to public buildings, goods and services delivered to the public, public transport, health care, education, employment, labor relations, and family and marital relations.

Considering the initial reactions to the Law on Prevention against Persons with Disabilities, it is clear that the legislation has the potential to make a powerful impact. The enactment process itself raised awareness of and interest in disability issues, (all three days of the Parliamentary debates regarding the law were broadcast on national television and President Boris Tadic signed the law within 12 hours of receiving it). The Law provides a tangible tool of action for people with disabilities who have faced discrimination and, beginning in June 2006, the disability movement began to deliver anti-discrimination training to local level disability organizations. Training is funded through a local initiative of Handicap International and local partners, including the Center for Independent Living of Persons with Disabilities of Serbia and the Association of Disabled Students. More than 120 activists from 65 local organizations spanning 35 municipalities in Serbia have received training thus far.

The Official Gazette, the public publishing company that distributes Serbia's official journal of legislation, published the Law on Prevention of Discrimination against Persons with Disabilities.²² The publication included an introduction by a disability law expert printed in a supplementary section, a procedure applied only to laws deemed significant. As the first anti-discrimination law in the region, the impact of the Law on Prevention of Discrimination against Persons with Disabilities goes beyond Serbia's borders and has the potential to influence neighboring countries.²³

Serbia has other policies prohibiting discrimination on the basis of disability. The Labor Law of 2005 provides protection to employees who acquire a disability at work, as well as to parents and guardians of

²² Ibid.

²³ Regional round table on antidiscrimination for DPOs from Western Balkans organized by EDF in Belgrade May 2006, in cooperation with CIL Serbia and "Handicap International".

children with disabilities.²⁴ The Labor Law also affords the possibility of a court proceeding in cases of disability-based discrimination in employment and labor relations.

The Law on Higher Education prohibits discrimination on grounds of locomotor and/or sensory disabilities. The Law on the Basis of the System of Education prohibits discrimination on the basis of “psychiatric and physical constitution” (i.e., intellectual and physical disabilities). The Law on Health Care of Serbia also prohibits discrimination on grounds of physical and intellectual disability.²⁵ The above-mentioned laws do not differentiate between direct and indirect discrimination, while the Labor Law prohibits direct as well as indirect discrimination.²⁶

International Protections

The Socialist Federative Yugoslavia signed and ratified all UN human rights instruments, including: the Universal Declaration of Human Rights; the Covenant on Civil and Economic, Social and Cultural rights; Conventions on the Elimination of Racial Discrimination and Discrimination Against Women; the Convention Against Torture and Other Cruel, Degrading, and Inhuman Treatment or Punishment; and the Convention on the Rights of Child. Like all former Yugoslav republics, Serbia recognizes these as components of their internal law. The same applies to ILO conventions and recommendations on employment and vocational rehabilitation of persons with disabilities. Upon ratification, the conventions were published in “The Official Gazette of Yugoslavia.”

After joining the Council of Europe, Serbia and Montenegro signed the European Convention on Human Rights. Serbia and Montenegro signed the revised European Social Charter in March 2005, but neither Serbia nor Montenegro ratified it. In February 1995, the Government of the Federal Republic of Yugoslavia had accepted

²⁴ *The Labor Law*, Official Gazette of Serbia, no 24/ 2005.

²⁵ *The Law on Higher Education*, Official Gazette of Serbia no 76/ 2005; *The Law on Basis of System of Education*, Official Gazette of Serbia” no 62/ 2003; *The Law on Health Care*, Official Gazette of Serbia no 107/ 2005

²⁶ *The Labor Law*, Articles 18 - 22.

the UN Standard Rules on Equalization of Opportunities for Persons with Disabilities.²⁷

Since 2003, Serbia has been actively involved in the drafting of the International Convention on Rights of Persons with Disabilities in the UN Ad Hoc Committee, and was the regional leader on the Committee. A disability expert (who also has a disability) from the Ministry for Social Affairs was a spokesperson for Serbia and Montenegro's delegation at the Ad Hoc Committee meetings, and served in the Working Group meetings in 2003. Serbia's expert also participated at the historic 8th session of the Committee in August 2006, resulting in the adoption of the draft Convention.²⁸

Legal Barriers

According to the Family Code of the Republic of Serbia, guardianship and legal representation are established by legal due process. By following certain judicial safeguards, public prosecutors and centers for social protection use the code to preserve the interests of individuals with special needs. Guardianship is established by a court procedure in which the court appoints a counselor to the individual that could be put under guardianship. The rights of a person under guardianship are maintained, but he or she may be limited in the exercise of some freedoms, depending on the nature of the rights and the extent of guardianship established (i.e., full or partial).²⁹

Currently, there is no organized method for maintaining records of cases or complaints of discrimination on the grounds of disability. The Law on Prevention of Discrimination against Persons with Disabilities is legally binding for all public authorities, private individuals, and corporate entities and violators must pay fines. For example, the magistrate for public offenses sentences offenders to pay fines that

²⁷ The Decision of Accession of Federal Republic of Yugoslavia to the UN Standard Rules, Official Gazette of Serbia, March 1995 (International Treaties).

²⁸ *An Introduction to the International Convention on the Rights of Persons with Disabilities*, D. Tatic (editor), Belgrade, 2006.

²⁹ *The Family Code of Republic of Serbia*, Articles 147 - 149.

range from €62 to €620 for citizens and from €125 to €6,250 for legal entities.³⁰

The law provides a process for initiating court litigations. The proceedings are initiated by a prosecutor for misdemeanors and trading offenses, labor inspector in cases of discrimination in labor relations, and building inspector in cases of lack of compliance with building code accessibility standards. Regarding possible plaintiffs, the law restricts the capacity to initiate claims solely to individual victims of discrimination, their legal representatives, or members of their households. In addition to this limitation, the law adheres to traditional civic procedure and does not provide for a reversal of burden of proof from plaintiff to defendant. The legislation states that if the plaintiff does not prove that he or she had been a victim of discrimination, he or she loses the case. This is unlike EU Directive 2000/78/EC, that forces the defendant to also prove he or she did not discriminate against the plaintiff due to disability. If this is not possible, the defendant loses the case. Disability organizations actively support members who seek to file lawsuits and certain organizations, such as Out of Circle, provide free legal counseling. Some municipalities, such as the Central Serbian city of Paracin, provide free legal aid to residents with disabilities who are victims of discrimination.³¹

In the fall of 2006, two lawsuits were filed based on the Law on Prevention of Discrimination against Persons with Disabilities. One lawsuit pertained to the denial of access to public city transport in Belgrade and the other related to a job termination after a sick leave of an employee injured at work. In one case charges were withdrawn; in the other, proceedings had not yet been finished (at the time of publication of this report).³²

30 *The Law on Prevention of Discrimination against Persons with Disabilities*

31 Decision of public prosecutor's municipal office in Paracin.

32 An interview with legal advisor to the parties in the cases conducted in October of 2006. conducted by the researcher

Civic Participation

The majority of people with disabilities have the right to vote. However, persons with restricted legal capacity, such as persons with severe intellectual disabilities or psycho-social disabilities, are typically unable to exercise this right. 2004 amendments to electoral laws established that if a polling station is inaccessible, a voter with disabilities can request that the polling commission arrange for him or her to vote via secret ballot in a sealed envelope at home.³³ Currently, there are no systematic initiatives to make polling stations accessible or to provide alternative forms of communication, such as Braille ballots or Sign Language interpreters.³⁴

People with disabilities that have “legal capacity” can serve in public office. At Parliamentary elections in January 2007, five political parties and coalitions nominated persons with disabilities as their candidates. Four of those five candidates were disability movement activists, while the fifth was not an active member of a DPO. Three of the candidates were elected to Parliament, including two disability movement activists, and all are currently serving as Parliamentarians. In one of Serbia’s largest cities, Kragujevac, a person with a disability is a member of the mayor’s council. Also, an individual with a disability has been working as an advisor to the President of Serbia’s People’s Office since November 2006. People with disabilities are municipal councilors in a number of municipalities in Serbia.

Individuals with disabilities in Serbia have the right to emigrate and have the right to form associations, as other citizens do.³⁵ However, the right to marry and form a family are regulated in a general way by the Family Code. There is no explicit provision in the Family Code stating that persons with disabilities can have a family and, on the other hand, the Code states that people who marry must be capable of reasoning and understanding.³⁶ As a result, individuals

³³ *Amendments to Law on Election of President of the Republic, amendments to Law on Election of parliamentarians*, Official Gazette of Serbia, no 18/ 2004.

³⁴ Panel Discussion, Belgrade, October 2006.

³⁵ General authority for setting DPOs up is derived from freedom of association, guaranteed by Serbia’s Constitution and Law on Citizens’ Associations.

³⁶ *The Family Code*, Official Gazette of Serbia, no 18/ 2005.

with intellectual and psycho-social disabilities face legal obstacles exercising this right.

Inclusion

Communication

According to the Association of the Blind of Serbia, the government does not offer a Braille version of the Constitution.³⁷ Electronic versions are available on the website of the Serbian Parliament and at the library of the Association of the Blind of Serbia, which also has an audio tape format of the Constitution.³⁸

The National Library does not have any texts in Braille. The Association of the Blind of Serbia has its own library, which holds a collection of materials in Braille, audio cassettes, and electronic formats. In Belgrade, materials in alternative formats can be delivered to users' home address. According to the Association of the Blind of Serbia, the materials at its library are updated regularly and include items from 2006.³⁹

The daily 4pm news from the National Broadcasting Service is broadcasted with full Sign Language translation. Translators are provided by the Deaf Association of Serbia and funded through projects of the Ministries of Social Affairs and Culture aimed at ensuring accessible programming. The Morning Program of the National Broadcasting Service uses closed-captions for story headlines, as does the afternoon program "Serbia Today," covering events from around the nation. Three private television stations with broadcasting frequency for Serbia, TV Kosava, Avala TV and TV B 92, as well as TV Studio B, and Enter TV, two local Belgrade television stations, have either headlines or full captioning of evening news broadcasts.⁴⁰

37 Simic, Nenad, Association of the Blind of Serbia's advisor, Belgrade, October 2006, Interviewed by Author.

38 Ibid.

39 Ibid.

40 Author's insight in daily broadcasts of the above- mentioned TV stations in Belgrade.

According to the Secretary of the Deaf Association of Serbia: “Serbian Sign Language is not formally recognized, but there is an initiative to adopt a Law on the Recognition of Serbian Sign Language. The Law is currently being drafted.”⁴¹

All public officials are under an obligation to make public proceedings accessible to the disability population, in accordance with anti-discrimination legislation.⁴² The Ministry of Justice issues official licenses for Sign Language interpreters authorized to translate during judicial proceedings. However, litigating parties must pay for Sign Language interpreters themselves.⁴³

According to the Deaf Association of Serbia, the Ministry of Internal Affairs is working in cooperation with the Deaf Association of Serbia to enable deaf persons to send SMS messages⁴⁴ via cell phone to a unified European code number for emergencies. This initiative, however, has yet to be realized.⁴⁵

Education

The educational system for children and adolescents with disabilities in Serbia centers on special education, although the concept of inclusive education is gaining support. The Law on Primary Education refers to the education of children with developmental difficulties solely in the context of special education, which is also the case with the Law on Secondary Education.⁴⁶ The Law on the Basis of System of Education does prohibit discrimination due to “psychiatric and physical conditions.”⁴⁷

⁴¹ Interview with Kujovic, Radoje, Secretary of the Deaf Association of Serbia, Belgrade, October 2006, by Author.

⁴² The Law on Prevention of Discrimination against Persons with Disabilities

⁴³ Kujovic, Radoje.

⁴⁴ Short Message Service (SMS) is a mechanism of delivery of short messages over the mobile networks.

⁴⁵ Kujovic, Radoje.

⁴⁶ *The Law on Primary Education*, Official Gazette of Serbia”, no 50 / 92, 53 / 93, 67 / 93, 48 / 94 and 66 / 94.

⁴⁷ *The Law on the Basis of System of Education*, Official Gazette of Serbia, no 62/ 2003. .

The Law on Prevention of Discrimination against Persons with Disabilities prohibits refusal or expulsion of a child or young person from an educational institution due to his or her disability. Serbia does not consider organizing educational services and methods that differ from mainstream approaches as a form of discrimination if necessary for a student with intellectual disabilities. Furthermore, educational authorities have yet to take strong measures to make education of persons with disabilities an integral part of Serbia's educational system.⁴⁸

The Ministry of Education has a program for detecting disabilities in children at age six or seven. Prior to enrolling in school, all children are examined for various types of disabilities. Children with disabilities undergo an examination by commissions of categorization that evaluate their capacities and parents are given advice on where to enroll their children. The commission operates at a municipal level and their members are physicians, psychologists, teachers, social workers, and special education experts. They are mainly focused on medical aspects, examining what children cannot do rather than what their abilities are. There is no program, however, for early detection of disability.⁴⁹ The first degree decision of the commission is not mandatory as final responsibility for enrolling a child in a regular or special school rests with parents and/or guardians. Many parents of children with disabilities who go before the commissions are not aware of their alternatives, and they accept the decision of the commission to put the child in a special school. Parents can submit a complaint against a commission's decision. Although the first degree decision is not mandatory, the second degree administrative educational authority's decision on placement of a child in a school is final.⁵⁰ It is not uncommon for parents, families, and caregivers of children with disabilities – especially severe intellectual disabilities – in rural areas not to enroll their children in primary schools.

⁴⁸ the Law on Prevention of Discrimination against Persons with Disabilities

⁴⁹ An interview "Handicap International" conducted with the employees in Ministry of Health in November 2006.

⁵⁰ Information presented by representatives of associations of parents of children with intellectual disabilities at various round table discussions in Belgrade November and December 2006.

Estimates indicate that in school year 2000/2001, 8,099 children with disabilities were mainstreamed in Serbia's 97 primary schools, and 1,374 children with disabilities were educated separately within mainstream schools. An additional 7,560 children with disabilities were educated in 51 segregated schools. In its 2001 estimates, the Ministry of Education held that about 39 percent of children with disabilities had not finished primary school.⁵¹

Data gathered in 2001/2002 about the 51 schools for students with disabilities indicates: 37 schools were for children with mild intellectual disabilities, eight for those with auditory disabilities, three focused on visual disabilities, two for children with physical disabilities, and two schools for those with behavioral disabilities. 218 mainstream primary schools had special classrooms for children with disabilities in the school year 2005/ 2006.⁵²

Children and young people with disabilities have the following options for secondary schools: segregated schools, which include 25 special high schools for children with mild intellectual disabilities, 14 for children with auditory disabilities, five for children with visual disabilities, three for children with behavioral disabilities, and 11 mainstream high schools where children and young people with disabilities receive some special education classes and have a population between 50 and 90 students per school. Most of these schools are in urban areas, primarily in major cities. As with the Handicap International report, the Ministry of Education claims that 33 percent of people with disabilities have high school degrees and received employment training.⁵³

In some cases, teachers and other education staff encourage families of children with disabilities to be involved with rehabilitation and education programs. However, this is not possible when children attend boarding schools. According to Handicap International, professionals at mainstream schools are often inclined

⁵¹ Ministry of Education's input into draft National Strategy for Enhancement of Status of Persons with Disabilities in Serbia, Belgrade, 2006.

⁵² Ibid.

⁵³ Ibid.

to send children with intellectual disabilities (particularly autism) to special schools.⁵⁴

Adults with intellectual disabilities are able to attend supplementary classes at special secondary schools until the age of 28. However, classroom activities are more closely related to day care rather than educational programs.⁵⁵ As stated by an expert in the field: "There are no organized programs for people with intellectual disabilities older than age 30. Adults with autism typically attend day-care centers that lack the educational component. Instead, they work with an occupational therapist on occupational rehabilitation."⁵⁶

With respect to tertiary education for people with disabilities, the 2005 Law on Higher Education prohibits discrimination on grounds of physical or sensory disabilities. Those that finance institutions of higher education are obliged, *inter alia*, to fund services and the creation of appropriate conditions for students with disabilities. Classes can be taught in Sign Language and students can take exams in an alternative format that does not alter the essence of the exam (e.g., written test instead of an oral with same questions or vice versa).⁵⁷ However, Association of Students with Disabilities claims that those provisions are not necessarily implemented in practice, in spite of a Protocol signed by the Ministry of Education and Belgrade University.⁵⁸ On the other hand, Novi Sad University has made efforts to increase campus accessibility, and appointed an official that is in charge of students with disabilities.⁵⁹

⁵⁴ Statement of members of Association for Support to Persons with Autism of Serbia, at Panel Discussions, November and December 2006, Belgrade.

⁵⁵ Advisor/ board member of "Dusan Dugalic" special school for children with intellectual disabilities in Belgrade September 2006, Interviewed by the Author by telephone; Information presented by representatives of associations of parents of children with intellectual disabilities at various round table discussions, November and December 2006, Belgrade.

⁵⁶ Ibid.

⁵⁷ *The Law on Higher Education*, Articles 59, 80 and 90, Official Gazette of Serbia no 76/ 2005.

⁵⁸ Statement of Pavlovic, Goran, Executive Director of ADS at workshop on draft of National Strategy for Enhancement of Situation of Persons with Disabilities in Serbia, Belgrade, November 2006.

⁵⁹ Interview with Ruzicic- Novkovic, Mima, President of NGO Center Living Upright Novi Sad, November 2006.

According to 2001 research conducted in 12 Serbian municipalities by Handicap International and the Institute for Research of Democratic Alternatives: “49% of persons with disabilities have fully or partially completed primary school, 33% have completed high school, 11% have completed special schools and 6% have university education.”⁶⁰

Regarding training for educators, there is a School for Special Education and Rehabilitation at the Belgrade University, where teachers at special schools can receive training. Additional training for teachers of children with disabilities who are integrated in regular schools is mandatory. Such training is also implemented by Belgrade University, as a supplement to the regular teaching qualifications.

In reference to accessibility of school facilities and the drafting of the National Strategy for Enhancement of Status of Persons with Disabilities (with a goal to make it operational by 2007), the Ministry of Education proposed as a strategic aim to take measures to make pre-school and primary school institutions universally accessible to children with disabilities. It aims to cover physical and communicational accessibility, appropriate teaching materials and teacher training. Once the strategy is adopted, it would be mandatory for all schools in Serbia. Furthermore, the Strategy will be implemented gradually over a period of time, initially thought to range from 2007-2015. The Ministry of Education office is accessible to wheelchair users.

There are university courses on disability policy incorporated in the Social Policy curriculum at the Faculty of Political Sciences at Belgrade University. Disability studies is included in the curriculum at the Faculty of Special Pedagogy and Rehabilitation at Belgrade University, following the recent trend of using the bio-psychosocial (Nagi) model of disability instead of the dominant medical model curriculum of that Faculty. The Faculty of Special Pedagogy and Rehabilitation offers a number of disability-related courses, though they focus mainly on special pedagogy skills and the medical model remains prominent. Universal design and accessibility standards are incorporated in the architecture curriculum of universities in Belgrade and Novi Sad, and are taken by hundreds of students annually.

Employment

According to the Law on Employment and Professional Rehabilitation of Persons with Disabilities and the Labor Code, persons with disabilities are hired and work under the same conditions as other workers. The Labor Code explicitly prohibits direct and indirect discrimination on grounds of disability in fields of hiring, training, trade union rights, and dismissal (article 18). The Labor Code requires employers' to offer another adequate job suited to the capacities of workers who experienced labor accidents and/ or illnesses.

Currently, there is no law requiring a quota system for employment. The draft Law on Employment and Professional Rehabilitation of Persons with Disabilities is expected to be adopted in 2007, and will set quotas for all employers with more than 20 employees. Specifically, they must hire at least one person with a disability. State and local authorities and the rest of the public sector must fill at least five percent of their positions with persons with disabilities.⁶¹

Additional protections on employment matters are contained in the Law on Vocational Training and Employment of People with Disabilities, which establishes the following categories of people entitled to vocational training and employment:

Children and youths with developmental difficulties “who are able to benefit from specialized education,” children and youths with developmental difficulties “who are unable to benefit from specialized education,” and employed people with disabilities “who cannot benefit from re-training or additional training.”⁶²

People who become disabled at work are entitled to re-assignment to other jobs that are suited to their remaining working capacity. Unemployed people with disabilities who are registered with the

⁶¹ Author was a member of Working group of Ministry of Labor, Employment and Social Affairs that was drafting the Law in 2005/ 2006.

⁶² Originally, the term used was “invalids.”

National Employment Service (NES) are obliged to accept vocational rehabilitation and education if offered a job by the NES.⁶³

Moreover, the National Employment Strategy for Serbia has proposed concrete measures to stimulate employment in the disability population. It recommended following specific measures, which include:

- Offering incentives to employers to hire persons with disability;
- Establishing cooperation between employers and the NES for the purpose of defining which jobs could be offered to persons with disability;
- Regulating quotas of compulsory employment of persons with disability and monitoring and sanctioning possible violations of this regulation;
- Enhancement of access to employment for persons with disability and enabling the acquisition of higher level of education and professional skills through the creation of various educational programs. It is also necessary to stimulate the inclusion of persons with disability into adequate adult education programs;
- Building infrastructure accessible for persons with disability in all institutions;
- Foundation of a special fund for the stimulation of employment of persons with disabilities and a special council to monitor their progress;
- Assessing “environment quality” for the disability population through periodical surveys to provide better accessibility to public services.⁶⁴

The Department for Protection of Persons with Disabilities utilized experts from the disability movement on a regular part-time basis

⁶³ A Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe, Budapest, 78 – 81. The survey was conducted in 2005 but has not yet been published.

⁶⁴ National Employment Strategy of Serbia, Belgrade, 2006, 55.

to assist in working groups for the drafting of legislation and policies. Though the current policies have the potential to stimulate employment for persons with disabilities, it is too early to measure results. However, it is important to highlight that the World Bank stated in Serbia's Poverty Reduction Strategy that only 13 percent of persons with disabilities are employed. The unemployment rate of the disability population, based upon this figure, is approximately 74.5 percent.⁶⁵ On the other hand, a much lower figure, roughly 25,000 people have registered themselves as unemployed with the National Employment Service (NES).⁶⁶ However, the 2001 research from Handicap International and the Institute for the Study of Democratic Alternatives estimates that the number of unregistered and unemployed persons with disabilities is also close to 25,000. One should also take into account that a certain number of people with disabilities already receive disability pensions: According to National Disability Retirement Fund figures for 2005, more than 375,000 persons were beneficiaries of the disability pension.⁶⁷

The total number of persons with disabilities working in the public sector is one percent, according to the 2001 research conducted in 12 Serbian municipalities by Handicap International and the Institute for Research of Democratic Alternatives.⁶⁸

- In two Belgrade municipalities, persons with disabilities work full time as coordinators of municipal Councils for Disability Affairs;
- A person with a disability works full time as a municipal councilor in the Vracar municipality in Belgrade;
- A person with a disability is an advisor to the mayor's office in the city of Kragujevac;
- A small number of persons with disabilities work as advisors in the Ministry of Education, the Ministry of Justice, the President of Serbia's People's Office, and the Fund for Retirement and Disability Insurance.

⁶⁵ Leerentweld, Henry, Rauschenbach, Birgit, Savcic, Ruzica and Tatic, Damjan

⁶⁶ Ibid.

⁶⁷ Data presented at public hearing in Parliament of Serbia, Belgrade, June 2006.

⁶⁸ Viktorija Cucić (editor), 87

The number of persons with disabilities employed in the private sector is one percent. Approximately one percent of persons with disabilities are self-employed, 10 percent work in the non-governmental sector (primarily in DPOs), and one percent work in sheltered workshops.⁶⁹

With respect to vocational rehabilitation implementation in Serbia and according to the ILO, specialized commissions of the Fund for Pension and Disability Insurance determine the capacity to work of individuals who become disabled at work.⁷⁰ During the employee selection process, the NES and sheltered workshops determine eligibility for vocational rehabilitation of adults seeking a job on the open labor market or with sheltered workshops. The NES, sheltered workshops, and institutions for special education provide vocational rehabilitation responding to requests from employers, or as indicated by the labor market. A service in the Belgrade branch of the NES works with teams of special pedagogists and social workers. They focus on mediation and follow-up of the employment process of people with disabilities. They establish regular contact with both employers and disabled employees.⁷¹ The number of persons with disabilities that found jobs through NES in the first nine months of 2006 was more than 300.⁷²

The feasibility study on employment of persons with disabilities in Serbia indicates that training programs are somewhat out of date, with the exception of some provided by few companies for employment of persons with disabilities (e.g., market-oriented sheltered workshops) and training offered by certain disability organizations (e.g., computer skills, English language courses).⁷³ The funds allocated for specialized training and placement programs for people with disabilities are often insufficient to meet the demand of potential

⁶⁹ Ibid.

⁷⁰ *A Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe.*

⁷¹ *A Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe.*

⁷² Data presented at regional consultative meeting for SEE countries on employment of persons with disabilities, Belgrade, 8-10 November 2006.

⁷³ Leerentweld, Henry, Rauschenbach, Birgit, Savcic, Ruzica and Tatic, Damjan, 9.

attendees of the programs. Furthermore, mainstream training programs are not always accessible to persons with disabilities, as they are predominantly located in major cities.⁷⁴ Mainstream training programs run by the NES are sometimes inaccessible to persons with disabilities, due to inaccessible premises where the training takes place and inaccessible formats of curriculum.⁷⁵

Regarding reasonable accommodations, Article 22 of the Law on Prevention of Discrimination against Persons with Disabilities states that it is illegal discrimination if an employer refuses to adapt a workplace for an employee with a disability, as long as funding is available from outside sources, or the costs are not disproportionate to the profit the employer can make by hiring that disabled employee.⁷⁶ The NES provides employers that hire persons with disabilities with up to €1,100 for adaptation of the workplace. However, NES data from 2005 shows that less than 100 employers used this incentive.⁷⁷ Sheltered workshops receive annual subsidies for additional adaptations and maintenance of the workplace and equipment. In 2005, according to the NES and the Ministry of Labor, Employment and Social Affairs, the government of Serbia invested close to €2 million for the enhancement of working conditions in sheltered workshops.⁷⁸

Sheltered workshops for people with disabilities are also called companies for vocational training and employment of persons with disabilities. These facilities operate in accordance with the provisions of the Law on Vocational Training and Employment of Persons with Disabilities. The financial resources for the functioning of these sheltered workshops come from the Republican Budget. The Union of Sheltered Workshops coordinates the relationship between the government, the Fund for Pension and Disability Insurance, and the sheltered workshops. Other sheltered workshops are set up by organizations of persons with disabilities. In the process of

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ *The Law on Prevention of Discrimination against Persons with Disabilities.*

⁷⁷ *A Survey of Policy Tools for Promoting Employment among People with Disabilities in the Countries / Entities in Pact for Stability of South Eastern Europe* 82 – 84.

⁷⁸ Ibid.

privatization of publicly owned community property, some sheltered workshops were privatized.⁷⁹

As most sheltered workshops are in print shops and small industrial plants, employees and trainees receive training in jobs related to the workshops' regular activities. Most of the trainings are given only at the beginning of employment. Sheltered employment companies do not have a transition mechanism to integrate or reintegrate people with disabilities into the mainstream labor force. In addition to the production of goods, sheltered workshops are also supposed to provide vocational training to children with disabilities who cannot receive such instruction in special schools, as well as for adult employees who need additional training.

In order to be acknowledged as a sheltered workshop, at least 40 percent of a company's staff must be people with disabilities, according to the 1996 Law on Vocational Training and Employment of Persons with Disabilities. The total number of registered sheltered workshops is 74, out of which 61 have the right to be financed from the Republican Budget. The total number of employees is 6,045, out of which 3,206 are people with disabilities.⁸⁰

People with disabilities either find jobs in the open labor market, are self-employed or seek jobs in sheltered workshops. There is no supported employment in the open labor market.

The Union of the Employers took an active part in the public debate that accompanied a feasibility study on employment reform of persons with disabilities in Serbia in the spring of 2006. The Union expressed willingness to support increases in the employment rate of persons with disabilities, but warned against indiscriminate imposition of a quota-levy system. It urged for the enhancement of professional

⁷⁹ However, the Union of Sheltered Workshops expressed concerns that, during the privatization process, the employed persons with disabilities might be discharged.

⁸⁰ Leerentweld, Henry, Rauschenbach, Birgit, Savcic, Ruzica and Tatic, Damjan.

rehabilitation, education, and employment training for persons with disabilities.⁸¹

Health Services

The Ministry of Health provides funding aimed specifically at promoting the health or rehabilitation of people with disabilities. The National Health Service has not implemented a community-based rehabilitation strategy, although the Law on Health Care gears the health care system towards primary health care provision at a local level.⁸²

Persons with physical disabilities can apply for physical rehabilitation services in rehabilitation centers and spas, covered by the Health Insurance Fund. Requests can be filed in accordance with a prescription from a doctor, or following an extended stay in a hospital or other care facility. One cannot apply for rehabilitation services following home-care treatment.⁸³

The Law on Health Insurance stipulates that some categories of the general population insured for health care services may be obliged to participate in payment of part of the costs of their primary health care services, in spite of the fact that they have health insurance. However, the law prescribes that the Health Insurance Fund will cover the entire cost of primary health care for the following groups: war veterans with disabilities, civilians whose disabilities are the result of armed conflict, the blind, people with severe mobility disabilities, and people entitled to allowances for other assistance.⁸⁴

The Health Insurance Fund supports the purchase and repair of auxiliary equipment, such as technical aids. It sets criteria for applying for funding when purchasing equipment from manufacturers and distributing companies that signed a contract with the Fund. On

⁸¹ Statement by representative of Union of Employers at round table discussion of feasibility study of reform of employment of persons with disabilities in Serbia, supported by European Agency for Reconstruction, in Belgrade, Vracar Municipality, June 2006.

⁸² Findings of the author, based on an analysis of Law on Health Care and situation in practice.

⁸³ See Law on Health Care, Official Gazette of Serbia, no 107/ 2005.

⁸⁴ See Law on Health Care, Official Gazette of Serbia, no 107/ 2005.

the basis of a doctor's prescription, a person with a disability who meets the criteria of the Regulation on Purchase of Orthopedic and Other Aids can be reimbursed for the purchase of certain equipment. However, an individual is entitled to funding only if the equipment is from the list of aids covered by the Health Insurance Fund, and he or she has not yet used the right to purchase a particular piece of equipment that he or she is entitled to obtain through the Fund.⁸⁵

Physician training on providing care to people with disabilities is offered during medical school and residency, but few take advantage of such instruction. Trainings are offered by medical schools and departments of special pedagogy and rehabilitation in the following areas: physical, occupational, and speech therapy; psychiatry; and prosthetics and orthotics.⁸⁶

Housing

People with disabilities are eligible for public housing funding programs. Some use Social Solidarity Funds to obtain apartments located in accessible and affordable communities, while others seek accommodations or are placed by their families in segregated institutions for long-term stays. People with physical disabilities usually rely on family members for assistance in daily activities. This often poses problems as parents age, where point placement in a residence institution becomes the only solution. To elaborate: "Persons with intellectual disabilities usually are denied their legal capacity, so it's not rare practice for them to be sent to institutions after the death of their parents while local authorities become owners of apartments."⁸⁷ Some people with disabilities and their families view residence at various institutions as an optimal way of solving their housing problems.⁸⁸

⁸⁵ Regulation on Purchase of Orthopedic and other Aids, "Official Gazette of Serbia", December 2005.

⁸⁶ Experts at Clinics for Neurology in Belgrade, October 2006, interviewed by the researcher.

⁸⁷ Data presented by representatives of associations of parents of persons with intellectual disabilities in the course of debate on draft National Strategy for Enhancement of Situation of Persons with Disabilities.

⁸⁸ Statements of residents of institution for persons with physical disabilities in Belgrade at a round table held in that home in February 2005.

Particularly regarding Independent living, Article 32 of the Law on Prevention of Discrimination of Persons with Disabilities prescribes that local authorities shall put effort into creating support services for people with disabilities to facilitate independent living and community integration after January 1, 2007. In a number of cities and municipalities (Belgrade, Smederevo, Jagodina, Leskovac, Sombor), DPOs are currently negotiating with local authorities on setting up support services for persons with disabilities. Starting in 2003, the Center for Independent Living of Persons with Disabilities ran a three-year, five-city pilot program of personal assistant services for people with physical disabilities. This pilot was funded by the Irish Government (Ireland Aid), and was also supported by the Ministry of Labor, Employment and Social Affairs of Serbia, Catholic Relief Services and a number of Serbian municipalities. In order to introduce this innovative service into the mainstream system, the project included a feasibility evaluation as well as research of eligibility criteria and service provision standards. In the spring of 2007, the Center received funding from Serbia's Fund for Social Innovation to continue the program, but with a decreased number of users.

According to an advisor at the Department for Protection of Persons with Disabilities at the Ministry of Labor, Employment and Social Policy, both the Ministry and the local authorities "support pilot projects of joint housing for persons with mild intellectual disabilities, run by various DPOs and NGOs, in which several persons share a house with several apartments and a joint support staff, as a step outside of institutions."⁸⁹ People with disabilities are eligible to apply for apartments donated by local authorities. Construction of such apartments is funded by Solidarity Housing Funds run by various municipalities. Certain socially marginalized groups, including people with disabilities, are eligible to apply for this housing option. Eligibility criteria varies for the different funds.⁹⁰

Finally, households that include an individual with a disability are exempt from paying part of the cost of electricity and communal

⁸⁹ Interview with Kotevic, Jelena, legal advisor of Ministry of Labor, Employment and Social Affairs by Author by telephone, September 2006, Belgrade.

⁹⁰ Kotevic, Jelena.

taxes for apartment maintenance, according to the decision of the publicly owned electric company and local authorities in charge of apartment maintenance.⁹¹

Institutionalization

Persons with psycho-social disabilities can be placed in an institution against his or her will if they present a threat to themselves or to others, through a procedure detailed in the Family Code and Health Care Law of Serbia. Placement is based on a court's decision that must be adopted with due judicial guarantees. Such a proceeding is initiated by the recommendation of a doctor, and must be reported to competent authorities within 48 hours. The Health Care Law of Serbia does protect patients from involuntary experiments.⁹²

In general, institutions provide residents with housing, primary care, and health care. They also offer the following services: rehabilitation and occupational therapy for persons with intellectual and psycho-social disabilities; vocational training for persons with physical and milder intellectual disabilities; and psychiatric and psycho-social counseling for residents of institutions for persons with psycho-social disabilities. According to the Ministry of Labor, Employment and Social Affairs, efforts are being made to enable residents to participate in cultural and athletic activities in the community, and to encourage involvement in daily social life.⁹³ However, representatives of parent associations claim that in some institutions few of the above-mentioned services are actually provided.⁹⁴

The total number of institutions for long-term housing for people with disabilities in Serbia is 20. The total number of residents in

⁹¹ Decision of Electric Industry of Serbia and decisions of municipal authorities' public companies in charge of apartment maintenance.

⁹² Procedure is described by Family Code as published in the Official Gazette of Serbia No 18/2005 and by article 44 of Health Care Law of Serbia.

⁹³ Data obtained from Department for Institutions of Social Protection of Ministry of Labor, Employment and Social Affairs of Serbia by e-mail in November 2006.

⁹⁴ Statements of representatives of associations of parents of persons with intellectual disabilities and autism in the course of public debate on draft National Strategy for Enhancement of Situation of Persons with Disabilities, Belgrade, November 2006.

such facilities is 5,365.⁹⁵ There are nine institutions for long-term housing and care of children and young persons with disabilities. Specifically, there are eight facilities for individuals with intellectual disabilities, and one for residents with autism. Another institution is being built and is scheduled to become operational in 2007. It shall have residents with intellectual disabilities for young people up to 18 years of age. The total number of residents of institutions for children and adolescents with disabilities is 2,470. There are 11 institutions that exclusively house adults with disabilities: two for people with physical disabilities, two for those with psycho-social disabilities, one devoted to persons with visual impairments, and 6 for individuals with intellectual disabilities. The total number of residents of the 11 institutions that house adults with disabilities in Serbia is 2,895.

There are two ministries that monitor institutions: the Ministry of Health, for issues involving psychiatric institutions, and the Ministry of Labor, Employment, and Social Policy, for cases regarding permanent residence of persons with intellectual and physical disabilities. These ministries monitor the work of institutions in their jurisdiction on a regular basis. Staff, legal representatives, or guardians of a person placed in an institution can report instances of abuse. If there is suspicion that a criminal offence has been committed, any interested party can report the case to police and/or the public prosecutor that will conduct an investigation.⁹⁶

Any death in an institution is reported to a coroner. In cases of suspicion of a possible criminal act, police and/ or public prosecutors are informed. Ministries responsible for monitoring particular institutions are also informed about controversial cases.⁹⁷ It is important to highlight that during the crisis in the 1990s, living conditions for institutions' residents deteriorated rapidly. Since 2000, local authorities and foreign donors began investing in institutions in an attempt to improve living conditions. According to the Ministry of Labor, Employment and Social Affairs, some gradual

⁹⁵ Data obtained from Department for Institutions of Social Protection of Ministry of Labor, Employment and Social Affairs of Serbia by e-mail, November 2006.

⁹⁶ Data obtained in interview with legal advisor of Ministry of Labor, Employment and Social Affairs.

⁹⁷ Legal advisor of Ministry of Labor, Employment and Social Affairs.

improvements have occurred but it is necessary to continue investing in this effort.⁹⁸

Accessibility

There is a door-to-door wheelchair accessible van unit within the Public City Transport of Belgrade. There are City Hall plans for new city train transportation, and, in statements to the media, city officials publicly promised access to the service for persons with disabilities.⁹⁹ Since the spring of 2006, two operators of public transportation in Belgrade – Public City Transport of Belgrade and “Lasta”, an operator in suburban Belgrade – have been obliged by the City Secretariat for Transport’s mandatory administrative decision to admit blind persons with guide dogs in the vehicles. Approximately 20 percent of buses and trams in Belgrade are low-floor. Still, in 2006 city officials claimed that wheelchair users cannot use the low-floor buses as they were hazardous for them and insisted that wheelchair users use solely door-to-door accessible van service.¹⁰⁰ In March 2007, after criticisms from local DPOs in Belgrade, city authorities agreed to enable them to use low-floor buses and the door-to-door accessible van service. The city also promised to purchase several dozens of new low-floor vehicles and a number of new wheelchair accessible vans.¹⁰¹ There have been some attempts to create an accessible public transportation system in a few major cities outside of Belgrade, including Nis and Novi Sad. According to local DPOs, however, the results are far from satisfactory.¹⁰²

As an attempt to overcome the challenges of a predominantly inaccessible public transportation system, people with disabilities use their own cars, taxis, or adapted vans owned by a small number of

⁹⁸ Data obtained from Department for Institutions of Social Protection of Ministry of Labor, Employment and Social Affairs of Serbia by e-mail, November 2006.

⁹⁹ Press statement by Belgrade’s Mayor Mr Bogdanovic, Nenad to various media, Spring 2006

¹⁰⁰ Press release of Belgrade’s Mayor Bogdanovic, Nenad in September 2006.

¹⁰¹ Statements of representatives of Belgrade City Hall at round table discussion in Vracar municipality in Belgrade, March 2007.

¹⁰² Comments of representatives of DPOs in Novi Sad and Nis at round table and panel discussions, 2006.

disability organizations in Belgrade and other major cities. Since the 2006 amendments to the Customs Law, people with 70 to 100 percent physical disabilities, as well as parents of children with intellectual disabilities, are allowed to import used cars free of customs tariffs and with an option for the refund of the VAT. Approximately 2,200 used cars were imported tax-free as of September 2006.¹⁰³

Regulations and amendments listed in the Law on Construction and Planning of Buildings, and Regulation on Conditions for Planning and Construction related to the Movement of Children, Elderly, Handicapped and Disabled Persons, prescribe that new public buildings must be constructed in accordance with accessibility standards.¹⁰⁴ Though these acts apply to the construction of the new buildings, they take into consideration the process of adapting existing structures when technically feasible. They apply to all buildings open to the public, but mainly emphasize public structures. The regulations do not apply to private buildings.

According to data gathered by Handicap International in 2001, between 40 and 60 percent of all public buildings are wheelchair accessible.¹⁰⁵ It should be noted this figure was compiled based on interviews with persons with disabilities who participated in research, rather than by monitoring the implementation of accessibility standards. Currently in 2007, the Department for Protection of Persons with Disabilities is gathering responses from all institutions under their jurisdiction on observance of accessibility standards, but that data is not yet available.

The main post office in Belgrade was made accessible to wheelchair users in 2002, at the proposal of the Association of Disabled Students.

¹⁰³ Statement by Ms Markovic, Sladjana, Deputy Minister, head of Department for Protection of Persons with Disabilities at round table discussion October 2006.

¹⁰⁴ Regulation on Conditions for Planning and Construction related to the Movement of Children, Elderly, Handicapped and Disabled Persons, Official Gazette of Serbia No 18/ 1997
Amendments to the Law on Construction and Planning of Buildings Official Gazette of Serbia No 34/ 2006.

¹⁰⁵ "Osobe sa invaliditetom i okruzenje" („Persons with Disabilities and the Environment“), V. Cucic (editor), Belgrade, 2001.

Subsequently, a number of other post offices across Serbia adapted accessibility in accordance with that model.¹⁰⁶

Courses in “Design for All” are available to architects and engineers at the Technical Faculty of the University of Novi Sad and the Faculty of Architecture at the University of Belgrade. All students in the Department of Architecture at the Faculty of Technical Sciences of Novi Sad University receive lectures on Universal Design/Design for All, as those are incorporated into the curricula of various courses. As a follow-up of those courses, the campus in Novi Sad is being adapted to make it accessible.¹⁰⁷

A team from the Faculty of Architecture was hired by the Belgrade City Hall to reconstruct King Milan’s Street, one of the central streets in Belgrade. During the reconstruction of King Milan’s Street, the team of architects worked with disability organizations and ensured that mild curbs and tactile paths were constructed. In 2003, the reconstruction project won a special award from the Committee of European Ministers for Transport for accessibility.

Serbia has not made a systematic effort to ensure that Internet sites are accessible to people with visual disabilities. However, a number of sites utilize the “Enreader” software program, designed by a team of experts from the Faculty of Technical Sciences at the University of Novi Sad, which converts written text into spoken Serbian. The Ministry of Labor, Employment and Social Affairs has donated more than 100 copies of Enreader software to members of the Association of the Blind.¹⁰⁸

The websites of the Parliament of Serbia and the Ministry of Labor, Employment and Social Affairs are accessible to blind users. Advisors to the Association of the Blind of Serbia believe that the site of the Ministry of Labor, Employment and Social Affairs is less accessible,

¹⁰⁶ ADS Annual Report for 2002.

¹⁰⁷ Presentation by Professor Vukajlov, Ljiljana at 5th International Conference “Access 2006” in Belgrade, February 2006.

¹⁰⁸ Statement by Markovic, Sladjana, Assistant Minister for Labor, Employment and Social Affairs, head of Department for Protection of Persons with Disabilities, at 5th International Conference “Access 2006”, Belgrade, February 2006.

because certain text is available only in PDF format and cannot be read by “Enreader.” Alternatively, the Parliament of Serbia website links are made with an option of selecting all texts in either a Word or PDF format file, so “Enreader” users can still gain access to the pages. Text of all legislation adopted since 2001 is available on the Parliament site in accessible formats.¹⁰⁹

Culture, Sports and Recreation

Persons with disabilities are often involved in cultural, sporting and recreational activities in Serbia. Groups within the Ministry of Culture and the Ministry of Education and Sports facilitate participation of the disability population in cultural and athletic events. There are gifted writers and visual artists among Serbians with disabilities who publish books and organize exhibitions. The Deaf Association of Serbia has a cultural department and the Blind Association of Serbia has its own library. The Ministry of Culture funds magazines published by various DPOs.¹¹⁰

Over the past few years, authorities have made continuous efforts to include persons with disabilities into cultural life. In cooperation with the Association for Heritage Protection, the Serbia Nostra Center for Independent Living of Persons with Disabilities initiated the incorporation of accessibility standards in reconstruction plans for the National Museum of Serbia in Belgrade. A platform was installed in the National Museum in April 2006 with support from the Ministry of Culture. The Frescoe Gallery, the Ethnographic Museum, and the Museum of Natural Sciences have also been made accessible.

Occasionally, tactile exhibitions are organized for visitors with visual disabilities in the National Museum and Museum of Natural History as well as various galleries in Belgrade. The Center for the Independent Living of Persons with Disabilities of Serbia also initiated reconstruction of the Belgrade Philharmonics Hall, which became fully accessible to wheelchair users and provided lectures on disability rights to museum visitors and curators. In order to ensure accessibility

¹⁰⁹ Simic, Nenad.

¹¹⁰ Presentation by representative of Ministry of Culture at workshop on draft of National Strategy for Enhancement of Situation of Persons with Disabilities, Belgrade, November 2006.

of programs, the City Hall of Belgrade appointed representatives of persons with disabilities to the Council of European Heritage Days in 2005 and 2006. The Ministry of Culture issued a directive to all institutions of culture to incorporate strict accessibility standards in any reconstruction whenever it is technologically feasible in order to ensure accessibility of programs.¹¹¹

Despite the lack of adequate funding for game preparation, Serbian athletes with disabilities from the team of Serbia and Montenegro won medals in a number of competitions at the 2004 Paralympics in Athens. A wheelchair basketball league is currently in formation, and a number of sporting facilities were made accessible to persons with disabilities. The newly constructed Belgrade Arena, which is the site of European basketball and volleyball championships, is fully accessible. An accessible booth was added to the stadium of the soccer team, Red Star, in Belgrade. Unfortunately, these are only a few examples, as most sporting and cultural facilities have yet to be made accessible.¹¹²

Disability Action and Awareness

The Council on Disability Affairs of the Government of Serbia was founded in 2002. The Director General of the Ministry of Labor, Employment and Social Affairs currently chairs it. Members include the Deputy Minister in charge of the Department for Protection of Persons with Disabilities, representatives of other ministries (e.g., justice, health, capital investments, culture, and interior), representatives from the Special Education Faculty, and eight DPOs. Of the DPOs involved, seven are national and one works in the autonomous province of Vojvodina. The Council serves as a forum for the exchange of information, initiation of actions, and review of draft law proposals. It met three times in 2006, even though it was

¹¹¹ Statement of representative of Ministry of Culture at international seminar "Museums and Audiences", Belgrade, 2003.

¹¹² Author's survey of accessibility of sporting venues in Belgrade, conducted as part of the IDRM research.

supposed to meet more regularly, however, several meetings were postponed due to the lack of quorum.¹¹³

In 2004, a Department for Protection of Persons with Disabilities was established within the Ministry of Labor, Employment and Social Affairs as one of its departments dealing with specific issues. An Assistant Minister is at the head of the Department.

The Government of Serbia adopted the National Strategy for the Enhancement of Situation of Persons with Disabilities on 18 Dec 2006.¹¹⁴ DPOs were involved in various stages of the drafting process. After adoption of the National Strategy in early 2007, the goal is to adopt biannual national action plans at the national, ministerial and departmental levels. The plans will be based on recommendations from the coordinating organization and competent ministries. The main aim of the National Strategy is to promote full participation of persons with disabilities into all spheres of Serbian society. The plans will be accompanied by detailed budgetary allocations for each activity and aim. Government ministries, local authorities and disability organizations will be responsible for the implementation of plans, but all other public authorities, such as parliament and jurisprudence, will participate in implementation in accordance with their competencies.¹¹⁵

There are dozens of organizations that form the Union of DPOs of Serbia. Since the mid-1990s, several cross-disability organizations have been formed, including: the Center for Independent Living of Persons with Disabilities of Serbia, the Association of Disabled Students, Center “Living Upright,” and “Out of Circle” (an NGO for combating violence against women and children with disabilities).¹¹⁶

¹¹³ Jelena Kotevic.

¹¹⁴ *National Strategy for the Enhancement of Situation of Persons with Disabilities* Official Gazette of Serbia, January 2007.

¹¹⁵ Author participated in the process of drafting of the Strategy as independent consultant and disability expert.

¹¹⁶ Researcher is one of founding members of Center for Independent Living of Persons with Disabilities of Serbia and has closely cooperated with other above- mentioned cross- disability organizations.

DPOs have sufficient expertise and thorough knowledge of disability rights and advocacy, and have forged valuable partnerships with public authorities, the civic sector, experts, universities, and the media. In 2002-2003, the Center for Independent Living of Persons with Disabilities of Serbia conducted a campaign to promote the UN Standard Rules, with funding from the Ministry for Social Affairs of Serbia. Between 2002 and 2006, a coalition of DPOs, human rights NGOs, and university experts prepared a draft antidiscrimination law and then successfully lobbied authorities for its adoption as a Government proposal in the Parliament of Serbia. DPOs participated as equal partners with the Government in the drafting process of the International Convention on the Rights of Persons with Disabilities.¹¹⁷

Organizations working at the national level receive quarterly funding from the state budget for regular activities. Once a year, all organizations can apply for project funds through the Ministry of Labor, Employment and Social Affairs. Local organizations sometimes receive funds from local authorities, and organizations can also apply for funding from international organizations. Despite recent improvements, however, funds are often insufficient to meet organizational needs. Even after receiving fundraising training by international donors like Oxfam and Handicap International, few DPOs have the knowledge needed to successfully harness international funds.

Several Serbian organizations have implemented anti-discrimination programs. These include: the Center for Independent Living of People with Disabilities of Serbia; Center Living Upright; Out of Circle; Center for Development of Inclusive Society; Association of Disabled Students; and the Union of DPOs of Serbia. Efforts range from legislative initiatives and awareness-raising campaigns, to legal counseling and advice.

¹¹⁷ See section on national and international legal protections of this Report for additional details.



SPAIN

Key Factors

Spain is going through a fundamental change in the way disability is understood, shifting from a medical conception towards a social model and human rights

approach.¹ Ratifying the United Nations Convention on the Rights of Persons with Disabilities will be a fundamental step in this direction.

Associations of persons with disabilities have a fundamental role in the progress of the disability rights agenda. The Spanish National Council of Disabled Representatives (CERMI) has played a key part in promoting a mainstreamed approach to disability rights.

Due to Spain's division of territorial power between the Central Government and the Autonomous Communities, as stated by the Spanish Constitution, some of the rights/benefits for persons with disabilities vary depending on the region.

Terminology

Spain's disability terminology has changed over time. In the sixties the primary term was "subnormal," but this changed in the eighties to "handicapped" or "persons with handicap." Since that time, there has

¹ Law, of 2 December of *Equal Opportunities, Non-Discrimination, and Universal Access for Persons with Disabilities*, No. 51/2003 (In Spanish) B.O.E. Journal of the Official Gazette, 3 December 2003 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/27953-ides-idweb.htm; (Accessed 25 May 2007)

¹¹ *National Plan on Disability 2003-2007* (IMSERSO, General Secretary of Social Services, Employment and Social Affairs Ministry, Madrid, 2003) <http://www.seg-social.es/imserso/normativas/iipapcd20032007.pdf>; *1 National Plan on Accessibility 2004-12* (In Spanish), (IMSERSO, General Secretary of Social Services, Employment and Affairs Ministry: Approved by the Council of Ministers in Madrid on 25 July 2003) <http://usuarios.discapnet.es/disweb2000/lex/AcpePlan2004-2012.pdf> (Both accessed 18 July 2007).

been an evolution from “handicapped” to “disabled” or “persons with disability.”² Until recently, both “handicapped” and “disabled” have been used interchangeably by legislators.³ The current terminology is “person or persons with disability.”⁴ However, in order to qualify for some disability pensions, words such as “incapacidad” (incapacity), “invalidéz” (invalidity), and “inutilidad” (uselessness) are still in use.⁵

Definition of Disability

The official definition in Spanish Law is found in the Social Integration of the Handicapped Law, which still uses the medical model of disability. It defines an individual with a disability as: “any person whose educational, employment, or social integration opportunities are diminished as a consequence of a deficiency, foreseen as permanent, of a congenital character or not, in their physical, psychological or sensory capacities.”⁶

² Decree 2421/1968, of 20 September which establish the Social Service to give assistance to minors who are subnormal. Subnormal has to be understood as under normality; Royal Decree 348/ 1986 of 10 of February, which substitutes the terms subnormality and subnormal for handicap or person with handicap in the update norms.

³ Belén Alonso-Olea, Manuel Lucas Durango and Isidoro Martín Dégano, *The protection of the persons with disability in the Social Security and Tributary Law*, (In Spanish): (Thomson- Aranzadi. CERMI, Madrid, 2006), 41.

⁴ Law of 14 of December, of promotion of the Personal Autonomy and attention to Persons in a Dependency situation, No. 39/2006 B.O.E Journal of the Official Gazette, 15 December 2006, additional disposition number 8; “Reference done in previous norms to handicapped or person with handicap will be understood to person/s with disability... future norms will use the word person/s with disability”. In this report have been respected all original names of the laws.

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/36351_LEG-ides-idweb.htm (Accessed 25 May 2007)

⁵ Royal Legislative Decree 1/1994, of 20 June, of the General Social Security Law B.O.E Journal of the Official Gazette, 29 June 1994, Chapter V http://www.060.es/te_ayudamos_a/legislacion/disposiciones/3912-ides-idweb.html (Accessed 25 May2007); Royal Legislative Decree 670/1987, of 30 April, which regulates the passive classes of the National Public Administration (for the recognition of pensions to statutory workers), B.O.E 27 May 1987 Journal of the Official Gazette http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25761-ides-idweb.html (Accessed 25 May2007).

⁶ Law of 7 April, of the Social Integration of the Handicapped, No 13/1982 B.O.E. Journal of the Official Gazette 30 April 1982, article 7.1; The norm uses the word handicapped, but this terminology has to be understood done to person with disability according to the new terminology (see footnote number 4) http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25324-ides-idweb.html (Accessed 25 May 2007).

In order to be considered a person with disability under the law, one must have a minimum of 33 percent of handicap degree as recognized in the handicap certification, or have become a pensioner due to a permanent incapacity to work.⁷

In order for an individual to obtain handicap certification, individuals must fall within a certain criteria under the model proposed by the International Classification of Impairments, Disabilities and Handicaps (ICDIH). The qualification of the handicap degree takes into account the disability (the impairment effects in order to carry out daily life activities, which follows the Medical American Association Proposal of 1994) and, where appropriate, aspects which limit their social integration (e.g., family situation, environment, employment status, income level, educational level).⁸ Some disabilities are not recognized as specific disabilities as autism or brain damage, however certain elements associated to them can be recognized as disabling features, for instance “communication difficulties” or “intellectual disabilities” in the case of autism.⁹

The second way to be legally considered a person with a disability is having become a pensioner due to a permanent incapacity to work. This system covers those workers whose working abilities have been reduced or annulled. The “incapacity to work” declaration has an independent evaluation system different from the disability certification.¹⁰ The Spanish Ombudsman has stated the need for coherence among both evaluations.¹¹

⁷ The use of handicap in the certification is due to the use of the IDDH model, the qualification of the handicap values the disability and the social factors. The person is a person with disability but has a handicap certification; *Law of 2 of December, of Equal Opportunities, Non-Discrimination, and Universal Access for Persons with Disability*; *Royal Decree 1414/2006 of 1 December*, defining person with disability according to the LIONDAU. B.O.E Journal of the Official Gazette 16 December 2006 <http://www.cermi.es/NR/rdonlyres/359401C1-83AF-4D96-85FB-22B444438B9B/9420/RDart12LIONDAU.pdf> (Accessed 21 April 2007).

⁸ *Royal Decree 1971/1999*, of 23 December, regulating the recognition, declaration and qualification of the handicap, B.O.E (Journal of the Official Gazette) 26 January 2000 http://noticias.juridicas.com/base_datos/Admin/rd1971-1999.html#anexo1a (Accessed 21 April 2007).

⁹ Panel discussion conducted by the author, Fundación ONCE, Madrid, 24 September 2006.

¹⁰ *Royal Legislative Decree 1/1994*, art.136-143; *Royal Legislative Decree 670/1987*

¹¹ *Ombudsman Report. Year 2003*, House Representatives Publications, General Secretary Report Series, Madrid. 2004, 466 <http://www.defensordelpueblo.es/documentacion/informes anuales/informe2003.zip> (Accessed 21 April 2007).

Disability Population

According to the Survey on Disabilities, Impairments and Health Status conducted in 1999, the official percentage of Spain’s population with disabilities is nine percent, or approximately 3.5 million people. The Survey uses a disability definition based on the ICDDH.¹²

Table I: Persons with disability in Spain broken-down for age and gender¹³

	Persons with disabilities			Percentage per 1000 persons with disability related to total population		
	Both genders	Males	Females	Both genders	Males	Females
Less than 6 years	49,577	24,723	24,853	22.44	21.71	23.21
6 -16 years	80,260	43,051	37,211	17.05	17.8	16.25
17 -44 years	50,7518	291,736	215,782	29.53	33.53	25.42
45- 64 years	81,8213	379,652	438,561	93.98	89.1	98.67
65 – 79 years	1,320,533	502,396	818,137	261.26	224.14	290.84
80 and over	752,119	231,413	520,707	545	494.14	571.13
TOTAL	3,528,220	1,472,971	2,055,251	89.9	76.6	102.67

¹² *Survey on Disabilities, Impairments and Health Status 1999* (In Spanish): INE (Statistical National Institute) , IMSERSO and Fundación ONCE) <http://www.ine.es/inebase/cgi/um?M=%2Ft15%2Fp418&O=inebase&N=&L=1>; (Accessed April 21 2007).

¹³ *Ibid*; Note: figures are out of one thousand.

Table II: Distribution of impairments by group of impairment and age.¹⁴

	Aged 6-64	Aged 65-79	Aged 80 or more
Total	100	100	100
Intellectual/mental impairment	16.68	6.33	8.59
Visual impairment	15.39	18.24	18.03
Auditory impairment	16.25	18.14	16.44
Language and speech impairment	1.17	1.05	0.9
Osteoarticulation impairment	32.77	32.37	22.43
Nervous system impairment	8.04	5.9	5.31
Visceral impairment	6.96	8.2	4.8
Other impairments	2.75	9.78	23.5

The percentage of people with disability under 65 is lower than five percent, and the percentage of people with disability over 65 years is higher than 32 percent.¹⁵

There are around 50,000 children with a disability under age six; which represents 2.2 percent of the population in that age group. 58.3 percent of all people with disabilities are women, which is around two million. The higher proportion of women with disabilities starts at the age of 45. Among the group of people with disabilities over 45, the number of women with disabilities is 60 percent higher than the number of men with disabilities. Osteoarticular, visual and hearing impairments cause most disabilities. Almost half of the impairments in children under six are due to congenital factors; while, seven percent originate from birth problems. Illnesses originate in 51 percent of the impairments in people aged 6-64 years, while accidents represent 14.1 percent.¹⁶

¹⁴ *Ibid.*

¹⁵ Antonio Jiménez Lara and Agustín Huete García, *Disability in Spain, Statistical data. Approximation from the Disability, Impairment and Health Status Survey 1999*, Royal Board on Disability, Madrid, 2003, 11-12.

¹⁶ *Ibid.* 12-15 and 50.

Around 2.3 million people have problems performing activities of daily life. For more than 1.5 million, those difficulties are so severe that they need the help of a second person in their normal life.¹⁷

The Government conducts regular census surveys, but it does not include questions on disability, claiming that the existence of specific surveys related to disability makes Census questions on the matter unnecessary.¹⁸

Legislation and Disability Rights

National Protections

The Spanish Constitution of 1978 includes the legality of positive actions, the equality before the law and the prohibition of discrimination.¹⁹ Article 49 relates specifically to persons with disability:

“The public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration of the physically, sensorially and mentally diminished by giving them the specialized care they require, and by affording them special protection for the enjoyment of the rights granted by this part to all citizens in terms of the public authorities should be adopted.”²⁰

This article was developed by the Social Integration of the Handicapped Law of 1982 (LISMI). This law treats, on a global scale, the attention and integration of persons with disability in the

¹⁷ *Ibid.* 15-16.

¹⁸ INE. Official web page of the Statistical National Institute Census information <http://www.ine.es/proyectos/cen2001/51.htm?L=0> (Accessed 21 April 2007).

¹⁹ Spanish Constitution, Articles 9.2 and 14

Available in English at the Spanish Government official page <http://www.la-moncloa.es/Espana/ElEstado/LeyFundamental/default.htm> (Accessed 21 April 2007).

²⁰ Spanish Constitution. Art. 49. This article needs a legislative development, by itself does not generate subjective rights.

Available in English at the Spanish Government official page <http://www.la-moncloa.es/Espana/ElEstado/LeyFundamental/default.htm> (Accessed 21 April 2007).

social and economic life, and includes preventive, social, economic, rehabilitation, education, and integration measures. The LISMI implementation proposed fundamental changes in the life of people with disabilities, including:

- Ordinary and protected employment; financial benefits for contracting workers with disability, the quota system, sheltered workshops;
- Social Security; which created a system of economic support;
- Education; introducing in 1985 inclusive education and the need to adapt teaching for students with special education needs;
- Health; Including for the first time universal coverage for all people with disabilities (not needing any other requirement);
- Social Services; extending the right to benefits for people with disabilities;
- Mobility and architectonical barriers; this aspect has been the least developed, with a high level of breach and lack of control.²¹

The first law to comprehensively address the prevention of discrimination (direct or indirect) against persons with disabilities is the Equal Opportunities, Non-Discrimination, and Universal Access for Persons with Disability Law (LIONDAU) of 2003. This law is based on the social model, and includes as principles: independent life, normalization, design for all, civil dialogue, and mainstreaming of disability policies. It defines measures against discrimination, positive actions, basic accessibility conditions, non discrimination and measures to promote and defend the equality of opportunities. It is addressed to public authorities and civil society and has an almost

²¹ Miguel Ángel Cabra de Luna, Director of International Relationships of Fundación ONCE for the cooperation and social integration of persons with disabilities and Juridical Adviser of CERMI. "Disability. An ongoing revolution" paper presented as part of the course Juridical Protection of Persons with disability], Madrid, 24 January- 2 February 2005 http://www.cermi.es/bibliografia/proteccion_juridica/Curso%20Proteccion%20Juridica%20de%20Personas%20con%20Discapacidad/docs/Html/marcos.html (Accessed 18 July 2007).

universal scope.²² LIONDAU requires the adoption of subsidiary legislation in different fields. There are, however, criticisms regarding the Law:

- As it needs further legislative development, this law may take up to a minimum of 10 years to be fully developed and implemented;²³
- As Accessibility is an exclusive competence of the Autonomous Communities, and this is a national law, there could be conflicts between the State and the Autonomous Communities;²⁴
- This law should have included the sanctions regime in the law itself, instead of postponing it to a further legislative development;²⁵
- Although it widens the legal definition of persons with disability, the legislation only protects persons legally defined as disabled, and does not provide a general protection from discrimination based on disability.

Despite the criticism, however, LIONDAU is a historic piece of legislation that helps to fully promote real equality for people with disabilities.²⁶

In terms of employment and training, the prohibition of direct or indirect discrimination on the basis of disability was established in

22 Telecommunications and Information Society; Urban Public Spaces, infrastructure and buildings; Transportation; Goods and services open to the public; Relations with public administrations (Article 3 of the LIONDAU).

23 M^a Asunción Torres López' *Administrative Law. Juridical Regime of persons with disability*, in "Juridical Regime of the persons with disability in Spain and the European Union"; Ed. Comares, Granada, 2006, 216.

24 *Ibid.*

25 Miguel Ángel Cabra de Luna. Note of Author: the sanctions regimen Law is still at the Parliament.

26 *Ibid.*

late 2003 as a result of the transposition of the European Directive 2000/78 on equal treatment in the workplace.²⁷

A new law was approved in late 2006 to regulate for the first time, as a universal and subjective right, a set of benefits to promote the personal autonomy of persons in a situation of dependency (that is persons who require the support by another person for certain daily activities). The law sets a national minimum level of benefits guaranteed by the State that can be improved by the Autonomous Communities, given their legislative autonomy.²⁸

The Criminal law considers “an aggravating circumstance of criminal responsibility, to commit a crime on a person because of her/his... illness or disability.”²⁹ Furthermore:

“Those who commit serious discrimination in the workplace... against a person due to their ...disability, and do not restore an equality situation as a response to the administrative requirement to do so...shall be liable to a prison term of six months to two years or a fine of six to twelve months.”³⁰

²⁷ *Law of 7 April, of the Social Integration of the Handicapped* modified by the *Law of 30 December, of Fiscal, Administrative and Social Measures* No. 62/2003, B.O.E. Journal of the Official Gazette 31 December 2003.
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25324-ides-idweb.html (Accessed 21 April 2007); *Royal Legislative Decree 1/1995*, of 24 March, approves the text of Workers Statute Law B.O.E. Journal of the Official Gazette, 29 March 1995
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/6031-ides-idweb.html (Accessed 25 May 2007) modified by the *Law of 30 December, of Fiscal, Administrative and Social Measures* No. 62/2003, B.O.E. Journal of the Official Gazette, 31 December 2003
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/28254-ides-idweb.html (Accessed 21 April 2007).

²⁸ *Law of 14 of December, of promotion of the Personal Autonomy and attention to Persons in a Dependency situation.*

²⁹ *Organic Law of 23 November, of Criminal Code* No. 10/1995, B.O.E. Journal of the Official Gazette 24 November 1995 Article 22.4

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/7734-ides-idweb.html (Accessed 25 May 2007).

³⁰ It is necessary as a previous administrative requirement by the Labor Inspector and not to accomplish it; *Organic Law of 23 November, of Criminal Code, Article 314; The fine is an amount of money based on the kind of crime and the economic resources of the criminal.*

International Protections

Spain has ratified practically all of the international instruments combating discrimination. These include conventions of the UN, the ILO, and the Council of Europe.³¹

Spain is also member of the Council of Europe and ratified the European Social Charter in 1980, including Article 15 which pertains to persons with disabilities. It has not ratified the Revised Social Charter.

As a member of the European Union, Spain is subject to EU regulations on the rights of persons with disabilities, namely in the field of air passengers. It has transposed or is in the process of transposing a number of EC directives, such as the EC directive 2000/78 on equal treatment in the workplace and the EC public procurement and copyright directives.

Spain actively supported the adoption of a UN Convention on the Rights of Persons with Disabilities, and has already signed it and the optional protocol.³²

Legal Barriers

The Spanish legal system regulates the limitation of the legal capacity of persons with disabilities. The Civil Code states as causes of incapacity: “the physical or mental persistent illness or impairment which prevents the self-government of the person.”³³ This focuses

³¹ Luis Cachón, *Spain Country report on measures to combat discrimination*, Report on Measures to combat discrimination directives 2000/43/ec and 2000/78/ec. European Network of Legal Experts in the nondiscrimination field, 2005
http://europa.eu.int/comm/employment_social/fundamental_rights/policy/aneval/mon_en.htm (Accessed 21 April 2007).

³² Antonio García Roger, Chief of the area of HR of the Foreign Affairs Minister. Mail, 27 June 2006; Convention on the Rights of Persons with Disabilities, List of signatures and ratifications, UN official Web page, <http://www.un.org/spanish/disabilities/convention/list070330.pdf> (Accessed 21 April 2007).

³³ *The Civil Code*. Royal Decree of 24 July 1889, Journal of the Official Gazette, 25 July 1889, Article 200
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25299-ides-idweb.html (Accessed 21 April 2007).

on the effects of the disability, rather than the disability itself. The incapacity declaration requires a procedure and a judicial decision with special powers given to the judge. The Judge, prior to any decision, will hear from the relatives, any person he or she considers relevant, and the person who may be declared incapable in case he or she has enough discernment capacity and is over 12.³⁴ The system includes judicial controls, a Judicial Defender in case of conflict between the person declared incapable and his or her representative, and, in some cases, judicial authorizations.³⁵

The incapacitation scheme has two fundamental systems according to the discernment capacity. The Guardianship system implies the nomination of a legal representation to the person declared incapable. The Curatela (curatorship) or limited guardianship is conceived as support to a person who requires it for the acts stated in the judicial resolution. Both systems have provisions regarding the actions or activities that the person declared incapable can do by him or herself.³⁶

Adoption is regulated in the Civil Code, which includes a suitability requirement defined by each Autonomous Community.³⁷ The suitability requirement includes physical and psychological well being as important, which often leads to problems for persons with disabilities seeking to adopt a child.³⁸

³⁴ *Ibid.* First book, Titles IX; X.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *The Civil Code*; The Article 176 of the Civil Code states that: 1. "The adoption is constituted by judicial resolution that will always consider the interest of the one to be adopted and the suitability of the ones who want to adopt". This suitability has to be declared previous to the initiation of the judicial procedure.

³⁸ Examples of Autonomous Governments which evaluate physical and psychological conditions: Cantabrian Government official page (In Spanish) http://www.gobcantabria.es/portal/page?_pageid=33,33359&_dad=interportal&_schema=INTERPORTAL&group_id=33&page_id=111254&item_id=162296 (Accessed 21 April 2007) Catalan Government (In Spanish) <http://www.gencat.net/benestar/icaa/normes/d21997b.htm#t3>; (Accessed 21 April 2007).

The law regulating jury membership states that eligible participants must not have physical, psychological, or sensory impairment that prevents full jury participation.³⁹

The latest modification of the Notarial Regime done in 2007, maintains the prohibition settled in 1944 of the participation as witness in a notarial deed to “persons with psychical disabilities, the blind, the deaf and the mute.”⁴⁰ CERMI has denounced that in the elaboration of this modification neither the National Disability Council nor the disability community were consulted, and that this regulation can be considered as a clear discrimination towards people with intellectual or sensorial disabilities.⁴¹

Civic Participation

Article 23 of the Constitution recognizes Spanish citizens’ rights to vote and to participate in public affairs. Persons with disability have the right to vote and be elected in Spain. However, this right can be denied to those declared incapable or institutionalized in psychiatric hospitals. In both cases, a judicial decision is required.⁴²

The current situation in polling places has lead CERMI in the last elections (27 May 2007) to denounce the lack of accessibility (architectonic barriers, electoral information in no accessible formats, no proper voting system for people with visual disabilities, etc.) and to state that the right to vote cannot be exercised in equal conditions

³⁹ *Organic Law of 22 May, Members of the Jury*, No. 5/1995 B.O.E. Journal of the Official Gazette 23 May 1995; Article 8.5

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/24466-ides-idweb.html (Accessed 21 April 2007)

⁴⁰ *Royal Decree 45/2007*, of 19 January, which modifies the norm regulating the organization and regime of the Notarized (a Notary in Spain is an attester of documents; a Public officer is authorized to administer oaths and certify documents)

http://documentos.060.es/legislacion/common/36848_LEG.pdf (Accessed 21 April 2007)

⁴¹ CERMI, *CERMI denounces that the Notarized norm contains discriminatory aspects* <http://www.cermi.es/CERMI/ESP/Noticias/Legislacion/Reglamento+Notarial.htm> (Accessed 21 April 2007)

⁴² *Organic Law of 19 June, of Electoral Regime*, No. 5/1985 B.O.E. Journal of the Official Gazette 20 June 1985; Articles 3.1 and 6

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/24516-ides-idweb.html (Accessed 21 April 2007)

to the rest of citizens.⁴³ There is a law demanding accessibility to persons with reduced mobility, but it does not specify punitive actions when this right is violated.⁴⁴ The LIONDAU includes a reference to voting accessibility, which needs further development.⁴⁵ Currently, there is an initiative at the Parliament to modify the electoral law in order to regulate the voting process for blind people guaranteeing their right to privacy of voting.⁴⁶

Inclusion

Communication

The implementation of the LIONDAU should ensure access to information and communication for persons with disabilities, as shown in Table III.

Table III: Timetable for action set in the LIONDAU (Count since 3 December of 2005)⁴⁷

	New products and services	Pre-existing products and services
Relations with the Public Administrations	3- 5 years	15-17 years
Access to new technologies and products related to the information society and mass media	4-6 years	8-10 years (subject to reasonable adjustments))

43 CERMI, *CERMI denounces that on the elections people with disabilities cannot exercise the right to vote normally once more*, 25th of May 2007.

<http://www.cermi.es/CERMI/ESP/Noticias/No+Discriminacion/EI+CERMI+denuncia+que+unas+el+ecceiones+más+las+personas+con+discapacidad+no+podrán+ejercer+con+normal.htm> (Accessed 5 June 2007).

44 *Royal Decree 605/1999*, Of 16 April, complementing the Regulation of the Electoral Procedure B.O.E. Journal of the Official Gazette 17 April 1999, Article 1 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/16029-ides-idweb.html (Accessed 21 April 2007).

45 *Law 2 December, of Equal Opportunities, Non-Discrimination, and Universal Access for Persons with Disabilities*, final disposition number 5.

46 El País "The Parliament approves the modification of the electoral law in order to allow blind people to vote in next elections" 28 June 2007. http://www.elpais.com/articulo/sociedad/lazarillo/guiara/urnas/elpepusoc/20070628elpepusoc_3/Tes (Accessed 18 July 2007).

47 *Ibid.* additional disposition n° 5 and 7.

A Braille version of the Spanish Constitution can be requested at the Royal Board of Disability.⁴⁸ The National Library provides materials in alternative formats, including Braille and electronic or audio formats.⁴⁹

A new law is currently in the Parliament. It is intended to “recognize and regulate sign language, and to regulate support services to the communication of people who are deaf or deafblind, or who have auditory disabilities.”⁵⁰ Before the end of 2007 it should be approved.

⁵¹The Public Administration will be obligated by this law.

The Center of Intermediation is a service by The Institute of the Elderly, and Social Services (IMSERSO) that provides information facilities to persons with speech or hearing disabilities. This Center is permanent and provides several services besides emergency care.⁵²

Currently it is not obligatory to subtitle whole TV programs, but there is an initiative in order to regulate by law that obligation. The quality of the current subtitling should be improved. For instance, news programs are not fully subtitled.⁵³

48 Information facilitated by Juan Carlos Ramiro, Advisor of the State Secretary on Social Services, Families and Disability, Employment and Social Affairs Ministry. Phone Conversation, 27 June 2006.

49 National Library E-mail of 22 June 2006.

50 Parliament. “Law Project which recognizes and regulates sign language, and regulates support services to the communication of people who are deaf or deafblind, or who have auditory disabilities”

http://www.congreso.es/portal/page/portal/Congreso/Congreso/Iniciativas/ProydeLey?_piref73_1335538_73_1335535_1335535.next_page=/wc/lanzarCGI (Accessed 18 July 2007).

51 CNSE “Parliament approves unanimously the law to recognize the sign language”. 29 June 2007

<http://www.cnse.es/noticia.php?ID=797> (Accessed 18 July 2007).

52 Centre of Intermediation for persons with speech or hearing disabilities IMSERSO (Institute of Elderly and Social Services) (Employment and Social Affairs Minister).

http://www.seg-social.es/imsero/centros/dis_cenintel.html (Accessed 21 April 2007)

53 National Confederation of Deaf People (CNSE), E-mail, 31 January 2007.

Education

The Spanish educational system is based on the principles of inclusiveness, normalization, and non-discrimination, as well as the early detection of special education needs. The educational system encourages parents to receive advice regarding their children, and to acquire the information required to assist with their children's education. The principle of accessibility is also included in the system in observance to the LIONDAU. Moreover, the school system is obliged to provide the material resources needed to prevent any type of discrimination and guarantee access to all students.⁵⁴ Parent participation is adding significance to the schooling statement, including the ability to appeal when they do not agree with the schooling statement (the schooling statement determines the educational model: segregated; integrated or blended formula). The different norms of the Autonomous Communities include measures to promote the participation of the parents in the educational process of their children. However, their opinion in the schooling statement is not final.⁵⁵

Since 1990, the different educational laws have referred to students with special education needs, rather than disabilities, in consistency with the Salamanca Principles. The education law of 2006 defines students with special educational needs as: "those who will need, during part or during the entire schooling time, some supports and special education needs, deriving from his/her disability or severe behavioral problems."⁵⁶

⁵⁴ *Organic Law of May, of Education* No. 2/2006 B.O.E. Journal of the Official Gazette 4 May 2006, Articles 1.b, 71, 74 and 110.
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/34552_LEG-ides-idweb.html (Accessed 21 April 2007).

⁵⁵ Álvaro Marchesi Ullastres, *Training and incorporation to the active and labour life of the students with special education needs linked to intellectual disability*, (In Spanish) in "Green Book about the itineraries towards employment of the youth with intellectual disabilities" ed. J.M. Ibáñez, AFEM, Badajoz, 2006, 372.

⁵⁶ *Organic Law, of 3 October, of General Ordination of the Educational System (LOGSE)* No.1/90 B.O.E. Journal of the Official Gazette 4 October 1990 (derogated)
<http://www.ua.es/oia/es/normativa/logse.htm> (Accessed 21 April 2007)
Organic Law of 3 of May, of Education, art. 73.

Table IV: Primary and Secondary Compulsory School Students with special education needs 2003-2004 (broken down by type of education).⁵⁷

	PRIMARY		SECONDARY	
	NUMBER	%	NUMBER	%
TOTAL STUDENTS WITH SPECIAL EDUCATIONAL NEEDS	69,674	100	36,466	100
Special Specific Education Centers	8,327	11.95	736	2.02
Inclusive education	61,347	88.05	35,730	97.98

In CERMI’s opinion, it is not adequate that the schooling statement (which determines the educational model as integrated or segregated) can be influenced by the level of resources or accessibility of the centers.⁵⁸ This can be aggravated in rural areas, where an absence of classroom support and resources might lead students with physical disability to specific centers of special education, rather than integrated schools.⁵⁹

According to CERMI, ordinary schools in compulsory education (primary and secondary) present the following problems:⁶⁰

- A lack of training of the professionals attending students with special educational needs, and the absence of fixed times for coordination between specialists and tutors, which makes it more difficult to provide the required curricula adaptation;
- The number of educational centers which are accessible is low due to architectural and communication barriers.

⁵⁷ Non University Teaching. School year 2003-2004. Alumnae with Special Educational Needs Education and Science Minister, Madrid
http://www.mec.es/mecd/estadisticas/educativas/eenu/result_det/2004/E_Especial.xls (Accessed 21 April 2007).

⁵⁸ *Educational Assistance to persons with disabilities*, CERMI, Madrid 2004, 16 ;
<http://www.cermi.es/NR/rdonlyres/9CF81146-E3D6-44E4-90A7-5E3D5087CF14/108/8LibroCERMI8.pdf> (Accessed 18 July 2007).

⁵⁹ *Disability at the rural area*, CERMI, Madrid; 2006, 37-38
<http://www.cermi.es/NR/rdonlyres/56FF9FE4-0D89-4663-AC11-0BADE6DA40FC/5076/maqueta-base26final.pdf> (Accessed 21 April 2007).

⁶⁰ *Educational Assistance to persons with disabilities*, 23-27.

Furthermore, the technical aids (computers, communicators, and computer access systems) are insufficient and some times inadequate because there is not proper training with such devices;

- Partial support for students with special education needs in the second cycle of secondary school is provided by specialist teachers on a voluntary basis;
- Neither the information or training for families on resources and services, nor the information on their duties and rights are sufficient. Also, families do not receive adequate psychological and social support to assume their rights and duties in a responsible manner as parents of children with disabilities.⁶¹

According to a report released by CERMI, for students with high and complex support needs attending specific centers, there are not realistic and practical solutions for the transition to adult life.⁶² Professionals tending to students in Specific Centers of Special Education have training on teaching children with disabilities.⁶³

In mainstream teaching, only preschool and primary school teachers' curriculum includes training on teaching children with special education needs.⁶⁴ In a report completed by the Madrid Autonomous Community Ombudsman of the Minor, 77.7 percent of the teachers of Secondary Education think they are not prepared to teach students with special education needs.⁶⁵

The Economic and Social Council has pointed out that the school is the best place for early detection and prevention of disabilities, and that

⁶¹ *Ibid.*

⁶² *Ibid.* 23.

⁶³ Professionals at the Specific Centers of Special Education, Education and Science Minister, <http://www.mec.es/educa/jsp/plantilla.jsp?id=1656&area=sistema-educativo> (Accessed 21 April 2007).

⁶⁴ Curricula of Teacher (primary and infantile) which includes training in special education needs, Education and Science Ministry http://www.mec.es/educa/jsp/plantilla.jsp?id=602&area=ccuniv&contenido=/ccuniv/html/direct_generales/social.html (Accessed 21 April 2007).

⁶⁵ Álvaro Marchesi Ullastres, *Training and incorporation to the active and labour life of the students with special education needs linked to intellectual disabilities* in Green Book about the itineraries towards employment of the youth with intellectual disabilities, Ed. J.M. Ibañez, AFEM, Badajoz, 2006, 358.

it is fundamental that the administration guarantees early education attention, making it compulsory and improving the coordination with health administrations.⁶⁶

Considering the figures provided by the Education and Science Ministry, the percentage of students with special education needs decreases drastically in higher levels of education, which are not compulsory.⁶⁷ The percentage of students with special education needs attending ordinary schools shifts from 2.47-1.91 percent (primary and compulsory secondary school), to 0.10 percent, 0.24 percent or 0.06 percent for the “bachiller (high school), ciclos formativos de grado medio (medium level professional training) y de grado superior (high level professional training).”⁶⁸ These are voluntary education levels and are designed to provide a better preparation for higher education levels and for access to an active life.

“Just 2% of Spanish students who have a disability go to the University and less than a 1% of the university students have a disability”.⁶⁹ 40 percent of all university students with disabilities attend the National

66 The Economic and Social Council is a government advisory, <http://www.ces.es/saludoPresidente.jsp> (Accessed 18 July 2007); *The situation of the persons with disabilities in Spain*. Economic and Social Council. Report Collection, Madrid, 2003, 203 .

67 The scheme of the Spanish education is as follows:

Basic Education (6-16 years) includes two stages: Primary School and Secondary Compulsory School.

Non Compulsory Secondary School, from 16-18 years, and includes two different education opportunities: Bachiller (high school) (focused more in general knowledge as Maths, History, Physics, Literature...) leading usually to University Studies and Ciclos Formativos de Grado Medio (Medium Level Professional Training)

Superior Education (from 18 years on) includes: Ciclos Formativos de Grado Superior (High Level Professional Training) and University <http://www.mec.es/educa/sistema-educativo/loe/sistema-educativo-loe.html> (Accessed 21 April 2007).

68 Own elaboration with figures provided by the Education and Science Ministry by request and some from: Non University Teaching. Scholar year 2003-2004, Alumna with Special Education Needs Education and Science Minister. Madrid http://www.mec.es/mecd/estadisticas/educativas/eenu/result_det/2004/E_Especial.xls (Accessed 2 April 2007).

69 Miguel Ángel Heredia, socialist member of the Parliament, at the Education Commission of the Parliament, 24 April 2006. News included in the CERMI web page: <http://www.cermi.es/CERMI/ESP/Noticias/Social/accede+a+la+universidad.htm> (Accessed 2 June 2007) .

Distance Education University (UNED).⁷⁰ In 1989, the Ombudsman pointed out that most students with physical disabilities had to attend distance learning education due to the low accessibility level of the Spanish Universities⁷¹. Even if it is based on an old study, this statement still seems valid.

Employment

The European Directive 2000/78 of the European Union establishing a general framework for equal treatment in employment and occupation was adopted by the Spanish legal system in 2003.⁷² However, the transposition to national law has had some inadequacies, including:

- The definition of direct or indirect discrimination and reasonable accommodation is not included in the Workers Law, but in the LISMI (Social Integration of the Handicapped Law). This leads to a lower level of awareness.⁷³
- The provision stating the essential functions of the job is missing. In fact, the prohibition of discrimination in the Spanish norms is linked to the ability to perform the job and not the ability to perform the essential functions of the job.
- The obligations related to vocational training have not been completely transposed.

⁷⁰ Amparo Valcarce, State Secretary of Social Services, Family and Disability, Communication in the II National Congress about University and Disability, XI Seminary of the Royal Foundation on Disability, 26 October 2006, Madrid. Note of Author: UNED is a specific distance learning University.

⁷¹ *Ombudsman report. Year 1989*, House of Representatives Publications, General Secretary, Reports Series, Madrid, 1990, 335.
<http://www.defensordelpueblo.es/index.asp?destino=informes1.asp> (Accessed 21 April 2007)

⁷² *Council Directive 2000/78* of the European Union establishing a general framework for equal treatment in employment and occupation, transposed to Spanish legal system by Law of 30 December, of Fiscal, Administrative and Social Measures No. 62/2003 *Journal of the Official Gazette* 31 December 2003
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/28254-ides-idweb.html (Accessed 21 April 2007).

⁷³ Josefa Torres Martínez, Fundación ONCE, Training and Employment Director, interview by author, Madrid, 5 July 2006.

One main characteristic of the Spanish labor system is the quota system. Since 1982, any enterprise, public or private, with 50 or more employees has to reserve two percent of its jobs for workers with disabilities.⁷⁴ However, the system has never been very effective. As a result, a law was enacted in 2000 to allow companies that are unable to meet the quota to use alternative measures. Alternative measures include different options like purchasing services and products provided by sheltered workshops.⁷⁵ There is a lack of information about the level of accomplishment of the quota and its alternative measures.⁷⁶ The Public Administration has committed to a minimum quota of five percent subject to having passed the general selective process.⁷⁷

There are a number of financial incentives, including a reduction in social benefits (or fringe benefits), for companies employing persons with disability. These benefits vary according to the type of labor contract.⁷⁸

⁷⁴ Law of 7 April, of the Social Integration of the Handicapped, Article 38.

⁷⁵ Royal Decree 27/2000, of 14 January, establishing regulation for alternative measures, introduction to the norm; Royal Decree 364/2005 of 8 April, of Alternative measures to the fulfillment of the quota system in favor of workers with disability, which includes as alternatives: Contracts of supplies and services with Sheltered Workshops, or self-employed with disability; Fund to non profit organizations that have as objective the labor integration of persons with disability; Establishment of work enclaves, which are groups of persons with disability employed by a sheltered workshop which work in the premises of the ordinary company

Journal of the Official Gazette, 20 April 1995

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/32096-ides-idweb.html (Accessed 21 April 2007).

⁷⁶ *The 80% of the Companies do not fulfill the labor integration law of persons with disabilities.*

Fundación PREVENT, news service, June 2006.

<http://www.fundacionprevent.com/Fundacion/pdf/45.pdf> (Accessed 21 April 2007)

Report on Employment and Disability. Agreement to the collective negotiation, Main Trade Unions and Employers Representatives.. Madrid 2006 <http://www.ccoo.es/pdfs/Informe%20DISCAPACIDAD%20-%20ANC%202006.pdf> (Accessed 21 April 2007) this webpage could not be found.

⁷⁷ Law of 12 April, of Basic rules of Statutory workers, No. 7/2007, B.O.E (Journal of the Official Gazette) 13 April 2007 Article 59

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/37832_LEG-ides-idweb.html (Accessed 25 May 2007).

⁷⁸ Labour contracts addressed to people with disability, National Public Service of Employment. Employment and Social Affairs Ministry; It is not compulsory to use them, but the benefits are linked to its use.

<http://www.inem.es/ciudadano/empleo/contratacion/tipologia.html#7> (Accessed 21 April 2007).

The table below illustrates important data of employment and disability:

Table V: Comparison of employment rates between persons with/without disability by gender⁷⁹

	TOTAL	MEN	WOMEN
<i>Persons With Disability (%)</i>			
ACTIVITY RATE	33.7	39.3	27.1
EMPLOYMENT RATE	28.5	34.3	21.7
UNEMPLOYMENT RATE	15.3	12.8	19.7
<i>Persons without Disability (%)</i>			
ACTIVITY RATE	70	84.4	55.8
EMPLOYMENT RATE	62.4	78.1	48.7
UNEMPLOYMENT RATE	11	7.5	16.2

According to the figures above, the activity rate for persons with disability is much lower than for those without disability. Moreover, among persons with disabilities, women with disabilities are disproportionately affected by unemployment.

As illustrated by the high inactivity rate of the disability population, two out of three people with disabilities in working age are inactive.⁸⁰ The European Committee of Social Rights noted in its report on Spain that the most urgent problem facing persons with disabilities in Spain is not unemployment, but inactivity.⁸¹

Employment in sheltered workshops was established in 1985, and the numbers of people employed in them have been increasing ever since.⁸² The current number of people with disabilities working

⁷⁹ *Persons with disability and their relation with employment, Active Poblacion Survey*, Second quarter of 2002 INE, Madrid, 2002)

Available at: http://sid.usal.es/ldocs/F8/FDO6455/discapa_empleo.pdf (Accessed 21 April 2007)

⁸⁰ *Ibid.*

⁸¹ European Social Charter, European Committee of Social Rights, *Conclusions XVI-2 (Spain)* http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/1_by_state/Spain_XVI-2.pdf (Accessed 21 April 2007).

⁸² *Royal Decree 2273/85, 4 December*, B.O.E. (Journal of the Official Gazette) 9 December 1985, *regulating the Sheltered Workshops*.

in Spain's 1,600 sheltered workshops is around 47,000.⁸³ Persons with disability employed in sheltered workshops have the same employment rights as any other employee.⁸⁴

The disability benefit scheme has two main systems: one of them is addressed to palliate the loss of incomes for those workers whose working abilities have been reduced or annulled (this economic benefit requires to have worked a minimum time or have had an accident or professional illness). The second system is addressed to those people who have 65 percent of handicap degree certification and no (or very little) income and cannot benefit from the first system. The amount for the first group is based on their previous salary; the second group receives a fixed amount, which should guarantee a minimum subsistence level. This leads to huge differences in terms of the amount of the economic benefit, which do not take into account the disability-related costs. Also, parents of children with disabilities can apply for specific subsidies.⁸⁵

There are different tax benefits and reductions that can also depend and vary based on the grade and type of disability. For instance the IRPF tax (Personal Income Tax), includes different reductions attending to the percentage of handicap, as well as reductions in case the person is taking care of children or parents with disabilities. Also, there are parking cards for people with reduced mobility, but conditions vary in each Municipality which has caused complaints that have been addressed to the Ombudsman.⁸⁶

⁸³ Inmaculada Lasala Meseguer, Employment promotion General Sub-Director of the nacional Employment Public Service, Congress on Disability, improvement and growth of employment, 23 May 2007, Madrid.

⁸⁴ *Royal Decree 1368/1985, of 17th July, Special Labor Relationship in Sheltered Workshops*, B.O.E. (Journal of the Official Gazette) 8 August 1985 Article 9.
<http://www.mtas.es/Guia/leyes/RD136885.html> (Accessed 21 April 2007).

⁸⁵ Royal Legislative Decree 1/1994, of 20 June of Social Security, II Title: chapter V and chapter IX
<http://www.060.es/canales/legislacion/servicios/disposiciones/3912-ides-idweb.jsp> (Accessed 18 July 2007).

⁸⁶ *Ombudsman, Annual Report 2005* Madrid, 2006, 828
<http://www.defensordelpueblo.es/index.asp?destino=informes1.asp> (Accessed 18 July 2007).

Health

The National Health System (SNS) is configured as a public and universal system, and includes the following principles and guarantees: equality and quality; integral health attendance coverage (including disease prevention); and accessibility, which is a criterion of quality and must be guaranteed by the National Health System. The System is divided between the state, which sets the basic and common conditions and the Autonomous Communities.⁸⁷

According to the *Law of the autonomy of the patient and rights and obligations in the matter of information and clinical documentation* any medical treatment is based on the right of prior and informed consent. However, some restrictions may occur: in virtue of the Law, people who have been declared legally incapable receive information according to his or her possibilities of understanding. The Law establishes that this particular population will receive information in an adequate way and participate in the decision process as far as possible. The consent will be given by their representatives with the following guarantees: this consent will be proportionate and according to necessities and always in favor of respecting the patient's dignity.⁸⁸

However, according to CERMI, in order to exercise the prior and informed consent, the full accessibility to the health information is not always guaranteed. Other aspects highlighted are: that accessibility, design for all, and the elimination of barriers in buildings, procedures,

⁸⁷ Law 14/86, of 25th of April, General Health, B.O.E. (Journal of the Official Gazette) 20/04/1986; arts. 1.2; 3.2: http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25326-ides-idweb.html (Accessed 25 May 2007).

Law 16/2003, of 28 of May, of cohesion and quality of the SNS, B.O.E. (Journal of the Official Gazette) 29/05/2003; Article 1.2; Article. 2; Article 7; Article. 23; Article 28.1 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/26568-ides-idweb.html (Accessed 25 May 2007).

⁸⁸ Law of 14 November, regulating basic law of the autonomy of the patient and rights and obligations in the matter of information and clinical documentation, No. 41/2002, B.O.E. Journal of the Official Gazette 15 November 2002, Articles 2, 5 and 9. http://www.060.es/te_ayudamos_a/legislacion/disposiciones/24453-ides-idweb.html (Accessed 18 July 2007).

services, and information needs to be guaranteed.⁸⁹ The LIONDAU will have to mean an important change.

Some health problems, including psycho-social disabilities, brain injury, and rare diseases, do not receive satisfactory medical attention. Women with disabilities also have special health needs, such as accessing reproductive and gynecological care.⁹⁰ The Action Plan for Women with Disability 2007 is intended to improve these services.⁹¹

Rehabilitation is intended to be functional and is designed to help patients who can recover their functionality. It has been criticized, as it only deals with recovery rather than long term needs of people with disability.⁹² The right to integral rehabilitation, as established by the LISMI in 1982, has not been developed. One characteristic of the current rehabilitation system is: "its dispersion between different Departments; Health, Education, Employment and Social Affairs and the different Public Administrations that are competent; State and Autonomous Communities."⁹³

Improved training for the health professionals and the establishment of common criteria in training programs in disability aspects is necessary.⁹⁴

The National Health Service has a catalogue of the basic and common orthoprosthesis products that must be provided nationwide. The Autonomous Communities can improve the catalogue and determine the payment system, which is sometimes based on reimbursement

⁸⁹ *Disability and Health Attention*, CERMI, Madrid, 2006, 58-59

<http://www.cermi.es/NR/rdonlyres/2C5A5F25-0721-4DC8-9113-77E2798B880B/5181/Libro28def.pdf> (Accessed 18 July 2007).

⁹⁰ *Ibid.* 36, 32 and 56.

⁹¹ *Action Plan to Women with disabilities 2007*, Secretary of Social Services, Family and Disability, Employment and Social Affairs Ministry, Approved by the Council of Ministers on 1 December 2006 Madrid. <http://www.seg-social.es/imserso/normativas/pamcd2007.pdf> (Accessed 21 April 2007).

⁹² *Disability and Health Attention*, 35.

⁹³ *The situation of the persons with disability in Spain* Report Collection. Economic and Social Council, Madrid, 2003, 53.

⁹⁴ *Disability and Health Attention*, 63.

for costs.⁹⁵ Since 1996, there has been a decline in the provision of these aids, caused by financial constraints.⁹⁶

The current law regulating private health insurance, states that the individual shall inform the provider prior and during the contract of any circumstance related to his or her health which aggravates the health risk in such a way that the insurance company would not have provided coverage or would have done it in a different way.⁹⁷

Housing

The National Housing Plan of 2005-2008 includes financial support for all citizens with low economic resources for the purchase or renting of a house, as well as for the elimination of barriers. The amount of the financial support depends on the level of income, which is adjusted in the case of persons with disability.⁹⁸

The support in the area of housing for people with disabilities includes: economic support in order to live in a house; buying, renting or making a home accessible; legal support, enforcing the accessibility of the house or the building; and social services.

Publicly promoted housing must reserve at least three percent of all houses for people with disabilities, and these homes must be

⁹⁵ *Law of 28 May, of cohesion and quality of the National Health System; Royal Decree 1036/2006*, of 15 September, B.O.E (Journal of the Official Gazette) 16 September 2006 which establishes the catalogue of health of the National Health System and the procedure to update benefits, Annex VI
<http://www.msc.es/profesionales/CarteraDeServicios/docs/CarteraDeServicios.pdf> (Accessed 18 July 2007).

⁹⁶ *Technical aids and Disability* CERMI, 2005, Madrid, 2005, 60-61,
http://www.cermi.es/NR/rdonlyres/9BE1CD3A-03CC-4BF6-9DC9-3591AEFC2D70/966/Cap2_1.pdf
 (Accessed 18 July 2007).

⁹⁷ The Law 50/1980, of 8 October, on Insurance Contracts, B.O.E. (Journal of the Official Gazette) 17 October 1980 Articles 10-11
http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25315-ides-idweb.html (Accessed 18 July 2007).

⁹⁸ *Royal Decree 801/2005*, of 1 July, which regulates the National Plan 2005-2008 to favor the access of the citizens to housing
<http://www.mviv.es/es/pdf/normativa/BOE130705.pdf> (Accessed 18 July 2007).

accessible.⁹⁹ However, as there are no mechanisms to ensure the fulfillment of the quota, it has provoked grave breaches, irregularities and inefficiencies.¹⁰⁰

There are legal provisions to facilitate the elimination of barriers and promote accessibility of homes or other residential buildings. A resident with a disability has the right to demand accessibility in the building.¹⁰¹ The cost, depending on the amount (three months of maintenance expenses) or if most of the members of the condominium agree, will be paid by the property owners.¹⁰² If the cost exceeds the amount (three months of maintenance expenses) and there is not an agreement in the payment, disabled residents have the right to demand the elimination of architectural barriers, particularly concerning the modification of common areas (such as corridors, hallways, etc.) or the installation of electronic devices which facilitate outside communication, but will have to assume the cost of such modification.¹⁰³ With regard to urban renting, tenants with disabilities have the right to make the necessary accessibility adjustments in the house at their own cost.¹⁰⁴

99 Oscar Moral Ortega, (Juridical Advisor of the CERMI), "Legislation on Accessibility" in paper presented as part of the course Juridical Protection of Persons with disabilities, Madrid, 24 January - 2 February 2005.

http://www.cermi.es/bibliografia/proteccion_juridica/Curso%20Proteccion%20Juridica%20de%20Personas%20con%20Discapacidad/docs/Html/marcos.html (Accessed 18 July 2007).

100 *The Green Book on Accessibility* IMSERSO, General Secretary of Social Services, Employment and Affairs Ministry in collaboration with the University Institute of European Studies of the University Aut3noma of Barcelona, Madrid 2002, 91 http://sid.usal.es/idos/F8/8.1-5999/libro_verde_accesibilidad.pdf (Accessed 18 July 2007).

101 This also covers those people with disabilities, living, working or doing voluntary services, the one who has to demand the accessibility is the owner.

102 *Law of 6 April, of Horizontal Property* No. 49/1960, (modified by the Law 8/1999 and by LION-DAU) B.O.E. Journal of the Official Gazette 23 July 1960 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/25304-ides-idweb.htm (Accessed 26 May 2007) this webpage seems to have moved?

103 *Law of 30 May, about the limit of the dominion on buildings to eliminate architectonic barriers to persons with disabilities*, No. 15/1995, B.O.E. Journal of the Official Gazette http://www.060.es/te_ayudamos_a/legislacion/disposiciones/6524-ides-idweb.html (Accessed 26 May 2007).

104 *Law of 24 November, of Urban Renting*, No. 29/1994 B.O.E. Journal of the Official Gazette, 25 November 1994; Article 24 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/5083-ides-idweb.html (Accessed 26 May 2007).

The new law - the Law of Promotion of the Personal Autonomy and Attention to Persons in a Dependency situation - establishes new services for those addressed to give support to people with disability living at home, residential services and other mixed formulas. The beneficiaries will contribute to the cost of the services but the law guarantees access to the benefits to people with no economic resources.¹⁰⁵ One fundamental critique is that although the system is based on the principles of universality, equity and accessibility, the co-financing system is discriminatory compared to education and health which are fully free. Another aspect is that the law focuses on basic daily activities and does not incorporate the necessary services to ensure the beneficiaries the possibility to participate in social life.

This law will have a significant impact, as the current situation presents the following issues:¹⁰⁶

- The residential services are scarce and far from the natural surroundings of where these persons normally live;
- Day centers are not sufficient;
- There is a lack of standards in the provision of services (Day and Residential Centers);
- Most persons in a dependency situation with a severe disability live with their parents;
- From the total persons who receive personal support, 76.64 percent obtain this support from the family, 6.7 percent through private support, and only 3 percent from the social services.¹⁰⁷

105 *Law of 14 December, of promotion of the Personal Autonomy and attention to Persons in a Dependency situation.*

106 *The dependency situation protection in Spain* (In Spanish) CERMI, Madrid, 2004, 127-128; <http://www.cermi.es/NR/rdonlyres/465660E3-DEA4-44C0-8AD0-86E12CF85C5A/115/12Librodependencia.pdf> (Accessed 18 July 2007).

107 *National Survey on Disabilities, Impairments and Health Status 1999* (In Spanish) INE, IMSERSO and ONCE Foundation quoted in "The situation of the persons with disabilities in Spain", Report Collection, Economic and Social Council, Madrid: 2003, 178.

Institutionalization

The list below outlines residential/supported housing options in Spain: ¹⁰⁸

- Residential Centers for persons with disability in a dependency situation (RCPDS): The goal is the residential attention to persons who need continuous help in their daily life. The 71.75 percent of the supplied places are occupied by persons with intellectual disabilities;
- Residential Centers for persons with disability who are not in a dependency situation (RCP), whose aim is to provide lodging and feeding for those persons with any type of disability that, due to different situations (environmental, personal, partner-relatives, etc.), have difficulties living in their previous surroundings. Persons with intellectual disability occupy 81.59 percent of these places, followed by persons with psycho-social and physical disability;
- Alternative Lodging Systems (ALS), include residential units in buildings or zones of houses targeting persons with any type of disability who have enough autonomy and whose support is permanent or intermittent according to their needs. Persons with intellectual disabilities occupy 51.2 percent of these places, followed by persons with psycho-social disabilities (44.32 percent).

Table VII: Residential Centers of Persons with disability ¹⁰⁹

	NUMBER OF CENTERS	TOTAL CAPACITY
RCPDS	580	19,985
RCP	254	7,478
ALS	508	3,603

¹⁰⁸ *Assistance to Persons in dependency situation, White Book*, IMSERSO, State Secretary of Social Services, Family and Disability. (Employment and Social Affairs Ministry: Madrid, 2005), 264-265
<http://www.imersomayores.csic.es/documentos/documentos/libroblancodependencia/mtas-libroblancodependencia-01.pdf> (Accessed 18 July 2007)

¹⁰⁹ *Ibid.* 264-266

The lack of standards and harmonization of the services provided in these centers, due to the different laws of the Autonomous Communities, makes it difficult to list the services provided.¹¹⁰

Institutionalization is based on the following guarantees:

- The right to freely choose to be institutionalized;¹¹¹
- For the persons who have been declared incapable, the tutor will need the judicial authorization in order to place him/her in an institution of mental health, education or special training.¹¹²

Forced institutionalization is regulated by law. The law states that it is only admissible in cases of psychic disorder, when the individual cannot decide independently. It requires a judicial authorization and includes the intervention of an attorney. It is not a permanent arrangement, and the professionals taking care of the institutionalized individual will have to inform the Judge about the need to maintain the institutionalization.¹¹³

Since 1996, the Ombudsman has been highlighting that the mental health centers (social and health centers) do not have a law guaranteeing the fundamental rights of the patients, nor a law regulating the possible necessary restrictions in order to protect his/her life, health or physic integrity.¹¹⁴

The forced outpatient psychiatric treatment is applied, but as there is no regulation, different judicial practices can be found. This type of treatment is addressed to persons with psychiatric disabilities

¹¹⁰ *Ibid.* 255.

(The Balearic Autonomous Community and the City of Ceuta have not provided information to the research, and the information providers couldn't always give the information as it was requested.)

¹¹¹ *Law of 14 December, of Personal Autonomy Promotion and attention to Person in a Dependency situation*, Article 4.2 g.

¹¹² *Civil Code*, Article 271.1.

¹¹³ *Law of 7 January of Civil Procedure*, No.1/2000 B.O.E. (Journal of the Official Gazette) 8 January 2000; Article 763

<http://www.060.es/canales/legislacion/servicios/disposiciones/17845-ides-idweb.jsp> (Accessed 21 April 2007).

¹¹⁴ *Ombudsman Annual Report 2005*, 268.

who are not institutionalized, whether declared incapable or not. The treatment always requires judicial authorization.¹¹⁵

The Criminal Code establishes that sterilization is admissible to persons who have been declared incapable and have a grave psycho-social deficiency: "The sterilization of a person declared incapable who suffers serious psychic deficiency will not be punishable, when, taking as a criteria the best interest of the person declared incapable, it has been authorized by the Judge, either in the same incapacitation procedure, or in posterior and voluntary jurisdiction file, by the request of the legal representative of the incapable, heard the opinion of two specialists, the Fiscal Attorney and previous exploration of the incapable."¹¹⁶ It is relevant to indicate, however, that it is a contravention to the Convention on the Rights of Persons with Disabilities.

Both the Royal Decree 223/2004 of 6th of February of Clinical experiments and the new Law on Biomedical Investigation adopted in 2007 state that it is permissible to do clinical experiments with adult persons who are legally incapable, with very strict requirements, and the informed consent must be given by the legal representative.¹¹⁷ It is relevant to indicate, however, that this is also a contravention to the Convention on the Rights of Persons with Disabilities.

Accessibility

The LIONDAU is a common and basic norm for all of Spain. Its principles include universal accessibility and Design for All, and it promotes accessibility in the following areas: relations with Public Administrations; access and use of goods and services open to the

¹¹⁵ Carmen De la Fuente, (Chief Attorney of the Provincial Cour of Bilbao) "Human Rights and Disability", paper presented as part of the course *Juridical Protection of Persons with disability* Madrid, 24 January - 2 February 2005

Interview with a Judge of the First Instance specialized in incapacity declarations, insert location, 17 July 2006.

¹¹⁶ *Organic Law, of 23 November, Criminal Code*, Article 156.

¹¹⁷ *Royal Decree 223/2004 of 6th February of Clinical experiments*, B.O.E. (Journal of the Official Gazette) 7 February 2004, Article 3, 5 and 7
http://www.agemed.es/actividad/legislacion/espana/docs/RCL_2004_325Vigente2005-2.pdf (Accessed 21 April 2007); *Law about Biomedical investigation No 14/2007* B.O.E. (Journal of the Official Gazette) 4 July 2007.

public; new technologies; products related to information society and mass media; the transportation system; and public urbanized areas and buildings.

The responsibility in terms of promoting the accessibility is shared by:

- *The National Administration*, which promotes accessibility basically as part of the disability policies. In fact, there is no or very little mainstreaming of accessibility in general policies. The first National Plan on Accessibility 2004-2012 has been launched.¹¹⁸
- *The Autonomous Communities*, which have exclusive competences in Social Services, Urban planning and Housing. Each one has their own proper accessibility norms, which lead to different standards between different regions. Accessibility policies are developed mainly by the Social Services Departments, using different instruments and plans to eliminate barriers.¹¹⁹
- At the local level, the actions developed by local authorities are mainly executive. The primary programming and planning instruments are the Municipal Accessibility Plans, conceived as plans to suppress barriers. There are also sometimes local regulatory norms about integral accessibility.¹²⁰

Based on the analysis and diagnosis done by The Green Book and The White Book on Accessibility, the National Plan on Accessibility 2004-12 describes the situation of accessibility in Spain as follows:¹²¹

- 100 percent of ordinary buildings (housing buildings) evaluated do not accomplish at least one of the accessibility requirements. The most frequent cause of inaccessibility is found in the inside of buildings (96 percent) as well as steps in the entrance.

¹¹⁸ *I National Plan on Accessibility 2004-12*, 27.

¹¹⁹ *Ibid.* 28.

¹²⁰ *Ibid.* 28-29.

¹²¹ *Ibid.*, 43-44.

- Buildings of public use are in a similar situation: “A technical evaluation made of 265 public buildings in 71 cities found that 100 percent do not accomplish some of the legal criteria on accessibility.”

The same study showed that just four of 729 urban itineraries (500 meters each), which were assessed were in conformity with the accessibility criteria (taking into consideration the different needs of the groups), and the results showed that it is almost impossible to move around without finding barriers. The main problems were inaccessible sidewalks and bad maintenance of the pavement and crossings.¹²²

The situation in the area of transport is generally poor.¹²³ Although there is more awareness about accessibility, the bus transport, does not reach a minimum accessibility level, especially related to interurban buses. The accessibility in maritime transport is deficient. The railway system also shows important deficiencies of accessibility, especially for short-distance trains. There continue to be problems in air transport, which will be improved once the new EC regulation on air passenger rights comes into force.

The LIONDAU includes the following timetable:

Table VIII: Timetable for action set in the LIONDAU (3 December 2005)

	New infrastructures and transport	Pre-existing ones (subject to reasonable accommodation)
Basic accessibility conditions and non-discrimination in the access and use of transport	5-7 years	15-17 years

122 *Green Book on Accessibility in Spain*, 99-106.

123 *I National Plan on Accessibility 2004-2014*, 40.

The capital city, Madrid, began to make the public bus transport accessible in 1994. In 2006, more than 80 percent of the lines were adapted.¹²⁴ The underground train system is being adapted progressively, although only one line is fully adapted at this point.¹²⁵

The first Plan on Accessibility 2004-2012 provides the following explanations for current barriers in accessibility:¹²⁶

- Competence and administrative dispersion;
- Inter-sectorial character, as there are many sectors involved;
- Need of a new accessibility culture;
- Cost;
- Absence of information and marginalization of the persons who would be beneficiaries;
- Lack of consideration of accessibility by the control work of the public administration.

Other reasons, as argued by others in the community, include:¹²⁷

- Lack of implementation and development of legislation, coupled with a lack of punitive measures for violators; correspondingly, a low level of complaints;
- Lack of training of architects, engineers, and other professions in Design for All and accessibility.

¹²⁴ Description of the buses of the city buses of Madrid. EMT (Public Transport Company) Madrid
<http://www.emtmadrid.es/about/ourbus.html> (Accessed 21 April 2007).

¹²⁵ Underground map of the city of Madrid. Metro de Madrid
http://www.metromadrid.es/acc_resources/pdfs/Plano_Metro_2006.pdf (Accessed 21 April 2007)
 Isabel Velasco Menendez, **Adapted Transport in Madrid Guide**. (Madrid. Discapnet. 2006). <http://www.discapnet.es/NR/rdonlyres/edds1twgjlj6yql2sm5r5rrhmf72wvpou5tgymyo7p7feri3paxsbhke4-4wmrcne6zi7eqkik66f/GuadetransporteadaptadoenMadrid3.pdf>.

¹²⁶ *I National Plan on Accessibility 2004-12*, 35.

¹²⁷ Jesús Hernández Galán, Director of Universal Accessibility of Fundación ONCE, interview by author, Madrid, 5 July 2006.

Since late 2005, all Public Administration web pages were supposed to be accessible to people who have disabilities or are elderly.¹²⁸ Implementation of this law has been insufficient so far, which has led CERMI to remind the Public Administration of its obligation to ensure the accessibility of their web sites in 2006.¹²⁹

Since the beginning of 2006, all public information campaigns of the National Administration must be accessible to people with disability.¹³⁰

There is a new law regulating citizens' e-access to public services, although it includes the accessibility and design for all principles it needs a further legislative development.¹³¹

Culture, Sports and Recreation

The tourist regulations of the different autonomous communities very poorly enforce the accessibility requirement, doing so vaguely without being demanding. From this perspective, it can be concluded that "accessibility in the Spanish tourist sector is still very far from optimal and desirable levels."¹³²

¹²⁸ Law About Services of the Society of the information and of Electronic Commerce, No.

34/2002, B.O.E. (Journal of the Official Gazette) 12 July 2002; Additional Disposition n#5

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/23633-ides-idweb.html (Accessed 26 May 2007).

¹²⁹ CERMI, 16 May 2006 <http://www.cermi.es/CERMI/ESP/Noticias/Social/denuncia+páginas.htm>

-

¹³⁰ Law, of 29 December, *Publicity and Institutional Communication* No. 29/2005 B.O.E. Journal of the Official Gazette 30 December 2005 Article 5

http://www.060.es/te_ayudamos_a/legislacion/disposiciones/34090-ides-idweb.html (Accessed 26 May 2007).

¹³¹ Law of 22 of June on citizens e-access to public services, N0 11/2007 B.O.E Journal of the Official Gazette 23 June 2007.

http://documentos.060.es/legislacion/common/38437_LEG.pdf (Accessed 18 July 2007)

¹³² CERMI Action Plan on Accessible Tourism for all persons CERMI, Madrid, 2005, 91 and 48

<http://www.cermi.es/NR/rdonlyres/24D22ABE-6B3A-4A29-A3E7-30096065B10E/3186/maquetabase-22imp.pdf> (Accessed 23 April 2007).

There are different sports federations for persons with disabilities and the Spanish Paralympics Committee.¹³³ All receive public funding.

The 1992 Olympic Games of Barcelona marked a fundamental shift in the understanding that accessibility of fielding athletics was possible. Since then, there has been a positive evolution in the accessibility of sport facilities, although there remains room for improvement. Difficulties remain, however. For example there is a lack of transportation and funding to cover personal attendants and adapted sport materials for people with disabilities are costly.¹³⁴

Disability Action and Awareness

In 2004, the General Direction of Coordination of Sectorial Policies on Disability was established as the focal and coordination point on disability policy. It falls under the Ministry of Employment and Social Affairs.¹³⁵ The National Disability Council was also set up as a meeting point between different Ministries and the representative disability NGOs.¹³⁶

At the national level, there are different disability plans, including the Second National Plan on Disability 2003-2007, the I Plan on

¹³³ Spanish federation of Sports of Physics Handicapped (FEDMF); Spanish federation of Sports for Intellectual Disabled (FEDDI); Spanish federation of Sports for the Blind (FEDC); Spanish federation of Sports of Palsy cerebral (FEDPC); Spanish federation of Sports for Deaf (FEDS). http://paralimpicos.sportec.es/publicacion/2SC_Federaciones/2SC_Federaciones.html
Spanish Paralympics Committee, Official web page
<http://paralimpicos.sportec.es/web/cpe/historia.htm> (Both accessed 23 April 2007).

¹³⁴ Enrique Rovira-Beleta, Architect, Former Swimming Spanish Champion for people with reduced mobility and Sub-champion of Spain in tennis wheelchair, Author of the Book *The White Book of Accessibility*. Mail 18 January 2007.

¹³⁵ Employment and Social Affairs Minister, General Direction of Coordination of Sectorial Policies on Disability.
<http://www.mtas.es/infgral/organi/om21.html> (Accessed 18 July 2007)

¹³⁶ Royal Decree 1865/2004 of 6 September, which regulates the National Council of Disability, B.O.E. Journal of the Official Gazette, 7 September 2004
<http://www.mtas.es/sgas/Discapacidad/ConsejoDisca/RD1865-04.htm> (Accessed 18 July 2007).

Accessibility, and the I Action Plan for Women with Disability.¹³⁷ There are also a number of autonomous communities which have their own plans on disability.

The Second National Plan on Disability 2003-2007 deals with four areas:¹³⁸

- Attention to persons with severe disabilities;
- Active labor market policies for persons with disabilities;
- Promotion of accessible environments, products, and services;
- Cohesion of social services for persons with disability.

This Plan is to be developed through Annual Programs of each Department involved, and will consider the main priorities set by the National Disability Council. Each program will state the required measures and budgets.¹³⁹

Spain created a Specialized Permanent Office of the National Disability Council in 2005.¹⁴⁰ Its objective is to promote equal opportunities, non-discrimination, and universal accessibility to persons with disabilities, in the areas defined in the LIONDAU.¹⁴¹

CERMI (Spanish National Council of Disabled Representatives) is the Spanish disability umbrella organization and political platform. CERMI is composed of the main national disability organizations, some sectorial organizations, and regional branches. It includes more than 2,500 associations and entities, and represents the 3.5 million persons with disabilities in Spain. It gained unanimous recognition by public authorities and civil society as the representative

¹³⁷ II National Plan on Disability 2003-2007 ; I National Plan on Accessibility 2004-12, also Action Plan for Women with Disabilities 2007,

¹³⁸ II National Plan on Disability 2003-2007, 14.

¹³⁹ II National Plan on Disability 2003-2007, 15.

¹⁴⁰ Created by Order TAS/736/2005, of 17 March, the office regulates the structure and operation of the Specialized Permanent Office of the National Disability Council <http://www.mtas.es/sgas/Discapacidad/ConsejoDisca/Orden736-2005.htm> (Accessed 23 April 2007).

¹⁴¹ Telecommunications and the Information Society; Urban Public Spaces, infrastructure and buildings; Transportation; Goods and services open to the public; Relations with public administrations, Article 3 of the LIONDAU.

platform of persons with disabilities. CERMI has signed several framework agreements with different Ministries, as well as with other stakeholders in society, to promote and defend the rights of persons with disabilities.¹⁴²

Another key organization is Fundación ONCE for the Cooperation and Social Integration of Persons with Disability, which was created in 1988 by Spain's National Organization for the Blind (ONCE). Its main objectives are the creation and implementation of labor integration programs (i.e., training and employment for persons with disability) and ensuring global accessibility of environments, products, and services. Fundación ONCE works for the social inclusion of all persons with disability in Spain.¹⁴³

Some of the aspects that DPOs are conscious about are:

- The need to include the Human Rights perspective in disability rights;
- Raise Awareness among persons with disability and DPOs that demanding their rights is a matter of equality and non discrimination;
- Networking with other DPOs and HR Organizations.¹⁴⁴

One main source of funding for disability organizations comes from the funding provided to NGOs originated by the personal income tax, as well as a favorable tax system.¹⁴⁵

¹⁴² CERMI, *What it is* <http://www.cermi.es/CERMI/ENG/What+is+CERMI/> (Accessed 23 April 2007) CERMI; An Unitarian disability platform <http://www.cermi.es/CERMI/ENG/What+is+CERMI/Unitary+platform+for+disability/> (Accessed 18 July 2007).

¹⁴³ Fundación ONCE, for the Cooperation and Social Integration of Persons with Disabilities *About us* http://www.fundaciononce.es/WFO/Ingles/Informacion/Mision_Valores/default.htm (Accessed 25 May 2007).

¹⁴⁴ Panel discussion.

¹⁴⁵ *Law of 23 of December of the General Budget of the nation of 1988* No. 33/1987, B.O.E (Journal of the Official Gazette) 24 December 1987, final disposition number 5.2 and 5.4; *Law of 23 of December, fiscal regime of the organizations without lucrative aims and the fiscal incentives to the patronage* No. 49/2002, B.O.E (Journal of the Official Gazette) 24 December 2002 http://www.060.es/te_ayudamos_a/legislacion/disposiciones/24828-ides-idweb.html (Accessed 18 July 2007).

In terms of general awareness of disability in society over the last few years, increasing attention has been given by private companies, media, universities and other entities to the concerns of persons with disabilities.



TURKEY

Key Factors

The total population of Turkey is 67,803,927.¹ While Turkey has one of the fastest growing economies, social and

economic indexes indicate that rural populations lag behind urban populations in all respects, including social services and educational opportunities. Infant mortality rate under the age of five is 26 in 1,000 births (2005).²

Turkey is located on the highly active Eurasian Geological Plate, which has been the cause of numerous large-scale earthquakes throughout history. The earthquake in 1999 took 17,480 lives and increased the number of persons with disabilities in Turkey. Landmines and terror are also causes of death and impairment in Turkey.

Turkey's desire to become a European Union member has resulted in a radical review and change of the legislation and of economic and social policies. In 2005, Turkey adopted its first disability specific law: the Law on Persons with Disabilities. However, legislation is far from being perfect and there are problems regarding implementation and monitoring. Thus, despite this progress there is still much to do in order to improve the situation of persons with disabilities.

Terminology

The most common umbrella terms used for persons with disabilities are "sakat," "özürlü" and "engelli." Although these terms are used interchangeably, both the actual meanings and the connotations are

¹ State Institute of Statistics, *Turkey's Statistical Yearbook*, 2004, http://www.tuik.gov.tr/yillik/yil-lik_2004.pdf, p. 27, (Accessed 8 April 2007).

² UNICEF, *Turkey Statistics*, http://www.unicef.org/infobycountry/Turkey_statistics.html#27, (Accessed 8 April 2007). According to 2003 Turkey Demographic and Health Survey (TDHS-2003) the infant mortality rate in rural areas is about 70 percent higher than in urban areas. See <http://www.hips.hacettepe.edu.tr/tsna2003/data/English/chapter09.pdf>, p. 111, (Accessed 8 April 2007).

different. “Sakat” literally means a person with impairments. The term was very common until recently. For example Article 61 of the Turkish Constitution (1982) makes reference to “sakat” people and requires the State to take necessary steps in order to protect them and facilitate their integration into the social life. However, recent legislation uses the term “özürlü.” The word “özür” means defect, fault, or handicap. The word also means apology. Thus, the term “özürlü” means a person with a deficiency, fault or handicap. The term “engelli” refers more to the barriers before persons with disabilities. Even though it is rare, some legislation uses this term.³ Some of the regulations use both “özürlü” and “engelli”.⁴ However, in these regulations, the term “özür” is not used to refer to impairments and “engel” to refer to barriers before persons with disabilities. Thus, it is hard to say that a deliberate and careful choice is being made. The Law on Social Services and Child Protection Institution was amended in 1997, and so as to change the term blind (kör) to persons with visual impairments (görme özürlü) and deaf (sağır) to persons with hearing impairments (işitme özürlü). For people who have psycho-social disabilities, the legislation prefers the term “zihinsel engelli.” However, it is common for people to use the term “deli” (mad or crazy) to describe people with psycho-social disabilities.

Both the title of the national agency responsible for disability related issues and the Law on Persons with Disabilities of 2005, contain the term “özürlü.”⁵

³ For example *Regulation on Special Education Services* (published in Official Gazette No. 26184 on 31 May 2006).

⁴ For example in *Higher Education Institutions Disability Counseling and Coordination Regulation* Article 9(1)(i) (published in Official Gazette No. 26204 on 20 June 2006) both terms are used in the same sentence. Again in Article 4(1)(c) of the *Regulation on the Creation and Application of a Turkish Sign Language System* refers to both terms in the same sentence.

⁵ Examples of other legislation using the term “özürlü” are: *Law on Public Servants*; *Turkish Labour Code*; *Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities*; *Regulation on the Employment of Persons with Disabilities and Ex-Convicts in Public Sector*; *Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities*.

Definition of disability

According to the Law on Persons with Disabilities:

“a person with a disability is any person who has difficulties in adapting to the social life and in meeting daily needs due to the loss of physical, mental, psychological, sensory or social abilities at various levels by birth or by any reasons thereafter and who therefore needs protection, care, rehabilitation, consultancy and support services.”⁶

Other definitions found in legislation are very similar to the definition found in the Law on Persons with Disabilities. The definition found in the Law on Social Services and Child Protection Institution is as follows:

“a person with a disability is any person who has difficulties in adapting to the normal life due to the loss of physical, mental, psychological or social abilities at various levels by birth or due to an illness or accident thereafter and who therefore needs protection, care, rehabilitation, consultancy and support services.”⁷

However, operational definitions found in other legislation require a diagnosis of 40 percent disability. For example, The Regulation for the Creation of a Database on Persons with Disabilities and Inclusion of Disability Information (a key component of the Law on Persons with Disabilities) in the Identity Cards is applicable only for persons who are diagnosed of 40 percent disability.⁸ Until the adoption of the Regulation on Disability Criteria, Classification

⁶ *Law on Persons with Disabilities*, No. 5378, Article 2 (a), adopted on 1 July 2005, published in Official Gazette No. 25868 on 7 July 2005, entered into force on the date of publication in the Official Gazette.

⁷ *Law on Social Services and Child Protection Institution*, No. 2828, Article 3(c) (as amended by Decree No. 572), adopted on 25 May 1983, published in the Official Gazette No. 18059 on 27 May 1983, entered into force on the date of publication in the Official Gazette.

⁸ *Law on Persons with Disabilities*, Article 2,

and Health Board Reports for Persons with Disabilities in 2006, diagnosis was decided based on the Regulation on Health Board Reports for Persons with Disabilities.⁹

Other regulations, which require a diagnosis of 40 percent disability, are as follows:

- Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities.¹⁰
- Regulation on the Employment of Persons with Disabilities and Ex-Convicts in Public Sector.¹¹
- Regulation on the Employment of Persons with Disabilities, Ex-Convicts and Victims of Terrorism.¹²
- Regulation on Special Vocational Training Centers.¹³
- Regulation on Sheltered Workshops.¹⁴
- Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities.¹⁵

⁹ *Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities*, Official Gazette No. 26230 16 July 2006, entered into force on the date of publication in the Official Gazette; *Regulation on Health Board Reports for Persons with Disabilities*, Official Gazette No. 23290, 18 March 1998.

¹⁰ *Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities*, Article 10(1)(a) and (b), Official Gazette No. 26204 20 June 2006, entered into force on the date of publication in the Official Gazette.

¹¹ *Regulation on the Employment of Persons with Disabilities and Ex-Convicts in Public Sector*, Article 4(1)(f), Official Gazette No. 26147 on 22 April 2006, entered into force on the date of publication in the Official Gazette.

¹² *Regulation on the Employment of Persons with Disabilities, Ex-Convicts and Victims of Terrorism*, Article 3, Official Gazette No. 25412, 24 March 2004, entered into force on the date of publication in the Official Gazette).

¹³ *Regulation on Special Vocational Training Centers*, Article 12 (1)(a), Official Gazette No. 26156 on 2 May 2006, entered into force on the date of publication in the Official Gazette.

¹⁴ *Regulation on Sheltered Workshops*, Article 17(1)(a), Official Gazette No. 26183 on 30 May 2006, entered into force on the date of publication in the Official Gazette. According to this Article, in order for a person to be employed in a sheltered workshop, the person has to have at least 40 percent of disability, if the disability is mental, psychological-sensory or behavioral. If the persons has another type of disability, s/he has to be at least 60 percent disabled.

¹⁵ *Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities*, published in Official Gazette No. 26230 on 16 July 2006, entered into force on the date of publication in the Official Gazette); Article 9(7) of this Regulation states that only persons who are diagnosed as having at least 40 percent disability are eligible to receive special education services

The main legislation regarding the classification of disabilities is the Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities. According to Article 5(1) of this regulation, the classification of disability is based on the International Classification of Functioning, Disability and Health (ICF). There is a detailed annex to this Regulation (81 pages) on how to evaluate loss of functioning.

Turkey Disability Survey 2002, according to which 12.29 percent of the population consists of persons with disabilities, defines the following types of disabilities: Chronic illnesses, psychological behavior disorders, orthopedic, hearing, speech, visual, and mental disability.¹⁶

Disability Population

The first comprehensive survey to enumerate the disability population in Turkey was carried out in December 2002 by the State Institute of Statistics and the Presidency of Administration for Persons with Disabilities. The aim of the Survey was to find out the total number of persons with disabilities (including persons with chronic illnesses), socio-economic characteristics of the disability population, problems they face in social life, their expectations, type of disability, causes of disability and regional differences. 97,433 households were interviewed both in urban (population above 20,000) and rural (population below 20,000) areas. Information on age, sex, level of education, marital status, employment status and social security status were obtained.

It is estimated that 12.29 percent of the total population has a disability. While 2.58 percent (1,772,315 persons) has an orthopedic, visual,

¹⁶ See *Turkey Disability Survey 2002*, Household Questionnaire, 17. The Survey does not place "psychological behavior disorders" under the category of "mental disability." According to the definitions given in the Survey Questionnaire, "psychological behavior disorders" are autism, hyperactivity, schizophrenia, major depression, personality disorder, Alzheimer, dementia, psychosexual disorder, neurosis, obsessive-compulsive neurosis, phobia, and drug dependence. The Questionnaire does not provide a proper definition for mental disability. Instead, examples are given such as persons with mental retardation, Down's syndrome and phenylketonuria.

hearing, speech or mental disability; 9.70 percent has a chronic illness.

Table 1: Disability Population in Turkey by Type of Disability (Turkey Disability Survey 2002 Results)¹⁷

Type of Disability	Male	Female	Total
Orthopedic	503,552	354,078	857,630
Visual	238,304	174,009	412,313
Hearing	137,998	114,809	252,807
Speaking	164,940	98,068	263,008
Mental	199,028	132,215	331,243
TOTAL	1,039,942	732,373	1,772,315

Apart from the Survey, the Population Census of 22 October 2000, also provides some information regarding the disability population. According to the results of the Population Census, the total number of persons with disabilities is 1,234,139 (730,405 males, 503,734 females).

Table 2: Disability Population in Turkey by Type of Disability (Turkish Population Census 2000 Results)¹⁸

Type of Disability	Male	Female	Total
Visual	98,255	59,467	157,722
Hearing	53,543	35,500	89,043
Speech	34,672	20,808	55,480
Physical	281,916	190,713	472,629
Mental	94,815	65,716	160,531
Other	67,871	55,338	123,209
More than one disability	52,591	39,847	92,438
Unknown	46,742	36,345	83,087
TOTAL	730,405	503,734	1,234,139

¹⁷ *Turkey Disability Survey 2002*, 67; Although the Survey Questionnaire lists and defines “psychological behavior disorders” as a separate category, according to the explanation given in p. XI of the Survey, the figures for “psychological behavior disorders” were included in chronic illness category. However, disaggregated figures for chronic illness category are not provided. Thus, information regarding the number of persons with psychological behavior disorders is not available.

¹⁸ Written information received from the State Institute of Statistics via e-mail (8 August 2006)

There were only two questions (questions 20 and 21) in the Population Census Questionnaire regarding the number of persons with disabilities and the types of disability. Questions are as follows:

Q. 20: Do you have any physical or mental disabilities?

Yes or No

Q. 21: What type of Disability do you have? (Check all that apply)

1. Visual 2. Hearing 3. Speech 4. Physical/Orthopedic 5. Mental 6. Other

Legislation & Disability Rights

National Protections

The Turkish Constitution (enacted in 1982) provides general principles of protection for persons with disabilities. Article 50 establishes that:

“No one shall be required to perform work unsuited to his age, sex, and capacity.

Minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions.”¹⁹

According to Article 61 of the Constitution:

“The state shall protect the widows and orphans of those killed in war and in the line of duty, together with the disabled and war veterans, and ensure that they enjoy a decent standard of living.

The state shall take measures to protect the disabled and secure their integration into community life.”²⁰

¹⁹ *Constitution of the Turkish Republic*, Law No. 2709, adopted on 7 November 1982, published in the Official Gazette No. 17844 on 20 October 1982.

²⁰ *Constitution of the Turkish Republic*, Article 61

Article 10 of the Constitution on Equality Before the Law does not make an explicit reference to disability as one of the grounds on which discrimination is prohibited; however, as Article 10 is open-ended as to the grounds of discrimination covered, it is also applicable in the context of disability.²¹

Article 70 of the Constitution stipulates that “[e]very Turk has a right to enter public service. No criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into public service,” and is applicable to persons with disabilities who want to work in the public sector.

The Law on Persons with Disabilities is the first comprehensive piece of legislation on persons with disabilities.²² As mentioned in the explanatory note of the Law, two major factors led to the adoption of the Law. The first major factor was the need for the unification of the legal protections found in different pieces of legislation in one legal text. The second major factor was the need to adopt a human rights/anti-discrimination perspective in regards to disability issues. The first section (Articles 1-4) deals with the Law’s purpose, scope, definitions and general issues. The second section (Articles 5-16) is on classification, care, rehabilitation, employment, education and employment and occupation related analysis. The third section (Articles 17-50) of the Law amends or annuls provisions in various laws and regulations on disability-related issues. Articles 51-52 are on the entry into force and implementation. There are also four provisional articles in the Law.

Article 4(a) of the Law on Persons with Disabilities establishes a general prohibition of discrimination against persons with disabilities:

²¹ “All individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings” *Constitution of the Republic of Turkey*. As amended on 17 October 2001, Office of the Prime Minister, Directorate General of Press and Information. <http://www.byegm.gov.tr/mevzuat/anayasa/anayasa-ing.htm> (Accessed 17 July 2007).

²² *Law No. 5378*, adopted on 1 July 2005, published in the Official Gazette No. 25868 on 7 July 2005, entered into force on the date of publication in the Official Gazette.

“Persons with disabilities cannot be discriminated against; struggle against discrimination is fundamental to all policies relating to persons with disabilities.” Particularly, principles of non-discrimination in the Employment realm and equality with respect to Education are established by this Law. Moreover, the Law amends Article 122 of the Turkish Penal Code which prohibits discrimination and includes disability as a ground where discrimination is prohibited. According to Article 122 of the Turkish Penal Code, if someone prevents the sale of movable or immovable property, its transfer, provision of a service and benefiting from a service on the grounds of disability; or does not employ a person on the same ground; deny giving food stuff; refuse providing a service open to public; prevents a person from carrying out a usual economic activity, he or she will be sentenced to six months to one year, or to pay a fine.²³

The Law on Persons with Disabilities not only prohibits discrimination by the state and public or private entities and persons etc., it also requires the state to take positive steps to eliminate the barriers before full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. There are a number of provisions in the Law where accommodation of the special needs of persons with disabilities is stipulated. For example, Article 14 on employment requires that “measures in the employment processes in order to reduce or eliminate the obstacles and difficulties that may be faced by persons with disabilities who work or who apply for a job are taken and physical arrangements are done.”²⁴

Another provision which prohibits discrimination is found in the Turkish Labor Code. Article 5 of the Labor Code stipulates, “No discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship.”²⁵ Although it does not explicitly refer to disability, it is recognized that “similar reasons” shall apply to disability.

²³ Law No. 5237, adopted on 26 September 2004, published in Official Gazette No. 25611 on 12 October 2004, as amended by Article 41 of the *Law on Persons with Disabilities*

²⁴ Law No. 5378, adopted on 1 July 2005, published in Official Gazette No. 25868 on 7 July 2005.

²⁵ Law No. 4857, adopted on 22 May 2003, published in Official Gazette No. 25134 on 10 June 2003.

One of the shortcomings of the provisions prohibiting discrimination is that none of them define or even make reference to direct or indirect discrimination. Harassment or victimization of persons with disabilities is not explicitly prohibited. Except for the Penal Code, there are no provisions on enforcement. Pecuniary damages and damages for pain and suffering are subject to general provisions found in Law of Obligations. Again, there are no provisions regarding the enforcement of the duty to make reasonable accommodations. As failure to provide reasonable accommodation is not defined as discrimination in Article 122 of the Penal Code, which prohibits discrimination against persons with disabilities, this provision cannot be applied. Furthermore, for Article 122 to be applicable, there has to be a special intent to discriminate.

Other provisions of the Law on Persons with Disabilities are mostly programmatic. Consequently, these provisions cannot serve as a basis for claims before the courts. For example, Article 10(2) of the Law provides that training programs shall be developed for the training of the personnel working in rehabilitation services; Article 15 of the Law stipulates that Turkish Sign Language shall be created; programs for the early identification and prevention of disability shall be planned and carried out by the Ministry of Health. Since there are no timetables or clear obligations established in the law, it is impossible for the citizens to ascertain 'no fulfillment' and consequently appeal for legal protections.

Many provisions of the Law on Persons with Disabilities require the adoption of regulations for the implementation of these provisions. 15 regulations are adopted in this respect:

1. Regulation on the Public Care Centers for Persons with Disabilities in Need of Care;²⁶
2. Regulation for the Identification of Persons with Disabilities in Need of Care and the Fundamentals of Care Services;²⁷

²⁶ *Regulation on the Public Care Centers for Persons with Disabilities in Need of Care*, Official Gazette No. 26244, 30 July 2006.

²⁷ *Regulation for the Identification of Persons with Disabilities in Need of Care and the Fundamentals of Care Services*, Official Gazette No. 26244, 30 July 2006.

3. Regulation on the Private Care Centers for Persons with Disabilities in Need of Care;²⁸
4. Regulation on the Disability Service Units of Metropolitan Municipalities;²⁹
5. Regulation on the Training of Personnel who will serve as Sign Language Interpreters;³⁰
6. Regulation on the Exams for Persons with Disabilities and Ex-Convicts who will be employed as Workers in the Public Sector;³¹
7. Regulation on Sheltered Workshops;³²
8. Regulation on Special Education Services;³³
9. Regulation on Special Vocational Training Centers;³⁴
10. Regulation for the Creation of a Database on Persons with Disabilities and Inclusion of Disability Information in the Identity Cards;³⁵
11. Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities;³⁶
12. Regulation on the Procedures and Fundamentals for the Creation of a Turkish Sign Language System;³⁷
13. Regulation on the Establishment and the Operation of the Commissions for Adaptation of Building Projects for the use of persons with disabilities;³⁸

28 *Regulation on the Private Care Centers for Persons with Disabilities in Need of Care*, Official Gazette No. 26244, 30 July 2006.

29 *Regulation on the Disability Service Units of Metropolitan Municipalities*, Official Gazette No. 26261, 16 August 2006.

30 *Regulation on the Training of Personnel who will serve as Sign Language Interpreters*, Official Gazette No. 26264, 19 August 2006.

31 *Regulation on the Exams for Persons with Disabilities and Ex-Convicts who will be employed as Workers in the Public Sector*, Official Gazette No. 26147, 22 April 2006.

32 *Regulation on Sheltered Workshops*, Gazette No. 26183, 30 May 2006.

33 *Regulation on Special Education Services*, No. 26184, 31 May 2006.

34 *Regulation on Special Vocational Training Centers*, No. 26156, 2 May 2006.

35 *Regulation for the Creation of a Database on Persons with Disabilities and Inclusion of Disability Information in the Identity Cards*, Official Gazette No. 25981, 30 October 2005.

36 *Regulation on Disability Criteria, Classification and Health Board Reports for Persons with Disabilities*, Official Gazette No. 26230, 16 July 2006.

37 *Regulation on the Procedures and Fundamentals for the Creation of a Turkish Sign Language System*, Official Gazette No. 26139, 14 April 2006.

38 *Regulation on the Establishment and the Operation of the Commissions for Adaptation of Building Projects for the use of persons with disabilities*, Official Gazette No. 26147, 2 April 2006

14. Higher Education Institutions Disability Counseling and Coordination Regulation;³⁹

15. Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities.⁴⁰

A vast number of other laws and regulations refer to persons with disabilities. Some of the legislation contains provisions related to persons with disabilities; others are exclusively about persons with disabilities. Most of the provisions found in the Civil Code are related to the legal capacity of persons with mental disabilities (e.g. Articles 13, 133, 405, 432). Other provisions deal with caring obligations of parents. For example Article 340 requires parents to provide adequate general and vocational education for their physically or mentally disabled children. According to Article 348 of the Civil Code, if due to their disability parents cannot adequately care for their children, the children will be placed under guardianship. Parallel to the provisions of the Civil Code, the Penal Code contains provisions regarding criminal liability and protection of persons with disabilities. According to Article 32 of the Penal Code, persons with mental illnesses do not have criminal liability. If a person with a mental illness commits a crime, adequate measures for protection and treatment shall be taken (Article 57 of the Penal Code).⁴¹ Article 74 of the Criminal Procedure Code lays down the procedure to be followed, in cases where it is claimed that the suspect or the accused is mentally ill; consequently does not have criminal liability. The Criminal Procedure Code also requires that in cases where the accused, victim or the witness is deaf, adequate measures shall be taken in order for her/him to fully participate in the proceedings (Articles 56, 150, 202, 234 and 239).⁴²

³⁹ *Higher Education Institutions Disability Counseling and Coordination Regulation*, Official Gazette No. 26204, 20 June 2006.

⁴⁰ *Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities*, Official Gazette No. 26204, 20 June 2006.

⁴¹ *Law No. 5237*, adopted on 29 September 2004, published in the Official Gazette No. 2561 on 12 October 2004.

⁴² *Law No. 5271*, adopted on 4 December 2004, published in the Official Gazette No. 25673 on 17 December 2004.

Examples of laws that refer to persons with disabilities include:

1. Labor Code lays down a quota requirement in Article 30;⁴³
2. According to Article 1 of the Law on Social Services and Child Protection Institution, the Institution is found to provide protection, care and social services to persons with disabilities, children, elderly and others in need;⁴⁴
3. Articles 50, 53 and Supplementary Article 39 of the Law on Civil Servants require public bodies to employ persons with disabilities;⁴⁵
4. Additional Article 1 of the Law on Monthly Pay for Turkish Citizens who are Needy, Desolate and over 65 provides that persons with disabilities, under specified conditions are entitled to special disability benefits, in the form of direct payments;⁴⁶
5. According to Article 4(u) of the Law on Radio and Television Broadcasting, discrimination against persons with disabilities shall not be promoted through broadcasting;⁴⁷
6. According to Article 31 of the Law on Income Tax, persons with disabilities are entitled to a tax discount;⁴⁸
7. According to Article 167 of the Law on Customs Duty, mobility aids and other devices used exclusively by persons with disabilities are exempt from customs duty;⁴⁹

⁴³ Law No. 4857, adopted on 22 May 2003, published in Official Gazette No. 25134 on 10 June 2003. Please see the section on Employment below for further information on the quota system.

⁴⁴ Law No. 2828, adopted on 24 May 1983, published in Official Gazette No. 18059 on 25 May 1983.

⁴⁵ Law No. 657, adopted on 14 July 1965, published in Official Gazette No. 12056 on 23 July 1965, as amended by Article 15 of the Decree No. 572, published in the Official Gazette No. 23011 on 6 June 1997.

⁴⁶ Law No. 2022, adopted on 1 July 1976, published in Official Gazette No. 15642 on 10 July 1976 as amended by Article 25 of the *Law on Persons with Disabilities*.

⁴⁷ Law No. 3984, adopted on 13 April 1994, published in Official Gazette No. 21911 on 20 April 1994 as amended by Article 37 of the *Law on Persons with Disabilities*.

⁴⁸ Law No. 193, adopted on 31 December 1960, published in Official Gazette No. 10700 on 6 January 1961, as amended by Article 3 of Law No. 4842, adopted on 9 April 2003, published in Official Gazette No. 25088 on 24 April 2003.

⁴⁹ Law No. 4458, adopted on 27 October 1999, published in Official Gazette No. 23866 on 4 October 1999.

8. Article 8 of the Law on Real Estate Tax lays down the conditions for persons with disabilities to be exempt from real estate tax;⁵⁰

9. Supplementary Article 1 of the Building Code requires that, in order for the physical environment to be accessible for persons with disabilities, the standards laid down by the Turkish Standards Institute should be complied with;⁵¹

10. Article 74 of the Law on Elections requires that adequate measure are taken to assist persons with disabilities when casting their vote;⁵²

11. Article 38 of the Law on Municipalities requires that a center for persons with disabilities is found in each municipality and Article 60 stipulates that it is the obligation of the municipalities to provide social services and aid to persons with disabilities;⁵³

12. Article 8 of the Law on National Education stipulates that special measures shall be taken for children in need of special education;⁵⁴

13. Supplementary Article 32 of the Law on Social Insurance stipulates that, 90 percent of the costs of prosthesis and other assistive-devices needed by persons covered by this Law will be paid from the funds of the Insurance.⁵⁵

The above mentioned laws refer to persons with disabilities in one or more provisions. However, there are also other pieces of legislation, which exclusively deal with disability-related issues. Before the enactment of the Law on Persons with Disabilities in 2005, legislation exclusively dealing with disability-related issues was:

⁵⁰ Law No. 1319, adopted on 29 July 1970, published in Official Gazette No. 13576 on 29 July 1970 as amended by Article 22 of the *Law on Persons with Disabilities*.

⁵¹ Law No. 3194, adopted on 3 May 1985, published in Official Gazette No. 18749 on 9 May 1985.

⁵² Law No. 298, adopted on 26 April 1961, published in the Official Gazette No. 10796 on 2 May 1961.

⁵³ Law No. 5393, adopted on 3 July 2005, published in Official Gazette No. 25874 on 3 July 2005.

⁵⁴ Law No. 1739, adopted on 14 June 1973, published in Official Gazette No. 14574, on 24 June 1973.

⁵⁵ Law No. 506, adopted on 17 July 1964, published in Official Gazette No. 11766-11769 on 29-31 July 1964.

1. Decree No. 571 on the Organization and Functions of the Presidency of Administration for Persons with Disabilities;⁵⁶
2. Decree No. 572 on the Amendment of Certain Legislation;⁵⁷ and
3. Decree No. 573 on Special Education Institutions.⁵⁸

Relevant ministries are responsible for the implementation of different provisions of the law and the regulations. A special monitoring mechanism is not established to monitor the implementation. In cases of violations, existing legal procedures can be followed. However, although neither the law, nor the regulations have been fully implemented (due to lack of legal tools to force public bodies to take action regarding their programmatic obligations), progress towards implementation is rather slow.

There is no mental health legislation in Turkey. This issue was emphasized in the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereafter CPT).⁵⁹ One of the issues criticized by CPT is the administration of electroconvulsive therapy in its unmodified form (i.e., without anesthetic and muscle relaxants).⁶⁰ CPT has also expressed that despite the legal procedures prescribed by the Turkish Civil Code (Article 432-437); most involuntary patients in the psychiatric hospitals visited were hospitalized without judicial intervention.⁶¹ Lack of a regular automatic review procedure regarding the placement of patients admitted involuntarily to the hospital was another issue highlighted by the CPT. In its reply to the CPT's report, the Turkish Government stated that a comprehensive "Application

⁵⁶ Decree No. 571, Official Gazette No. 23004 (bis), 30 May 1997.

⁵⁷ Decree No. 572, Official Gazette No. 23011 (bis), 6 June 1997.

⁵⁸ Decree No. 573, -Official Gazette No. 23011 (bis), 6 June 1997.

⁵⁹ Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 17 October 1997, CPT/Inf(99)2, paragraph 175; Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 7 to 14 December 2005, CPT/Inf(2006)30, paragraphs 70 and 73.

⁶⁰ Ibid, paragraphs. 178-182; Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 7 to 14 December 2005, CPT/Inf(2006)30, paragraphs 60-68.

⁶¹ Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 7 to 14 December 2005, CPT/Inf(2006)30, paragraph 71.

Guidebook” and electroconvulsive therapy directives are being prepared to avoid the administration of electroconvulsive therapy in its unmodified form.⁶² In reply to the criticisms of the CPT on the hospitalizations without judicial intervention and lack of an automatic review procedure, the Government has only made references to the relevant legislation, but has not made any comments regarding the situation in practice.⁶³

CPT has also expressed concern regarding the living conditions of the patients at Adana Mental Health Hospital.⁶⁴ Similar concerns had been expressed by CPT regarding the living conditions in Bakirkoy Mental and Psychological Health Hospital and in the Samsun Regional Psychiatric Hospital.⁶⁵ In 2005, Mental Disability Rights International released a report on the human rights abuses in the psychiatric facilities in Turkey.⁶⁶ The European Commission has voiced concerns in the annual Turkey accession 2005 progress report, regarding the lack of a mental health law, use of electroconvulsive therapy without anesthesia, lack of rehabilitation treatment, unnecessary use of physical constraints and inadequate feeding of persons in rehabilitation centers.⁶⁷

There is currently no specific law addressing violence against persons with disabilities. There are also no organizations or entities keeping records of abuse or violence against persons with disabilities in Turkey.

⁶² *Response of the Turkish Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visits to Turkey, CPT/Inf(2006) 31, paragraph 67.*

⁶³ *Ibid*, 71-72.

⁶⁴ *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 7 to 14 December 2005, paragraphs 74-75.*

⁶⁵ *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 17 October 1997, paragraphs. 183-217.*

⁶⁶ Mental Disability Rights International, *Behind Closed Doors Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey*, Istanbul, September 28, 2005 <http://www.mdri.org/projects/turkey/turkey%20final%20209-26-05.pdf>, (Accessed 8 April 2007).

⁶⁷ European Commission, *Turkey 2005 Progress Report, COM(2005), 561 final*, 9 November 2005, <http://www.mdri.org/projects/turkey/turkey%20final%20209-26-05.pdf>, (Accessed 8 April 2007).

International Protections

According to Article 90 of the Turkish Constitution, “International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.”⁶⁸

Among others, Turkey is a party to the following United Nations human rights treaties: Covenant on Civil and Political Rights, Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁶⁹

Turkey is also party to the following Council of Europe human rights treaties: Convention for the Protection of Human Rights and Fundamental Freedoms, European Convention on Social and Medical

⁶⁸ Law No. 2709, adopted on 7 November 1982, published in the Official Gazette No. 17863 (*bis*) on 9 November 1982, as amended by Article 7 of Law No. 5170, adopted on 7 May 2004, published in the Official Gazette No. 25469 on 22 May 2004.

⁶⁹ Office of the United Nations High Commissioner for Human Rights, ratified on 23 September 2003, *International Covenant on Civil and Political Rights*, New York, 16 December 1966 <http://www.ohchr.org/english/countries/ratification/4.htm>; ratified on 23 September 2003, *International Covenant on Economic, Social and Cultural Rights* New York 16 December 1966 <http://www.ohchr.org/english/countries/ratification/3.htm>; ratified on 4 April 1995, *Convention on the Rights of the Child* New York, 20 November 1989 <http://www.ohchr.org/english/countries/ratification/11.htm>; ratified on 20 December 1985, Division for the Advancement of Women, *Convention on the Elimination of All Forms of Discrimination against Woman*. <http://www.un.org/womenwatch/daw/cedaw/states.htm>; ratified on 2 August 1988, Office of the United Nations High Commissioner for Human Rights, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York, 10 December 1984 <http://www.ohchr.org/english/countries/ratification/9.htm>; ratified on 16 September 2002, *International Convention on the Elimination of All Forms of Racial Discrimination* New York, 7 March 1966 <http://www.ohchr.org/english/countries/ratification/2.htm>; ratified on 27 September 2004, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, New York, 18 December 1990. <http://www.ohchr.org/english/countries/ratification/13.htm> (All accessed 8 April 2007).

Assistance, European Social Charter (1961), European Convention on Social Security, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Protocol 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Protocol 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, European Convention on the Exercise of Children's Rights, Convention on Human Rights and Biomedicine and European Social Charter.⁷⁰ Turkey is not a party to Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms. Turkish Grand National Assembly passed a law in September 2006 approving the ratification of the Revised Social Charter.⁷¹ The ratification process will be completed by a decision of the Council of Ministers. The same applies to the Protocol amending the European Social Charter.⁷²

Turkey is also a party to a considerable number of International Labor Organization (ILO) Conventions. Among these are Discrimination

⁷⁰ Council of Europe, ratified on 18 May 1954, *Convention for the Protection of Human Rights and Fundamental Freedoms*

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=8&DF=4/9/2007&CL=ENG>; Council of Europe, ratified on 2 December 1976, *European Convention on Social and Medical Assistance* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=014&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe European, ratified on 26 February 1988, *Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=126&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe, ratified on 17 September 1997, *Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=151&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe, ratified on 17 September 1997, *Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=152&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe European, ratified on 10 June 2002, *Convention on the Exercise of Children's Rights* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=160&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe, ratified on 2 July 2004, *Convention for the protection of Human Rights and dignity of the human being with regard to the application of biology and medicine: Convention on Human Rights and Biomedicine* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=164&CM=8&DF=4/9/2007&CL=ENG>;

Council of Europe, ratified on 24 November 1989, European Social Charter <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=035&CM=8&DF=4/9/2007&CL=ENG>; (Turkey is not bound by Article 15 of the European Social Charter) (All accessed 8 April 2007).

⁷¹ Law No. 5547, adopted on 27 September 2006, published in the Official Gazette No. 26308 on 3 October 2006.

⁷² Law No. 5546, adopted on 27 September 2006, published in the Official Gazette No. 26308 on 3 October 2006.

(Employment and Occupation) Convention (111) and Vocational Rehabilitation and Employment (Disabled Persons) Convention (159).⁷³

During the negotiations of the Convention on the Rights of Persons with Disabilities, Turkey acted in alliance with the European Union group as a Candidate Country.⁷⁴ Turkey has also voted in favor of the adoption of the preamble paragraph (s)bis of the text of the Convention, which emphasizes the importance of the observance of applicable human rights instruments, in particular during armed conflicts and foreign occupation.⁷⁵ However, the Ministry of Foreign Affairs was in charge of the negotiations and persons with disabilities were not included in Turkey's delegation to the United Nations. Furthermore, despite its support of many international initiatives in support of the rights of people with disabilities, Turkey does not have inclusive development policies.

Legal Barriers

According to Article 405 of the Turkish Civil Code, any individual due to mental illness or mental infirmity is incompetent or needs continuous assistance for his or her protection and care or endangers the safety of others can be placed under guardianship by a court decision.⁷⁶ According to Article 410 of the Civil Code, the decision shall be based on an official health board report. Before giving its decision, the court may hear the person in question. Articles 432-437 of the Civil Code govern the involuntary hospitalization of adults who constitute a danger to the public due to their mental illness or mental infirmity. The person who is hospitalized and his/her relatives can

⁷³ International Labor Organization. *ILOLEX Data Base of International Labor Standards*, <http://www.ilo.org/ilolex/english/convdisp2.htm>; ratified on 26 June 2000, (Accessed 8 April 2007).

⁷⁴ Statement by H.E. Ms. Kirsti Lintonen, Ambassador, Permanent Representative of Finland to the UN, on behalf of the European Union, New York, 13 December 2006 . (<http://www.un.org/esa/socdev/enable/convstatementgov.htm>). (Accessed 17 July 2007).

⁷⁵ United Nations, *Interim Report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities on its eight session*, A/AC.265/2006/4, 1 September 2006, para. 11. The referred Article appears as preambular paragraph (u) in the final text.

⁷⁶ Law No. 4721, published in the Official Gazette No. 24607 on 22 November 2001.

object to the decision of the court in 10 days after the notification of the decision.⁷⁷

Civic Participation

Persons with disabilities are entitled to the same rights and obligations as other members of the society with regards to civic participation, subject to the limitations of the Turkish Civil Code and Law on Elections. According to the Law on Elections, persons who do not have legal capacity cannot vote.⁷⁸ According to Article 405 of the Turkish Civil Code, persons with mental illness or mental infirmity or persons who are in need of continuous care shall be deprived of their legal capacity by a court decision.⁷⁹ Article 74 of the Law on Elections requires that necessary measures are taken in order for persons with disabilities to vote at ease. In spite of this provision, conditions of persons with mobility problems are not taken into consideration; thus polling booths are not accessible to persons with disabilities. Consequently, persons with disabilities are either unable to exercise their right to vote or they must be carried to the polling booths by others. According to Article 93 of the same Law, blind persons and paralyzed persons can vote with the help of a relative or with the help of another electorate. There is no provision for postal voting. Information about the overall election process is not available to persons with disabilities in accessible forms.⁸⁰

⁷⁷ Turkish Civil Code, Law No. 4721, Article 435 of the, published in the Official Gazette No. 24607 on 22 November 2001.

⁷⁸ Law No. 298, Article 8(1), adopted on 26 April 1961, published in the Official Gazette No. 10796 on 2 May 1961.

⁷⁹ Law No. 4721, published in the Official Gazette No. 24607 on 22 November 2001.

⁸⁰ Note: According to art. 79/2 of the Turkish Constitution "The Supreme Election Council shall execute all the functions to ensure the fair and orderly conduct of the elections from the beginning to the end of polling, carry out investigations and take final decisions on all irregularities, complaints and objections concerning the elections during and after the polling, and verify the election returns of the members of the Turkish Grand National Assembly. No appeal shall be made to any authority against the decisions of the Supreme Election Council." The web-site of the Council, which provides all types of information regarding the elections, including who will vote at which voting booth and where the voting booths are (<http://www.ysk.gov.tr/ysk/index.html> (Accessed 17 July 2007)) is not accessible for persons with visual impairments. The author received information from the Council via phone that the Council does not publish the relevant information in braille.

According to Article 76 of the Turkish Constitution, persons who do not have legal capacity cannot stand for elections. There is no quota for persons with disabilities in political representation. Currently there are two parliamentarians with disabilities. Mr. Lokman Ayva is blind and Mr. Gürsoy Erol is a wheelchair user. Their presence in the parliament increases the influence of persons with disabilities in the legislative processes.⁸¹ Information is not available regarding the number of persons elected to local governments.

The focal point for disability policy and planning at the level of national government is the Presidency of Administration for Persons with Disabilities.⁸² The Presidency coordinates the work of the government on disability related issues. However, it does not have the authority to receive complaints.

According to Passport Law Article 8(2), persons with psycho-social disabilities are prohibited from entering into Turkey, unless they are not in a position to endanger general health or public security and have come to Turkey for treatment.⁸³ Turkish Ministry of Interior General Directorate of Security issued a National Action Plan for Asylum and Migration on 17 January 2005, with the aim of the adoption of the EU Acquis.⁸⁴ The Action Plan does not refer to persons with disabilities.

A lack of legal capacity limits many types of civic participation. According to the Law on Association Article 3, only persons with legal capacity can establish associations.⁸⁵ Persons who do not have legal capacity cannot marry.⁸⁶ The same rule applies to adoption. However, if a person is deprived of her or his legal capacity after her or his

⁸¹ The transcripts of the parliamentary discussions are available on the web-site of the Turkish Grand National Assembly. (www.tbmm.gov.tr (Accessed 17 July 2007).) These transcripts reveal that both Mr. Ayva and Mr. Erol contribute to raising disability related issues very frequently.

⁸² The Presidency was established by a governmental decree. Decree No. 571, published in the Official Gazette No. 23004 (*bis*) on 30 May 1997.

⁸³ Law No. 5682, Official Gazette No. 7564, 24 July 1950.

⁸⁴ Turkish Ministry of Interior and UNHCR Turkey, *Asylum and Migration Legislation*, Ankara, February 2005
http://www.unhcr.org.tr/docs/EU%20Acquis%20Book_Eng.pdf, (Accessed 8 April 2007)

⁸⁵ Law No. 5253, Official Gazette No. 25649, 23 November 2004.

⁸⁶ The Turkish Civil Code, Law No. 4721, Article 125, Official Gazette No. 24607, 22 November 2001.

application for adoption, this does not affect the adoption process, unless other compelling reasons occur.⁸⁷ The adoption process is completed after the inquiry into the personality and health of both the person who is adopting and who is being adopted and inquiry into the ability of the prospective adopter to educate the child he or she adopts.⁸⁸ There is no legal obstacle for persons with disabilities to be adopted.

Inclusion

Communication

Communication problems are not exclusive to persons with hearing and speech impairments. Braille books are rare. Legislation including the Constitution is not provided in Braille or in plain language. The National Library in Ankara has around 1,040 audio books. However, there are very few books in Braille. Audio books are available in bookshops and other libraries. Beyazit State Library in Istanbul has six studios for preparing audio books. People with visual impairments can then borrow the audio books in CD format. There is also a unit in the library which publishes materials in Braille. Audio books are accessible via the website of the Ministry of Culture and Tourism. 14 libraries have services for persons with visual impairments. 500 CD players are distributed to libraries by the Ministry of Culture and Tourism, which can be borrowed by persons with visual impairments⁸⁹

The national TV channel (Turkish Radio Television—TRT) broadcasts the news in sign language on a daily basis, however, closed-captioning is not available. Communication for persons with hearing disabilities is a major problem as there is no standard national sign language. As of this report (2007), the education for deaf people is carried out using lip reading. However, according to Article 15 of the Law on Persons with Disabilities, “Turkish Sign Language will be created by

⁸⁷ *Ibid*, Article 315

⁸⁸ *Ibid*, Article 316.

⁸⁹ Website of the Ministry of Culture and Tourism <http://www.kultur.gov.tr/TR/BelgeGoster.aspx?F6E10F8892433CFF8AB2E675B78192E87EC2F7BE92A0B8B8>, (Accessed 8 April 2007).

the Turkish Language Institution in order to provide education and communication for persons with hearing disabilities. The working methods and principles for the creation and implementation shall be set forth by a regulation to be issued jointly by the Ministry of National Education, General Directorate of Social Services and Child Protection Institution and Presidency of Administration for Persons with Disabilities, under the coordination of the Turkish Language Institution.” The aforementioned regulation was issued in April 2006.⁹⁰ According to Article 5(1)(b) of the Regulation, Turkish Language Institution, Presidency of Administration for Persons with Disabilities, Ministry of National Education, and Federation of Persons with Hearing Disabilities shall work together towards the creation of the sign language.⁹¹

Recognizing the need for staff with sign language knowledge in the provision of social services, Article 30 of the Law on Persons with Disabilities added Additional Article 8 to the Law on Social Services and Child Protection Institution, which requires that “[i]n order to work as interpreters for persons with hearing and speech impairments when needed, personnel with the knowledge of sign language shall be appointed. Necessary courses will be provided for the personnel to learn sign language.”

Article 202 (2) of the Criminal Procedure Code requires that sign language interpreters are provided in public hearings. The costs of the interpreters are covered by the State.⁹² However, because of bureaucracy, it takes some time to assign an interpreter.

⁹⁰ *Regulation on the Procedures and the Fundamentals for the Creation of a Turkish Sign Language System*, published in the Official Gazette No. 26139 on 14 April 2006.

⁹¹ Deaf people are using an informal sign language which they learn from their families. As there is no formal sign language, it is not taught in schools or in other public or private institutions. As mentioned above, the education in schools for deaf people is carried out based on lip reading. Students have so far been discouraged from using sign language. Teachers working in the schools for deaf people are learning the informal sign language from the students. Although there is no formal sign language, it is not possible to say that Turkish sign language does not exist. Deaf people from different areas of Turkey can communicate to each other using sign language; however there are differences. Consequently, it is incorrect to say that a sign language will be created; it is more of a unification process.

⁹² The Criminal Procedure Code, *Law No. 5271*, Article 324 (5) of the, adopted on 4 December 2004, published in the Official Gazette No. 25673 on 17 December 2004.

Four books for different disability groups were prepared under the Disaster Preparedness Training Program: Earthquake Preparedness Guidelines for Persons with Mental Disabilities; Earthquake Preparedness Guidelines for Persons with Visual Impairments; Earthquake Preparedness Guidelines for Persons with Hearing Impairments; Earthquake Preparedness Guidelines for Persons with Mobility Limitations. These books are accessible in PDF format on the website of the Bogazici University Kandilli Observatory and Earthquake Research Institute.⁹³ Presidency of Administration for Persons with Disabilities' website mentions an action plan. However, the action plan is composed of recommendations for persons with disabilities in emergency situations and natural disasters and recommendations for Ministries.⁹⁴

Education

According to Article 42 of the Constitution, primary education is compulsory for all citizens and no one shall be deprived of the right to education. According to the same Article, the State is under an obligation to take necessary measures for those in need of special education. Article 8 of the Law on National Education, entitled "Equal Opportunities," stipulates that special measures shall be taken for children in need of special education.⁹⁵

Principle of equality is underlined in the context of education as well. According to Article 15 of the Law on Persons with Disabilities:

"Persons with disabilities cannot be prevented from receiving education by any reason. Children, youngsters and adults with disabilities shall be provided with equal opportunities for education with persons without disabilities and in inclusive

⁹³ Bogazici University Kandilli Observatory and Earthquake Research Institute, http://www.ahep.org/ev/kaynaklar3_0e.htm, (Accessed 8 April 2007).

⁹⁴ Presidency of Administration for Persons with Disabilities, <http://www.ozida.gov.tr>, (Accessed 8 April 2007).

⁹⁵ Law No. 1739, adopted on 14 June 1973, published in Official Gazette No. 14574 on 24 June 1973.

environments where their special conditions and differences are taken into consideration.”⁹⁶

According to Decree No. 573 on Special Education, Regulation on Primary Education Institutions and Regulation on Special Education Services, three options are available for children with disabilities: inclusive education in mainstream schools, education in special classes in mainstream schools, and education in special schools.⁹⁷ According to the relevant legislation, children with disabilities will in principle receive education in mainstream schools, and individual education plans shall be developed for every child with special needs. Special needs of the children will be taken in consideration in the exams and necessary measures will be taken accordingly.⁹⁸ If the children need extra support, individual or group education will be provided at the school the student attends.⁹⁹

According to a study published in 2006, the literacy rate in Turkey is 87.06 percent. The literacy rate for people with disabilities is 63.67 percent, 71.86 percent for males and 51.99 percent for females. 604,945 persons with disabilities are illiterate in Turkey. Illiteracy rate for persons with physical disabilities is 29.5 percent; persons with visual impairments is 34.9 percent; persons with hearing impairments is 36.9 percent; persons with speech impairments is 53.1 percent; persons with mental disabilities is 66.9 percent.¹⁰⁰

⁹⁶ Law No. 5378, published in Official Gazette No. 25868 on 7 July 2005.

⁹⁷ Decree No. 573 on Special Education, published in Official Gazette No. 23011 (*bis*) on 6 June 1997; Regulation on Primary Education Institutions, published in Official Gazette No. 25212 on 27 August 2003; Regulation on Special Education Services, published in Official Gazette No. 26184 on 31 May 2006.

⁹⁸ Decree on Special Education, Article 16, published in Official Gazette No. 23011 (*bis*) on 6 June 1997.

⁹⁹ Decree on Special Education, Article 14, published in Official Gazette No. 23011 (*bis*) on 6 June 1997.

¹⁰⁰ Ismail Tufan, Ozgur Arun, *Advanced Analysis of the Turkey Disability Survey 2002*, Ankara, 2006, 15.

Table III: Education Level of Persons with Disabilities in Turkey¹⁰¹

Education Level	Number of persons with disabilities	% within the disability population
0 (under school age)	107,112	6 %
Illiterate	604,945	34,1 %
Literate but does not have a primary school diploma	247,642	14%
Has a primary school diploma (5 years completed)	549,681	31%
Has a primary school diploma (8 years completed) ¹	25,607	1.4%
Has a secondary school diploma	87,257	4,9%
Has a vocational secondary school diploma	3,100	0,2%
Has a high school diploma	93,635	5,3%
Has a vocational high school diploma	21,509	1,2%
Has a university diploma	30,382	1,7%
Has a graduate diploma	1,261	0,1%
Unknown	174	0,0%
TOTAL	1,772,305	100%

¹⁰¹ Ismail Tufan, Ozgur Arun, *Advanced Analysis of the Turkey Disability Survey 2002*, Ankara, 2006, 15.

The figures from 2005/2006 are as follows:¹⁰²

There are 45,532 children with disabilities in mainstream schools and 8,921 children with disabilities in special classes in mainstream schools. There are 1480 special classes throughout Turkey. There are 21,844 students in separate, specialized schools. The figures regarding special schools are described in Table IV.

Table IV: Special Education Figures in Turkey (2005/2006)¹⁰³

Type of school	Number of schools	Number of students
Primary schools for the hearing impaired	49	5,738
Vocational high schools for the hearing impaired	14	1,178
Primary schools for the visually impaired	16	1,387
Primary schools for students with orthopedic impairments	4	192
Vocational high schools for students with orthopedic impairments	2	55
Primary schools for the mentally disabled	44	2,707
Vocational schools for the mentally disabled	58	2,104
Practice schools for the mentally disabled	108	4,884
Vocational Training Centers	112	1,920
Hospital Schools	44	731
Autism Education Centers	15	460
Preschool		488
TOTAL	466	21844

Education at special public schools is available mostly in big cities. In other places, special education services are provided by private schools. According to Article 35 of the Law on Persons with

¹⁰² Ministry of Education General Directorate on Special Education, <http://orgm.meb.gov.tr/>, (Accessed 8 April 2007)

¹⁰³ *Ibid.*

Disabilities, part of the cost of children with disabilities attending private special schools is covered in the budget of the Ministry of National Education.

Disability organizations have expressed concerns regarding the lack of training on disability-related issues for teachers in mainstream schools.¹⁰⁴ The issue is not included in the general curriculum of teacher training programs. Special education teachers are educated in the relevant department of universities. Currently, 15 universities have undergraduate programs in special education.¹⁰⁵

The schools generally lack the facilities and infrastructure to accommodate the needs of children with disabilities. Most schools are not accessible. According to provisional Article 2 of the Law on Persons with Disabilities, all public buildings, including public schools shall be made accessible within seven years after the entry into force of the Law.¹⁰⁶ The Law also requires the establishment of the Information and Coordination Center for Persons with Disabilities, for the development and provision of educational materials (Article 15(2)). According to Article 23(2)(e) of the Regulation on Special Education Services, in mainstream schools the physical, social and psychological environment shall be adapted to the needs of children with disabilities and special education materials shall be provided in order for them to receive an effective education. However, these provisions have not been fully implemented. Although inclusive education in mainstream schools is the basis of all recent legislation, inaccessibility of most schools is a major obstacle.

Inaccessibility and lack of facilities are obstacles before college as well. A new regulation was adopted in 2006, which stipulates that a Counseling and Coordination Unit for Persons with Disabilities will be

¹⁰⁴ Information obtained during the "Seminars on Human Rights of Persons with Disabilities for Disability NGOs" organized by Istanbul Bilgi University Human Rights Law Research Center in May 2006 (Istanbul) and October 2006 (Ankara).

¹⁰⁵ These universities are Ankara University, Anadolu University, Abant İzzet Baysal University, Cukurova University, Erciyes University, Firat University, Gazi University, Hacettepe University, Karadeniz Technical University, Marmara University, Mustafa Kemal University, Ondokuz Mayıs University, Sakarya University, Selçuk University and Uludağ University.

¹⁰⁶ The Law has entered into force on 7 July 2005.

established under the auspices of the Council of Higher Education.¹⁰⁷ This Unit will prepare special course materials and take measures to provide adequate education, research and accommodation environments for students with disabilities. According to the same Regulation, each university has to establish a unit to provide support and assistance to students with disabilities.

The Higher Education Council Student Selection and Placement Center carries out university entry exams. In order for the Center to take necessary measures for the candidates with disabilities, candidates are required to give information regarding their special needs. A personal assistant appointed by the Center assists candidates with visual impairments during the exams. Students with visual impairments are not required to answer questions involving charts, maps, figures, diagrams etc. Special measures are also taken for candidates with physical or hearing impairments.

General Directorate of Higher Education Credit and Hostels Institution gives priority to university students with disabilities in awarding scholarships.

If the child does not need any special education, there is no special procedure to register to a school. For children who are in need of special education, the child, parents or the school the child is attending should request an educational evaluation. The evaluations are carried out by guidance and research centers where the child resides. Based on the evaluation report, a special education services board decides which school a child should attend. The board has to choose the least restrictive educational environment for the child. The parents of the child can appeal the decision within 70 days.¹⁰⁸

The Ministry of Education does not have any programs to detect disabilities in children. According to Article 11 of the Law on Persons with Disabilities, early diagnosis and preventive services shall be planned and carried out by the Ministry of Health.

¹⁰⁷ *Higher Education Institutions Disability Counseling and Coordination Regulation*, Official Gazette No. 26204, 20 June 2006.

¹⁰⁸ *Regulation on Special Education Services*, Articles 7-12, published in Official Gazette No. 26184, 31 May 2006.

Disabilities are detected only on request of the parents who suspect that their child has a disability. However, there are a few pilot projects to detect disabilities. One of these projects is the National Newborn Hearing Screening Project. The project began at one hospital in Ankara in 2000. Hospitals outside of Ankara were included in the project in 2004. Currently the project is being carried out in 24 cities and 34 hospitals. Until the end of 2005, 91,560 newborns had been tested.¹⁰⁹ Another pilot project is the Program on the Psycho-social Development of Children. The pilot project is carried out by the Ministry of Health in Bursa.¹¹⁰ The third and the last early detection project was started by the Ministry of Health in cooperation with the Turkish Autism Foundation (TOHUM). Under this project, children (18-36 months old) shall be screened to detect autism, by using CHAT (Check-list for Autism in Toddlers) and M-CHAT (Modified Check-list for Autism in Toddlers) screening tests. The pilot project will be carried out in Adana, Bursa, Gaziantep, Izmir and Kocaeli. The project is supposed to be completed by January 2007.¹¹¹

Special educational opportunities for people with disabilities over the age of 18 are limited to two job training centers (One is in Izmir, the other one is in Karabuk).¹¹² However, these opportunities do not include people with autism or those requiring intense support. The Ministry of National Education is running the Education Project for Children with Autism in independent and dependent centers. However, the Project's target group is limited to children between 3-15 years of age.¹¹³

¹⁰⁹ Presidency of Administration for Persons with Disabilities, <http://www.ozida.gov.tr>, (Accessed 8 April 2007).

¹¹⁰ Ministry of Health, <http://sbu.saglik.gov.tr/CPGD/06.htm>, (Accessed 8 April 2007).

¹¹¹ Turkish Autism Foundation (TOHUM), http://www.tohumotizm.org.tr/tohum/haber_detay.asp?haberid=48&I=Haber, (Accessed 8 April 2007).

¹¹² Ministry of Education General Directorate on Special Education, <http://orgm.meb.gov.tr/>, (Accessed 8 April 2007).

¹¹³ See <http://www.meb.gov.tr/PROJELER/ocep/UyhulamaYonergesi.html> for the *Directive on Education Project for Children with Autism*, (Accessed 8 April 2007).

Employment

Article 30 of the Labor Code requires that:

“In establishments employing fifty or more employees, employers shall employ persons with disabilities, ex-convicts and victims of terror ... and assign them jobs consistent with their occupational skills and physical and mental capacities; the ratios to be employed in each category shall be determined by the Council of Ministers in a manner to enter into force at the beginning of January of each year. The total ratio of employees to be employed within the scope of this article is six percent. But the ration of persons with disabilities shall not be less that half of the total ratio.

The employer must give priority to applicants who have left his or her establishment because of disablement but who have later recovered and wish to resume their old jobs, either immediately if vacant positions are available, or if not, when vacancies occur in their previous jobs or in other corresponding jobs, subject to the prevailing conditions of employment. Should the employer fail to respect his obligation to conclude the said employment contract despite the existence of the afore mentioned requirements, he shall pay his ex-employee making the application a compensation equal to his six months' wages.

Concerning employers who employ disabled persons, ex-convicts or victims of terror above the quotas designated by the Council of Ministers, or who employ these categories although they are not obligated to do so, or employers employing disabled persons who have lost more than 80 percent of their working capacity, and for each disabled person thus employed; the employer shall pay only fifty percent of the employer's share of contributions according to Act No. 506 on Social Insurance, and the Treasury shall pay the remaining fifty percent.

In the event of violations of this clause, the fines which will be collected according to Article 101 shall be appropriated as income to a special account of the Turkish Employment

Organisation (Is-Kur), which will be opened by the Ministry of Finance. The money thus collected in this account shall be transferred to the Turkish Employment Organisation to be spent for the vocational training and rehabilitation of the disabled or for promoting self-employment businesses or similar projects for such people.”¹¹⁴

Article 101 of the the same Code stipulates that “The employer or employer’s representative who does not employ disabled persons and ex-convicts in contravention of the provisions of Article 30 of this Act shall be liable to a monthly fine of seven hundred fifty liras for each disabled person and ex-convict for whom this obligation is not fulfilled. Public organizations shall by no means be exempt from this penalty.” Thus, the quota system covers both the public and the private sector. While in the private sector four percent of the employees should be disabled, the percentage in the public sector is three percent.¹¹⁵

Article 14 of the Law on Persons with Disabilities prohibits discrimination in employment:

“Persons with disabilities shall not be discriminated against at any stage of recruitment, including job selection, application forms, selection process, technical evaluation, offered working hours and conditions of work.

Employed persons with disabilities shall not be treated less favorably than others on the grounds of their disability.”¹¹⁶

The same Article requires that “measures in the employment processes in order to reduce or eliminate the obstacles and difficulties that may be faced by persons with disabilities who work or who

¹¹⁴ Law No. 4857, adopted on 22 May 2003, published in Official Gazette No. 25134 on 10 June 2003, entered into force on the date of publication in the Official Gazette.

¹¹⁵ According to Article 53 of the *Law on Public Servants* the quota requirement for the public sector is 3% (Law No. 657, adopted on 14 July 1965, published in Official Gazette No. 12056 on 23 July 1965, as amended by Article 15 of the Decree No. 572, published in the Official Gazette No. 23011 on 6 June 1997).

¹¹⁶ Law No. 5378, adopted on 1 July 2005, published in Official Gazette No. 25868 on 7 July 2005.

apply for a job are taken and physical arrangements are done.”¹¹⁷ However, State is not under an obligation to provide financial support to the employers for the accommodation of the needs of employees with disabilities.

According to the Turkey Disability Survey 2002, 78.29 percent of persons with disabilities over 15 years old are not in the labor force. Within this figure, 15.46 percent is unemployed, 62.83 percent is economically inactive, and 21.71 percent of persons with disabilities are employed. Employment rate is 25.61 percent in urban areas and 17.76 percent in rural areas. Employment rate of men is 32.22 percent. Only 6.71 percent of women with disabilities are working.¹¹⁸

2005 was the Employment Year for Persons with Disabilities.¹¹⁹ The same year an Action Plan for the Employment of Persons with Disabilities (2005-2010) was declared.

The Turkish Employment Organization is responsible for the training and employment programs for persons with disabilities all around Turkey. In June 2006 the number of unemployed persons with disabilities registered to the Organization was 69,761 the total number of registered unemployed persons was 938,271. Thus seven percent of the unemployed population consists of persons with disabilities.¹²⁰

In 2002, among 23,117 people with disabilities registered to the Turkish Employments Organization, 657 people were placed in the public sector and 10,226 people in the private sector. In 2003, among 49,218 persons, 464 and 12,017; in 2004, among 38,955 persons, 1,320 and 15,852 and in 2005 among 25,859 persons, 1,728 (1,547 males and 181 females) and 21,589 (18,862 males and 2,862 females) persons were placed in public and private sectors

¹¹⁷ Law No. 5378, adopted on 1 July 2005, published in Official Gazette No. 25868 on 7 July 2005.

¹¹⁸ Turkey Disability Survey 2002, p. 14.

¹¹⁹ Presidency of Administration for Persons with Disabilities, <http://www.ozida.gov.tr/english/index.htm>, (Accessed 8 April 2007).

¹²⁰ Information received from the Turkish Employment Organization via e-mail (11 September 2006).

respectively.¹²¹ Thus placements in the private sector are 12 to 25 times higher than the placements in the public sector. The figures fall short of the quota requirements. In order to fully comply with the quota requirements, in addition to the numbers given above, in 2005 2,990 persons in the public sector and 21,824 persons in the private sector should have been employed.¹²² By November 2006 the number of vacancies for persons with disabilities in the public

sector was 2,322 and in the private sector 19,351.¹²³ The number of persons with disabilities waiting in the list of the Turkish Employment Organization by November 2006 was 65,873.¹²⁴

The Turkish Employment Organization provides training for persons with disabilities throughout Turkey.¹²⁵

Table V: Number of trainings offered by the Turkish Employment Organization, and total number of training beneficiaries, by year.¹²⁶

Year	Number of trainings	Number of trainees (total)
2000	29	382
2001	10	138
2002	20	262
2003	21	241
2004	20	302
2005	42	1,710
2006 (as of November)	80	2,817
TOTAL	222	5,852

¹²¹ Turkish Employment Organization, <http://www.iskur.gov.tr/mydocu/istyiil2004/2005/2005%20TABLO%2028.xls>, (Accessed 8 April 2007).

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ For the figures for 2006 see <http://www.iskur.gov.tr/mydocu/istatistikbultenleri/istatistik/istatistik.pdf>, 10, (Accessed 8 April 2007). Figures for former years were received from the Turkish Employment Organization, via e-mail on 11 September 2006. According to the information received from the Organization, training programs for persons with disabilities is widespread. However, the number of programs suggest otherwise.

¹²⁶ Information received from the Turkish Employment Organization via e-mail (11 September 2006).

The problems people with disabilities face in employment include inaccessible working environments, negative attitudes of co-workers and employers, and the nature of jobs given to them. 24.3 percent of persons with disabilities who live independently express that the physical conditions of their workplaces are not adequate. The percentages for persons who are semi-dependent and dependent are 46.4 percent and 67.8 percent respectively. 6.5 percent of independent people with disabilities, 14 percent of semi-dependent people with disabilities, and 27.4 percent of dependent people with disabilities express that their co-workers do not accept them. 19.6 percent of independent people with disabilities, 29.5 percent of semi-dependent people with disabilities and 27.4 percent of dependent people with disabilities state that they cannot use their vocational information and skills in the job they are working. 7.4 percent of independent people with disabilities, 22.4 percent of semi-dependent people with disabilities and 27.4 percent of dependent people with disabilities state that their employers do not believe that they can work efficiently.¹²⁷

The Law on Persons with Disabilities requires that the employment of persons with disabilities whose conditions hinder their integration into the open labor market shall be provided by means of sheltered workshops.¹²⁸ This is the first time that sheltered workshops were introduced in Turkey. However, a study carried out in 2003 identified 13 rehabilitation centers and workshops, which can be regarded as sheltered workshops, though not legally identified as such. According to this study, the total number of persons with disabilities employed in these workshops is 153.¹²⁹ There is no legal basis for supported employment in Turkey. However, the Presidency of Administration for Persons with Disabilities is planning to run a project on supported employment. Details of the project are not available.

¹²⁷ Ismail Tufan, Ozgur Arun, *Advanced Analysis of the Turkey Disability Survey 2002*, Ankara, 2006, p. 51.

¹²⁸ A regulation was adopted accordingly. *Regulation on Sheltered Workshops* (Published in Official Gazette No. 26183 on 30 May 2006, entered into force on the date of publication in the Official Gazette).

¹²⁹ Presidency of Administration for Persons with Disabilities, <http://www.ozida.gov.tr/ozveri/ov2/ov2korumaliisyeri.htm>, (Accessed 8 April 2007).

Supplementary Article 1 of the Law on Monthly Pay for Turkish Citizens who are Needy, Desolate and over 65 specifies the criteria for special disability benefits. According to this Article, there are three groups of persons who are qualified to receive these benefits.

The requirements for the first group are:

1. the disabled person should not be able to maintain her/his life without the assistance of others;
2. above 18 years of age;
3. there should be no one who is under a legal obligation to care for the person in question;
4. total monthly income of the person should not be more than approximately €38.¹³⁰

The requirements for the second group are:

1. above 18 years of age;
2. there should be no one who is under a legal obligation to care for the person in question;
3. has not been placed in a job;
4. the total income of the person should not be more than approximately €38.¹³¹

The requirements for the third group are:

1. the total income of the person should not be more than approximately €38;
2. the persons should be under legal obligation to care for a disabled relative less than 18 years of age and is actually providing care for the disabled.¹³²

Thus if the disabled person or the person who is legally and actually taking care of a disabled relative under 18 has a monthly income of more than €38, the person is not qualified to receive a disability pension. Considering that the minimum wage for 2006 is around €207 a month, this requirement is hard to satisfy. In addition to this,

¹³⁰ Law No. 2022, Suppl. Article 1(a), adopted on 1 July 1976, published in Official Gazette No. 15642 on 10 July 1976 as amended by Article 25 of the *Law on Persons with Disabilities*.

¹³¹ Law No. 2022. Suppl. Article 1(b)

¹³² Law No. 2022, Suppl. Article 1(c).

in order for a disabled person above 18 to receive disability pension, there should be no one who is under a legal obligation to care for the person in question. There are three shortcomings of this provision. First of all, Article 4 of Regulation on Monthly Pay for Needy, Feeble and Desolate Turkish Citizens over 65 and Persons with Disabilities refers to Article 364 of the Turkish Civil Code for the definition of persons who are not placed under the care of others. According to said Article, “Everyone is under the legal obligation to provide maintenance allowance for their descendants and ancestors and their siblings, who otherwise will fall into poverty. The obligation of the siblings depends on the existence of wealth.” Thus, if a disabled person has a descendant, an ancestor or a sibling, they will not qualify for the disability pension. Secondly, neither the Law nor the Regulation requires that the descendant, the ancestor or the siblings actually care for the disabled person. Thirdly, these provisions are in contradiction with the principles of independence and autonomy. The persons who fall under the first group are qualified to receive disability pensions of €75.50 and the second and third groups €113. Both figures are below minimum wage.

There is special legislation for soldiers and those injured as a result of terror attacks. The amount of pensions for these groups depend on the degree of injury, the future and overall impact of the injury, duration of service, etc.¹³³

Health Services

Ministry of Health and General Directorate for Social Services and Child Protection are responsible for health, rehabilitation and care services. Disability related expenditures are covered by the social

¹³³ *Law on Compensation and Monthly Payments*, No. 2330 adopted on 3 November 1980, published in Official Gazette No. 17152 on 6 November 1980.

security institutions.¹³⁴ However, if the person does not have social security or the costs are not fully covered by the social security institutions, costs for treatment and assistive-devices are covered by the Social Assistance and Solidarity Fund.¹³⁵ Electric wheelchairs are not covered by any of the social security institutions. However, according to a decree dated January 13, 2000, electric wheelchairs, as well as other assistive-devices for persons with disabilities, are free of value added tax.¹³⁶

The costs for health services in state hospitals are covered by social security institutions. However, in most cases the beneficiaries are required to pay 10-20 percent of the cost. If the person does not have social insurance, health care costs are covered under the Law on Green Card.¹³⁷ According to Article 1 of the Law on Green Card, persons who do not have social security and cannot afford costs of health services are provided with a green card.

Care and rehabilitation services are carried out by the Social Services and Child Protection Institution. In 33 day-care centers, 1,959 persons are receiving care and in 39 boarding-care centers, 2,944 persons

¹³⁴ *Law on Social Insurance*, No. 506, Article 12, Article 32(B), Article 34, Article 36, additional Article 32, additional Article 37 and additional Article 41, adopted on 17 July 1964, published in Official Gazette No. 11766-11769 on 29-31 July 1964; *Law on Pension Fund*, No. 5434, Article 65, provisional Article 139, adopted on 8 June 1949, published in Official Gazette No. 7235 on 17 June 1949; *Law on Insurance for Craftsman, Artisans and Other Self-Employed*, No. 1479, additional Articles 11-18, adopted on 2 September 1971, published in Official Gazette No. 13956 on 14 September 1986. Currently there are three different social security institutions. *Law on Social Insurances and General Health Insurance* which unified the social security system and was adopted on 31 May 2006 will enter into force on 1 January 2007.

¹³⁵ Every year the Budget Implementation Directions are published which set the upper limits to be paid from the budget, for every assistive-device, prosthesis, osthesis etc. If the actual cost is above the upper limit, the person him/herself covers the costs above the upper limit. If the persons cannot afford it, the Social Assistance and Solidarity Fund or Social Services and Child Protection Institution covers the rest; *Law on Social Assistance and Solidarity Fund* No. 3294, Article 2 as amended by Decree No. 572, Article 17, adopted on 29 May 1986, published in Official Gazette No. 19134 on 14 June 1986, entered into force on the date of publication in the Official Gazette.

¹³⁶ Value added tax (VAT) is tax on exchanges. It is levied on the value added that results from each exchange

¹³⁷ *Law No. 3816*, Article 2, adopted on 18 June 1992, published in Official Gazette No. 21273 on 3 July 1992, entered into force on the date of publication in the Official Gazette.

are receiving care and rehabilitation services.¹³⁸ Only two community-based rehabilitation programs have been implemented in Turkey. The first program was implemented in Duzce, for the survivors of the 1999 earthquake. The second program was implemented in Istanbul by the Metropolitan Municipality. The third program is planned to be implemented in Sincan.

There are no training programs for health professionals that focus on the provision of services to people with disabilities.

Housing

Prime Ministry Housing Development Administration of Turkey is responsible for affordable housing for middle and lower income groups. However, the Mass Housing Law—under which the Administration was established—does not make any reference to persons with disabilities.¹³⁹ Most houses built by the Housing Development Administration are inaccessible.¹⁴⁰ Neither the Housing Development Administration nor any other center provides counseling or referral services for persons with disabilities. The only support provided for housing for persons with disabilities is that, under Article 8 of the Property Tax Law, persons with disabilities are exempt from property tax, if they own only one house.¹⁴¹

Institutionalization

Care and rehabilitation services are carried out by the Social Services and Child Protection Institution. In 33 day-care centers, 1,959 persons are receiving care and in 39 boarding-care centers, 2,944 persons are receiving care and rehabilitation services.¹⁴² Counseling, education/training, rehabilitation and care services are

¹³⁸ Information received from the Social Services and Child Protection Institution via e-mail (31 August 2006).

¹³⁹ Law No. 2985, published in Official Gazette No. 18344 on 17 March 1984.

¹⁴⁰ Personal observation of the Rapporteur

¹⁴¹ Law No. 1319, Official Gazette No. 13576, 11 August 1970.

¹⁴² Information received from the Social Services and Child Protection Institution via e-mail (31 August 2006).

provided by these institutions. According to Article 432 of Turkish Civil Code, only persons who constitute a danger to the public due to their mental illness or mental retardation can be hospitalized against their will. However, as mentioned earlier, most involuntary patients in the psychiatric hospitals are hospitalized without judicial intervention.¹⁴³ Consequently, there is a high risk of arbitrary institutionalization.

According to Article 24 of the Regulation on the Rights of the Patients, informed consent of the patient is required for any medical intervention.¹⁴⁴ If the patient does not have legal capacity, the consent of the guardian is required. In cases where medical intervention is necessary and the guardian does not give consent to the intervention, a court decision is needed for any medical intervention to be legal. In practice, a consent form is signed by the patient or the guardian, giving a general consent to any medical intervention the physicians deem necessary. According to Article 27 of the same Regulation, uncommon medical interventions are permissible only if other methods are not effective, the recommended method was tested on animals sufficiently, and the patient gives consent.

There is no special mechanism for reporting incidences of abuse or death in institutions. General criminal investigation procedures are followed.

Conditions, incidences of abuse or death are not monitored by an outside entity. In order to have access to these institutions, permission has to be granted by the Ministry of Health or the Directorate for Social Services and Child Protection, depending on the institution. CPT has recommended the Turkish authorities to establish a system of external visits.¹⁴⁵

¹⁴³ *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 7 to 14 December 2005*, paragraph. 71.

¹⁴⁴ *Regulation on the Rights of the Patients*, published in the Official Gazette No. 23420 on 1 August 1998.

¹⁴⁵ *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 5 to 17 October 1997*, paragraph. 225.

Accessibility

Inaccessibility is a major obstacle before persons with disabilities in Turkey. Despite the fact that there are a number of laws and regulations which require that the physical environment should be built in compliance with the accessibility standards set out by the Turkish Standards Institution, physical environment is inaccessible in general.¹⁴⁶ However, statistics are not available.

Inaccessibility is not limited to buildings. Public transportation is also generally inaccessible. In the capital, among 1,890 buses, only 15 are accessible.¹⁴⁷ Although persons with disabilities can use public transportation free of charge or with discount, depending on the degree of their disability, wheelchair users cannot use public transportation in practice. The situation differs from one city to the other. For example, Metropolitan Municipality of Istanbul purchased 500 buses in 2006, all of which are accessible. Metros are accessible in principle. However, in a number of stations, elevators either do not exist, or do not work. Trains and train stations are mostly inaccessible. The same is true also for sea transportation. Before the Law on Persons with Disabilities, there were no explicit provisions in the legislation requiring that public transportation should be accessible. Provisional Article 3, for the first time requires explicitly that metropolitan municipalities and other municipalities should take measures regarding the accessibility of public transportation. Existing private and public transportation shall be made accessible within seven years after the date of entry into force of this Law. The criticisms regarding provisional Article 2 of the Law apply here as well.

The Building Code and six regulations adopted for the implementation of the Code require that the built environment shall be accessible. However, relevant provisions have not been strictly enforced. Law on Persons with Disabilities in provisional Article 2 stipulates that all

¹⁴⁶ Decree No. 572, Article 1, Official Gazette No. 23011, 6 June 1997; Law No. 3194, Additional Article 1, Official Gazette No. 18749, 9 May 1985; Law No. 5393, Article 14, Official Gazette No. 25874, 13 July 2005; *Law on Persons with Disabilities*, Article 19, provisional Article 2 and 3 .

¹⁴⁷ Information received from the Metropolitan Municipality of Ankara via e-mail (8 August 2006).

existing public buildings, roads, pavements, pedestrian crossings, open and green areas, sporting areas and similar social and cultural infrastructure and all kinds of built environment built by natural and legal persons open to the public shall be made accessible within seven years after the date of entry into force of this Law. However, as the Law provides that the changes shall be made within seven years, it will not be possible to bring public authorities before the courts within this time limit. Thus, even if nothing is done regarding the accessibility of the public sphere within the time limit set forth by the Law, it will not be possible to use the relevant provisions of the Law to force the public authorities to action. Even after the passage of seven years, budgetary limitations and separation of powers might prevent the administrative courts to order the reconstruction of the built environment and the modification of the public transportation. Consequently, there is ambiguity regarding the enforcement of these provisions.

There are no special courses on accessibility in undergraduate programs. However, the standards are available to architects and engineers.

Even though the Presidency of Administration for Persons with Disabilities has issued a web-accessibility manual, most governmental websites are not accessible for persons with visual impairments, including the website of the Presidency of Administration for Persons with Disabilities. An exception is the Ministry of Public Works and Settlement's website.¹⁴⁸

Disability Action and Awareness

The Presidency of Administration for Persons with Disabilities is the national coordinating organization that develops disability policy.¹⁴⁹ The Presidency's budget for 2006 was €1,935,171. The Presidency is affiliated with the Prime Ministry. Persons with disabilities are not

¹⁴⁸ Ministry of Public Works and Settlement, <http://www.bayindirlik.gov.tr/english/index.php>, (Accessed 8 April 2007).

¹⁴⁹ The Presidency was established by a governmental decree. Decree No. 571, published in the Official Gazette No. 23004 (*bis*) on 30 May 1997.

represented in any of the main organs of the Presidency. However, according to Article 18 on the Executive Committee for Persons with Disabilities, the President of the Turkish Confederation for Disabled People and four persons representing federations of different types of disabilities are to be among the members of the Committee.¹⁵⁰ The responsibilities of the Committee are to adopt the projects which will be carried out by the Presidency and to decide which projects of the Presidency should be given priority. It is also the responsibility of the Committee to adopt disability related policies and deliver opinions and suggestions in this regard. Another body where persons with disabilities are represented is the Council for Persons with Disabilities. However, this is only an advisory body.¹⁵¹

The national disability action plan (2005-2010) is prepared and adopted by the Presidency of Administration for Persons with Disabilities in cooperation with the relevant ministries, institutions, NGOs and other social partners.¹⁵² However, the action plan is limited to the employment of persons with disabilities. The Action Plan aims to promote active participation and inclusion of persons with disabilities in the labor market. Currently there is no other action plan. However, the 8th Five-Year Development Plan includes main principles of national policy such as employment, social security, social services and assistance, education and health. In the Medium-Term Program (2006-2008) priority is given to the improvement of physical conditions, vocational training opportunities and counseling facilities.

Currently there is one cross-disability organization in Turkey: Turkish Confederation for Disabled People. There are eight federations

¹⁵⁰ According to Article 18 of Decree No. 571, there are 17 members in the Committee and the Committee is presided by the Minister of State responsible for Social Affairs.

¹⁵¹ *Regulation on the Council for Persons with Disabilities*, Decree No. 571; Article 20, *Official Gazette* No. 23004 (*bis*), 30 May 1997.

¹⁵² The Presidency of Administration for Persons with Disabilities, Turkish Employment Organization, Presidency of Public Personnel, Ministry of Labour and Social Security, Ministry of Interior, Ministry of National Education, State Planning Organization, General Directorate of Social Assistance and Solidarity, Ministry of Finance, Ministry of Industry and Trade Small and Medium Industry Development Organization, The Union of Chambers and Commodity Exchanges of Turkey, Confederation of Turkish Tradesmen and Artisans and Turkish Radio and Television Supreme Council are responsible for the implementation of the plan.

under the umbrella of the Confederation.¹⁵³ There are around 340 associations and foundations organized under these federations. However, very few civil society organizations have the capacity to promote disability rights. According to the researcher's observations, one of the reasons is the low level of education among the members of the disability community. Literature on the rights of people with disabilities in Turkish does not exist, and people with disabilities do not have access to literature in other languages. It is very rare

that well educated persons with disabilities support the disability community. Most disability organizations are not even aware of the United Nation Convention on the Rights of Persons with Disabilities. The first and only capacity-building and awareness-raising project on the rights of persons with disabilities is being carried out by Istanbul Bilgi University Human Rights Law Research Center. Another reason seems to be that the disability community has internalized the role imposed by the larger society of disabled people as being incapable of doing anything. Thus, the focus of most organizations is limited to disability benefits and aid.¹⁵⁴

Disability organizations are mainly funded by contributions from their members. Event/project based public funding is available through ministries and other public organizations, such as governors' offices and municipalities. The fines collected from employers in violation of their quota obligations are also used to support projects which are designed for the vocational training, rehabilitation and employment of persons with disabilities. Funding from international organizations and NGOs are also available. However, most organizations are not aware of this opportunity. Even those which are aware of these funding opportunities mostly lack the capacity to apply to international donors for funding.

¹⁵³ Turkish Sport Federation for the Physically Disabled, Federation of the Blind of Turkey, Federation of Persons with Orthopedic Disabilities, Federation of Persons with Mental Disabilities, Turkish National Federation of the Deaf, Turkish Sport Federation for the Deaf, Turkish Sport Federation for the Blind, Cerebral Palsy Federation.

¹⁵⁴ Information obtained during the "Seminars on Human Rights of Persons with Disabilities for Disability NGOs" organized by Istanbul Bilgi University Human Rights Law Research Center in May 2006 (Istanbul) and October 2006 (Ankara).



THE UNITED KINGDOM

Key Factors

The United Kingdom of Great Britain and Northern Ireland (UK) is a group of islands in Western Europe comprising the countries of England, Scotland, Wales and Northern Ireland with a population of 60,609,153.¹

The UK is a democratic constitutional monarchy that has a constitution consisting not of a single constitutional document, but partly of Statutes and partly of common law and practice. Suffrage is

universal and the minimum age for voting is 18 years.

The UK is a leading trading power and financial center and is one of five trillion dollar economies of Western Europe.² Gross Domestic Product (GDP) per capita is estimated at \$30,100, and there is a total labor force of 30.07 million people. The UK has large reserves of coal, oil, and natural gas, with energy production accounting for 10 percent of GDP. Agriculture in the UK is highly mechanized and efficient, producing 60 percent of food needs with less than two percent of the labor force.³

The UK has a strong academic background with regard to disability. Since the 1970s, the work of several notable academics on the social

¹ World Factbook of the American Central Intelligence Agency (CIA) at <https://www.cia.gov/cia/publications/factbook/geos/uk.html>, July 2005 estimate.

² World Factbook of the American Central Intelligence Agency (CIA) at <https://www.cia.gov/cia/publications/factbook/geos/uk.html>, July 2005 estimate.

³ World Factbook of the American Central Intelligence Agency (CIA) at <https://www.cia.gov/cia/publications/factbook/geos/uk.html> July 2005 estimate..

model of disability has had a significant impact on the conceptualization of disability, globally speaking.

Of significance concerning the legal protection of people with disabilities is the Disability Discrimination Act (DDA) 1995. This law was implemented as a result of the influence of other jurisdictions, such as the U.S., where such legislation had already been enacted.⁴ Also of importance is the system of direct payments introduced by the Community Care (Direct Payments) Act of 1996 which enables people with disabilities to use funds provided directly to them by their local authority to purchase their own support.⁵

With regard to the future of disability rights in the UK, organizations such as the British Council of Disabled People (BCoDP) have called for increased rights for people with disabilities. This includes ensuring that all new laws and plans are based on the social model of disability. They also aim to ensure that laws, as well as benefit and support systems in the UK give choice and control to people with disabilities.⁶ These aims underpin the work of the disability rights movement in the UK.

Terminology

UK terminology on disability has gone through significant change since the 1970s. These changes have largely reflected a shift in understanding of disability and a move towards a social model of disability.

Guidance is available from a range of sources concerning the use of language relating to disability.

Many of the UK's Local Authorities have produced guides on the use of suitable terminology. An example of such a guide is that produced

⁴ Connolly, M *Townshend-Smith on Disability Discrimination: Text, Cases and Materials* 2004 2nd ed. Cavendish.

⁵ Community Care (Direct Payments) Act 1996 available at <http://www.opsi.gov.uk/acts/acts1996/1996030.htm> (Website accessed 28 May 2007).

⁶ Information taken from the BCoDP Manifesto published 2005 and available at www.bcodp.org.uk/manifestolaunch.shtml (Accessed 28/5/07).

by the Manchester City Council, which proposes that negative terminology be avoided.⁷ This negative terminology includes the use of collective terminology that groups individuals together, such as “the deaf” and “the blind.” Terminology which was previously in common usage, such as “handicapped” and “invalid” is also to be avoided due to its portrayal of people with disabilities as being “cap in hand” (with connotations of begging), or as people who are literally “not valid.” For instance, the reference to “handicapped” in the Census 1991 question on “limiting long term illness” was changed to “disability” in Census 2001.⁸

Definition of Disability

There is no common national definition of disability used in the United Kingdom. There are different definitions of ‘people with disabilities,’ which are located in different laws (e.g., anti-discrimination law, social welfare law, state benefits) and statutory programs.⁹

For example, the UK National Census, which is conducted every 10 years, contains questions relating to disability and long-term health. Census 2001 included a number of questions that relate to disability without defining it. However, the characterization of disability in terms of functioning can be presumed, based on its placement within the context of limiting long-term illness or permanent impediment to work. Specifically, “Census 2001, Definitions” for the Census states:

“5.73 Limiting long-term Illness

A self assessment of whether or not a person has a limiting long-term illness, health problem or disability which limits their daily activities or the work they can do, including problems that are due to old age.”¹⁰

⁷ Manchester City Council, *Disabled People and Terminology* <http://www.manchester.gov.uk/disability/language/index.htm> (Accessed 3 April 2007).

⁸ Office for General Statistics, *Census 2001 Definitions*, London, 2004, http://www.statistics.gov.uk/downloads/census2001/definitions_chapters_1_5.pdf (Accessed 14 May 2007).

⁹ Disability Rights Commission, www.drc.gov.uk; Disability Rights Commission, *Consultation on the Definition of Disability in Anti-Discrimination Law*, February 2006 (Accessed 2 April 2007).

¹⁰ Office for National Statistics.

“5.115 Permanently sick/disabled

This is a sub-category of ‘economically inactive’.

There is no direct connection with limiting long-term illness.”¹¹

Another definition of disability is found in the Disability Discrimination Act of 1995 (the DDA). In connection with this it has been said that the task of showing oneself to be disabled under the definition set out in the DDA has been described as “leap[ing] through hoops.”¹²

The Act defines disability as follows:

“[A] person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities...In this Act ‘disabled person’ means a person who has a disability”¹³

In the UK a range of duties are enshrined in law, which aim to ensure that pupils with disabilities or Special Educational Needs (SEN) have the “same experience of education as their non-disabled peers.”¹⁴ It should be noted that the UK legal system distinguishes between its definition of “disability” and that of “SEN.”

A child is disabled for the purposes of the law if they have “a physical or mental impairment which has a substantial and long-term effect on their ability to carry out normal day-to-day activities.”¹⁵

On the other hand, the definition of a ‘special educational need’ is found in the Education Act 1996: “A child has special educational needs if they have a learning difficulty which calls for special

¹¹ *Ibid.*

¹² Lawson, Anna, *The Human Rights Act 1998 and Disabled People: A Right to be Human?* Human Rights Research Unit, School of Law, University of Leeds.

¹³ S1 (1) *Disability Discrimination Act 1995*, Office of Public Sector Information http://www.opsi.gov.uk/acts/acts1995/UKpga_19950050_en_1.htm (Accessed 3 April 2007).

¹⁴ McNicol, Helen, Disability Coordinator, University of Leeds, August 4 2006, Interviewed by Author.

¹⁵ S1 (1) *Disability Discrimination Act 1995*.

educational provision to be made for them.”¹⁶ A child is deemed to have a ‘learning difficulty’ for the purposes of the Act if:

“(A) He has significantly greater difficulty learning than the majority of children his age.

(B) He has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children his age.

(C) He is under the age of 5 and is, or would be if special education provision were not made for him likely to fall into [A] or [B] on reaching that age.”¹⁷

Finally, it is important to note that in July 2006 the Disability Rights Commission issued a recommendation to the government stating that the DDA definition of disability should be altered to one that protects from discrimination everyone who has (or has had or is perceived to have) an impairment without requiring the effects of that impairment to be substantial or long-term.¹⁸

Disability Population

According to the 2001 National Census, there are approximately 9.5 million people living in the UK who have long-term illnesses, health problems or disabilities that limit their daily activities or the work they could do.¹⁹ This represents 18.2 percent of the general population. Comparing this with the previous Census of 1991 indicates that there has been a 4.9 percent increase in the population reporting a disability or long-term illness, as the percentage has risen from 13.3 percent of the general population in 1991 to 18.2 percent in 2001.

¹⁶ S. 312 [1] *Education Act 1996*, Office of Public Sector Information <http://www.opsi.gov.uk/acts/acts1996/96056-ba.htm#312>. (Accessed 3 April 2007).

¹⁷ S. 312 [2] *Education Act 1996*.

¹⁸ Disability Rights Commission, http://www.drc.org.uk/about_us/commission_for_equality_and_hu/definition_of_disability_within.aspx.

¹⁹ Office for National Statistics, *National Census conducted on 29 April 2001* <http://www.statistics.gov.uk/census/>; (Accessed 23 April 2007).

The questions contained in the 2001 Census pertaining to disability were:

- “Do you have any long-term illness, health problem or disability which limits your activities or the work you can do?
- “Do you look after, or give any help or support to family members, friends or neighbors or others because of long-term physical or mental ill-health or disability or problems related to old age?
- “Last week were you any of the following?...Permanently sick or disabled... [In relation to employment]”²⁰

The issue of an increase in the overall size of the disability population is considered in a recent government report, which investigated the life chances of people with disabilities in the UK.²¹ This report pointed to an overall increase in the number of people reporting impairments over the last thirty years. The fastest growing numbers have been for children, rising from 476,000 children with disabilities under the age of 16 in 1975 to 772,000 in 2002 – representing an increase of 62 percent. Several reasons for this increase suggested in the report are increased diagnosis; the fact that children with complex conditions survive for longer; increased reporting and/or overall increases in the population. Over the same period the number of adults reporting impairment has increased by 22 percent from 8.7 million to 10.7 million people. This may be compared with an increase in the total population of the UK from 55,928,000 in 1971 to 58,790,000 in 2001;²² an increase of 5.12 percent. The report “*Improving the Life Chances of Disabled People*,” published by the Prime Minister’s Strategy Unit in 2005, also noted that, “there are limitations to the data available about the disabled population.”²³ These limitations stem from the fact that data on the numbers and characteristics of the disability

²⁰ Office for National Statistics, *Census Form 2001*, <http://www.statistics.gov.uk/census2001/pdfs/engh1.pdf> (Accessed 21 April 2007).

²¹ Prime Minister’s Strategy Unit, *Improving the Life Chances of Disabled People*, Office for Disability Issues, January 2005 <http://www.officefordisability.gov.uk/> (Accessed 23 April 2007).

²² Information taken from Economic and Social Research Council, <http://www.esrcsocietytoday.ac.uk/ESRCInfoCentre/facts/index20.aspx?Component1> (Accessed 21 April 2007).

²³ . Prime Minister’s Strategy Unit.

population were taken from population surveys, which means that the accuracy of population estimates depends on whether the samples used are representative of the population as a whole. Reliance on self-reporting, the technique used in this report, has also been said to lead to lower levels of accuracy of data collected.²⁴

Legislation and Disability Rights

National Protections

In the UK, the law of primary significance to people with disabilities is the Disability Discrimination Act 1995 (DDA). Prior to this, the end of World War II saw the introduction of the Disabled Persons (Employment) Act 1944, which aimed to extend the employment opportunities of people with disabilities. The impetus behind the introduction of this legislation was the need to manage the rehabilitation of wounded ex-servicemen following World War II. Different parts of the legislation took effect at different times, and the original Act has been subject to a number of amendments.

The eight major parts of the DDA are:

Part 1 (Definition of disability) – Provides information and guidance on what constitutes disability for the purposes of the Act, and who is protected under it.

Part 2 (Employment) – Prohibits discrimination in relation to employment of disabled people, including recruitment, training, promotion, benefits, dismissal, etc.

Part 3 (Provision of goods, facilities and services) – Requires service providers to make “reasonable adjustments” for disabled people. It prohibits discrimination by private clubs and provides procedures for enforcement and provision of remedies for discrimination.

²⁴ See for example Hurstfield, J et al, *DRC Monitoring of the Disability Discrimination Act, DDA, 1995, Phase 3 Research* conducted between October 2002 and May 2003. 14.

Part 4 (Education) – Prohibits discrimination in relation to school admissions, exclusions, and the education or associated services provided to pupils and further and higher education admissions, exclusions, and student services.

Part 5 (Transport) – Provides the Secretary of State with powers to establish minimum access criteria for public transport vehicles public areas at stations and booking facilities to be phased in over time.

Part 6 Provides for the creation of the National Disability Council and sets out the Council's role and powers.

Part 7 (Supplementary issues) – Includes details on duties and responsibilities covering:

- Codes of Practice
- Victimization
- Liability of employers
- Help for people suffering discrimination
- Aiding unlawful acts
- Exclusion for acts done with statutory authority or done for the purpose of safeguarding national security.

Part 8 (Miscellaneous other issues) – Includes descriptions of government appointments, regulations, and interpretation.²⁵

The Disability Discrimination Act is part of a family of laws aimed at combating discrimination against certain identified groups. These include the Sex Discrimination Act of 1975 and the Race Relations Act of 1976. The influence of EU law, specifically the requirement to implement the Equal Treatment at Work Directive,²⁶ has led to the enactment of a range of laws that relate to discrimination against various groups in the field of employment. These laws are

²⁵ Disability Rights Commission, *Keypoints* http://www.drc.org.uk/the_law/legislation__codes__regulation/keypoints.aspx, (Accesses 14 May 2007).

²⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation OJ L 303/16, 2000.

the Employment Equality (Religion or Belief) Regulations;²⁷ the Employment Equality (Sexual Orientation) Regulations;²⁸ and the law covering discrimination on the grounds of age, which is provided for in the Directive and which was implemented in the UK in 2006.

Other relevant legislation regarding people with disabilities is:

- **Special Educational Needs and Disability Act 2001**, an amendment to the existing Disability Discrimination Act 1995;
- **Disability Rights Commission Act 1999**;
- **Mental Health Act 1983**.

International Protections

People with disabilities in the UK are protected by legislation at the international level. In a general sense, the International Human Rights Conventions protect the rights of people with disabilities as apply to all people.²⁹

International provisions that relate specifically to disability include Article 15 of the European Social Charter and Article 23 of the Convention on the Rights of the Child. In addition to these binding instruments, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities was adopted by the United Nations at the General Assembly in 1993.³⁰ The Standard Rules were a major outcome of the International Decade of Disabled People and consist of 22 rules that summarize the message of the World Program of Action Concerning Disabled People Act of 2005.³¹

²⁷ *The Employment Equality (Religion or Belief) Regulations 2003 SI 2003/1660*, Office for Public Sector Information <http://www.opsi.gov.uk/si/si200316.htm> (Accessed 8 April 2007).

²⁸ *Ibid.*

²⁹ Information provided on the United Nations UN Enable Website at <http://www.un.org/esa/socdev/enable/disovlf.htm#overleg2> (Accessed 23 April 2007).

³⁰ See further: the UN Enable Website at <http://www.un.org/esa/socdev/enable/dissre00.htm> (Accessed 23 April 2007).

³¹ The World Program of Action Concerning Disabled People was adopted by the UN General Assembly at the 37th Regular Session on December 3rd 1982 by Resolution 37/52.1/ and is accessible via the UN Enable Website at <http://www.un.org/esa/socdev/enable/diswpa00.htm> (Accessed 23 April 2007).

Regional Protections

In addition to the laws in place at a national level, the UK is also a signatory to the European Social Charter: a treaty which guarantees citizens rights in the areas of housing, health, education, employment, legal and social protection, movement of persons, and non-discrimination. Of particular importance in the context of disability is Article 15 of the Charter. Article 15 addresses “[t]he right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement.”

The UK ratified the original Social Charter on July 11, 1962, and signed the 1996-revised version (which came into force in 1998) on November 7, 1997. The UK has not as yet accepted the protocol relating to the Collective Complaints Procedure, however.³²

The most recent report submitted by the United Kingdom in relation to Article 15 on Disability was received by the European Committee on Social Rights (ECSR) in 2003. This report covered the rights forming the first section of what are known as the ‘non-hard core’ provisions of the Charter, of which Article 15 is a part. The ECSR issued conclusions XV1-2 in respect of the 2003 report – a document containing 19 separate conclusions. Concerning Article 15, the committee concludes that the UK is in compliance with the provisions contained in both paragraphs of the Article.

Considering the human rights of people with disabilities, it is the case that people with disabilities in the UK theoretically enjoy the same rights as those without disabilities. Important in this context is the European Convention on Human Rights (ECHR) 1950, which was incorporated into UK law through the enactment of the Human Rights Act of 1998 (HRA), and which applies to public bodies (though not to private individuals).³³

³² A copy of the *Additional Protocol to the European Social Charter Providing for a System of Collective Complaints*, CETS No. 158 can be found at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=158&CL=ENG> (Accessed 14 May 2007).

³³ *Human Rights Act 1998*, c.42, Office for Public Sector Information, <http://www.opsi.gov.uk/acts/acts1998/19980042.htm> (Accessed 4 April 2007).

In addition to the substantive rights enshrined in the ECHR, an anti-discrimination provision is also included at Article 14, which states that:

“The enjoyment of the rights and freedoms as set forth in this Convention shall be secured without discrimination on any grounds such as sex, race, color ... or other status.”

Although disability is not referred to expressly within Article 14, it is evident in the reference therein to case law that disability is included by the provision.³⁴

An issue of importance in the context of the human rights of people with disabilities is that of human rights abuse. People with disabilities have been said to be particularly vulnerable to human rights abuses.³⁵ These abuses are monitored in a database maintained by Disability Awareness in Action (DAA).³⁶ The DAA database contains statistics relating to the UK. Furthermore, the UK is one of the few states for which the reports included in the database originate from research programs.

Legal Barriers

The law in England and Wales with regard to guardianship is set out in the Mental Health Act 1983. The relevant parts of the statute are Section 7, which provides for the conferring of guardianship under the auspices of the Local Authority (or a named individual) on the recommendation of two doctors and following an application by an approved social worker or the nearest relative of the patient; and Section 37 which concerns the conferring of guardianship by order from the courts.³⁷

³⁴ See *Botta v Italy* series A no 66,1998, EHRR, 1998, 241.

³⁵ Information provided by CSR Europe, formerly the European Business Network for Social Cohesion: at <http://www.csreurope.org/csrinfo/csrdisability/Disabledpeople> (Accessed 23 April 2007).

³⁶ Disability Awareness in Action, *A real horror story: the abuse of disabled people's human rights*, http://www.daa.org.uk/A_REAL_HORROR_STORY.htm (Accessed 23 April 2007).

³⁷ Dave Shepard Associates Ltd, *Hospital and guardianship orders*, <http://www.markwalton.net/OriginalMHA2/part3/s37.asp?> (Accessed 23 April 2007).

Section 8 of the Mental Health Act 1983 sets out the three powers that are conferred upon a Guardian:

- The power to require the patient to reside at a specific place.
- The power to require the patient to attend specified places for medical treatment, occupation, education, or training.
- The power to require access to the patient for a doctor, approved social worker or other specified person.³⁸

It is not usually possible to use these powers without the consent and cooperation of the patient.³⁹ Special provision is made, however, in the case of an adult who is “assessed as requiring residential care, but who owing to mental incapacity is unable to make a decision as to whether he or she wishes to be placed in residential care.”⁴⁰ In these circumstances it is suggested in the Code of Practice concerning the operation of the Mental Health Act of 1983 that those responsible for the care of the patient consider the appropriateness of using guardianship.

Information on the number of people subject to guardianship, under Sections 7 and 37 of the Mental Health Act of 1983, in England is collected by the Department of Health using the SSDA 702 form. This is a form completed by each Local Authority and supplied to the Department of Health documenting all active cases of guardianship in the Authority, including those where a named individual rather than the Local Authority is appointed as Guardian.⁴¹

Statistics produced, covering the year to March 31, 2005, indicate that during that time 416 cases of guardianship were closed and

³⁸ *Ibid.*

³⁹ Department of Health, *Guardianship under the Mental Health Act 1983*, Publications and statistics, http://www.dh.gov.uk/en/Publicationsandstatistics/Statistics/StatisticalCollection/DH_4032562: (Accessed 23 April 2007);

⁴⁰ *Code of Practice: Mental Health Act 1983*, paragraph 13:10 Department of Health March 1999 http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005756 (Accessed 3 April 2007).

⁴¹ Department of Health, *Guardianship under the Mental Health Act 1983*; Note of Author: This source also contains links to the SSDA 702 form and the Guidance produced by the Department of Health on completing the form.

466 new cases were opened. This net increase of 50 new cases in 2004-05 resulted in a total of 966 open cases on March 31, 2005. Guardianship was conferred on the Local Authority in 99 percent of these cases, with guardianship in the remaining 1 percent of cases being conferred on a named individual. For cases closed during this period, the average duration of guardianship was 19 months.⁴²

Civic Participation

Eligibility to vote in the UK is dependent upon an individual's name appearing on the electoral register. In addition, the person must be 18 years or older, must be a British Citizen, a Commonwealth Citizen, or a Citizen of the Republic of Ireland who is a resident in the UK, and must not be subject to any legal incapacity to vote.⁴³

In general, people with disabilities are eligible to vote, and recent years have seen a focus on issues of accessibility regarding electoral procedure in relation to people with disabilities, as well as those with low literacy levels and those for whom English is not their first language.⁴⁴ Part 3 of the Disability Discrimination Act of 1995 places a duty on service providers to make reasonable adjustments to their premises and services for people with disabilities. This includes access to polling stations, as well as an obligation on local government and political parties to ensure that information and support are accessible to people with disabilities.

People with disabilities are, in general, entitled to serve as Members of Parliament.⁴⁵ In order to be eligible to serve, a person "must be over 21 years of age, and a British citizen, or citizen of a Commonwealth

⁴² *Ibid.*

⁴³ Electoral Commission, *Who Can Vote?* Fact-sheet, Electoral Commission Website September 2006, <http://www.electoralcommission.org.uk/> (Accessed 4 April 2007).

⁴⁴ With the exception of those patients resident in mental hospitals who have been detained under certain provisions of the Mental Health Act 1983.

⁴⁵ Certain groups of people, such as convicted prisoners serving a sentence of more than 12 months are disqualified. Further details of eligibility requirements are provided by the Electoral Commission in their fact-sheet, available online at http://www.electoralcommission.org.uk/files/dms/Candidates-UK-Parl-General-Election-2006-12_23832-11604__E__N__S__W__.pdf (Accessed 22 April 2007).

country or the Republic of Ireland.”⁴⁶ The UK has a prominent Member of Parliament who has a disability. David Blunkett has been a Member of Parliament for the constituency of Sheffield Brightside since 1987 and has occupied several positions, serving as education secretary (1997-2001), Home secretary (2001-2004), and secretary of state for work and pensions (until November 2005).⁴⁷

Common law makes one exception, however: people with mental disabilities, who, on polling day, are considered to be incapable of making a reasoned judgment, can be considered legally incapable to vote.⁴⁸

Information on the rights and obligations of people with disabilities regarding voting procedure is readily available in electronic format.⁴⁹ This information states that the local authority should provide information about polling stations, including:

- Physical access – parking spaces for people with disabilities, entrance ramps, etc.;
- Low level polling booths;
- Available equipment – magnifying glasses for the visually impaired.

The Electoral Commission also provides leaflets in alternative formats, such as large print, audio, and languages other than English. These leaflets include an easy guide to voting, details on how to register to vote, and information on postal voting, and are available to download from the Electoral Commission’s website.⁵⁰

⁴⁶ Information provided on the UK Parliament website at http://www.parliament.uk/about/how/members/electing_mps/candidates.cfm (Accessed 22 April 2007).

⁴⁷ Information provided by Dodsonline, the website of Dods: a biographical information provider for the UK Houses of Parliament, at <http://www.dodsonline.co.uk/engine.asp?lev1=4&lev2=37&menu=45&biog=y&id=25810> (Accessed 22 April 2007).

⁴⁸ According to the Standard Note: SN/PC/2208 <http://www.parliament.uk/commons/lib/research/notes/snpc-02208.pdf> (Accessed 23 April 2007).

⁴⁹ Information available via Directgov: A website of the Central Office for Information at www.direct.gov.uk/DisabledPeople/RightsAndObligations/voting (Accessed 4 April 2007).

⁵⁰ Information provided by the Electoral Commission at www.electoralcommission.org.uk (Accessed 22 April 2007).

A further strategy introduced to increase accessibility to the electoral procedure for blind people or those with visual impairments is the tactile voting device: “[a]ll polling stations must provide a tactile voting device and at least one large print display version of a ballot paper.”⁵¹ There have been positive reviews from users of this device; however, it has been pointed out that individuals are still not absolutely sure of the accuracy of their completed paper ballots, and it has been suggested that better checking mechanisms are required.⁵²

While there have been some improvements in creating access to voting, some research suggests that much remains to be done in this respect. A report entitled ‘General Election Research 2005: Accessibility Review,’ produced by a number of disability groups, has raised several issues of concern and has also assessed the practices of political parties, local government, and the Electoral Commission for compliance with the provisions of the Disability Discrimination Act of 1995. This research found that leaflets and manifestos, as well as information provided by local government (ballot packs and polling cards) do not meet required standards of accessibility.⁵³

Inclusion

Communication

The UK does not have a formal document known as a ‘constitution’ and as a consequence of this, “the two main sources of constitutional law are the same as those of law in general, namely ... legislation [or enacted law]...and judicial precedent...”⁵⁴ Therefore, when one considers access to the constitution for people with disabilities, the issue is slightly more complex than simply providing access to one specific document.

⁵¹ Information accessed via the Directgov Website.

⁵² . Lawson, Anna, Panel Discussion lead by Author, University of Leeds, 6 September 2006.

⁵³ Disability Action, Capability Scotland and The Pollen Shop, *General Election Research 2005: Accessibility Review*.

⁵⁴ AW and Ewing, KD, *Constitutional and Administrative Law*, Chapter 2, 13th ed. Longman, Bradley, 12.

The Office for Public Sector Information is the body with responsibility for providing access to information for the public. Through its website, it is possible to access all Public and Local Acts of the UK Parliament and relevant explanatory notes, Statutory Instruments, and Measures of the General Synod of the Church of England.⁵⁵ The office aims to publish legislation online simultaneously or within 24 hours of printed publication, and the website supports “Browsealoud” technology, facilitating access to the information for people with visual impairments, as well as those with dyslexia and other learning disabilities.⁵⁶

A further issue of importance in relation to access of information is the status of sign language. British Sign Language (BSL) is the first or preferred language for 250,000 people in the UK. Its recognition has been the focus of major campaigning by the British Deaf Association (BDA) and on March 18, 2003, BSL was recognized as an official British language.⁵⁷ In spite of its status as an official language, however, BSL does not have any legal protection. This means that Deaf people do not have full access to information and services, including education, health, and employment.⁵⁸

Information about the BSL Charter is available via the BDA website. There is also a help-line specifically designated to provide information and support concerning the charter.⁵⁹

A further issue of importance in relation to access to information for people with hearing impairments is the availability of subtitling and captioning services, particularly for the national news. The British Broadcasting Corporation (BBC) subtitles have been available on approximately 80 percent of broadcasts, including the national news, since the 1980s and the corporation aims to subtitle all broadcasts

⁵⁵ Office for Public Sector Information (OPSI); See further www.opsi.gov.uk (Accessed 23 April 2007).

⁵⁶ Information about the accessibility of the OPSI website, including the use of Browsealoud software is available at www.opsi.gov.uk/about/accessibility.htm (Accessed 23 April 2007).

⁵⁷ The British Deaf Association: www.signcommunity.org.uk (Accessed 23 April 2007).

⁵⁸ Information provided by the British Deaf Association on their website at www.signcommunity.org.uk/language/aboutbsl.php (Accessed 23 April 2007).

⁵⁹ The British Deaf Association, www.signcommunity.org.uk/language/bslcharter.php. The helpline is run by email and may be contacted via helpline@signcommunity.org.uk (Accessed 23 April 2007).

by April of 2008.⁶⁰ In addition to subtitling services, the BBC also operates an audio description speech service on some programs, for those with visual impairments. This service involves enhanced commentary, which is transmitted in gaps in the dialogue of the program.⁶¹

Communication is of great importance in an emergency situation, and it is vital that systems are in place to enable deaf and hearing-impaired people, as well as those with speech impairments, to communicate with the emergency services in a crisis. A report produced by the Royal National Institute for the Deaf (RNID) in June 2005, entitled *Transport for All*, was critical of provisions for people with all types of disability in relation to the public transportation system in London. In relation to deaf and hearing-impaired people, the report claimed that many of these people felt that their safety was at risk due to lack of suitable emergency procedures and instructions. Since the publication of this report, a number of systems have been implemented at the regional level to enable deaf and hearing-impaired people to communicate with the emergency services by means of text message from their mobile phones. These systems exist in Northern Ireland, Hampshire, and Merseyside, and require a person to register their mobile with the emergency services first.⁶² There is, however, no national emergency text/SMS system in place. The reason given for this is that it is not possible for emergency services to guarantee that a text will be received as soon as it is sent. In some cases this can take days.⁶³

⁶⁰ See BBC R&D White Paper WHP070 *A distributed live subtitling system* Marks, M, <http://www.bbc.co.uk/rd/pubs/whp/whp070.shtml> (Accessed 22 April 2007).

⁶¹ Information available on the BBC Website at <http://www.bbc.co.uk/info/policies/ad.shtml> (Accessed 2 April 2007).

⁶² Information provided by the Information Line of the Royal National Institute for the Deaf in an email of 21 November 2006.

⁶³ *Ibid*; Note of Author: It is possible to contact the emergency services through a system called 'TypeTalk.' This system was introduced in 1991 and is managed by the RNID. It works by the Textphone user dialling 18001 followed by the number of the person they wish to call. During the call an operator joins the line to relay the call with the Text user typing or speaking their conversation to the hearing person and the hearing person speaking their part of the conversation. The operator then types exactly what is being said. The same is possible in reverse with the hearing person dialling 18002 before the telephone number of the Textphone user they wish to contact. See further http://www.typetalk.org/html/ourservices/comdifficulties/commdiff_trelay.asp (Accessed 8 April 2007).

Education

There are three sets of duties, which together comprise the statutory framework concerning access to education for people with disabilities. These are as follows:

- The disability discrimination duty in Part 4 of the DDA;
- The planning duties of Part 4 of the DDA; and
- The SEN (special education needs) duties of the Education Act 1996.⁶⁴

The Special Educational Needs and Disability ACT of 2001 (SENDA) protects the right to education for people with disabilities. “SENDA amended the SEN framework set out in the Education Act 1996, and extended the Disability Discrimination Act (DDA) 1995 to cover the provision of education.”⁶⁵

SENDA amended the DDA of 1995 to make it unlawful for education providers to discriminate against pupils, students, and adult learners with disabilities. This means that, under the DDA, the following education providers have a legal duty not to treat people with disabilities less favorably than their peers:

- local education authorities (LEAs)
- schools
- colleges
- universities
- providers of adult education
- the statutory youth service

It also means that these education providers must make reasonable adjustments, by providing an auxiliary aid for example, to ensure that students with disabilities do not suffer a substantial disadvantage in comparison to other students.

⁶⁴ *Implementing the DDA in Schools and Early Years Settings*. Department for Education and Skills Publications, 2006, <http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0160+2006>, (Accessed 23 April 2007).

⁶⁵ *Ibid.*

Making reasonable adjustments means:

- “[C]hanging any practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to use a service (for example, waiving a no dogs policy for blind students accompanied by their guide dog);
- [P]roviding an auxiliary aid or service which would enable disabled people to use a service (for example, providing a BSL interpreter at a public meeting where deaf people will be present);
- [O]vercoming a physical feature by providing services by alternative methods.”⁶⁶

Another significant part of the statutory framework of special education is the Special Educational Needs Code of Practice, introduced in the Education Act of 1993, and now provided for in Section 313 of the 1996 Act.⁶⁷

It should be noted that the Code of Practice is not legally binding. The relevant bodies are, however, required to “have regard to” the Code of Practice in the exercise of their functions.⁶⁸ The meaning of the phrase “have regard to” has been examined in case law, notably in the case of *R v Police Complaints Board, Ex Parte Madden and Rhone*.⁶⁹ It was held that the phrase did not imply an obligation to comply, and that in appropriate circumstances it would be permissible to depart from the provisions. It is also evident that the “effect of having regard to the Code of Practice may vary according to circumstances and over time.”⁷⁰

⁶⁶ Adapted *Your rights and learning*, Directgov http://www.direct.gov.uk/en/DisabledPeople/EducationAndTraining/DG_4001076 (Accessed 8 April 2007).

⁶⁷ S 157, *Education Act 1993* (c.35), Office for Public Sector Information <http://www.opsi.gov.uk/acts/acts1993a.htm> (Accessed 8 April 2007).

⁶⁸ S. 313 [2] *Education Act 1996* (c.56), Office for Public Sector Information <http://www.opsi.gov.uk/acts/acts1996a.htm> (Accessed 8 April 2007).

⁶⁹ *R v Police Complaints Board, Ex Parte Madden and Rhone* 2 All ER 1983, 353.

⁷⁰ *Hansard*, HL Vol. 554, No. 83 Paragraph 14.13 With reference to the Code of Practice. Pub. 25 May 1994.

An important feature of the Code of Practice is the structuring of the different levels of special education provision. The current Code of Practice sets out three stages of special educational needs. The first stage is *School Action*, where the child's teacher and the school's Special Educational Needs Coordinator (SENCO) decide on the action needed to assist the child. This may involve the deployment of extra staff to provide one-to-one tuition, or it may include the provision of different learning materials and special equipment.⁷¹ The second stage is known as *School Action Plus*, where external specialist services become involved in the child's education.⁷²

For those children with high support needs, for whom the provisions available at the *School Action* stage are inadequate, there is a third stage comprising a statutory procedure for meeting the child's special educational needs. Section 323 of the Education Act of 1996 provides for a *Statutory Assessment* of the child's needs, which may be requested by the school or the LEA as these entities deem necessary. In light of this assessment, the LEA may issue and maintain a Statement of Educational Needs.⁷³ This is a document that sets out the needs of the child, as well as the provision the child is to receive and her or his educational placement. The provisions of the statement are accorded statutory protection.

It is relevant to highlight that the principle of inclusion is central to the UK's system of special educational needs. The National Curriculum contains a statutory "general inclusion statement" that sets out three principles for the development of a more inclusive curriculum:⁷⁴

- Setting suitable learning challenges.
- Responding to pupils' diverse learning needs.
- Overcoming potential barriers to learning and assessment for individuals or groups of pupils.

With particular reference to England, in January 2006, some 236,700 pupils (2.9 percent of all students) across all schools have statements

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ *Education Act 1996* Section 324.

⁷⁴ The Inclusion Statement is available at http://www.nc.uk.net/nc_resources/html/inclusion.shtml (Accessed 21st April 2007).

of SEN (i.e., identified as having SEN). In maintained schools,⁷⁵ the incidence of pupils with SEN with statements in nursery school was 0.9 percent; in primary schools it was 1.2 percent; and in secondary schools it was 2.2 percent. In maintained schools, the distribution of students with statements is as follows:

Table I: Number of pupils with statements of special educational needs (SEN) by type of schools, Maintained schools January 2006⁷⁶

Nursery	
Pupils with statements	320
Pupils on roll	36,990
Incidence (%)	0.9
Primary	
Pupils with statements	64,860
Pupils on roll	4,148,950
Incidence (%)	1.6
Secondary	
Pupils with statements	73,840
Pupils on roll	3,306,780
Incidence (%)	2.2
Special	
Pupils with statements	82,570
Pupils on roll	84,620
Incidence (%)	97.6
Pupil Referral Units	
Pupils with statements	2,290
Pupils on roll	15,240
Incidence (%)	15.0

Over 70 percent of primary schools and around 46 percent of secondary schools had less than 2 percent of pupils with statements of SEN. Less than 1 percent of both primary and secondary schools had over 10 percent of pupils with statements.

⁷⁵ Schools that receive public funding.

⁷⁶ Department for Education and Skills, *Statistical First Release: Special Educational Needs in England as at January 2006*, June 2006. SFR 23/2006.

<http://www.dfes.gov.uk/rsgateway/DB/SFR/s000661/SFR23-2006v2.pdf>.

On the other hand, there were some 1,293,300 pupils with SEN but without statements representing 15.7 percent of pupils across all schools. Within maintained schools, the incidence of pupils with SEN without statements is greater in primary schools (17.3 percent) than in secondary schools (15.3 percent), and in nursery schools the incidence was 10.5 percent. These distributions are reflected in the following table:

Table II: Number of pupils with special educational needs (SEN) without statements by type of school. Maintained schools January 2006⁷⁷

Nursery	
SEN provision - early years action	1,920
SEN provision - early years action plus	1,960
Pupils with SEN without statements	3,880
Pupils on roll	36,990
Incidence %	10.5
Primary	
SEN provision - school action	483,080
SEN provision - school action plus	233,710
Pupils with SEN without statements	716,780
Pupils on roll	4,148,950
Incidence (%)	17.3
Secondary	
SEN provision - school action	352,950
SEN provision - school action plus	153,650
Pupils with SEN without statements	506,610
Pupils on roll	3,306,780
Incidence (%)	15.3
Special	
SEN provision -	210
SEN provision - school action plus	1,480
Pupils with SEN without statements	1,690
Pupils on roll	84,460
Incidence (%)	2.0
Pupil Referral Units	
Pupils with SEN without statements	7,780
Pupils on roll	15,240
Incidence (%)	51.0

⁷⁷ *Ibid.*

Gender was shown to have a significant correlation with the issuing of SEN statements. In primary and secondary schools the incidence of pupils with SEN without statements is greater for boys (around one in every 5 boys) than it is for girls (almost one in every 8 girls). Similarly, the incidence of pupils with statements of SEN is much higher for boys than it is for girls. In January 2006, almost 100,600 boys in primary and secondary schools had statements of SEN (around one in every 37 boys) compared with 38,200 girls (around one in every 100 girls) – the latter rate being about three times greater than the former.

Distribution across the types of SEN is similar to last year. The most prevalent type of special educational need amongst pupils with statements of SEN was speech, language, and communication needs in primary schools (almost 23 percent); and moderate learning difficulty in both secondary and special schools (27 percent and 28 percent respectively).

Table III: Maintained schools (1): number of pupils with statements of SEN or at *school action plus* by type of need⁷⁸

	% PRIMARY	% SECONDARY	% SPECIAL
Specific Learning Difficulty	11.6	18.5	0.8
Moderate Learning Difficulty	28.6	30.4	27.3
Severe Learning Difficulty	2.1	1.3	23.9
Profound & Multiple Learning Difficulty	0.4	0.2	7.6
Behavior, Emotional & Social Difficulties	18.5	29.4	14.4
Speech, Language and Communications Needs	21.3	6.4	4.0
Hearing Impairment	2.1	2.4	1.9
Visual Impairment	1.3	1.4	1.1
Multi- Sensory Impairment	0.2	0.1	0.2
Physical Disability	4.1	3.5	5.5
Autistic Spectrum Disorder	5.9	4.5	12.7
Other Difficulty / Disability	3.9	5.0	0.8
Unclassified	0.0	0.0	0.0
TOTAL	100	100	100

⁷⁸ *Ibid.*.

With regard to the educational opportunities available to people with Autistic Spectrum Conditions (ASC-including Asperger Syndrome), a statistic first published by the Department for Education and Skills provides information concerning the placement of children with ASC in the education system.⁷⁹

Table III: Numbers of children with Autistic Spectrum Conditions by placement type as at January 2006 ⁸⁰

Primary Schools		Secondary Schools		All Special Schools	
SA +*	Statement**	SA +	Statement	SA +	Statement
6,270	11,420	3,070	7,130	180	11,070

*School Action Plus

** Statement of Special Educational Need.

A campaign organized by the National Autistic Society, called “Make School Make Sense,” claims that over 50 percent of children with autism are not in the kind of school that their parents believe would best support them.⁸¹ In spite of the assertion that 1 in 110 children is affected by ASC there is currently no requirement for trainee or practicing teachers to undertake training in autism.⁸²

When parents of children with disabilities or SEN are dissatisfied with the decisions of their LEA regarding the placement or level of support offered to their child, there is a mechanism for appeal. Part 3 of the Education Act of 1993 establishes the Special Educational Needs and Disability Tribunal, or SENDIST (Previously the Special Educational Needs Tribunal). Judicial involvement in the special educational needs system has been described as ‘eagerly awaited.’⁸³ The competence of the Tribunal is statutorily defined in the Education

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ Batten, A et al, *Make School Make Sense. Autism and Education: The Reality for Families Today*, National Autistic Society, London 2006.

⁸² *Ibid.*

⁸³ Friel, J, *Children with Special Educational Needs: Assessment, Law and Practice. Caught in the Acts*, Sweet & Maxwell, 4th Ed, 1997.

Act of 1996.⁸⁴ It has jurisdiction covering decisions of the LEA:

- (i) Not to undertake an assessment
- (ii) Not to make a Statement of Special Educational Needs
- (iii) In relation to the contents of Statements
- (iv) To cease to maintain Statements.

Where parents wish to complain on other grounds relating to the conduct of the LEA, such as delay in undertaking an assessment or failure to comply with statutory time limits for assessment, they may not do so via the tribunal.⁸⁵ Instead, their route of appeal lies in the seeking of Judicial Review or in a complaint to the Secretary of State.

Employment

A further important issue in relation to inclusion is that of employment. Under the DDA, it is unlawful for employers, in all aspects of employment, to discriminate against people for a reason related to their disability. The Act covers:

- Application forms
- Interview arrangements
- Proficiency tests
- Job offers
- Terms of employment
- Promotion, transfer or training opportunities
- Work-related benefits such as access to recreation or refreshment facilities
- Dismissal or redundancy.⁸⁶

Employers have a duty to consider making 'reasonable adjustments' to make sure people with disabilities are not put at a substantial disadvantage by employment arrangements or any physical feature of the workplace.

⁸⁴ See Sections 326, 329 and Sched. 27 *Education Act 1996*.

⁸⁵ *Statutory time-limits for assessment are set down in the Education (Special Educational Needs) Regulations 1995 S.I. 1995 No. 3113.*

⁸⁶ Directgov, *Employment Rights and the Disability Discrimination Act*, http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/YourEmploymentRights/DG_4001071 (Accessed 23 April 2007).

Examples of the sort of adjustments include:

- Re-allocating task
- Transferring the person with a disability to another post or another place of work
- Making adjustments to the physical environment
- Being flexible about core working hours providing training
- Providing modified equipment
- Making instructions and manuals more accessible
- Providing a reader or interpreter⁸⁷

In late 2001 there were 3.5 million people (between 16 and 65 years of age) with disabilities employed in the UK; that is, 48 percent of the total population with disabilities. This represents an increase of 2.7 percent over the previous three years, but may be contrasted with the 81 percent of working age people without disabilities who were then employed.⁸⁸

When analyzing statistics relating to employment, it is also necessary to consider those who are categorized as ‘economically inactive.’ In autumn 2001, of the 7.8 million people who were economically inactive, 3.4 million (44 percent) had disabilities. Among people with disabilities, approximately half (44 percent of men and 52 percent of women) are economically inactive. This may be contrasted with the 15 percent of people without a disability who are economically inactive. In a governmental survey, some 32 percent of all economically inactive working-age people with disabilities said they would like to be in paid employment. In comparison, 26 percent people without disabilities said they would like to work.⁸⁹

The following table provides details of the employment rates for people with disabilities by occupation:

⁸⁷ *Ibid.*

⁸⁸ Source: Labour Force Survey 2000/2001 available at – Office for National Statistics, http://www.statistics.gov.uk/articles/labour_market_trends/people_with_disabilities_aug2002.pdf (Accessed 23 April 2007).

⁸⁹ *Ibid.*

Table IV: People with disabilities in Employment by Occupation
Great Britain, Spring 2005, not seasonally adjusted⁹⁰

	Total	W/ Disabilities	W/Out Disabilities
	27,429 100%	3,666 100%	23,763 100%
Managers and Senior Officials	4,088 15%	489 13%	3,559 15%
Professional Occupations	3,446 13%	388 11%	3,058 13%
Associate Professional and Technical	3,827 14%	458 13%	3,369 14%
Administrative and Secretarial	3,441 13%	497 14%	2,815 12%
Skilled Trades Occupations	3,074 11%	415 11%	2,945 12%
Personal Service Occupations	2,124 8%	319 9%	1,805 8%
Sales and Customer Service Occupations	2,050 8%	326 8%	1,724 8%
Process, Plant and Machine Operatives	2,050 8%	326 9%	1,724 7%
Elementary Occupations	3,152 11%	489 13%	2,664 11%

Historically, the UK has attempted to facilitate the accessing of employment by people with disabilities through the implementation of a quota system. This system was provided for in the Disabled Persons (Employment) Act of 1944, which was introduced “to address the concerns about returning wounded ex-servicemen.”⁹¹ It was not enforceable by private individuals, but rather only through criminal sanction, and during the time it was in force, not a single conviction

⁹⁰ Disability Rights Commission, *Disability Briefing*, March 2006, 12.

⁹¹ *Blackstone's Guide to the Disability Discrimination Legislation*, Monaghan, K Oxford University Press, 2005.

was brought under the act.⁹² The quota system was abolished with the introduction of the Disability Discrimination Act of 1995.

On July 4, 2006, the UK Government launched the Welfare Reform Bill, which detailed plans to reform the legal mechanisms through which those of working age who have a limited capacity to work access Social Security support.⁹³

There are a number of training and placement opportunities for people with disabilities in the UK. These are organized by the government or by Jobcentre Plus, an executive government agency. Availability of these opportunities is widespread throughout the country.⁹⁴

The New Deal for Disabled People (NDDP) is a program that provides advice and support and aims to facilitate peoples' transition from disability and health-based benefits into paid employment.⁹⁵ In order to be eligible for the NDDP, a person must fall into one of several categories relating to the benefits received.⁹⁶ Specifically, people can join the program if they receive one or more of the following benefits:

- Incapacity Benefit
- Severe Disablement Allowance
- Income Support including a disability premium
- Income Support because the Incapacity Benefit has been stopped and the person is appealing against the decision
- National Insurance credits because of incapacity
- Disability Living Allowance,
- Housing Benefit with a disability premium

⁹² See Palmer, Gill, Monaghan, Moon and Stacey, ed McColgan, *Discrimination Law Handbook* LAG, 2002 133 in "Blackstone's Guide to The Disability Discrimination Legislation" Monaghan, K, Oxford, 2005, 2.

⁹³ See Department of Work and Pensions at <http://www.dwp.gov.uk/aboutus/welfarereform/#bill> (Accessed 22 April 2007).

⁹⁴ Information on the work of the Jobcentre Plus agency is available at <http://www.jobcentreplus.gov.uk/JCP/Aboutus/index.html> (Accessed 22 April 2007).

⁹⁵ Information provided by the UK government's Directgov website at http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG_4001963 (Accessed 2 April 2007).

⁹⁶ *Ibid.*

- Council Tax Benefit
- War Pension with an Unemployability Supplement
- Industrial Injuries Disablement Benefit with an Unemployability Supplement
- A benefit equivalent to Incapacity Benefit from an European Union (EU) member country

The program is delivered through a network of ‘Job Brokers’ from a range of organizations. Each Job Broker offers different services that can be tailored to the needs of the individual.

Further training and placement programs for people with disabilities include the Access to Work program, which is coordinated by disability employment advisors who are based in Job Center offices throughout the country.⁹⁷ The program assists people with disabilities in the workplace through the provision of support or resources such as readers for people with visual impairments, communication support for those with hearing impairments, or the provision of specialized equipment. The amount of financial support available in an individual case varies and is dependent on a range of factors, such as the amount of time the person has been employed at the given company, and may total up to 100 percent of the costs incurred.

Sheltered workshop employment has been available for people with disabilities who are unable to access mainstream employment. Ernest Bevin, Minister for labor, set up the “Remploy Organization” in 1946. Remploy is a non-departmental public body receiving an annual government grant. Originally intended to provide factory work for ex-miners with disabilities, the organization expanded in 1988 to include “Interwork,” an organization that aims to assist people with disabilities in finding mainstream employment. In 2005, 4,500 people found mainstream employment with the assistance of Interwork.⁹⁸

There are several forms of benefit and social security payment available for people with disabilities or long-term health problems.

⁹⁷ Information provided by the government's Directgov Website, http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG_4000347 (Accessed 22nd April 2007).

⁹⁸ Remploy Interwork, the recruitment body of Remploy Ltd. http://www.remploy.co.uk/realjobs/about_interwork/ (Accessed 22 April 2007).

They are available for those who are unable to work and to cover the extra costs associated with disability. There are also benefit schemes available for those who suffer accidents at work, or who contract industrial diseases, or for those who are injured while serving in the armed forces. Those who care for people in receipt of benefits designed to cover the additional cost of a disability in an informal context (e.g. family members), are also entitled to claim benefits.

People who cannot work because of disability or health problems are entitled to claim statutory sick pay for the first 28 weeks of the period during which they are unable to work. In order to receive this, the individual must be between the ages of 16 and 65 and their earnings must be at least as much as the National Insurance lower limit. Those who are self-employed are not entitled to receive statutory sick pay. The rate of statutory sick pay is set at approximately €103.54 per week.⁹⁹

Those who are unable to work for longer periods of time are entitled to claim Incapacity Benefit. In order to claim this benefit the individual must be between 16 years and the state retirement age of 65 for men, and 60 or 65 for women.¹⁰⁰ The individual must also be able to show that they are unable to work because of disability or health problems.¹⁰¹

Benefits for the extra costs associated with disability are available and are known either as Disability Living Allowance or Attendance Allowance. The former comprises two components: a care component (three rates) and a mobility component (two rates). Those who claim Disability Living Allowance are under 65 years of age, and in order to receive it the individual must have been a resident in the UK for at least six months (although this criterion does not apply in the case of people with terminal illnesses). Attendance Allowance is claimed by those over 65 years of age, and to be entitled to this benefit it is necessary that the individual have had care-needs for at least six

⁹⁹ This information is provided by the Citizens' Advice Bureau http://www.adviceguide.org.uk/index/life/benefits/benefits_for_people_who_are_sick_or_disabled.htm (Accessed 22 April 2007).

¹⁰⁰ See further the UK Pension Service Website, <http://www.thepensionerservice.gov.uk/resource-centre/statepensioncalc.asp> (Accessed 24th March 2007).

¹⁰¹ This information is provided by the Citizens' Advice Bureau on their Website.

months. Neither of these benefits intended to cover the additional costs associated with a disability are dependent on income, nor are they classed as income for the purposes of calculating other income-related benefits.¹⁰²

In addition to the more generally applicable benefits outlined above, a range of benefits exist specifically for those who are disabled as a result of accidents at work or industrial diseases. The main benefit within this category is the Industrial Injuries Disablement Benefit. The claimant must be disabled as a result of an industrial disease or injury, and the effect of the disability is calculated by an assessment. The Department of Work and Pensions calculates the effect of a disability as a percentage value, and in order to qualify for receipt of the benefit the effect of the disability must be greater than 14 percent. Other benefits within this category are the Reduced Earnings Allowance, the Retirement Allowance, and the Constant Attendance Allowance.¹⁰³

Those who become disabled as a result of service in the armed forces are entitled to claim specific benefits. For those whose injury or illness occurs on or after April 6, 2005, the route of claim lies in the Armed Forces Compensation Scheme. For those whose period of service (which led to the injury or disability) occurred before that date, compensation is obtained from the War Pensions Scheme. Both of these schemes are run by the Veterans' Agency, which is a part of the Ministry of Defense.¹⁰⁴

Carers' Allowance may be claimed by individuals 16 years or older who spend 35 hours per week or more caring for someone who is in receipt of the aforementioned benefits. It is intended to cover the extra costs of a disability. The caretaker must not earn above a certain amount per week. As of April 10, 2006, this amount was fixed at approximately €124.67.¹⁰⁵

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

Indeed, people with disabilities can apply for the following financial benefits:

- **Working Tax Credit:** designed to help people on low incomes, working 16 or more hours a week, whether they are employed or self-employed and can include support for eligible childcare. Extra help is available for people working 30 or more hours per week, people with disabilities, or people aged 50 or over who are returning to work after a period on benefit. Tax Credits are based on household income and circumstances.
- **Income Support:** people with disabilities between 16 and 60, on a low income, not working or working on average less than 16 hours a week, can claim Income Support. Income Support is affected by savings. Income Support beneficiaries automatically qualify for Housing Benefit and Council Tax Benefit and may receive help towards health costs, such as prescriptions.
- **Blind person's allowance:** allows beneficiaries to receive an amount of income without having to pay tax. It is an extra amount that is added to their personal allowance. The amount of the blind person's allowance is the same for everyone who can claim it, whatever their age or their level of income.¹⁰⁶

Health

ADDA legislative provision of healthcare ensures equality of provision for those with disabilities:

“The Disability Discrimination Act means that service providers such as General Practice or dentist surgeries, walk-in centers, out of hour services, pharmacies and specialists

¹⁰⁶ Directgov, Main Disability & Sickness benefits http://www.direct.gov.uk/en/DisabledPeople/FinancialSupport/DG_10020535, April 23 2007).

such as podiatrists cannot discriminate or provide a poorer quality of service to people with disabilities because of their disability.”¹⁰⁷

The DDA also states that people with disabilities have a right to information about healthcare and social services in a format that is accessible, where it is reasonable for the service provider to provide it in that format. For example, a hospital may provide forms and explanatory literature in large print or Braille to assist people with visual impairments¹⁰⁸.

In the UK, health care is provided by the National Health Service (NHS), which was founded on July 5, 1948, with the aim of providing health care for all citizens based on need rather than ability to pay. The service is funded by the taxpayer and is managed by the Department of Health. It is the responsibility of the Department of Health to provide services to the general public through the NHS.

Most NHS treatment is free, although there can be charges for some treatment, services, and items. Depending on the circumstances, people with disabilities might get help with the cost of:

- NHS prescriptions (free)
- NHS dental treatment (free)
- NHS sight tests (free)
- NHS wigs and fabric supports (free)
- Vouchers towards the cost of glasses or contact lenses
- Costs of travel to and from hospital for NHS treatment under the care of a hospital consultant (subsidized)¹⁰⁹

¹⁰⁷ DRC and NHS, *You Can Make a Difference: Improving Primary Care Services for Disabled People*, http://www.drc-gb.org/PDF/you_can_make%20a_difference-primary_care_leaflet.pdf, (Accessed April 23, 2007).

¹⁰⁸ Information available on the Directgov Website at http://www.direct.gov.uk/en/DisabledPeople/HealthAndSupport/YourRightsInHealth/DG_4001074 (Accessed 22 April 2007).

¹⁰⁹ Furthermore, available equipment for all people with disabilities from the NHS include: elastic stockings, appliances for colostomies, some types of trusses or wound dressings, urinary catheters, pressure relieving cushions, and continence pads for mattresses. Other health equipment available includes: wheelchairs and walking aids, hearing and vision aids, artificial limbs, surgical appliances and communication aids.

People are VAT¹¹⁰ exempted when they buy equipment that has been designed solely for people with disabilities, or pay for adaptations to the equipment. Additionally, VAT is not charged on certain services provided to people with disabilities, including some home for accessibility purposes and the renting of adaptive equipment.¹¹¹

Training on issues associated with disability is an element of the study undertaken by prospective medical professionals at the undergraduate level.¹¹² Opportunities for continuing professional development on disability-related issues are available to NHS employees. The Disabled Living Foundation (DLF) provides many of these. The course catalogue for 2006 contains 21 different health care related courses aimed at a number of professional groups including health and social care workers, occupational therapists, pediatricians, physiotherapists, and nursing staff.¹¹³

Health inequalities experienced by people with learning disabilities and or mental health problems is a pertinent issue regarding the accessibility of health care for people with disabilities in the UK. This issue was highlighted in a formal investigation by the Disability Rights Commission (DRC): "Equal Treatment: Closing the Gap," completed on September 14, 2006.¹¹⁴ The report stated that, "[t]he causes of health inequalities are multiple and include deprivation, lifestyle, access to health assessments and treatments and side-effects of anti-psychotic and mood stabilizer medication."¹¹⁵ The report also

¹¹⁰ VAT is a tax consumers pay when buying goods and services in the European Union (EU), including the United Kingdom. In the UK the standard rate for VAT is 17.5 percent.

¹¹¹ Information available on the Directgov Website at http://www.direct.gov.uk/en/DisabledPeople/FinancialSupport/DG_10028495 (Accessed 19 April 2007).

¹¹² Hill, Andrew. J. PhD CPsychol. Professor of Medical Psychology, Academic Unit of Psychiatry and Behavioural Sciences at the University of Leeds Information provided in an email of 2 August 2006.

¹¹³ Disabled Living Foundation, The Training Course Program is available online at www.dlf.org.uk (Accessed 23 April 2007).

¹¹⁴ A copy of the report is available at http://www.drc.gov.uk/PDF/mainreportpdf_healthFlpart1.pdf (Accessed 24 March 2007).

¹¹⁵ *Equal Treatment: Closing the Gap – A Formal Investigation into the Physical Health Inequalities Experienced by People with Learning Disabilities and/or Mental Health Problems*

14 September 2006, 41.

stated that, “[l]ack of health promotion, service access and equal treatment can reduce opportunities for health.”¹¹⁶

Part 2 of the report sets out 11 recommendations addressing the following issues, which aim to tackle the inequalities highlighted by the formal investigation:

1. Action to tackle inequalities
2. Planning and commissioning services
3. Enabling users to exercise their rights
4. Registration with a GP
5. Access to a primary care practitioner
6. People in residential institutions
7. People who do not have easy access to a GP
8. Reasonable adjustments by GP practices
9. Health checks
10. Support for healthy living
11. Disability equality awareness and training

As emphasized in the report, the recommendations fall within the scope of the Disability Equality Duty – a duty placed upon public authorities [including the Department of Health and the Welsh Assembly] and set out in the DDA. The specific actions recommended are also covered by the duty to make ‘reasonable adjustments’ set out in the DDA, meaning that “even bodies not specifically subject to the Disability Equality Duty [for example General Practitioners’ practices] should consider taking action.”¹¹⁷

The Department of Health issued a response to the DRC formal investigation in March 2007. In the document entitled “Promoting Equality,”¹¹⁸ it emphasized that addressing health inequalities is one of

¹¹⁶ *Ibid*, 42.

¹¹⁷ Part 2 of the DRC Formal Investigation Report:

Report of the DRC formal inquiry panel to the DRC Formal Investigation into the inequalities in physical health experienced by people with mental health problems and people with learning disabilities, July 2006. http://www.drc.gov.uk/PDF/inquiry_panel.pdf – at p 3 (Accessed 24 March 2007).

¹¹⁸ *Promoting Equality*, Response from the Department of Health to the DRC Report “Equal Treatment: Closing the Gap”, 12 March 2007. http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_072955 (Accessed 22 March 2007).

the top six priorities for the NHS for 2006 and 2007.¹¹⁹ The document also set out the strategies proposed to follow the recommendations put forward by the DRC formal investigation. This includes the obligation for Primary Care providers to ensure that services are accessible to people with disabilities.¹²⁰ Strategies suggested to facilitate this include offering people with learning disabilities, and or mental health problems, the option of recording their access needs so they appear on medical records, as well as offering different appointment lengths, text/telephone appointment reminders, telephone consultations, and specific waiting arrangements.¹²¹

The Department of Health response contains an action plan that outlines the time-scale for implementing the contents of the document¹²²

Housing

The issue of housing and of provision of social care for people with disabilities and long-term health problems has received attention in the UK.¹²³ Research has suggested that there are currently 1.7 million people in receipt of social care in the UK.¹²⁴

In Britain there are several housing options for people with disabilities who require adapted or social housing. Information on availability and service provision is available from each Local Authority and there are a number of independent organizations in the business of providing information on issues relating to housing for people with disabilities. These include the Disability Rights Commission,

¹¹⁹ See further *The NHS in England: The Operating Framework for 2006/07*, January 2006.

Department of Health, http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/Publications-PolicyAndGuidance/DH_4127117, (Accessed April 23 2007).

¹²⁰ *Promoting Equality*, 20.

¹²¹ *Ibid.*

¹²² *Ibid.*, Annex A: Action Plan.

¹²³ A definition of the term 'social care' is provided by the Department of Health at www.dh.gov.uk/en/policyandguidance/Healthandsocialcaretopics/Socialcare/index.htm (Accessed 19 April 2007).

¹²⁴ *The Future: Who Cares?* An IPSOS MORI Poll commissioned by the Disability Rights Commission, the Equal Opportunities Commission and Carers UK concerning the future of caring responsibilities in the UK..

Disability Information and Advice Lines UK (DIAL UK) and the Citizens' Advice Bureau.

Council Housing is available and each Local Authority has a stock of adapted properties. In addition to public housing provided by the Local Authority, housing associations are not-for-profit organizations offering social housing, some of which is designed for people with disabilities. Associations may also be able to meet tenants' needs, including the need for housing.¹²⁵

The provision of care in care-homes is regulated by the Commission for Social Care Inspection (CSCI), which inspects every home registered with it to ensure compliance with minimum standards set out by the Department for Health.¹²⁶ While it is not possible for the CSCI to provide information relating to the actual services provided by institutions,¹²⁷ such as information on the number of people with disabilities living in institutional care, the table below shows the number of institutions and total number of places in care facilities for people with different disabilities.

Care Provision For People With Disabilities In England¹

	Number of Institutions Providing Service	Registered Places
Mental Disorder	2,058	39,265
Physical Disability	3,024	96,980
Physical Disability - over 65	1,945	71,072
Sensory Impairment	345	5,650
Sensory Impairment - over 65	210	7,236
Total		220,203
Care Homes Providing Services To People With Disabilities	4,945	
Total Care Homes (England)	18,702	

¹²⁵ Information provided by the Government via the Direct.Gov website at http://www.direct.gov.uk/DisabledPeople/HomeAndHousingOptions/SupportedHousingSchemes/SupportedHousingArticles/fs/en?CONTENT_ID=10020606&chk=tmghYn (Accessed 22 March 2007).

¹²⁶ For Links to the Department of Health's Minimum Standards see the CSCI's Website at http://www.csci.org.uk/care_professionals/service_providers/national_minimum_standards.aspx (Accessed 22 April 2007).

¹²⁷ Table on Care Provision for People with Disabilities in England provided by Mr David James of the Commission for Social Care Inspection [CSCI], in an email of 4 August 2006.

As the body responsible for the regulation of social care provision, the CSCI aims to tackle bad practices within the industry. It therefore provides a mechanism for registering complaints from those who are dissatisfied with the service they receive from care facilities.¹²⁸

The introduction of a system of Direct Payments is a development that has had a significant effect on the way in which people with disabilities access social care in the UK. Direct payments are described as:

“Funds paid by local authorities to people with disabilities and other community care service users to purchase their own support [e.g. by employing their own personal assistants.]”¹²⁹

Direct Payments were introduced as a result of the work of people with disabilities and local disability groups, who led the first plans for their implementation.¹³⁰ The system enables people with disabilities to choose whether they want to receive services or whether they would rather receive money to organize their own support. The enactment of the Community Care (Direct Payments) Act of 1996 introduced the concept of the direct payment and they have now “become part of the mainstream welfare policy in the UK.”¹³¹ Direct Payments represent an alternative to the systems in place prior to 1996, where local authorities were prohibited from giving money directly to people with disabilities and instead resorted to “indirect,” “third party,” or “brokerage” arrangements to make payments.¹³² The Health and Social Care Act of 2001 went further than the 1996 Act as it requires local authorities to offer direct payments to all those eligible for community care services who were able to manage payments. The requirement was introduced in Scotland through the Community Care (Scotland) Act of 2002.

¹²⁸ Information on the Complaints Procedure available at http://www.csci.gov.uk/how_to_complain/care_home_or_care_services.aspx. (Accessed 2 April 2007).

¹²⁹ Riddell, S et al., *Disabled People and Direct Payments: A UK Comparative Study*, August 2006. See further www.leeds.ac.uk/disability-studies/projects/ukdirectpayments.htm. (Accessed April 2007).

¹³⁰ Priestly, M and Jolly, D., *A Postcode Lottery? Explaining the Uneven Implementation of Direct Payments in the UK*, Centre for Disability Studies, University of Leeds. March 2006.

¹³¹ *Ibid.*, 1.

¹³² *Ibid.*

To achieve independent living, people with disabilities have the right for their needs to be assessed by the social services department of their local council. Following a health and social care assessment, an occupational therapist may recommend types of equipment and ideas about adapting their homes, in order to be suitable for independent living. Eligible persons are entitled to financial help, such as a Disabled Facilities Grant, to pay for adaptations or improvements to their home.¹³³ Indeed, the Independent Living Fund (ILF) provides payments to people with severe disabilities. This gives some people with severe disabilities the opportunity to live independently at home instead of in residential care. The National Center for Independent Living promotes independent living for people with disabilities in the UK.¹³⁴

Accessibility

Prior to 2005, the primary law concerning disability discrimination, the DDA, contained an exemption to Part 3 of the act (provision of goods and services) in regards to transportation. Not only was this exemption a “concern for people with disabilities,” but it also led to a situation where the DDA covered some aspects of transportation and transportation infrastructure while other areas were not.¹³⁵

It has been recognized however that “access to transport is fundamental to full and independent participation in society as a whole,” and in 2005 the DDA was amended and the scope of the Transport Exemption was significantly narrowed.¹³⁶ The relevant provisions in relation to transport are found in the Disability Discrimination (Transport Vehicles) Regulations.¹³⁷ The Disability Rights Commission also issued in 2006 a Code of Practice in respect

¹³³ A Disabled Facilities Grant is a local council grant to help towards the cost of adapting homes to enable people with disabilities to continue to live there. A grant is paid when the council considers that changes are necessary to meet the needs of the applicant.

¹³⁴ National Centre for Independent Living: www.ncil.org.uk. (Accessed 2 April 2007).

¹³⁵ Bert Massie CBE, Chairman of the Disability Rights Commission, in the Foreword to the Provision and Use of Transport Vehicles Statutory Code of Practice [Supplement to the Part 3 Code of Practice] Disability Rights Commission, 2006.

¹³⁶ *Ibid.*

¹³⁷ *The Disability Discrimination (Transport) Regulations 2005 SI 3190/2005*, available at <http://www.opsi.gov.uk/si/si2005/20053190.htm> (Accessed 22 April 2007).

to the provision of transport, which is supplementary to the Part 3 Code of Practice.¹³⁸ These provisions entered into force December 4, 2006.

According to the Transport for London website, the capital's public transport systems are accessible for people with disabilities; however, not all bus routes are accessible.¹³⁹ Accessibility is generally achieved by means of adapting existing forms of public transport, such as fitting ramps to buses. Information regarding the accessibility of specific bus routes is provided in the relevant timetables.¹⁴⁰

Information regarding the accessibility of London's bus routes is also available online, where those routes highlighted in yellow are normally operated by wheelchair accessible buses and those highlighted in green are normally operated by articulated, wheelchair-accessible single-decker buses.¹⁴¹ Timetables for the London Underground service also indicate stations that are accessible to wheelchair users.¹⁴²

The over-ground tram system in London aims to be "totally accessible for everyone."¹⁴³ There are measures in place to ensure level boarding for wheelchairs and strollers, tactile strip lighting for blind and partially sighted people, and stop request and opening buttons being positioned at an easily accessible height.¹⁴⁴

Examples of accessibility strategies concerning other forms of transport include provision for the carriage of an unlimited number

¹³⁸ *Provision and Use of Transport Vehicles Statutory Code of Practice – Supplement to the Part 3 Code of Practice*, Disability Rights Commission, 2006.

¹³⁹ See for example, the website of Transport for London (a functional body of the Greater London Authority) www.tfl.gov.uk (Accessed 23 April 2007).

¹⁴⁰ Timetables are also available online. An example of a timetable route which is wheelchair accessible is available at <http://www.busmap.org.uk/tt4/006.pdf>. For a timetable relating to a route which is not accessible to wheelchair users see <http://www.busmap.org.uk/tt4/oo3c.pdf>.

¹⁴¹ See the London Bus Routes Website at <http://www.londonbusroutes.net/routes.htm>, (Accessed 22 April 2007).

¹⁴² An online version of the London Tube map showing accessibility is available at <http://www.metazone.co.uk/pdf/undergroundaccess.pdf>. (Accessed 2 April 2007).

¹⁴³ Transport for London http://www.tfl.gov.uk/trams/serviceinfo/access_index_trams.shtml. (Accessed 26 November 2006).

¹⁴⁴ *Ibid.*

of assistance dogs (space permitting), which includes guide dogs, hearing dogs, fetch and carry dogs, and dogs to accompany people with epilepsy. In addition, wheelchair users are entitled to travel for free on public transport.¹⁴⁵

Besides public transport, it is possible for people with disabilities to commute by car. Motability is a not-for-profit organization, founded on a government initiative in 1977, which helps people with mobility disabilities buy or lease a vehicle and arranges necessary adaptations.¹⁴⁶ The program is linked to certain benefits and a person must be in receipt of either the War Pensioners' Mobility Supplement or the higher rate of the mobility component of the Disability Living Allowance in order to qualify. It is also possible for people with disabilities to access the program if they themselves do not drive. In this instance the disabled person is registered as a passenger and is able to name two drivers. Additionally, applications may be made on behalf of children with disabilities who are over the age of 36 months.

In addition to the anti-discrimination provisions of the DDA, there are provisions within relevant building legislation that affect people with disabilities. Part M of Schedule 1 of the Building Regulations 2000 (as amended by the Building (Amendments) Regulations 2003¹⁴⁷) concerns access to, and use of, buildings. The amended regulations do not refer explicitly to people with disabilities, but rather there is a general requirement of reasonable provision for people to gain access to and make use of buildings. It is said that this means the needs of people with disabilities are encompassed within the regulations, as well as those of people who experience temporary mobility impairments.¹⁴⁸ The scope of the regulations does not extend to material alterations or extensions to dwellings.

¹⁴⁵ Information on accessibility strategies is available on the Transport for London Website at <http://www.tfl.gov.uk/gettingaround/default.aspx> (Accessed 22 April 2007).

¹⁴⁶ See the website of the Motability organisation at <http://www.motability.co.uk/> (Accessed 22 April 2007).

¹⁴⁷ *Building Regulations 2000 SI 2000/2531*, as amended by *Building (Amendments) Regulations 2003 SI 2003/2692*, <http://www.opsi.gov.uk/stat.htm> (Accessed 22 April 2007).

¹⁴⁸ *Building (Amendments) Regulations 2003 SI 2003/2692*. Explanatory Note.

The issue of Inclusive Design is dealt with in British Standard 8300: “Designing Buildings and Their Approaches to Meet the Needs of People with disabilities.” This is a code of practice that explains how an environment can be designed to ensure accessibility and remove barriers for people with disabilities. Inclusive Design is described as a constantly evolving practice that relates just as much to the design process as to the finished product.¹⁴⁹

The Disability Rights Commission held a seminar in November 2001 to explore the definition of inclusive design and how it can best be applied to facilitate the production of an inclusive environment.¹⁵⁰ In addition, in-house training is also available for architects, and a directory of training courses, which includes short courses (e.g. day-long training) and long courses (e.g. MSc in accessibility and inclusive design), is maintained by the National Register of Access Consultants.¹⁵¹

Access to other public facilities such as post offices is also an issue of great significance concerning people with disabilities. In the UK, The Post Office™ is responsible for ensuring that different branches are accessible to people with a range of disabilities. Information concerning access at specific post office branches is available online at the Nation-wide Disabled Access Register.¹⁵² The information is displayed pictorially. For example, the accessibility for the Trafalgar Square Post Office in London is displayed thus:



¹⁴⁹ Disability Rights Commission, *Policy: Access to Services* www.drc.gov.uk/library/policy/access_to_services/briefing_inclusive_design_-_c.aspx (Accessed 22 March 2007).

¹⁵⁰ *Ibid.*

¹⁵¹ Available at National Register of Access Consultants, http://www.nrac.org.uk/Training_courses.html (Accessed April 23 2007).

¹⁵² The Nationwide Disabled Access Register, www.direct-enquiries.com (Accessed April 23 2007).

The Disability Discrimination Act also covers access to the physical aspects of goods, facilities, and services.¹⁵³ It does this insofar as it imposes a duty on providers of services to make adjustments:

“Where a physical feature [for example one arising from the design or construction of a building or the approach or access to premises] makes it impossible or unreasonably difficult for disabled persons to make use of such a service.”

Where this is the case the service provider must:

“...take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to –

[a] remove the feature

[b] alter it so that it no longer has that effect

[c] provide a reasonable means of avoiding the feature;
or

[d] provide a reasonable alternative method of making the service in question available to disabled persons.”¹⁵⁴

It should be noted that the legal provisions relating to goods, facilities, and services constitute a duty towards the disability community at large. In this respect, it may be contrasted with the duties imposed under the act concerning employment, where a person with disabilities must invoke the act. In this sense, the law relating to the provision of goods and services is anticipatory in nature.

Research carried out by the Disability Rights Commission has found that the motivation behind the majority of claims under Part 3 of the DDA lay in a desire to widen access for people with disabilities to a range of services.¹⁵⁵ This research found that awareness of the act was ‘high,’ although there was often a lack of the detailed knowledge required to frame a complaint in the terms required.

¹⁵³ Sections 19(1)(B), 20(2) and 21(2) DDA, brought into force by the Disability Discrimination Act 1995 (Commencement No.9) Order, SI 1999/1190 This Statutory Instrument is available online at <http://www.opsi.gov.uk/si/si1999/19991190.htm> (Accessed 18 April 2007).

¹⁵⁴ S 21(2) *Disability Discrimination Act 1995* (as amended) http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm (Accessed 18 April 2007).

¹⁵⁵ Hurstfield, J et al, *DRC Monitoring of the Disability Discrimination Act (DDA) 1995*, Phase 3 Research conducted between October 2002 and May 2003.

In respect to the accessibility of government websites, a petition was launched on the Prime Minister's website in February 2007 asking that all government websites comply with accessibility standards (defined as WCAG AA at least).¹⁵⁶ The government response to this petition indicated a commitment to "ensuring that all government websites are accessible and easy to use for people with disabilities."¹⁵⁷ This commitment is outlined in Action 7 of the Digital Strategy – a joint report published in April 2005 by the Prime Minister's Strategy Unit and the Department of Trade and Industry that spells out the digital strategy for the UK.¹⁵⁸

Culture, Sports & Recreation

The DDA gives disabled people important rights of access to everyday services, including sport stadiums, pubs, theaters, places of worship, and voluntary groups such as play groups. Non-educational services provided by schools are also included. Access to services not only entails building modifications, but also making services easier to use for all types of disabilities, including people who are blind, deaf, or have learning disabilities.¹⁵⁹

Many leisure and cultural places have already made changes and improvements, including:

- exhibition guides in different formats such as audio tape and Braille.
- improving physical access to buildings such as cinemas.
- a one-to-one tour guide at a gallery.

¹⁵⁶ See the Prime Minister's Website at <http://petitions.pm.gov.uk/govaccessibility> (Accessed 22 April 2007).

¹⁵⁷ Government response to e-petition, accessible at <http://www.number-10.gov.uk/output/Page11271.asp> (Accessed 22 April 2007).

¹⁵⁸ *Connecting the UK: The Digital Strategy*, April 2005, PMSU and DTI, http://www.cabinetoffice.gov.uk/strategy/downloads/work_areas/digital_strategy/report/pdf/digital_strategy.pdf (Accessed 22 April 2007).

¹⁵⁹ Extracted from Directgov, *Access to shops, cafes and everyday services*, http://www.direct.gov.uk/en/DisabledPeople/Everydaylifeandaccess/DG_4018353 (Accessed 14 May 2007).

According to the government, since the introduction of the DDA, many places are reviewing their procedures and practices. For example, museums may now consider how an exhibition is presented and laid out or include an education program aimed at people with learning disabilities. Also, organizations are implementing staff training to raise awareness of people with different requirements.

There are many organizations and charities involved in initiatives to make arts and culture more accessible. These include theatre performances translated into British Sign Language, as well as an audio description (verbal commentary) of plays.

Many larger places, including galleries and performance venues, use mailing lists to send out information about forthcoming events in alternative formats such as Braille, large print, or audiotape. Most cinemas, especially the more modern multi-screen types, provide facilities for people with disabilities. Many cinemas have programs that provide passes for customers with disabilities, and some cinemas offer reduced or free admission to caretakers of people with disabilities. The Cinema Exhibitors Association Card is a national card for people with disabilities, which entitles the holder to one free ticket for a person accompanying them to the cinema. The card is valid for three years. Some exhibition films contain audio description and many cinemas offer an audio description service. Some cinemas have the layout of the cinema complex in Braille, as well as other information. Program times are often available as a recorded message over the telephone.¹⁶⁰

In recent years, there has been a growing emphasis on the importance of the provision of sport and exercise opportunities for people with disabilities.¹⁶¹ This is expressed in the government policy paper, "A Sporting Future for All," (2000) which sets out the government's vision for sport in the UK. It has been suggested that the importance of sport is especially relevant in relation to young people with disabilities, as participation in sport is a possible means

¹⁶⁰ *Ibid.*

¹⁶¹ Finch, N, *Young People with a Disability and Sport*, Sport England, 2001, http://www.sport-england.org/disability_young_people.pdf (Accessed April 18 2007).

of tackling the stigma surrounding disability, and of promoting social inclusion and maintaining self-esteem.¹⁶²

The growing emphasis placed on athletic opportunities for young people with disabilities has led various sports councils to develop policies and action plans, including the *Equality Standard: A Framework for Sport*, a tool designed to assist organizations in widening the accessibility of services they provide.¹⁶³ The Equality Standard was launched in November 2004 at a conference promoting equal access to sports across all sectors of society. The Equality Standard awards developing organizations based on culture, policies, leadership structures, programs, communications, and customer service. The Equality Standard is awarded at one of four levels: Foundation, Preliminary, Intermediate and Advanced. All National Governing Bodies have signaled their readiness to implement the Equality Standard framework and committed themselves to achieving the Preliminary standard by March 2006.¹⁶⁴

Disability Action and Awareness

The government's main body responsible for coordinating policy relating to disability is the Office for Disability Issues. Additionally, the Disability Rights Commission (DRC), an independent body established by the Disability Rights Commission Act 1999, aims to stop discrimination on the grounds of disability and to promote equality via a range of activities.¹⁶⁵

The Disability Rights Commission is composed of 14 commissioners, including a chairman. Ten of the 14 commissioners, including the chairman, are people with disabilities. The funding of the DRC is covered in the Act of Parliament establishing the commission,¹⁶⁶ wherein it is stated:

¹⁶² *Ibid.*

¹⁶³ Information provided by Sport England at: http://www.sportengland.org/index/about_sport_england/equality_standard_for_sport/equality_standard.htm (Accessed April 18 2007).

¹⁶⁴ *Ibid.*

¹⁶⁵ The Disability Rights Commission See further www.drc.gov.uk (Accessed 18 April 2007).

¹⁶⁶ s.1[2] *Disability Rights Commission Act 1999*.

“The Secretary of State shall pay to the Commission such sums as he thinks fit to enable it to meet its expenses.”

There is also evidence of a commitment at government level to amend current policy in relation to disability in the UK. On January 19, 2005, the Prime Minister’s Strategy Unit published a report entitled *Improving the Life Chances of Disabled People*. This report is the result of a consultation process that took place between August and September 2005.¹⁶⁷ The plan is conceptualized around a 20-year vision, which is concerned with the consideration of various methods of improving the opportunities and quality of life for people with disabilities. The vision is expressed as follows:

“By 2025 disabled people in Britain should have full opportunities and choices to improve their quality of life, and will be included as equal members of society.”

This vision is to be achieved through practical measures in four key areas described in the Executive Summary of the report.¹⁶⁸ These areas are: helping people with disabilities achieve independent living; improving support services available to the families of young children with disabilities; facilitating a smooth transition into adulthood; and improving the support and incentives available for accessing and remaining in employment.¹⁶⁹ The Office for Disability Issues will help to co-ordinate policy across government.”¹⁷⁰

While financial considerations are obviously central to any proposed policy framework, it is not predicted that the early stages of the implementation of the report will be dependent on the provision of additional resources.¹⁷¹

Institutional changes can be carried out without the provision of additional resources, but will require the departments involved to

¹⁶⁷ Information provided by the Office for Disability Issues at: <http://www.officefordisability.gov.uk/consultation/> (Accessed April 18 2007).

¹⁶⁸ *Improving the Life Chances of People with Disabilities*, Executive Summary, 8 www.officefordisability.gov.uk (Accessed April 23 2007).

¹⁶⁹ *Ibid.*

¹⁷⁰ *Ibid.*, Chapter 9, 217.

¹⁷¹ *Ibid.*, 223.

work flexibly within the existing allocations of cash and staff. The interdepartmental cooperation is therefore crucial to the successful implementation of the report. Insofar as there are new resource implications regarding the implementation of the report, these should be timed to fit with opportunities for bids and allocations in pre-budget reports, budgets, and spending reviews.

The report also states that, "All government departments will be responsible for the driving forward of the strategy and the practical measures identified in the report – all of which have been accepted by the Government." With regard to the disability movement, it has been suggested that there is a sense that the various groups are working separately from one another. Though there is much commonality between the groups, conflicts are not apparent, and on the whole there seems to be no sense of antagonism.¹⁷²

There have been several events in the recent history of the UK that have had an impact on the growth of the disability movement. It has been suggested that the founding of UPIAS (Union of the Physically Impaired Against Segregation) in 1976 was a crucial factor in the development of the disability movement in the UK.¹⁷³ UPIAS was the first disability group in the UK to put forward an analysis, which constructed disability as a social relationship rather than a personal medical concept. This was developed and in 1983 was referred to as the 'Social Model of Disability' by Prof. Mike Oliver, a leading disability activist. The development and promotion of the social model of disability has become a major pursuit on the agenda of the disability movement in the UK.

It has also been suggested that the designation of 1981 as the Year of Disabled People did much to influence the agenda of the disability movement as it led to the founding of groups and organizations such as Disability Information and Advice Line (DIAL UK) a network

¹⁷² Nocon, Andrew, representative of the Disability Rights Commission at a Panel Discussion held at the University of Leeds on September 6 2006.

¹⁷³ Collingbourne, Tabitha, a PhD student researching the implementation of the international economic, social and cultural rights of disabled people, Panel Discussion led by the Author, University of Leeds on September 6 2006.

of approximately 130 disability information and advice services throughout the UK.¹⁷⁴

A central principle of the disability movement is that it should exist for, and be organized by, people with disabilities. This is a principle that is illustrated in the existence of the British Council of Disabled People (BCODP), a national organization of the worldwide disability movement. The BCODP is an umbrella organization set up in 1981, representing 80 groups run by people with disabilities, with a total membership of approximately 350,000. The BCODP is the first and only organization in Britain to be democratically set up and run by people with disabilities.¹⁷⁵ It aims to achieve greater civil rights and participation for people with disabilities, and to promote the social model of disability. It was heavily involved in campaigning that led to the enactment of the Disability Discrimination Act.

¹⁷⁴ *Ibid.* See further on DIAL UK www.dialuk.info.

¹⁷⁵ Information accessed via the BCODP Website at www.bcodp.org.uk/about/index.shtml (Accessed 23 April 2007).

Appendices

Appendix A:

UN- Standard Rules on the Equalization of Opportunities for Persons with Disabilities

Website: <http://www.un.org/documents/ga/res/48/a48r096.htm>

A/RES/48/96
85th plenary meeting
20 December 1993

48/96. Standard Rules on the Equalization of Opportunities for Persons with Disabilities

The General Assembly,

Recalling Economic and Social Council resolution 1990/26 of 24 May 1990, in which the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, and requested the Commission, should it establish such a working group, to finalize the text of those rules for consideration by the Council in 1993 and for submission to the General Assembly at its forty-eighth session,

Also recalling that in its resolution 32/2 of 20 February 1991 the Commission for Social Development decided to establish an ad hoc open-ended working group of government experts in accordance with Economic and Social Council resolution 1990/26,

Noting with appreciation the participation of many States, specialized agencies, intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, in the deliberations of the working group,

Also noting with appreciation the generous financial contributions of Member States to the working group,

Welcoming the fact that the working group was able to fulfil its mandate within three sessions of five working days each,

Acknowledging with appreciation the report of the ad hoc open-ended working group to elaborate standard rules on the equalization of opportunities for persons with disabilities,

Taking note of the discussion in the Commission for Social Development at its

thirty-third session on the draft standard rules contained in the report of the working group,

1. Adopts the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, set forth in the annex to the present resolution;
2. Requests Member States to apply the Rules in developing national disability programmes;
3. Urges Member States to meet the requests of the Special Rapporteur for information on the implementation of the Rules;
4. Requests the Secretary-General to promote the implementation of the Rules and to report thereon to the General Assembly at its fiftieth session;
5. Urges Member States to support, financially and otherwise, the implementation of the Rules.

ANNEX

Standard Rules on the Equalization of Opportunities for
Persons with Disabilities

INTRODUCTION

Background and current needs

Previous international action

Towards standard rules

Purpose and content of the Standard Rules on the Equalization of
Opportunities for Persons with Disabilities

Fundamental concepts in disability policy

PREAMBLE

I. PRECONDITIONS FOR EQUAL PARTICIPATION

- Rule 1. Awareness-raising
- Rule 2. Medical care
- Rule 3. Rehabilitation
- Rule 4. Support services

II. TARGET AREAS FOR EQUAL PARTICIPATION

- Rule 5. Accessibility
- Rule 6. Education

- Rule 7. Employment
- Rule 8. Income maintenance and social security
- Rule 9. Family life and personal integrity
- Rule 10. Culture
- Rule 11. Recreation and sports
- Rule 12. Religion

III. IMPLEMENTATION MEASURES

- Rule 13. Information and research
- Rule 14. Policy-making and planning
- Rule 15. Legislation
- Rule 16. Economic policies
- Rule 17. Coordination of work
- Rule 18. Organizations of persons with disabilities
- Rule 19. Personnel training
- Rule 20. National monitoring and evaluation of disability programmes in the implementation of the Rules
- Rule 21. Technical and economic cooperation
- Rule 22. International cooperation

IV. MONITORING MECHANISM

INTRODUCTION

Background and current needs

1. There are persons with disabilities in all parts of the world and at all levels in every society. The number of persons with disabilities in the world is large and is growing.
2. Both the causes and the consequences of disability vary throughout the world. Those variations are the result of different socio-economic circumstances and of the different provisions that States make for the well-being of their citizens.
3. Present disability policy is the result of developments over the past 200 years. In many ways it reflects the general living conditions and social and economic policies of different times. In the disability field, however, there are also many specific circumstances that have influenced the living conditions of persons with disabilities. Ignorance, neglect, superstition and fear are social factors that throughout the history of disability have isolated persons with disabilities and delayed their development.
4. Over the years disability policy developed from elementary care at institutions to education for children with disabilities and rehabilitation for persons who became disabled during adult life. Through education and rehabilitation, persons with disabilities became more active and a driving force in the further

development of disability policy. Organizations of persons with disabilities, their families and advocates were formed, which advocated better conditions for persons with disabilities. After the Second World War the concepts of integration and normalization were introduced, which reflected a growing awareness of the capabilities of persons with disabilities.

5. Towards the end of the 1960s organizations of persons with disabilities in some countries started to formulate a new concept of disability. That new concept indicated the close connection between the limitation experienced by individuals with disabilities, the design and structure of their environments and the attitude of the general population. At the same time the problems of disability in developing countries were more and more highlighted. In some of those countries the percentage of the population with disabilities was estimated to be very high and, for the most part, persons with disabilities were extremely poor.

Previous international action

6. The rights of persons with disabilities have been the subject of much attention in the United Nations and other international organizations over a long period of time. The most important outcome of the International Year of Disabled Persons, 1981, was the World Programme of Action concerning Disabled Persons, adopted by the General Assembly by its resolution 37/52 of 3 December 1982. The Year and the World Programme of Action provided a strong impetus for progress in the field. They both emphasized the right of persons with disabilities to the same opportunities as other citizens and to an equal share in the improvements in living conditions resulting from economic and social development. There also, for the first time, handicap was defined as a function of the relationship between persons with disabilities and their environment.
7. The Global Meeting of Experts to Review the Implementation of the World Programme of Action concerning Disabled Persons at the Mid-Point of the United Nations Decade of Disabled Persons was held at Stockholm in 1987. It was suggested at the Meeting that a guiding philosophy should be developed to indicate the priorities for action in the years ahead. The basis of that philosophy should be the recognition of the rights of persons with disabilities.
8. Consequently, the Meeting recommended that the General Assembly convene a special conference to draft an international convention on the elimination of all forms of discrimination against persons with disabilities, to be ratified by States by the end of the Decade.
9. A draft outline of the convention was prepared by Italy and presented to the General Assembly at its forty-second session. Further presentations concerning a draft convention were made by Sweden at the forty-fourth session of the Assembly. However, on both occasions, no consensus could be reached on the suitability of such a convention. In the opinion of many

representatives, existing human rights documents seemed to guarantee persons with disabilities the same rights as other persons.

Towards standard rules

10. Guided by the deliberations in the General Assembly, the Economic and Social Council, at its first regular session of 1990, finally agreed to concentrate on the elaboration of an international instrument of a different kind. By its resolution 1990/26 of 24 May 1990, the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons. The Council also requested the Commission to finalize the text of those rules for consideration in 1993 and for submission to the General Assembly at its forty-eighth session.
11. The subsequent discussions in the Third Committee of the General Assembly at the forty-fifth session showed that there was wide support for the new initiative to elaborate standard rules on the equalization of opportunities for persons with disabilities.
12. At the thirty-second session of the Commission for Social Development, the initiative for standard rules received the support of a large number of representatives and discussions led to the adoption of resolution 32/2 of 20 February 1991, in which the Commission decided to establish an ad hoc open-ended working group in accordance with Economic and Social Council resolution 1990/26.

Purpose and content of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities

13. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities have been developed on the basis of the experience gained during the United Nations Decade of Disabled Persons (1983-1992). The International Bill of Human Rights, comprising the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, as well as the World Programme of Action concerning Disabled Persons, constitute the political and moral foundation for the Rules.
14. Although the Rules are not compulsory, they can become international customary rules when they are applied by a great number of States with

the intention of respecting a rule in international law. They imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities for persons with disabilities. Important principles for responsibility, action and cooperation are indicated. Areas of decisive importance for the quality of life and for the achievement of full participation and equality are pointed out. The Rules offer an instrument for policy-making and action to persons with disabilities and their organizations. They provide a basis for technical and economic cooperation among States, the United Nations and other international organizations.

15. The purpose of the Rules is to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others. In all societies of the world there are still obstacles preventing persons with disabilities from exercising their rights and freedoms and making it difficult for them to participate fully in the activities of their societies. It is the responsibility of States to take appropriate action to remove such obstacles. Persons with disabilities and their organizations should play an active role as partners in this process. The equalization of opportunities for persons with disabilities is an essential contribution in the general and worldwide effort to mobilize human resources. Special attention may need to be directed towards groups such as women, children, the elderly, the poor, migrant workers, persons with dual or multiple disabilities, indigenous people and ethnic minorities. In addition, there are a large number of refugees with disabilities who have special needs requiring attention.

Fundamental concepts in disability policy

16. The concepts set out below appear throughout the Rules. They are essentially built on the concepts in the World Programme of Action concerning Disabled Persons. In some cases they reflect the development that has taken place during the United Nations Decade of Disabled Persons.

Disability and handicap

17. The term "disability" summarizes a great number of different functional limitations occurring in any population in any country of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature.
18. The term "handicap" means the loss or limitation of opportunities to take part in the life of the community on an equal level with others. It describes the encounter between the person with a disability and the environment. The purpose of this term is to emphasize the focus on the shortcomings in the environment and in many organized activities in society, for example, information, communication and education, which prevent persons with disabilities from participating on equal terms.

19. The use of the two terms “disability” and “handicap”, as defined in paragraphs 17 and 18 above, should be seen in the light of modern disability history. During the 1970s there was a strong reaction among representatives of organizations of persons with disabilities and professionals in the field of disability against the terminology of the time. The terms “disability” and “handicap” were often used in an unclear and confusing way, which gave poor guidance for policy-making and for political action. The terminology reflected a medical and diagnostic approach, which ignored the imperfections and deficiencies of the surrounding society.
20. In 1980, the World Health Organization adopted an international classification of impairments, disabilities and handicaps, which suggested a more precise and at the same time relativistic approach. The International Classification of Impairments, Disabilities, and Handicaps makes a clear distinction between “impairment”, “disability” and “handicap”. It has been extensively used in areas such as rehabilitation, education, statistics, policy, legislation, demography, sociology, economics and anthropology. Some users have expressed concern that the Classification, in its definition of the term “handicap”, may still be considered too medical and too centred on the individual, and may not adequately clarify the interaction between societal conditions or expectations and the abilities of the individual. Those concerns, and others expressed by users during the 12 years since its publication, will be addressed in forthcoming revisions of the Classification.
21. As a result of experience gained in the implementation of the World Programme of Action and of the general discussion that took place during the United Nations Decade of Disabled Persons, there was a deepening of knowledge and extension of understanding concerning disability issues and the terminology used. Current terminology recognizes the necessity of addressing both the individual needs (such as rehabilitation and technical aids) and the shortcomings of the society (various obstacles for participation).

Prevention

22. The term “prevention” means action aimed at preventing the occurrence of physical, intellectual, psychiatric or sensory impairments (primary prevention) or at preventing impairments from causing a permanent functional limitation or disability (secondary prevention). Prevention may include many different types of action, such as primary health care, prenatal and postnatal care, education in nutrition, immunization campaigns against communicable diseases, measures to control endemic diseases, safety regulations, programmes for the prevention of accidents in different environments, including adaptation of workplaces to prevent occupational disabilities and diseases, and prevention of disability resulting from pollution of the environment or armed conflict.

Rehabilitation

23. The term “rehabilitation” refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric and/or social functional levels, thus providing them with the tools to change their lives towards a higher level of independence. Rehabilitation may include measures to provide and/or restore functions, or compensate for the loss or absence of a function or for a functional limitation. The rehabilitation process does not involve initial medical care. It includes a wide range of measures and activities from more basic and general rehabilitation to goal-oriented activities, for instance vocational rehabilitation.

Equalization of opportunities

24. The term “equalization of opportunities” means the process through which the various systems of society and the environment, such as services, activities, information and documentation, are made available to all, particularly to persons with disabilities.
25. The principle of equal rights implies that the needs of each and every individual are of equal importance, that those needs must be made the basis for the planning of societies and that all resources must be employed in such a way as to ensure that every individual has equal opportunity for participation.
26. Persons with disabilities are members of society and have the right to remain within their local communities. They should receive the support they need within the ordinary structures of education, health, employment and social services.
27. As persons with disabilities achieve equal rights, they should also have equal obligations. As those rights are being achieved, societies should raise their expectations of persons with disabilities. As part of the process of equal opportunities, provision should be made to assist persons with disabilities to assume their full responsibility as members of society.

PREAMBLE

States,

Mindful of the pledge made, under the Charter of the United Nations, to take joint and separate action in cooperation with the Organization to promote higher standards of living, full employment, and conditions of economic and social progress and development,

Reaffirming the commitment to human rights and fundamental freedoms, social justice and the dignity and worth of the human person proclaimed in the Charter,

Recalling in particular the international standards on human rights, which have

been laid down in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Underlining that those instruments proclaim that the rights recognized therein should be ensured equally to all individuals without discrimination,

Recalling the Convention on the Rights of the Child, which prohibits discrimination on the basis of disability and requires special measures to ensure the rights of children with disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for some protective measures against disability,

Recalling also the provisions in the Convention on the Elimination of All Forms of Discrimination against Women to ensure the rights of girls and women with disabilities,

Having regard to the Declaration on the Rights of Disabled Persons, the Declaration on the Rights of Mentally Retarded Persons, the Declaration on Social Progress and Development, the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care and other relevant instruments adopted by the General Assembly,

Also having regard to the relevant conventions and recommendations adopted by the International Labour Organisation, with particular reference to participation in employment without discrimination for persons with disabilities,

Mindful of the relevant recommendations and work of the United Nations Educational, Scientific and Cultural Organization, in particular the World Declaration on Education for All, the World Health Organization, the United Nations Children's Fund and other concerned organizations,

Having regard to the commitment made by States concerning the protection of the environment,

Mindful of the devastation caused by armed conflict and deploring the use of scarce resources in the production of weapons,

Recognizing that the World Programme of Action concerning Disabled Persons and the definition therein of equalization of opportunities represent earnest ambitions on the part of the international community to render those various international instruments and recommendations of practical and concrete significance,

Acknowledging that the objective of the United Nations Decade of Disabled Persons (1983-1992) to implement the World Programme of Action is still valid and requires urgent and continued action,

Recalling that the World Programme of Action is based on concepts that

are equally valid in developing and industrialized countries,

Convinced that intensified efforts are needed to achieve the full and equal enjoyment of human rights and participation in society by persons with disabilities,

Re-emphasizing that persons with disabilities, and their parents, guardians, advocates and organizations, must be active partners with States in the planning and implementation of all measures affecting their civil, political, economic, social and cultural rights,

In pursuance of Economic and Social Council resolution 1990/26, and basing themselves on the specific measures required for the attainment by persons with disabilities of equality with others, enumerated in detail in the World Programme of Action,

Have adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities outlined below, in order:

- (a) To stress that all action in the field of disability presupposes adequate knowledge and experience of the conditions and special needs of persons with disabilities;
- (b) To emphasize that the process through which every aspect of societal organization is made accessible to all is a basic objective of socio-economic development;
- (c) To outline crucial aspects of social policies in the field of disability, including, as appropriate, the active encouragement of technical and economic cooperation;
- (d) To provide models for the political decision-making process required for the attainment of equal opportunities, bearing in mind the widely differing technical and economic levels, the fact that the process must reflect keen understanding of the cultural context within which it takes place and the crucial role of persons with disabilities in it;
- (e) To propose national mechanisms for close collaboration among States, the organs of the United Nations system, other intergovernmental bodies and organizations of persons with disabilities;
- (f) To propose an effective machinery for monitoring the process by which States seek to attain the equalization of opportunities for persons with disabilities.

I. PRECONDITIONS FOR EQUAL PARTICIPATION

Rule 1. Awareness-raising

States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution.

1. States should ensure that responsible authorities distribute up-to-date information on available programmes and services to persons with disabilities, their families, professionals in the field and the general public. Information to persons with disabilities should be presented in accessible form.
2. States should initiate and support information campaigns concerning persons with disabilities and disability policies, conveying the message that persons with disabilities are citizens with the same rights and obligations as others, thus justifying measures to remove all obstacles to full participation.
3. States should encourage the portrayal of persons with disabilities by the mass media in a positive way; organizations of persons with disabilities should be consulted on this matter.
4. States should ensure that public education programmes reflect in all their aspects the principle of full participation and equality.
5. States should invite persons with disabilities and their families and organizations to participate in public education programmes concerning disability matters.
6. States should encourage enterprises in the private sector to include disability issues in all aspects of their activity.
7. States should initiate and promote programmes aimed at raising the level of awareness of persons with disabilities concerning their rights and potential. Increased self-reliance and empowerment will assist persons with disabilities to take advantage of the opportunities available to them.
8. Awareness-raising should be an important part of the education of children with disabilities and in rehabilitation programmes. Persons with disabilities could also assist one another in awareness-raising through the activities of their own organizations.
9. Awareness-raising should be part of the education of all children and should be a component of teacher-training courses and training of all professionals.

Rule 2. Medical care

States should ensure the provision of effective medical care to persons with disabilities.

1. States should work towards the provision of programmes run by multidisciplinary teams of professionals for early detection, assessment and treatment of impairment. This could prevent, reduce or eliminate disabling effects. Such programmes should ensure the full participation of persons with disabilities

and their families at the individual level, and of organizations of persons with disabilities at the planning and evaluation level.

2. Local community workers should be trained to participate in areas such as early detection of impairments, the provision of primary assistance and referral to appropriate services.
3. States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society.
4. States should ensure that all medical and paramedical personnel are adequately trained and equipped to give medical care to persons with disabilities and that they have access to relevant treatment methods and technology.
5. States should ensure that medical, paramedical and related personnel are adequately trained so that they do not give inappropriate advice to parents, thus restricting options for their children. This training should be an ongoing process and should be based on the latest information available.
6. States should ensure that persons with disabilities are provided with any regular treatment and medicines they may need to preserve or improve their level of functioning.

*Rule 3. Rehabilitation**

States should ensure the provision of rehabilitation services to persons with disabilities in order for them to reach and sustain their optimum level of independence and functioning.

1. States should develop national rehabilitation programmes for all groups of persons with disabilities. Such programmes should be based on the actual individual needs of persons with disabilities and on the principles of full participation and equality.
2. Such programmes should include a wide range of activities, such as basic skills training to improve or compensate for an affected function, counselling of persons with disabilities and their families, developing self-reliance, and occasional services such as assessment and guidance.
3. All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation should have access to it.
4. Persons with disabilities and their families should be able to participate in the design and organization of rehabilitation services concerning themselves.
5. All rehabilitation services should be available in the local community where the person with disabilities lives. However, in some instances, in order to attain

a certain training objective, special time-limited rehabilitation courses may be organized, where appropriate, in residential form.

6. Persons with disabilities and their families should be encouraged to involve themselves in rehabilitation, for instance as trained teachers, instructors or counsellors.
7. States should draw upon the expertise of organizations of persons with disabilities when formulating or evaluating rehabilitation programmes.

Rule 4. Support services

States should ensure the development and supply of support services, including assistive devices for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights.

1. States should ensure the provision of assistive devices and equipment, personal assistance and interpreter services, according to the needs of persons with disabilities, as important measures to achieve the equalization of opportunities.
2. States should support the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them.
3. To achieve this, generally available technical know-how should be utilized. In States where high-technology industry is available, it should be fully utilized to improve the standard and effectiveness of assistive devices and equipment. It is important to stimulate the development and production of simple and inexpensive devices, using local material and local production facilities when possible. Persons with disabilities themselves could be involved in the production of those devices.
4. States should recognize that all persons with disabilities who need assistive devices should have access to them as appropriate, including financial accessibility. This may mean that assistive devices and equipment should be provided free of charge or at such a low price that persons with disabilities or their families can afford to buy them.
5. In rehabilitation programmes for the provision of assistive devices and equipment, States should consider the special requirements of girls and boys with disabilities concerning the design, durability and age-appropriateness of assistive devices and equipment.
6. States should support the development and provision of personal assistance programmes and interpretation services, especially for persons with severe and/or multiple disabilities. Such programmes would increase the level of participation of persons with disabilities in everyday life at home, at work, in

school and during leisure-time activities.

7. Personal assistance programmes should be designed in such a way that the persons with disabilities using the programmes have a decisive influence on the way in which the programmes are delivered.

II. TARGET AREAS FOR EQUAL PARTICIPATION

Rule 5. Accessibility

States should recognize the overall importance of accessibility in the process of the equalization of opportunities in all spheres of society. For persons with disabilities of any kind, States should (a) introduce programmes of action to make the physical environment accessible; and (b) undertake measures to provide access to information and communication.

(a) Access to the physical environment

1. States should initiate measures to remove the obstacles to participation in the physical environment. Such measures should be to develop standards and guidelines and to consider enacting legislation to ensure accessibility to various areas in society, such as housing, buildings, public transport services and other means of transportation, streets and other outdoor environments.
2. States should ensure that architects, construction engineers and others who are professionally involved in the design and construction of the physical environment have access to adequate information on disability policy and measures to achieve accessibility.
3. Accessibility requirements should be included in the design and construction of the physical environment from the beginning of the designing process.
4. Organizations of persons with disabilities should be consulted when standards and norms for accessibility are being developed. They should also be involved locally from the initial planning stage when public construction projects are being designed, thus ensuring maximum accessibility.

(b) Access to information and communication

5. Persons with disabilities and, where appropriate, their families and advocates should have access to full information on diagnosis, rights and available services and programmes, at all stages. Such information should be presented in forms accessible to persons with disabilities.
6. States should develop strategies to make information services and documentation accessible for different groups of persons with disabilities. Braille, tape services, large print and other appropriate technologies should be used to provide access to written information and documentation for persons

with visual impairments. Similarly, appropriate technologies should be used to provide access to spoken information for persons with auditory impairments or comprehension difficulties.

7. Consideration should be given to the use of sign language in the education of deaf children, in their families and communities. Sign language interpretation services should also be provided to facilitate the communication between deaf persons and others.
8. Consideration should also be given to the needs of people with other communication disabilities.
9. States should encourage the media, especially television, radio and newspapers, to make their services accessible.
10. States should ensure that new computerized information and service systems offered to the general public are either made initially accessible or are adapted to be made accessible to persons with disabilities.
11. Organizations of persons with disabilities should be consulted when measures to make information services accessible are being developed.

Rule 6. Education

States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the educational system.

1. General educational authorities are responsible for the education of persons with disabilities in integrated settings. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.
2. Education in mainstream schools presupposes the provision of interpreter and other appropriate support services. Adequate accessibility and support services, designed to meet the needs of persons with different disabilities, should be provided.
3. Parent groups and organizations of persons with disabilities should be involved in the education process at all levels.
4. In States where education is compulsory it should be provided to girls and boys with all kinds and all levels of disabilities, including the most severe.
5. Special attention should be given in the following areas:
 - (a) Very young children with disabilities;

- (b) Pre-school children with disabilities;
 - (c) Adults with disabilities, particularly women.
6. To accommodate educational provisions for persons with disabilities in the mainstream, States should:
- (a) Have a clearly stated policy, understood and accepted at the school level and by the wider community;
 - (b) Allow for curriculum flexibility, addition and adaptation;
 - (c) Provide for quality materials, ongoing teacher training and support teachers.
7. Integrated education and community-based programmes should be seen as complementary approaches in providing cost-effective education and training for persons with disabilities. National community-based programmes should encourage communities to use and develop their resources to provide local education to persons with disabilities.
8. In situations where the general school system does not yet adequately meet the needs of all persons with disabilities, special education may be considered. It should be aimed at preparing students for education in the general school system. The quality of such education should reflect the same standards and ambitions as general education and should be closely linked to it. At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities. States should aim for the gradual integration of special education services into mainstream education. It is acknowledged that in some instances special education may currently be considered to be the most appropriate form of education for some students with disabilities.
9. Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools. At the initial stage, in particular, special attention needs to be focused on culturally sensitive instruction that will result in effective communication skills and maximum independence for people who are deaf or deaf/blind.

Rule 7. Employment

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment. In both rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.

1. Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment.

2. States should actively support the integration of persons with disabilities into open employment. This active support could occur through a variety of measures, such as vocational training, incentive-oriented quota schemes, reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprises employing workers with disabilities. States should also encourage employers to make reasonable adjustments to accommodate persons with disabilities.
3. States' action programmes should include:
 - (a) Measures to design and adapt workplaces and work premises in such a way that they become accessible to persons with different disabilities;
 - (b) Support for the use of new technologies and the development and production of assistive devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities to enable them to gain and maintain employment;
 - (c) Provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services.
4. States should initiate and support public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.
5. In their capacity as employers, States should create favourable conditions for the employment of persons with disabilities in the public sector.
6. States, workers' organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.
7. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. It is important that the quality of such programmes be assessed in terms of their relevance and sufficiency in providing opportunities for persons with disabilities to gain employment in the labour market.
8. Measures should be taken to include persons with disabilities in training and employment programmes in the private and informal sectors.
9. States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities, including flexible hours, part-time work, job-sharing, self-employment and attendant care for persons with disabilities.

Rule 8. Income maintenance and social security

States are responsible for the provision of social security and income maintenance for persons with disabilities.

1. States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities. States should ensure that the provision of support takes into account the costs frequently incurred by persons with disabilities and their families as a result of the disability.
2. In countries where social security, social insurance or other social welfare schemes exist or are being developed for the general population, States should ensure that such systems do not exclude or discriminate against persons with disabilities.
3. States should also ensure the provision of income support and social security protection to individuals who undertake the care of a person with a disability.
4. Social security systems should include incentives to restore the income-earning capacity of persons with disabilities. Such systems should provide or contribute to the organization, development and financing of vocational training. They should also assist with placement services.
5. Social security programmes should also provide incentives for persons with disabilities to seek employment in order to establish or re-establish their income-earning capacity.
6. Income support should be maintained as long as the disabling conditions remain in a manner that does not discourage persons with disabilities from seeking employment. It should only be reduced or terminated when persons with disabilities achieve adequate and secure income.
7. States, in countries where social security is to a large extent provided by the private sector, should encourage local communities, welfare organizations and families to develop self-help measures and incentives for employment or employment-related activities for persons with disabilities.

Rule 9. Family life and personal integrity

States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules

regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.

2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.
3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.
4. Persons with disabilities and their families need to be fully informed about taking precautions against sexual and other forms of abuse. Persons with disabilities are particularly vulnerable to abuse in the family, community or institutions and need to be educated on how to avoid the occurrence of abuse, recognize when abuse has occurred and report on such acts.

Rule 10. Culture

States will ensure that persons with disabilities are integrated into and can participate in cultural activities on an equal basis.

1. States should ensure that persons with disabilities have the opportunity to utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of their community, be they in urban or rural areas. Examples of such activities are dance, music, literature, theatre, plastic arts, painting and sculpture. Particularly in developing countries, emphasis should be placed on traditional and contemporary art forms, such as puppetry, recitation and story-telling.
2. States should promote the accessibility to and availability of places for cultural performances and services, such as theatres, museums, cinemas and libraries, to persons with disabilities.
3. States should initiate the development and use of special technical arrangements to make literature, films and theatre accessible to persons with disabilities.

Rule 11. Recreation and sports

States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.

1. States should initiate measures to make places for recreation and sports, hotels, beaches, sports arenas, gym halls, etc., accessible to persons with disabilities. Such measures should encompass support for staff in recreation and sports programmes, including projects to develop methods of accessibility, and participation, information and training programmes.
2. Tourist authorities, travel agencies, hotels, voluntary organizations and others involved in organizing recreational activities or travel opportunities should offer their services to all, taking into account the special needs of persons with disabilities. Suitable training should be provided to assist that process.
3. Sports organizations should be encouraged to develop opportunities for participation by persons with disabilities in sports activities. In some cases, accessibility measures could be enough to open up opportunities for participation. In other cases, special arrangements or special games would be needed. States should support the participation of persons with disabilities in national and international events.
4. Persons with disabilities participating in sports activities should have access to instruction and training of the same quality as other participants.
5. Organizers of sports and recreation should consult with organizations of persons with disabilities when developing their services for persons with disabilities.

Rule 12. Religion

States will encourage measures for equal participation by persons with disabilities in the religious life of their communities.

1. States should encourage, in consultation with religious authorities, measures to eliminate discrimination and make religious activities accessible to persons with disabilities.
2. States should encourage the distribution of information on disability matters to religious institutions and organizations. States should also encourage religious authorities to include information on disability policies in the training for religious professions, as well as in religious education programmes.
3. They should also encourage the accessibility of religious literature to persons with sensory impairments.
4. States and/or religious organizations should consult with organizations of persons with disabilities when developing measures for equal participation in religious activities.

III. IMPLEMENTATION MEASURES

Rule 13. Information and research

States assume the ultimate responsibility for the collection and dissemination of information on the living conditions of persons with disabilities and promote comprehensive research on all aspects, including obstacles that affect the lives of persons with disabilities.

1. States should, at regular intervals, collect gender-specific statistics and other information concerning the living conditions of persons with disabilities. Such data collection could be conducted in conjunction with national censuses and household surveys and could be undertaken in close collaboration, inter alia, with universities, research institutes and organizations of persons with disabilities. The data collection should include questions on programmes and services and their use.
2. States should consider establishing a data bank on disability, which would include statistics on available services and programmes as well as on the different groups of persons with disabilities. They should bear in mind the need to protect individual privacy and personal integrity.
3. States should initiate and support programmes of research on social, economic and participation issues that affect the lives of persons with disabilities and their families. Such research should include studies on the causes, types and frequencies of disabilities, the availability and efficacy of existing programmes and the need for development and evaluation of services and support measures.
4. States should develop and adopt terminology and criteria for the conduct of national surveys, in cooperation with organizations of persons with disabilities.
5. States should facilitate the participation of persons with disabilities in data collection and research. To undertake such research States should particularly encourage the recruitment of qualified persons with disabilities.
6. States should support the exchange of research findings and experiences.
7. States should take measures to disseminate information and knowledge on disability to all political and administration levels within national, regional and local spheres.

Rule 14. Policy-making and planning

States will ensure that disability aspects are included in all relevant policy-making and national planning.

1. States should initiate and plan adequate policies for persons with disabilities at the national level, and stimulate and support action at regional and local levels.
2. States should involve organizations of persons with disabilities in all decision-making relating to plans and programmes concerning persons with disabilities

or affecting their economic and social status.

3. The needs and concerns of persons with disabilities should be incorporated into general development plans and not be treated separately.
4. The ultimate responsibility of States for the situation of persons with disabilities does not relieve others of their responsibility. Anyone in charge of services, activities or the provision of information in society should be encouraged to accept responsibility for making such programmes available to persons with disabilities.
5. States should facilitate the development by local communities of programmes and measures for persons with disabilities. One way of doing this could be to develop manuals or check-lists and provide training programmes for local staff.

Rule 15. Legislation

States have a responsibility to create the legal bases for measures to achieve the objectives of full participation and equality for persons with disabilities.

1. National legislation, embodying the rights and obligations of citizens, should include the rights and obligations of persons with disabilities. States are under an obligation to enable persons with disabilities to exercise their rights, including their human, civil and political rights, on an equal basis with other citizens. States must ensure that organizations of persons with disabilities are involved in the development of national legislation concerning the rights of persons with disabilities, as well as in the ongoing evaluation of that legislation.
2. Legislative action may be needed to remove conditions that may adversely affect the lives of persons with disabilities, including harassment and victimization. Any discriminatory provisions against persons with disabilities must be eliminated. National legislation should provide for appropriate sanctions in case of violations of the principles of non-discrimination.
3. National legislation concerning persons with disabilities may appear in two different forms. The rights and obligations may be incorporated in general legislation or contained in special legislation. Special legislation for persons with disabilities may be established in several ways:
 - (a) By enacting separate legislation, dealing exclusively with disability matters;
 - (b) By including disability matters within legislation on particular topics;
 - (c) By mentioning persons with disabilities specifically in the texts that serve to interpret existing legislation.

A combination of those different approaches might be desirable. Affirmative action provisions may also be considered.

4. States may consider establishing formal statutory complaints mechanisms in order to protect the interests of persons with disabilities.

Rule 16. Economic policies

States have the financial responsibility for national programmes and measures to create equal opportunities for persons with disabilities.

1. States should include disability matters in the regular budgets of all national, regional and local government bodies.
2. States, non-governmental organizations and other interested bodies should interact to determine the most effective ways of supporting projects and measures relevant to persons with disabilities.
3. States should consider the use of economic measures (loans, tax exemptions, earmarked grants, special funds, and so on) to stimulate and support equal participation by persons with disabilities in society.
4. In many States it may be advisable to establish a disability development fund, which could support various pilot projects and self-help programmes at the grass-roots level.

Rule 17. Coordination of work

States are responsible for the establishment and strengthening of national coordinating committees, or similar bodies, to serve as a national focal point on disability matters.

1. The national coordinating committee or similar bodies should be permanent and based on legal as well as appropriate administrative regulation.
2. A combination of representatives of private and public organizations is most likely to achieve an intersectoral and multidisciplinary composition. Representatives could be drawn from concerned government ministries, organizations of persons with disabilities and non-governmental organizations.
3. Organizations of persons with disabilities should have considerable influence in the national coordinating committee in order to ensure proper feedback of their concerns.
4. The national coordinating committee should be provided with sufficient autonomy and resources to fulfil its responsibilities in relation to its decision-making capacities. It should report to the highest governmental level.

Rule 18. Organizations of persons with disabilities

States should recognize the right of the organizations of persons with disabilities

to represent persons with disabilities at national, regional and local levels. States should also recognize the advisory role of organizations of persons with disabilities in decision-making on disability matters.

1. States should encourage and support economically and in other ways the formation and strengthening of organizations of persons with disabilities, family members and/or advocates. States should recognize that those organizations have a role to play in the development of disability policy.
2. States should establish ongoing communication with organizations of persons with disabilities and ensure their participation in the development of government policies.
3. The role of organizations of persons with disabilities could be to identify needs and priorities, to participate in the planning, implementation and evaluation of services and measures concerning the lives of persons with disabilities, and to contribute to public awareness and to advocate change.
4. As instruments of self-help, organizations of persons with disabilities provide and promote opportunities for the development of skills in various fields, mutual support among members and information sharing.
5. Organizations of persons with disabilities could perform their advisory role in many different ways such as having permanent representation on boards of government-funded agencies, serving on public commissions and providing expert knowledge on different projects.
6. The advisory role of organizations of persons with disabilities should be ongoing in order to develop and deepen the exchange of views and information between the State and the organizations.
7. Organizations should be permanently represented on the national coordinating committee or similar bodies.
8. The role of local organizations of persons with disabilities should be developed and strengthened to ensure that they influence matters at the community level.

Rule 19. Personnel training

States are responsible for ensuring the adequate training of personnel, at all levels, involved in the planning and provision of programmes and services concerning persons with disabilities.

1. States should ensure that all authorities providing services in the disability field give adequate training to their personnel.
2. In the training of professionals in the disability field, as well as in the provision of information on disability in general training programmes, the principle of full participation and equality should be appropriately reflected.

3. States should develop training programmes in consultation with organizations of persons with disabilities, and persons with disabilities should be involved as teachers, instructors or advisers in staff training programmes.
4. The training of community workers is of great strategic importance, particularly in developing countries. It should involve persons with disabilities and include the development of appropriate values, competence and technologies as well as skills which can be practised by persons with disabilities, their parents, families and members of the community.

Rule 20. National monitoring and evaluation of disability programmes in the implementation of the Rules

States are responsible for the continuous monitoring and evaluation of the implementation of national programmes and services concerning the equalization of opportunities for persons with disabilities.

1. States should periodically and systematically evaluate national disability programmes and disseminate both the bases and the results of the evaluations.
2. States should develop and adopt terminology and criteria for the evaluation of disability-related programmes and services.
3. Such criteria and terminology should be developed in close cooperation with organizations of persons with disabilities from the earliest conceptual and planning stages.
4. States should participate in international cooperation in order to develop common standards for national evaluation in the disability field. States should encourage national coordinating committees to participate also.
5. The evaluation of various programmes in the disability field should be built in at the planning stage, so that the overall efficacy in fulfilling their policy objectives can be evaluated.

Rule 21. Technical and economic cooperation

States, both industrialized and developing, have the responsibility to cooperate in and take measures for the improvement of the living conditions of persons with disabilities in developing countries.

1. Measures to achieve the equalization of opportunities of persons with disabilities, including refugees with disabilities, should be integrated into general development programmes.
2. Such measures must be integrated into all forms of technical and economic cooperation, bilateral and multilateral, governmental and non-governmental.

States should bring up disability issues in discussions on such cooperation with their counterparts.

3. When planning and reviewing programmes of technical and economic cooperation, special attention should be given to the effects of such programmes on the situation of persons with disabilities. It is of the utmost importance that persons with disabilities and their organizations are consulted on any development projects designed for persons with disabilities. They should be directly involved in the development, implementation and evaluation of such projects.
4. Priority areas for technical and economic cooperation should include:
 - (a) The development of human resources through the development of skills, abilities and potentials of persons with disabilities and the initiation of employment-generating activities for and of persons with disabilities;
 - (b) The development and dissemination of appropriatedisability-related technologies and know-how.
5. States are also encouraged to support the formation and strengthening of organizations of persons with disabilities.
6. States should take measures to improve the knowledge of disability issues among staff involved at all levels in the administration of technical and economic cooperation programmes.

Rule 22. International cooperation

States will participate actively in international cooperation concerning policies for the equalization of opportunities for persons with disabilities.

1. Within the United Nations, the specialized agencies and other concerned intergovernmental organizations, States should participate in the development of disability policy.
2. Whenever appropriate, States should introduce disability aspects in general negotiations concerning standards, information exchange, development programmes, etc.
3. States should encourage and support the exchange of knowledge and experience among:
 - (a) Non-governmental organizations concerned with disability issues;
 - (b) Research institutions and individual researchers involved in disability issues;
 - (c) Representatives of field programmes and of professional groups in the

disability field;

(d) Organizations of persons with disabilities;

(e) National coordinating committees.

4. States should ensure that the United Nations and the specialized agencies, as well as all intergovernmental and interparliamentary bodies, at global and regional levels, include in their work the global and regional organizations of persons with disabilities.

IV. MONITORING MECHANISM

1. The purpose of a monitoring mechanism is to further the effective implementation of the Rules. It will assist each State in assessing its level of implementation of the Rules and in measuring its progress. The monitoring should identify obstacles and suggest suitable measures that would contribute to the successful implementation of the Rules. The monitoring mechanism will recognize the economic, social and cultural features existing in individual States. An important element should also be the provision of advisory services and the exchange of experience and information between States.
2. The Rules shall be monitored within the framework of the sessions of the Commission for Social Development. A Special Rapporteur with relevant and extensive experience in disability issues and international organizations shall be appointed, if necessary, funded by extrabudgetary resources, for three years to monitor the implementation of the Rules.
3. International organizations of persons with disabilities having consultative status with the Economic and Social Council and organizations representing persons with disabilities who have not yet formed their own organizations should be invited to create among themselves a panel of experts, on which organizations of persons with disabilities shall have a majority, taking into account the different kinds of disabilities and necessary equitable geographical distribution, to be consulted by the Special Rapporteur and, when appropriate, by the Secretariat.
4. The panel of experts will be encouraged by the Special Rapporteur to review, advise and provide feedback and suggestions on the promotion, implementation and monitoring of the Rules.
5. The Special Rapporteur shall send a set of questions to States, entities within the United Nations system, and intergovernmental and non-governmental organizations, including organizations of persons with disabilities. The set of questions should address implementation plans for the Rules in States. The questions should be selective in nature and cover a number of specific rules for in-depth evaluation. In preparing the questions the Special Rapporteur should consult with the panel of experts and the Secretariat.

6. The Special Rapporteur shall seek to establish a direct dialogue not only with States but also with local non-governmental organizations, seeking their views and comments on any information intended to be included in the reports. The Special Rapporteur shall provide advisory services on the implementation and monitoring of the Rules and assistance in the preparation of replies to the sets of questions.
7. The Department for Policy Coordination and Sustainable Development of the Secretariat, as the United Nations focal point on disability issues, the United Nations Development Programme and other entities and mechanisms within the United Nations system, such as the regional commissions and specialized agencies and inter-agency meetings, shall cooperate with the Special Rapporteur in the implementation and monitoring of the Rules at the national level.
8. The Special Rapporteur, assisted by the Secretariat, shall prepare reports for submission to the Commission for Social Development at its thirty-fourth and thirty-fifth sessions. In preparing such reports, the Rapporteur should consult with the panel of experts.
9. States should encourage national coordinating committees or similar bodies to participate in implementation and monitoring. As the focal points on disability matters at the national level, they should be encouraged to establish procedures to coordinate the monitoring of the Rules. Organizations of persons with disabilities should be encouraged to be actively involved in the monitoring of the process at all levels.
10. Should extrabudgetary resources be identified, one or more positions of interregional adviser on the Rules should be created to provide direct services to States, including:
 - (a) The organization of national and regional training seminars on the content of the Rules;
 - (b) The development of guidelines to assist in strategies for implementation of the Rules;
 - (c) Dissemination of information about best practices concerning implementation of the Rules.
11. At its thirty-fourth session, the Commission for Social Development should establish an open-ended working group to examine the Special Rapporteur's report and make recommendations on how to improve the application of the Rules. In examining the Special Rapporteur's report, the Commission, through its open-ended working group, shall consult international organizations of persons with disabilities and specialized agencies, in accordance with rules 71 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council.

12. At its session following the end of the Special Rapporteur's mandate, the Commission should examine the possibility of either renewing that mandate, appointing a new Special Rapporteur or considering another monitoring mechanism, and should make appropriate recommendations to the Economic and Social Council.
13. States should be encouraged to contribute to the United Nations Voluntary Fund on Disability in order to further the implementation of the Rules.

Appendix B:

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation **Rec(2006)5**
of the Committee of Ministers to member states
on the Council of Europe Action Plan to promote the rights and full
participation of people with disabilities in society: improving the quality of
life of people with disabilities in Europe 2006-2015

(Adopted by the Committee of Ministers on 5 April 2006 at the 961st meeting of the Ministers' Deputies)

The Committee of Ministers,

Recalling Resolution (59) 23 of 16 November 1959, on the extension of the activities of the Council of Europe in the social and cultural fields;

Having regard to Resolution (96) 35 of 2 October 1996 revising the Partial Agreement in the Social and Public Health Field, whereby it revised the structures of the Partial Agreement, and resolved to continue, on the basis of revised rules replacing those set out in Resolution (59) 23, the activities hitherto carried out and developed by virtue of that Resolution, aimed at, inter alia, integrating people with disabilities into the community with a view to defining and contributing to the implementation at European level of a model coherent policy for people with disabilities, based on the principles of full citizenship and independent living, implying the elimination of barriers to integration, whatever their nature, whether psychological, educational, family-related, cultural, social, professional, financial or architectural;

Considering that the aim of the Council of Europe is to achieve greater unity between its members and that this aim may be pursued, inter alia, by the adoption of common rules in the disability policy field for the purpose of promoting the protection of political, civil, social, cultural and educational rights;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5);

Bearing in mind the principles embodied in the revised European Social Charter (ETS No. 163), namely the right of persons with disabilities to independence, social integration and participation in the life of the community;

Having regard to the United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, 1993;

Having regard to the International Classification of Functioning, Disability and Health (ICF) of the World Health Organisation (WHO), 2001;

Having regard to the Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) of the International Labour Organisation (ILO) (No. C159), 1983, and the corresponding ILO Recommendation on Vocational Rehabilitation and Employment (Disabled Persons) (No. R168), 1983;

Having regard to Recommendation No. R (92) 6 of the Committee of Ministers to member states on a coherent policy for people with disabilities;

Having regard to the Ministerial Declaration on People with Disabilities "Progressing towards full participation as citizens", adopted at the Second European Conference of Ministers responsible for integration policies for people with disabilities held in Malaga (Spain) on 7 and 8 May 2003;

Having regard to the Action Plan of the Third Summit of Heads of State and Government of the Council of Europe (CM(2005)80 final), adopted in Warsaw on 17 May 2005, which lays down the role and main responsibilities of the Council of Europe in the coming years;

Having regard to Recommendation 1592 (2003) by the Council of Europe Parliamentary Assembly "Towards full social inclusion of people with disabilities";

Reaffirming the universality, indivisibility and interdependence of all human rights and fundamental freedoms and the need for people with disabilities to be guaranteed their full enjoyment without any discrimination;

Considering that the estimated proportion of persons with disabilities in the total population in Europe is 10-15%, that the main causes of disability are disease, accidents and disabling conditions among the elderly, and that the number of disabled people is expected to grow steadily due to increasing life expectancy, inter alia;

Considering that failure to promote the rights of citizens with disabilities and to ensure equality of opportunities is a violation of human dignity;

Considering that ensuring equal opportunities for members of all groups in society contributes to securing democracy and social cohesion;

Convinced that the human rights based approach to ensuring the integration and full participation of people with disabilities in society should be incorporated in all relevant policy areas at international, national, regional and local level;

Emphasising the need to mainstream disability issues in all sectors through coherent policies and co-ordinated action;

Acknowledging the work carried out by the Council of Europe Committee on the Rehabilitation and Integration of People with disabilities (CD-P-RR) in the drafting

of this Disability Action Plan;

Emphasising the importance of establishing partnerships with non-governmental organisations of people with disabilities in the implementation and follow-up of the Disability Action Plan,

Recommends that the governments of the member states having due regard to their specific national, regional or local structures and respective responsibilities:

- a. integrate as appropriate in their policy, legislation and practice the principles and implement the actions set out in the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015, as it appears in the appendix to this recommendation;
- b. promote the implementation and application of the Council of Europe Disability Action Plan 2006-2015 in areas which are not the direct responsibility of public authorities, but where they nonetheless have a certain power or may play a certain role;
- c. assure to this end the widest possible dissemination of this recommendation amongst all parties concerned, for example through awareness-raising campaigns and co-operation with the private sector and civil society, involving, in particular, non-governmental organisations of people with disabilities.

Appendix to Recommendation Rec(2006)5

Council of Europe Action Plan

to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015

Contents

1. Executive Summary
2. Introduction
3. Key action lines
 - 3.1. Action line No. 1: Participation in political and public life
 - 3.2. Action line No. 2: Participation in cultural life
 - 3.3. Action line No. 3: Information and communication
 - 3.4. Action line No. 4: Education
 - 3.5. Action line No. 5: Employment, vocational guidance and training
 - 3.6. Action line No. 6: The built environment

- 3.7. Action line No. 7: Transport
- 3.8. Action line No. 8: Community living
- 3.9. Action line No. 9: Health care
- 3.10. Action line No. 10: Rehabilitation
- 3.11. Action line No. 11: Social protection
- 3.12. Action line No. 12: Legal protection
- 3.13. Action line No. 13: Protection against violence and abuse
- 3.14. Action line No. 14: Research and development
- 3.15. Action line No. 15: Awareness raising

4. Cross-cutting aspects

- 4.1. Introduction
- 4.2. Women and girls with disabilities
- 4.3. People with disabilities in need of high level of support
- 4.4. Children and young people with disabilities
- 4.5. Ageing of people with disabilities
- 4.6. People with disabilities from minorities and migrants

5. Implementation and follow-up

- 5.1. Introduction
- 5.2. Implementation
- 5.3. Follow-up

Appendix 1 Malaga Ministerial Declaration on People with Disabilities “Progressing towards full participation as citizens”, adopted at the Second European Conference of Ministers responsible for integration policies for people with disabilities, Malaga (Spain), 7-8 May 2003

Appendix 2 Reference texts

1. Executive Summary

1.1. Mission

1.1.1. Malaga Ministerial Declaration on People with disabilities

In 1992, following the first European Conference of Ministers responsible for policies on people with disabilities, Recommendation No. R (92) 6 on a coherent policy for people with disabilities was adopted by the Committee of Ministers.

This pioneering recommendation influenced disability policies for more than ten years and prompted new inclusive policy plans that have positively benefited people with disabilities both nationally and internationally.

However, major changes have taken place in society and new strategies are needed to further progress a social and human rights based approach to disability issues in the next decade.

In May 2003 at the Second European Ministerial Conference, which took place in Malaga, Spain, the Ministers responsible for policies on people with disabilities adopted the Malaga Ministerial Declaration on People with disabilities “Progressing towards full participation as citizens”.

An appropriate strategy was set out to elaborate a Council of Europe Disability Action Plan aimed at promoting human rights and improving of the quality of life of people with disabilities in Europe.

1.1.2. Mission statement

The Council of Europe Disability Action Plan 2006-2015 seeks to translate the aims of the Council of Europe with regard to human rights, non-discrimination, equal opportunities, full citizenship and participation of people with disabilities into a European policy framework on disability for the next decade.

This Action Plan aims to provide a comprehensive framework that is both flexible and adaptable in order to meet country-specific conditions. It is intended to serve as a roadmap for policy makers, to enable them to design, adjust, refocus and implement appropriate plans, programmes and innovative strategies.

The Council of Europe will seek to implement the Disability Action Plan by providing assistance to all member states in the form of recommendations, advice and expert information.

1.2. Fundamental principles and strategic goals

1.2.1. Fundamental principles

Member states will continue to work within anti-discriminatory and human rights frameworks to enhance independence, freedom of choice and the quality of life of people with disabilities and to raise awareness of disability as a part of human diversity.

Due account is taken of relevant existing European and international instruments, treaties and plans, particularly the developments in relation to the draft United Nations international convention on the rights of persons with disabilities.

The Council of Europe's New Strategy for Social Cohesion (2004) points out that there has to be particular commitment to ensure access to human rights for people who are at risk of becoming vulnerable, such as children and young people, migrants and ethnic minorities, people with disabilities and the elderly.

The Disability Action Plan acknowledges the basic principle that society has a duty towards all its citizens to ensure that the effects of disability are minimised through

actively supporting healthy lifestyles, safer environments, adequate health care, rehabilitation and supportive communities.

1.2.2. Strategic goals

The key objective of the Disability Action Plan is to serve as a practical tool to develop and implement viable strategies to bring about full participation of people with disabilities in society and ultimately mainstreaming disability throughout all the policy areas of the member states. The Action Plan aims at meeting country-specific conditions as well as transition processes that are taking place in various member states.

It comprises recommendations to take specific actions at national level and also illuminates aspects of vulnerable groups of people with disabilities who face specific barriers and problems that require a cross-cutting response.

It encourages member states to respond to the needs of people with disabilities by providing quality and innovative services and consolidating measures already in place.

The Action Plan seeks to provide a useful source of inspiration for private enterprise, non-governmental organisations and other international organisations. It considers non-governmental organisations of people with disabilities to be competent and expert partners in policy development, who should be consulted as stakeholders in decision-making processes which affect their lives. The implementation of the Action Plan will be monitored and regularly evaluated to identify progress at national level as well as to share good practices.

1.3. Key action lines

The Council of Europe Disability Action Plan has a broad scope, encompassing all key areas of the life of people with disabilities. These key areas are duly reflected in 15 action lines which set out key objectives and specific actions to be implemented by member states.

The action lines are the core of the Action Plan. They cover the following areas:

- No. 1: Participation in political and public life;
- No. 2: Participation in cultural life;
- No. 3: Information and communication;
- No. 4: Education;
- No. 5: Employment, vocational guidance and training;
- No. 6: The built environment;
- No. 7: Transport;
- No. 8: Community living;
- No. 9: Health care;
- No. 10: Rehabilitation;
- No. 11: Social protection;
- No. 12: Legal protection;

- No. 13: Protection against violence and abuse;
- No. 14: Research and development; and
- No. 15: Awareness raising.

Participation in political and public life (No. 1) and democratic processes is essential for the development and maintenance of democratic societies. People with disabilities should have the opportunity to influence the destiny of their communities. It is therefore important that people with disabilities be able to exercise their right to vote and participate in political and public activities.

To be fully integrated into society, people with disabilities should also be able to participate in the cultural life (No. 2) of that society. Appropriate measures should be taken to ensure that people with disabilities can participate in cultural activities and associations and can develop and utilise their creative and intellectual potential for their own benefit and that of their communities.

In this regard, access to information and communication (No. 3) is a prerequisite. It is important that public and private providers of information and communication take the needs of people with disabilities into account. Appropriate measures should be taken to ensure that people with disabilities can receive and impart information on an equal footing with other members of society.

Equal access to education (No. 4) is a fundamental requirement for ensuring social inclusion as well as independence for people with disabilities. Education should cover all life stages from pre-school education to professional education, as well as life-long learning. Mainstream education and specialised programmes, as appropriate, should be encouraged to work together to support people with disabilities in their local communities. A mainstream approach can also contribute to non-disabled people's awareness and understanding of human diversity.

Employment, vocational guidance and training (No. 5) are key factors for the social inclusion and economic independence of people with disabilities. Legislation, measures and services are needed to ensure equality of opportunity for disabled people in obtaining and retaining a job. Equal access to employment should be enhanced by combining anti-discrimination and positive action measures and by mainstreaming issues related to the employment of people with disabilities in employment policies.

An accessible, barrier-free built environment (No. 6) encourages equal opportunities, independent living, active involvement in the community and access to employment. By applying the principles of Universal Design an environment that is accessible to people with disabilities can be established and the creation of new barriers can be avoided.

The development and implementation of accessible transport (No. 7) at all levels should result in a substantial improvement of the accessibility of passenger transport services for all people with disabilities. This is a prerequisite to achieving independence, full participation in the labour market and active participation in the community.

People with disabilities should be able to live as independently as possible, including being able to choose where and how to live. Opportunities for independent living and social inclusion are first and foremost created by living in the community. Enhancing community living (No. 8) requires strategic policies which support the move from institutional care to community-based settings, ranging from independent living arrangements to sheltered, supportive living in small-scale settings. It also implies a co-ordinated approach in the provision of user-driven, community-based services and person-centred support structures.

Disabled people, like non-disabled people, require adequate health care (No. 9) and should have equal access to good quality health care services that are respectful of clients' rights. In this regard it is important that health care professionals (be trained to) focus more on the social model of disability.

To prevent the deterioration of disability, alleviate its consequences and enhance independence of people with disabilities, comprehensive rehabilitation (No. 10) programmes that include an array of accessible, and, where appropriate, community-based services, should be implemented.

Services provided by the social protection (No. 11) system – including social security, social assistance and support – can contribute to the quality of life of their recipients. People with disabilities should be able to adequately benefit from social protection systems and have equal access to these services. Policies encouraging a shift from benefit dependency towards employment and independence should be promoted, where possible.

People with disabilities should have access to the legal system on the same basis as other citizens. Legal protection (No. 12) entails taking appropriate measures to eliminate discrimination against people with disabilities. An adequate legal and administrative framework is necessary to prevent and combat discrimination.

Society also has a duty to prevent and protect people against acts of abuse and violence (No. 13). Policies should be aimed at safeguarding people with disabilities against all forms of abuse and violence and ensure appropriate support for victims of abuse and violence.

Research and development (No. 14), statistical data collection and analysis are essential to design and implement well-informed and evidence-based policies. Reliable information is helpful in order to identify emerging issues and helps to design solutions. It is also important to identify best practices and to monitor change in society.

Awareness raising (No. 15) is a key issue that underpins the whole Action Plan. Discriminatory behaviour and stigmatisation should be opposed and replaced by accessible and objective information on the consequences of impairments and disabilities in order to promote a better understanding of the needs and rights of people with disabilities in society. Action should be aimed at changing negative attitudes towards people with disabilities and should promote mainstreaming

of disability issues in all government publications as well as publications of the media.

1.4. Cross-cutting aspects

Within the European disabled population there are people with disabilities who face specific barriers or experience two-fold discrimination.

Women and girls with disabilities, people with disabilities in need of a high level of support, children and young people with disabilities, ageing people with disabilities and people with disabilities from minorities and migrant communities have a higher risk of exclusion and generally have lower levels of participation in society than other disabled people.

Women and girls with disabilities often face multiple obstacles to participation in society due to discrimination on grounds of both gender and disability. The specific situation of women and girls needs to be taken into account in the development of both disability and gender mainstream policies and programmes at all levels.

One of the more vulnerable groups of people with disabilities is the group of people who, due to the severity and complexity of their disability, are in need of a high level of support. Their quality of life is very much dependent on the availability of appropriate quality services and specific, often intensive support. Planning and co-ordination across relevant authorities, government agencies and service providers are needed to adequately address the specific problems of this group of people.

Children with disabilities should enjoy the same rights – as laid down in the United Nations Convention on the Rights of the Child – and opportunities as other children. Young people with disabilities are also a vulnerable group in our society. They still face considerable barriers in accessing all aspects of life. The specific problems faced by children and young people with disabilities must be studied in greater depth in order to design and implement well informed policies across a wide spectrum of policy areas.

The progressive ageing of people with disabilities, particularly of those requiring more intensive support, presents new challenges for societies across Europe. Innovative approaches are required to meet these challenges across a wide range of policy and service areas.

People with disabilities from minorities and migrant communities may experience multiple disadvantages because of discrimination or lack of familiarity with public services. A comprehensive approach, taking account of cultural background, language and particular needs, is required to address specific problems these groups may face.

The above-mentioned specific groups of people with disabilities require a cross-cutting response to ensure their inclusion in society. Policy makers need to acknowledge the barriers and challenges faced by each of these groups and ensure that policies include actions that cut across many key action lines to

remove those barriers and ensure that individuals can reach their full potential. A twin-track approach, departing from this Action Plan and the Council of Europe's New Strategy for Social Cohesion (2004), is needed to promote the development of effective cross-cutting and integrated policies.

1.5. Implementation and follow-up

In line with the fundamental principles underpinning the action lines and the cross-cutting aspects, Universal Design principles, quality, training and mainstreaming are vital elements of the implementation strategy of the Disability Action Plan. The application of Universal Design principles is of paramount importance for improving the accessibility of the environment and the usability of products. It is also essential that all policies, actions and services be underpinned by high standards in terms of quality. A mainstream approach in policy development and service delivery plays an important role in promoting a more inclusive society.

Member states have primary responsibility for implementing disability policies at national level and in particular for implementing the specific actions referring to them under each action line. Member states should start by an evaluation of existing policies and underlying basic principles against the blueprint of the Disability Action Plan, to identify in which areas progress has yet to be made and which specific actions have to be carried out.

Based on that evaluation, member states should set up strategies aimed at bringing their policies progressively in line with the recommendations and underlying basic principles of the Disability Action Plan, within the framework of national financial resources.

Member states should seek joint approaches and establish partnerships with relevant stakeholders, in particular with non-governmental organisations of people with disabilities, in the implementation and evaluation of the Disability Action Plan.

All relevant bodies and committees of the Council of Europe have been consulted to ensure an increased awareness and implementation of the Disability Action Plan.

The Committee of Ministers will designate an appropriate forum to manage the follow-up process and could recommend that member states analyse specific priority issues in depth. Effective follow-up to the Disability Action Plan requires member states to provide the designated forum with relevant information on a regular basis.

The designated forum will ensure that the Committee of Ministers is regularly informed about the progress made in the implementation of the Disability Action Plan.

2. Introduction

2.1. Mission

The Action Plan seeks to translate the aims of the Council of Europe with regard to human rights, non-discrimination, equal opportunities, full citizenship and the participation of people with disabilities into a European framework on disability for the next decade.

This Action Plan aims to provide a comprehensive framework that is both flexible and adaptable in order to meet country-specific conditions. It is intended to serve as a roadmap for policy makers, to enable them to design, adjust, refocus and implement appropriate plans, programmes and innovative strategies.

The Council of Europe will seek to implement the Action Plan by providing positive assistance to all member states in the form of recommendations, advice and expert information.

2.2. Paradigm shift from patient to citizen

The last decade has seen major political, economic, social and technological changes in Europe. The opportunities and challenges of globalisation, the development of information and communication technology, changing patterns of employment and unemployment, health and demography, migration, and the transition to market economies are transforming the region. Many of these changes have been positive and have consequently raised people's hopes and expectations.

We have moved from seeing the disabled person as a patient in need of care who does not contribute to society to seeing him/her as a person who needs the present barriers removed in order to take a rightful place as a fully participative member of society. Such barriers include attitudes and social, legal and environmental barriers. We therefore need to further facilitate the paradigm shift from the old medical model of disability to the social and human rights based model.

We have shifted our focus to the individual as central to a coherent, integrated approach which respects the human rights, fundamental freedoms and dignity of all disabled individuals. Consequently there has been a shift in many European countries to promote active policies which empower the individual disabled person to control his/her life. At the same time the role of non-governmental organisations in general, and in particular of those of people with disabilities, in society has changed. They have become partners for governments and disabled people alike, as advocates, service providers or as a source of expert knowledge and competence.

The Action Plan is designed to be flexible to take account of future technological change and other developments.

Recent developments in the field of biotechnology and its potential use have

created concerns amongst disabled people, to the point that even the right to life is sometimes in question. This plan deals with the full social inclusion and participation of disabled people and therefore it has not been considered appropriate to include such medically related issues as prenatal diagnosis and discrimination in abortion laws on the basis of disability.

However, there is no doubt about the importance of these issues and it is considered vital to ensure that disabled people, through their representative organisations, participate in the relevant national and international ethics and bioethics committees dealing with these matters.

2.3. The Malaga Ministerial Declaration

The Second European Conference of Ministers responsible for integration policies for people with disabilities, held in Malaga (Spain) on 7 and 8 May 2003, wished to build on the First European Conference of Ministers, which took place in 1991 and resulted in the Committee of Ministers' Recommendation No. R (92) 6 on a coherent policy for people with disabilities. This recommendation, adopted on 9 April 1992, influenced the disability policies of Council of Europe member states for more than ten years and prompted inclusive policies which have positively benefited disabled people both nationally and internationally. However, the ministers recognised that further work is needed to progress on disability issues in a changed environment.

In the Malaga Ministerial Declaration, entitled "Progressing towards full participation as citizens", adopted at the conference, the ministers considered that their main aim in the next decade is to further improve the quality of life of people with disabilities and their families. A new strategy is needed to reflect the social model of disability and both the higher expectations of disabled people and of society.

The ministers considered that this strategy should be expressed in an Action Plan designed to eliminate all forms of discrimination against people with disabilities, regardless of their age. The Action Plan should have a special focus on disabled women, people with disabilities in need of a high level of support and ageing people with disabilities, and ensure that they will be able to enjoy their human rights, fundamental freedoms, and full citizenship.

2.4. Human rights framework

The Council of Europe and its member states will continue to work within anti-discriminatory and human rights frameworks towards safeguarding people with disabilities against any form of discrimination or abuse, and towards mainstreaming equality of opportunity for people with disabilities throughout all policy areas.

In drawing up the Action Plan, the member states would like to acknowledge the influence of existing legal treaties, instruments, standards and policies which support the equal treatment and human rights of people with disabilities. At European level, the Committee of Ministers' Recommendation No. R (92) 6 laid solid foundations. European Union legislation and programmes have further

paved the way, and the European Commission Action Plan will shape the manner in which disability policies will henceforth be designed and implemented by the European institutions. The Council of Europe's New Strategy for Social Cohesion (2004) includes a particular commitment to making a reality the rights of those individuals and groups in society who are at particular risk of becoming vulnerable and socially excluded.

In addition to existing European instruments, the United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, the main United Nations human rights treaties, and developments in relation to the draft United Nations international convention on the rights of persons with disabilities are noted.

2.5. Strategic goals

The key objective of this Action Plan is to bring about the full participation of people with disabilities in society, ultimately mainstreaming disability issues throughout all the policy areas.

The plan provides a comprehensive framework of specific recommendations flexible enough to be adaptable in order to meet country-specific conditions. It thus takes due account of the geographic, economic, cultural, and social diversity of member states and recognises that transition processes are under way in various member states. It is intended to serve as a practical tool, a roadmap, for policy makers to enable them to develop and implement appropriate strategies focused on key priorities.

It will aid those countries who need to establish a first national Action Plan for the integration of their disabled citizens and also help countries who already have established such policies and plans to progress them further.

It will help member states to promote active policies which prohibit discrimination and promote the right to equal opportunities with effective means of redress if those rights are infringed.

It encourages member states to respond to the needs of people with disabilities by providing quality and innovative services and consolidating measures already in place.

It provides a useful source of inspiration for private enterprise, non-governmental organisations, and other international organisations.

Lastly and most importantly, the Action Plan promotes the essential concept that disabled people and their representatives need to be consulted as stakeholders in decision-making processes which affect their lives, from national policy design to more individual subjects.

The implementation of the Action Plan will be regularly evaluated to identify progress

and share good practice. This will require effective and feasible mechanisms to monitor progress and evaluate the outcome at national level.

2.6. *Structure and content*

The Action Plan has a broad scope and encompasses all key areas of the life of people with disabilities; for example housing, education, employment, mobility and awareness raising. These key areas are duly reflected in the action lines that are the core of the Action Plan.

The Plan also includes cross-cutting aspects, such as those of women and girls with disabilities, children and young people with disabilities, ageing of people with disabilities, people with disabilities in need of a high level of support, and people with disabilities from minorities and migrants.

In the Action Plan, due account is taken of relevant existing European and international instruments, treaties, plans and developments in relation to the draft United Nations international convention on the rights of persons with disabilities.

The fundamental principles governing this Action Plan include non-discrimination, equal opportunities, independence and full participation of disabled people.

The key elements of the Action Plan are overarching and fundamental principles, key action lines, cross-cutting aspects, implementation and follow-up mechanisms and a phased implementation process. The Action Plan is structured accordingly.

The Action Plan does not contain a definition of disability. The committee agreed that this is a matter for individual member states and their national policy.

Similarly, the Action Plan does not contain a specific action line on the subject of prevention. This is a subject important to disabled people, non-disabled people and governments since the effects of disability impact on the individual, their families and society in general. In line with the World Health Organisation (WHO) International Classification of Functioning, Disability and Health (ICF),¹ this Action Plan as a whole deals with the prevention of the development of activity limitations and participation restrictions. The Action Plan thus acknowledges the ICF and will encourage member states to use this as a standardisation framework.

The committee felt that ongoing developments in medical treatment, advancements in the early detection of disability and the advancement of public health policies should be addressed by relevant committees within the Council of Europe.

The Action Plan acknowledges the principle that society has a duty to all its citizens to ensure that the effects of disability are minimised through actively supporting healthy lifestyles, safer environments and supportive communities. These issues

are addressed in the various action lines, but particularly in the ones dealing with

¹ Geneva, 2001.

health care and rehabilitation.

2.7. Fundamental principles

The fundamental principles which govern this Action Plan are:

- non-discrimination;
- equality of opportunities;
- full participation in society of all persons with disabilities;
- respect for difference and acceptance of disability as part of human diversity;
- dignity and individual autonomy including the freedom to make one's own choices;
- equality between women and men;
- participation of disabled people in all decisions affecting their lives, both at individual level and at society level through their representative organisations.

2.8. Procedure

The drafting process of the Action Plan started at the 26th session of the Committee on the Rehabilitation and Integration of People with disabilities (Partial Agreement) (CD-P-RR) in October 2003. To facilitate this process a working group, mandated by the CD-P-RR and assisted by an ad hoc drafting group, was established to elaborate the Action Plan.

The Action Plan advocates the role of non-governmental organisations of people with disabilities as a source of expert knowledge and sees them as competent partners in policy development. Consequently, the European Disability Forum, representing disabled persons' organisations, has played an important and active role in the elaboration of the Council of Europe Disability Action Plan.

To ensure an increased awareness and implementation of the Action Plan all relevant Council of Europe bodies and committees have been consulted.

3. Key action lines

The Action Plan outlines specific actions in a broad range of policy areas which, when combined, can provide a comprehensive framework to develop and progress national policies and strategies for people with disabilities and also mainstream policies with a view to promoting the full participation of people with disabilities in society.

The action lines build on the Malaga Ministerial Declaration on People with disabilities "Progressing towards full participation as citizens" (adopted at the Second European Conference of Ministers responsible for disability integration policies, Malaga, Spain, May 2003), on Council of Europe Recommendation No.

R (92) 6 on a coherent policy for people with disabilities and on developments in Europe generally.

Each action line sets out key objectives and specific actions to be implemented by member states under the following headings:

- No. 1: Participation in political and public life;
- No. 2: Participation in cultural life;
- No. 3: Information and communication;
- No. 4: Education;
- No. 5: Employment, vocational guidance and training;
- No. 6: The built environment;
- No. 7: Transport;
- No. 8: Community living;
- No. 9: Health care;
- No. 10: Rehabilitation;
- No. 11: Social protection;
- No. 12: Legal protection;
- No. 13: Protection against violence and abuse;
- No. 14: Research and development; and
- No. 15: Awareness raising.

3.1. Action line No.1: Participation in political and public life

3.1.1. Introduction

The participation of all citizens in political and public life and the democratic process is essential for the development of democratic societies. Society needs to reflect the diversity of its citizens and benefit from their varied experience and knowledge. It is therefore important that people with disabilities can exercise their rights to vote and to participate in such activities.

Efforts must be made to create the environment where people with disabilities are encouraged and are able to participate in politics at local, regional, national and international levels. This can only be achieved if conditions are created whereby everyone can enjoy their political rights.

It is noted that women and young people with disabilities generally account for a small proportion of those occupying representative functions. It is important that they are also encouraged to participate and included in representative groups.

3.1.2. Objectives

- i. To actively promote an environment where people with disabilities can participate on an equal footing in political parties and civil society;

- ii. to increase the participation of people with disabilities in political and public life at all levels, local, regional, national and international, in order to fully represent the diverse nature of society;
- iii. to work to encourage the participation of women and young people with disabilities, as well as those in need of a high level of support, in the political arena at all levels;
- iv. to ensure that people with disabilities and their representative organisations are consulted and have a role to play in determining policies for people with disabilities.

3.1.3. *Specific actions by member states*

- i. To ensure that voting procedures and facilities are appropriate and accessible to people with disabilities so that they are able to exercise their democratic rights, and allow, where necessary, the provision of assistance in voting;
- ii. to protect the right of people with disabilities to vote by secret ballot and, where necessary, upon their request, allow assistance in voting by a person of their choice;
- iii. to ensure that no person with a disability is excluded from the right to vote or to stand for election on the basis of her/his disability;
- iv. to ensure that election information is available and accessible in all necessary alternative formats, and easy to understand;
- v. to encourage political parties and other civil society organisations to provide their information and organise their public meetings in an accessible way;
- vi. to encourage people with disabilities, in particular women and young people, to form and join representative disability organisations at local, regional and national level for the purpose of contributing to and influencing policy at all levels;
- vii. to encourage consultation with people with disabilities and their organisations on an equal basis to others, in the democratic decision-making process;
- viii. to implement the relevant provisions included in Recommendations Rec(2001)19 of the Committee of Ministers to member states on the participation of citizens in local public life, Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making, Rec(2004)11 on legal, operational and technical standards of e-

voting, and Rec(2004)15 on electronic governance.

3.2. Action line No. 2: Participation in cultural life

3.2.1. Introduction

The right of people with disabilities as individuals to be fully integrated into society is dependent on them being able to participate in the cultural life of that society. If people with disabilities are to remain or become independent they must have as complete a life as possible interacting with other members of society, be they disabled or non-disabled people. They have the right to participate in culture, leisure, sport and tourism.

The Council of Europe and its member states are committed to taking the rights of people with disabilities into account when formulating and implementing their cultural policy. Concerted action is required to transform the opportunities and quality of life for people with disabilities through their access and involvement in the arts and social life.

There is no easy route to attaining this goal. Various means can be pursued but it may ultimately require enactment of specific legislation. This should reflect the concept of "reasonable adjustment" especially in the context of access to older buildings or historic monuments and smaller private business premises. It will also require the diversity of society to be fully reflected in broadcasting media.

3.2.2. Objectives

- i. To take appropriate measures to ensure that persons with disabilities can access local, regional and national cultural life;
- ii. to ensure that people with disabilities can participate in cultural, recreational, leisure, sporting, spiritual and social activities, both as observers and as actors;
- iii. to work to ensure that people with disabilities can develop and utilise their creative, athletic, artistic, spiritual and intellectual potential for their own benefit and that of their communities.

3.2.3. Specific actions by member states

- i. To encourage institutions and relevant bodies at local, regional, national and international level to make literature and other cultural information material accessible to people with disabilities, making full use of electronic technology where appropriate, and in simple and understandable wording;
- ii. to urge public institutions and to encourage private institutions, relevant bodies and providers to actively engage all people with disabilities in their cultural, leisure, sporting, spiritual and intellectual

activities;

iii. to encourage their broadcasting and related creative industries to ensure that people with disabilities can access broadcasting, films, theatre plays and other arts-related activities in accessible formats which may include captioning, subscript, audio description and sign language;

iv. to urge national broadcasting and related creative industries to publish Action Plans for increasing the employment of people with disabilities both “in front of the camera/microphone and behind it”;

v. to encourage institutions and relevant bodies dealing with culture, sports, leisure and tourism to undertake regular disability awareness training for their staff as a mainstream activity;

vi. to enable people with disabilities to enjoy access to culture, sports, tourism and leisure activities by, for example, encouraging providers to make their premises and services accessible through whatever means that are necessary;

vii. to take appropriate steps:

- to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by people with disabilities to cultural materials, while respecting the provisions of international law;
- to ensure that persons with disabilities can acquire artist's status and benefit from their artistic property;

viii. to encourage people with disabilities to participate in activities regardless of whether they are intended for people with or without disabilities;

ix. to ensure that sport and cultural activities are an integral part of the education programmes for children with disabilities, recognising the role of such activities in enhancing social skills.

3.3. Action line No. 3: Information and communication

3.3.1. Introduction

Access to information and communication is a key aspect for participation in society. If people with disabilities are to exercise their rights actively, participate and make choices about their lives, it is essential that they can access information through adequate communication systems. For many people with disabilities, however, information and communication continue to be largely inaccessible.

Ongoing developments in information and communications are changing the way

in which citizens interact with each other, conduct business, access services and information and communicate generally. Technological advancements include the Internet, eCommunication facilities, videophones, etc. It is important that all citizens benefit from such technological advancements and that no group be excluded, in particular people with disabilities.

Public bodies have a particular duty to ensure that their information is accessible in a range of formats responding to the diverse needs of people with disabilities. Such bodies should also be models of best practice for the private sector, and all those providing services to people with disabilities, who should be encouraged to adopt such practices also.

Communication systems must also be accessible to people with disabilities. There are already good examples of the types of systems that can be used, such as telephone relay systems or text and video communication systems.

People with disabilities should be consulted regarding the development of standards and the design of new communication and information systems.

If we are to have a truly inclusive society, people with disabilities must be able to use information and communication systems along with everyone else.

3.3.2. Objectives

- i. To take appropriate measures to ensure that people with disabilities can seek, receive and impart information on an equal footing with other members of society;
- ii. to make the best use of new technologies with the aim of increasing independence and interactions of people with disabilities in all areas of life.

3.3.3. Specific actions by member states

- i. To seek to provide official information to people with disabilities in accessible formats and technologies, acknowledging the needs arising from different impairments (for example Braille, audio-tape or easy-to-read versions);
- ii. to undertake training and other actions to encourage the use of information and communication technologies by persons with disabilities;
- iii. to ensure that all e-learning materials are accessible to persons with disabilities through compliance with existing accessibility standards;
- iv. to recognise that people with disabilities may use sign languages, Braille, and alternative means and modes of communication

(including advocacy services), and seek to accommodate these as far as possible in official interaction. On request, in meetings and conferences, a person should be available to summarise the contents in simple wording;

v. to make communication systems more accessible to people with disabilities through new technologies, for example text communication;

vi. to ensure public authorities and other public bodies make their information and communications accessible to people with disabilities, including their websites which shall comply with current international accessibility guidelines;

vii. to encourage all private bodies, particularly those that receive public funding, to make their information and communications accessible to people with disabilities;

viii. to encourage the development, production and distribution of affordable assistive technologies in information and communication;

ix. to promote compliance with universal design principles with respect to all new information and communication technology developments;

x. to implement Resolution ResAP(2001)3 “Towards full citizenship of persons with disabilities through inclusive new technologies”.

3.4. Action line No. 4: Education

3.4.1. Introduction

Education is a basic factor in ensuring social inclusion and independence for all people, including those with disabilities. Social influences, for example from families and friends, also contribute, but for the purposes of this action line education shall cover all stages of life, including pre-school, primary, secondary, high school education and professional training, as well as life-long learning. The creation of opportunities for disabled people to participate in mainstream education is not only important for disabled people but will also benefit non-disabled people's understanding of human diversity. Most education systems provide access to mainstream education and specialised educational structures for disabled people, as appropriate. Mainstream and specialised structures should be encouraged to work together to support disabled people in their local communities, but this should be consistent with the goal of full inclusion.

3.4.2. Objectives

i. To ensure that all persons, irrespective of the nature and degree of their impairment, have equal access to education, and develop

their personality, talents, creativity and their intellectual and physical abilities to their full potential;

ii. to ensure that disabled people have the opportunity to seek a place in mainstream education by encouraging relevant authorities to develop educational provision to meet the needs of their disabled population;

iii. to support and promote lifelong learning for disabled people of all ages and facilitate efficient and effective transitions between each phase of their education and between education and employment;

iv. to foster at all levels of the educational system, including in all children from an early age, an attitude of respect for the rights of people with disabilities.

3.4.3. Specific actions by member states

i. To promote legislation, policies and planning to prevent discrimination against children, young people and adults with disabilities in the access to all phases of their education from early years through to adult provision. In doing so, consult with disabled users, parents, and carers, voluntary organisations, and other relevant professional bodies, if appropriate;

ii. to encourage and support the development of a unified education system, including mainstream and specialised educational provision, which promotes the sharing of expertise and greater inclusion of disabled children, young people and adults in the community;

iii. to enable the early appropriate assessment of the special educational needs of disabled children, young people and adults to inform their educational provision and planning;

iv. to monitor the implementation of individual education plans and facilitate a co-ordinated approach to education provision throughout and towards employment;

v. to ensure that people with disabilities, including children, receive the support required, within the mainstream education system, to facilitate their effective education. In exceptional circumstances, where their professionally-assessed special education needs are not met within the mainstream education system, member states will ensure that effective alternative support measures are provided consistent with the goal of full inclusion. All special and mainstream

provisions should encourage the transition to mainstream education and reflect the same goals and standards;

vi. to encourage the development of initial and ongoing training for all professionals and staff working across all phases of education to incorporate disability awareness and the use of appropriate educational techniques and materials to support disabled pupils and students where appropriate;

vii. to ensure that all educational material and schemes provided through the general educational system are accessible to persons with disabilities;

viii. to include, in school civic education syllabuses, subjects relating to people with disabilities as people who have the same rights as all other citizens;

ix. to ensure that disability awareness is a key part of education programmes in mainstream schools and institutions;

x. to take steps to make places of education and training accessible for persons with disabilities, including by the provision of personal support and of reasonable adjustments (including equipment) to meet their needs;

xi. to ensure that parents of disabled children are active partners in the process of the development of the individualised education plans of their children;

xii. to ensure access to non-formal education allowing disabled youth to develop needed skills otherwise unattainable through formal education;

xiii. to consider, where appropriate, signing and ratifying the European Social Charter (revised) (ETS No. 163), in particular Article 15.

3.5. Action line No. 5: Employment, vocational guidance and training

3.5.1. Introduction

Employment is a key element for the social inclusion and economic independence of all citizens of working age. Compared to non-disabled persons, the employment and activity rates of disabled people are very low. Policies to increase the activity rate need to be diversified – according to the employment potential of disabled people – and comprehensive, in order to address all the barriers to participation in the workforce. Improving the employment situation of disabled people would not only benefit the disabled persons but also employers and society as a whole.

Vocational guidance and assistance play an important role in helping people to

identify activities for which they are best suited and to guide training needs or future occupation. It is vital that people with disabilities have access to assessments, vocational guidance and training to ensure they can attain their potential.

This action line seeks to form the basis for greater participation of persons with disabilities in employment, to ensure career choices and to lay the foundations through structures and support in order to ensure real choices. All measures apply to public as well as private employers.

Social enterprises (for example social firms, social co-operatives) as part of the open employment, or sheltered workshops may contribute to the employment of disabled persons.

3.5.2. Objectives

- i. To promote the employment of people with disabilities within the open labour market by combining anti-discrimination and positive action measures in order to ensure that people with disabilities have equality of opportunity;
- ii. to tackle discrimination and promote participation of people with disabilities in vocational assessment, guidance, training, and employment-related services.

3.5.3. Specific actions by member states

- i. To mainstream issues relating to the employment of people with disabilities in general employment policies;
- ii. to ensure that persons with disabilities have access to an objective and individual assessment which:
 - identifies their options regarding potential occupations;
 - shifts the focus from assessing disabilities to assessing abilities and relating them to specific job requirements;
 - provides the basis for their programme of vocational training;
 - helps them find appropriate employment or re-employment;
- iii. to ensure that people with disabilities have access to vocational guidance, training and employment-related services at the highest possible qualification level, and making reasonable adjustments where necessary;
- iv. to ensure protection against discrimination in all stages of employment, including selection and recruitment, as well as in all measures related to career progression;
- v. to encourage employers to employ people with disabilities by:

- applying recruitment procedures (for example advertising, interview, assessment, selection) which ensure that job opportunities are positively made available to people with disabilities;
- making reasonable adjustments to the workplace or working conditions, including telecommuting, part-time work and work from home, in order to accommodate the special requirements of employees with disabilities;
- increasing the disability awareness of management and staff through relevant training;

vi. to ensure that general self-employment schemes are accessible and supportive to people with disabilities;

vii. to ensure that support measures, such as sheltered or supported employment, are in place for those people whose needs cannot be met without personal support in the open labour market;

viii. to support people with disabilities to progress from sheltered and supported employment to open employment;

ix. to remove disincentives to work in disability benefit systems and encourage beneficiaries to work when they can;

x. to consider the needs of women with disabilities when devising programmes and policies related to equal opportunities for women in employment, including childcare;

xi. to ensure that employees with disabilities enjoy the same rights as other employees in relation to consultation on employment conditions and membership and active participation in trade unions;

xii. to provide effective measures to encourage the employment of people with disabilities;

xiii. to ensure that health and safety legislation and regulations include the needs of persons with disabilities and do not discriminate against them;

xiv. to promote measures, including legislative and integration management, that enable persons who become disabled while employed to stay within the labour market;

xv. to ensure that especially young disabled people can benefit from employment internships and traineeships in order to build skills and from information on employment practices;

xvi. to consider, where appropriate, signing and ratifying the European Social Charter (revised) (ETS No. 163), in particular Article 15;

- xvii. to implement Resolution ResAP(95)3 on a charter on the vocational assessment of people with disabilities.

3.6. Action line No. 6: The built environment

3.6.1. Introduction

The overarching aim is to create a society for all. An accessible environment has a key role to play in creating a more inclusive society where people with disabilities can participate in daily life. Existing barriers in the built environment hinder or prevent disabled persons from such participation and enjoyment of fundamental rights. Making the environment accessible to persons with disabilities, irrespective of type of disability, would additionally benefit all members of society. This requires an understanding of existing barriers, including attitudes and physical barriers, and a commitment to removing these through positive actions and other measures. The Resolution ResAP(2001)1 on Universal Design promotes the introduction of the principles of universal design into the curricula of all occupations working on the built environment, including architects, engineers, town planners and all other relevant professions and occupations working on or with the built environment. It also aims to simplify life for everyone by making the built environment more accessible, usable and understandable.

3.6.2. Objective

To progressively establish an environment accessible to people with disabilities by applying the principles of Universal Design, thus avoiding the creation of new barriers.

3.6.3. Specific actions by member states

- i. To ensure that all relevant policy areas include the overarching aim of creating a barrier-free built environment;
- ii. to develop guidelines and standards, and if necessary legislation, to promote public buildings, and public indoor as well as outdoor environments to be accessible to and usable by people with disabilities, taking into account the specific nature of historic buildings;
- iii. to ensure that universities and institutions responsible for the training of all occupations working on the built environment (such as architects and town planners, professionals in the construction sector, cultural heritage conservators and cultural tourism specialists) promote the principle of universal design through curricula for initial and further training and other appropriate means;

- iv. to promote the use of assistive devices and technological innovations in order to improve the accessibility of the built environment and give persons with disabilities equal opportunities to participate in community life. Such practices should be applied to new constructions and progressively extended to existing buildings;
- v. to support the creation, nomination, and maintenance of centres that promote the concept of Universal Design;
- vi. to ensure that due attention is paid to the safety of people with disabilities when designing emergency and evacuation procedures;
- vii. to ensure that access to buildings and public areas is not barred to assistive animals accompanying persons with disabilities;
- viii. to implement Resolution ResAP(2001)1 on the introduction of the principles of Universal Design into the curricula of all occupations working on the built environment.

3.7. Action line No. 7: Transport

3.7.1. Introduction

The development and implementation of accessible transport policies at all levels can result in a substantial improvement in the quality of life of many people with disabilities and can be a prerequisite to achieving equality of opportunity, independent living and active participation in the community social and cultural life as well as employment.

Many member states will already be aware of or party to developments through the European Conference of Ministers of Transport (ECMT) and the principles and actions promoted through that forum can guide progress by member states in implementing this Disability Action Plan. The resulting accessible transport services will benefit other transport users including the elderly and parents with young children.

In order to ensure that disabled people can benefit from public transport, it is vital that the whole transport chain be accessible.

3.7.2. Objectives

- i. To enhance the participation of persons with disabilities in society through the implementation of accessible transport policies;
- ii. to ensure that accessible transport policies are implemented taking account of the needs of all persons with different kinds of impairments and disabilities;

iii. to promote the accessibility of existing passenger transport services for all persons with disabilities, and ensure that all new transport services and related infrastructure be accessible;

iv. to promote the implementation of the principle of universal design in the transport sector.

3.7.3. Specific actions by member states

i. To take account of the recommendations, reports and guidelines developed and agreed by international bodies, particularly in relation to the development of standards, guidelines, strategies and, if appropriate, legislation, to ensure the accessibility of transport services and infrastructure including the built environment;

ii. to monitor and review the implementation of accessible transport policies;

iii. to ensure that public transport operators include mandatory disability awareness training as part of the standard training courses for persons engaged in transport service provision;

iv. to promote the introduction and adoption of national guidelines for accessible transport service provision for use by both public and private transport operators;

v. to establish procedures for co-operation and consultation with the relevant stakeholders including in particular relevant government agencies, service providers and disability interest groups to inform policy development and planning in relation to accessible transport provision;

vi. to promote and encourage private transport service operators to provide accessible services;

vii. to ensure that information on public transport services be made accessible as far as possible in diverse formats and through diverse communication systems to cater for people with disabilities;

viii. to encourage the design of innovative programmes which support disabled people who experience difficulties in using public transport to utilise their own private transport;

ix. to ensure that assistive animals (for example guide dogs) accompanying people with disabilities are accommodated in public transport;

x. to ensure the provision and protection of parking facilities for disabled people with reduced mobility;

- xi. to recognise the specific requirements of people with disabilities when devising general fundamental texts on passenger rights;
- xii. to protect through legislation disabled people from discrimination in accessing transport;
- xiii. to ensure that transport safety and emergency procedures do not create additional inequalities for people with disabilities.

3.8. Action line No. 8: Community living

3.8.1. Introduction

This action line focuses on enabling people with disabilities to live as independently as possible, empowering them to make choices on how and where they live. This requires strategic policies which support the move from institutional care to community-based settings ranging from independent living arrangements to small group homes. Such policies should be flexible, covering programmes which enable persons with disabilities to live with their families and recognising the specific needs of individuals with disabilities requiring a high level of support.

In general, a family's day-to-day life differs considerably depending whether or not it has a child with a disability: guidance and care, for instance, take up a great deal of time, visits to therapists, doctors, etc., are necessary, the child needs supervision in recreational activities and assistance with the practical aspects of daily living, etc. It is important that parents of children with disabilities can have access to suitable training enabling them to acquire the requisite proficiencies to lead a life as close as possible to normal with their disabled child.

Full independent living may not be a possibility or a choice for all individuals. In exceptional cases, care in small, quality structures should be encouraged as an alternative to living in an institution. The design of independent living arrangements should involve people with disabilities and their representative organisations.

Disabled people living in the community have different needs that require different levels of care, assistance and support. Transparent eligibility criteria and independent individual assessment procedures, which take into account disabled persons' own choice, autonomy and welfare, will promote equitable access to services.

Independent living policies are not just confined to living arrangements, but are also dependent on the accessibility of a broad range of services, including transport. The success of such policies requires a mainstream approach to the planning, development and delivery of mainstream services to ensure they also respond to the needs of individuals with disabilities with cross-agency support to ensure a co-ordinated approach.

3.8.2. Objectives

- i. To enable people with disabilities to plan their life and live as independently as possible in their community;
- ii. to provide a broad range of quality support services at community level in order to allow for freedom of choice;
- iii. to pay special attention to the situation of families that have a child/children with disabilities and advocate an approach that accommodates training for parents concerned, as well as to disabled parents and their participation in child-care and education tasks.

3.8.3. Specific actions by member states

- i. To ensure a co-ordinated approach in the provision of community-based quality support services to enable people with disabilities to live in their communities and enhance their quality of life;
- ii. to develop and promote housing policies which enable people with disabilities to live in suitable housing in their local community;
- iii. to support formal and informal help, making it possible for people with disabilities to live at home;
- iv. to recognise the status of carers, by providing them with support and relevant training;
- v. to have the needs of families as providers of informal care thoroughly assessed, especially those with children with disabilities or caring for persons in need of a high level of support, with a view to providing information, training and assistance, including psychological support, to enable life within the family, paying particular attention to the reconciliation of private and professional life and to gender equality;
- vi. to ensure community-based quality service provision and alternative housing models, which enable a move from institution-based care to community living;
- vii. to ensure that individuals can make informed choices with the assistance, when appropriate, of a skilled advocacy service;
- viii. to promote schemes which will allow disabled people to employ personal assistants of their choice;
- ix. to provide complementary services and other facilities, for example day centres, short-stay centres or self-expression groups,

offering suitable forms of therapy, to give people with disabilities and their families periods of support and respite;

x. to provide people with disabilities, in particular those in need of a high level of support, with tailored support provision, including advocacy, in order to reduce any risk of social exclusion;

xi. to implement the relevant provisions included in Recommendation No. R (96) 5 of the Committee of Ministers to member states on reconciling work and family life.

3.9. Action line No. 9: Health care

3.9.1. Introduction

People with disabilities have the same right as other members of society to good quality health services and relevant treatment and technology to ensure the best possible health. In some cases, disabled people will require special and innovative health care services to improve the quality of their life. Disabled people and their representatives (where necessary) should be consulted and fully involved in the decision-making process regarding their personal care plan. This approach places disabled people at the centre of the planning process and service provision design and empowers the individuals to make informed decisions about their health.

When planning and delivering health care services, account should be taken of developments regarding the ageing population and the related health consequences, particularly for persons with disabilities. It is therefore necessary to give priority to the development of new policies and strategies in the area of health.

Health care professionals in all member states need to acknowledge the social and human rights model of disability and not focus solely on the medical aspect of disability.

3.9.2. Objectives

i. To ensure that all disabled people, regardless of gender, age and origin, nature or degree of impairment:

- have equal access to all health care services;
- benefit from access to available specialised services, as appropriate;
- are as fully involved as possible in the decision-making process of their personal care plan;

ii. to ensure that the needs of people with disabilities are included in health education information and public health campaigns.

3.9.3. Specific actions by member states

- i. To ensure that no disabled people are discriminated against in access to health care services and medical records;
- ii. to ensure that each disabled person, or, where not possible due to the origin, nature or degree of their impairment, their representative, carer or advocate is fully consulted to the maximum possible extent, in the assessment, design and delivery of their health care plan, medical intervention and treatment;
- iii. to work towards accessible public and private health service facilities and equipment and ensure that health care services, including mental health, psychological support services and in- and out-patient services are equipped and competent to meet the needs of disabled people;
- iv. to ensure that women with disabilities have equal access to health care services, including in particular, ante-natal, gynaecological and family planning advice and treatment;
- v. to ensure that gender specific aspects are respected in health care for disabled people;
- vi. to ensure that reasonable steps are taken to provide all relevant information regarding an individual's health care needs or services in a format understandable to the disabled person;
- vii. to ensure that notification of the disability, whether it occurs before or after birth or after an illness or accident, is made under conditions guaranteeing respect for the person concerned and the family and ensuring clear, comprehensible information and support for the individual and his or her family;
- viii. to provide access to health education and public health campaigns through, amongst others, information and advice for people with disabilities;
- ix. to train health care professionals in such a way as to instill disability awareness together with the proficiency and methods for meeting the specific needs of persons with disabilities;
- x. to recognise the need for early intervention and thus establish effective measures to detect, diagnose, and treat impairments at an early stage, and also to develop effective guidelines for early detection and intervention measures;
- xi. to consider, where appropriate, signing and ratifying the European Social Charter (revised), in particular Article 11.

3.10. Action line No. 10: Rehabilitation

3.10.1. Introduction

The Committee of Ministers' Recommendation No. R (92) 6 on a coherent policy for people with disabilities recognises that rehabilitation of people with disabilities, by virtue of the economic and social integration it achieves, is a duty of the community, that it guarantees human dignity and alleviates the difficulties stemming from society with which people with disabilities are confronted, and that it should be included among the priority objectives of any society. With respect to this recommendation, a coherent policy for the rehabilitation of people with disabilities should aim at preventing the deterioration of disability, alleviating its consequences, furthering the autonomy of people with disabilities as individuals and ensuring their economic independence and full integration into society. Comprehensive rehabilitation programmes should include a variety of complementary measures, provisions, services and facilities that can considerably contribute to the physical and psychological independence of disabled people.

3.10.2. Objectives

- i. To enable people with disabilities to attain their maximum independence and achieve their fullest physical, mental, social, and vocational ability;
- ii. to organise, strengthen and extend comprehensive rehabilitation services;
- iii. to enable access to mainstream services and specialist provision to enable people with disabilities to achieve full social integration within their communities and societies;
- iv. to ensure, in particular, high-quality early intervention, a multi-disciplinary approach, from birth, including support and guidance for parents.

3.10.3. Specific actions by member states

- i. To formulate, implement and regularly review national rehabilitation policies and ensure continuous improvement;
- ii. to ensure that people with disabilities, their families and representative organisations contribute to the design of holistic rehabilitation programmes, their delivery and their evaluation;
- iii. to ensure that rehabilitation programmes are accessible and tailored to the individual needs of the disabled person; they need the consent of the disabled person or his/her representative;

iv. where possible, to utilise mainstream provision and facilities but also ensure that specialist rehabilitation centres are as fully equipped as possible for the service they provide and have a multidisciplinary team of staff specialising in rehabilitation;

v. to enhance rehabilitation services and support by means of individual multidisciplinary assessment using a holistic approach;

vi. to promote multi-sector collaboration with the involvement of all relevant sectors, especially health, education, social and employment and to provide an integrated rehabilitation management, where necessary to ensure that persons with disabilities have equality of opportunity;

vii. to ensure, during education, that children with disabilities have access to programmes of pedagogical rehabilitation and other resources enabling them to achieve their full potential;

viii. to involve both employers and employees and their organisations in vocational rehabilitation in order to support people who become disabled to return to work at the earliest opportunity;

ix. to work towards the availability of individualised, community-based programmes of rehabilitation for individuals with a disability who so require;

x. to promote the availability and affordability of assistive devices as part of rehabilitative measures/programmes for people with disabilities who so require.

3.11. Action line No. 11: Social protection

3.11.1 Introduction

Social protection includes social security, social assistance or support, and social services, which are vital supports for those dependent on them, as they contribute to the quality of life of their recipients. However, there are many situations in which people with disabilities do not adequately benefit from social protection systems, be it due to the lack of such provisions or due to access difficulties. The social rights enshrined in the revised European Social Charter (ETS No. 163), include in particular the right to social security (Article 12), the right to social and medical assistance (Article 13), and the right to benefit from social welfare services (Article 14). The implementation of these rights helps to reduce the risk of social exclusion and marginalisation and hence contributes to opening access to another right enshrined in the Charter, namely the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15).

3.11.2 Objectives

- i. To provide equal access to social protection for people with disabilities;
- ii. to promote policies which progress the shift from financial benefit dependency towards, where possible, employment and independence.

3.11.3. Specific actions by member states

- i. To ensure a coherent balance between social protection measures and active employment oriented policies in order to discourage inactive benefit dependency;
- ii. to ensure that the allocation of social services and related support is based on a sound, multidisciplinary assessment of the person's needs, and subject to periodic review;
- iii. to ensure that all benefit assessment systems and procedures are accessible to people with disabilities or their representatives;
- iv. to ensure that general social services take account of the specific needs of people with disabilities and their families;
- v. to ensure that co-ordination between and across administrative departments and public and private providers of social services is continuously improved, so that the provision of quality services meets the needs of people with disabilities;
- vi. to consult with social partners and other key actors, including organisations of people with disabilities, in relation to the planning and implementation of social protection policies;
- vii. to ensure effective dissemination of information on all the social protection benefits to which people with disabilities could be entitled, with special focus on people with disabilities at risk of social exclusion;
- viii. to ensure that social inclusion and anti-poverty strategies recognise the specific needs of people with disabilities;
- ix. to consider, where appropriate, signing and ratifying the European Social Charter (revised), the European Code of Social Security (ETS No. 48), the revised European Code of Social Security (ETS No. 139), and the European Convention of Social Security (ETS No. 78);

- x. to implement the relevant provisions included in Recommendation Rec(2003)19 of the Committee of Ministers to member states on access to social rights.

3.12. Action line No. 12: Legal protection

3.12.1. Introduction

People with disabilities have the right to recognition everywhere as persons before the law. When assistance is needed to exercise that legal capacity, member states must ensure that this is appropriately safeguarded by law.

Persons with disabilities constitute a varied population group, but all have in common, to a greater or lesser extent, the need for additional safeguards in order to enjoy their rights to the full and to participate in society on an equal basis with other members.

The need to focus particular attention on the situation of persons with disabilities, in terms of the exercise of their rights on an equal basis with others, is confirmed by the initiatives taken in this area at national and international level.

The principle of non-discrimination should be the basis of government policies designed to deliver equality of opportunity for people with disabilities.

Access to the legal system is a fundamental right in a democratic society but people with disabilities can often face a number of barriers, including physical access difficulties. This requires a range of measures and positive actions, including general awareness raising among the legal professions about disability issues.

3.12.2. Objectives

- i. To ensure effective access to justice for persons with disabilities on an equal basis with others;
- ii. to protect and promote the enjoyment of all human rights and fundamental freedoms by persons with disabilities on an equal basis with others.

3.12.3. Specific actions by member states

- i. To provide protection against discrimination through the setting up of specific legislative measures, bodies, reporting procedures and redress mechanisms;
- ii. to ensure that provisions which discriminate against disabled people are eradicated from mainstream legislation;

- iii. to promote training on human rights and disability (both national and international) for law enforcement personnel, public officials, judiciary and medical staff;
- iv. to encourage non-governmental advocacy networks working in defence of people with disabilities' human rights;
- v. to ensure people with disabilities have equal access to the judicial system by securing their right to information and communication that are accessible to them;
- vi. to provide appropriate assistance to those people who experience difficulty in exercising their legal capacity and ensure that it is commensurate with the required level of support;
- vii. to take appropriate measures to ensure that people with disabilities are not deprived of their liberty, except in accordance with the law;
- viii. to take effective measures to ensure the equal right of persons with disabilities to own and inherit property, providing legal protection to manage their assets on an equal basis to others;
- ix. to ensure that no person with a disability is subjected to medical experimentation against their will;
- x. to implement the relevant provisions included in the Recommendation No. R (99) 4 of the Committee of Ministers to member states on principles concerning the legal protection of incapable adults.

3.13. Action line No. 13: Protection against violence and abuse

3.13.1. Introduction

Acts of abuse or violence against any person are unacceptable and society has a duty to ensure that individuals, particularly the most vulnerable, are protected against such abuse.

There are indications that the rate of abuse and violence committed against persons with disabilities is considerably higher than the rate for the general population, and higher in women with disabilities, particularly women with severe disabilities, where the percentages of abuse far exceed those of non-disabled women. Such abuse can occur in institutions or other types of care and situations, including the family environment. It can be inflicted by strangers or persons known to the individual and can take many forms, for instance verbal abuse, violent actions, or the refusal to meet basic needs.

While governments cannot guarantee that abuse will not happen they must do their utmost to establish protection and the strongest possible safeguards. Prevention

can be assisted in many ways, particularly through education to appreciate the rights of individuals to protection and to recognise and reduce the risk of abuse. Persons with disabilities who experience abuse or violence should have access to appropriate supports. They must have a system in which they can have sufficient confidence to report abuse and expect follow-up action, including individual support. Such systems require personnel who are skilled and qualified to detect and respond to situations of abuse.

While there has been some research undertaken in recent years, it is clear that further knowledge is required to inform future strategies and best practice.

3.13.2. Objectives

- i. To work within anti-discriminatory and human rights frameworks towards safeguarding people with disabilities against all forms of violence and abuse;
- ii. to ensure access for people with disabilities to services and support systems for victims of violence and abuse.

3.13.3. Specific actions by member states

- i. To establish safeguards to protect people with disabilities from violence and abuse through the effective implementation of policies and legislation, where necessary;
- ii. to promote the availability of and access to training courses for people with disabilities to reduce the risk of violence and abuse, for example courses in self-confidence and empowerment;
- iii. to develop processes, measures and protocols adapted to people with disabilities, to improve detection of violence and abuse, and to ensure that the necessary action is taken against perpetrators, including redress and adequate professional counselling in case of emotional problems;
- iv. to ensure that disabled victims of violence and abuse, including domestic, have access to the relevant support services, including redress;
- v. to prevent and combat violence, ill-treatment and abuse in all situations by supporting families, raising public awareness and education, promoting discussion and co-operation among relevant parties;
- vi. to support people with disabilities, in particular women, and their families, in situations of abuse through the provision of information and access to services;

- vii. to ensure that systems are in place for the protection against abuse of persons with disabilities in psychiatric facilities, social care homes and institutions, orphanages, and other institutional settings;
- viii. to ensure that relevant training is provided to all staff working in disability-specific institutional settings and mainstream support services;
- ix. to train police and judicial authorities so that they can receive testimony from disabled people and treat instances of abuse seriously;
- x. to provide people with disabilities with information on how to avoid the occurrence of violence and abuse, how to recognise it, and how to report it;
- xi. to take effective legislative, administrative, judicial or other measures with strong sanctions in a transparent manner and to allow for independent review by civil society in order to prevent all forms of physical or mental violence, injury or abuse, neglect and negligent treatment, maltreatment, exploitation or abduction of people with disabilities;
- xii. to implement the relevant provisions included in Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence;
- xiii. to implement the relevant provisions included in Recommendation No. R (99) 4 of the Committee of Ministers to member states on principles concerning the legal protection of incapable adults;
- xiv. to implement Resolution ResAP(2005)1 on safeguarding adults and children with disabilities against abuse, and to take account of the relevant complementary report.²

3.14. Action line No. 14: Research and development

3.14.1. Introduction

² Safeguarding adults and children with disabilities against abuse, Council of Europe Publishing, Strasbourg, 2003, ISBN 92-871-4919-4.

Comprehensive research, statistical data collection and analysis inform evidence-based policy design. Reliable information identifies emerging issues, helps to design solutions and deliver effective results. It also identifies best practice and monitors change in society.

The lack of data in relation to people with disabilities is recognised as a barrier to policy development at both national and international levels. We need to encourage and advance comprehensive, diversified and specialised research on all disability issues and co-ordinate it at all levels in order to promote the effective implementation of the objectives set out in this Action Plan.

3.14.2. Objectives

- i. To promote more evidence-based policy and standard development by improving the translation of future-oriented research findings into policy;
- ii. to harmonise statistical data collection methodology, nationally and internationally, in order to achieve valid and comparable research information;
- iii. to use and support all available research and development potential, in a multidisciplinary way, in order to promote the participation of people with disabilities and improve their quality of life.

3.14.3. Specific actions by member states

- i. To develop statistical and information strategies for disability policy and standard development based on a social and human rights-based model of disability, and to review the effectiveness of existing national strategies and databases;
- ii. to ensure information gained through needs assessments, whilst being treated as confidential on an individual basis, is used to the greatest effect to inform overall service planning and provision at national, regional and local levels;
- iii. to ensure that mainstream research, where appropriate, provides data about the participation of people with disabilities, covering all relevant areas of this Action Plan;
- iv. to ensure that research, where possible, incorporates a gender dimension facilitating analysis of the situation regarding women with disabilities;
- v. to work towards a co-ordinated approach to research by agreeing common classifications leading to evaluation and analysis across national and international databases;

- vi. to promote research studies on successful rehabilitation measures aimed at recovery and reintegration in the community;
- vii. to promote studies on the effects of demographic changes and the ageing process on the quality of life of people with disabilities;
- viii. to involve representatives of persons with disabilities and other relevant stakeholders in the development of research strategy and data gathering;
- ix. to support applied scientific research into the design of new information and communication technologies, technical aids, products and devices which can contribute to the independent living and participation of disabled people in society;
- x. to encourage all product research to take account of universal design principles;
- xi. to promote the exchange of good practice, sharing of information and close co-operation between relevant bodies to ensure availability of comprehensive data to inform policies;
- xii. to commission relevant research and innovative pilot projects to support policy development which covers all the relevant areas of this Action Plan.

3.15. Action line No. 15: Awareness raising

3.15.1. Introduction

People with disabilities face many barriers to their participation and recognition as full and equal members of society. Most disabled people consider society's attitude to be the biggest barrier to their full integration.

Persons with disabilities are still confronted with unacceptable attitudes based on existing prejudices, fear, low expectations and distrust in their abilities. These attitudes could be changed through effective awareness raising strategies involving a range of stakeholders.

In recent years, many member states have progressed anti-discrimination legislation and have encouraged social policy initiatives. These initiatives are contributing to the integration of disabled people into their local communities but this alone is not enough.

In order to promote their activities, member states should ensure co-operation both in the field of media, and in other fields of activity that could help in bringing about a change in attitudes.

Disabled people need to be present in advertisements, on screen, on radio, and in print to bring about a paradigm shift in the perception of disability and disabled people; a real change in attitudes by all members of society can then become a reality.

Society needs to be made aware of the fact that persons with disabilities have the same human rights as all other people and that there are many barriers in society which hinder or prevent people with disabilities in the enjoyment of these rights. The elimination of these barriers will not only benefit persons with disabilities but

society in general. Moreover, it is important to show the positive contribution that all persons with disabilities, regardless of the degree of their disability, make as active and full members of society.

3.15.2. Objectives

- i. To improve attitudes towards people with disabilities as active and full members of society through a wide range of actions;
- ii. to raise awareness about disability and the rights of people with disabilities to equality of opportunity and protection against discrimination;
- iii. to combat any negative attitude against disabled persons that could harm the image and interests of people with disabilities.

3.15.3. Specific actions by member states

- i. To mainstream images of disability in all government advertising and publicity to bring about a change of attitudes in society;
- ii. to encourage all media and media organisations to increase and improve the portrayal of people with disabilities as full citizens in their media broadcasting and written communications, for example by introducing ethical guidelines related to the dignity of people with disabilities;
- iii. to encourage television channels and radio stations to discuss issues relating to persons with disabilities in general programmes and, where appropriate, in specialised programmes;
- iv. to undertake, where possible, regular national awareness raising campaigns on the rights, potential and contributions of people with disabilities;
- v. to use innovative and other practical means to highlight to children, young people and adults the issues faced by disabled people;
- vi. to encourage people with disabilities and their organisations

to publicise themselves locally and nationally by making available guidance on dealing with the media;

vii. to support and promote the distribution of examples of good practice in all areas of life to raise awareness in education, working environment and the community.

4. Cross-cutting aspects

4.1 Introduction

Within the European disabled population there are people with disabilities who face specific barriers or experience two-fold discrimination.

These people have a higher risk of exclusion and generally experience lower levels of participation in society. As such, policy makers need to ensure that their inclusion policies and strategies take into account the needs of specific groups of people with disabilities to ensure their participation in society.

The Malaga Declaration highlights two such groups to be considered throughout this Action Plan – women with disabilities and persons in need of a high level of support. The reports of the Working Group on Discrimination against Women with Disabilities and Persons in Need of a High Level of Support analysed the particular factors unique to these groups and proposed specific actions which cut across many action lines, including independent living, education, employment, etc.³

Other groups which require a cross-cutting response include children with disabilities and ageing persons with disabilities, people with disabilities from minorities (for example Roma, migrants, refugees, displaced persons, or other ethnic, cultural or linguistic minorities). Policy makers need to acknowledge the barriers and challenges faced by each of these groups and ensure that their policies are equipped to remove those barriers and ensure that individuals can reach their full potential alongside other citizens.

4.2 Women and girls with disabilities

Women and girls with disabilities⁴ can and often do face multiple obstacles to

³ Discrimination against women with disabilities, Council of Europe Publishing, Strasbourg, 2003, ISBN 92-871-5316-7, Community living for people with disabilities in need of a high level of support, Council of Europe, Strasbourg, 2004.

⁴ Any reference in this Action Plan to women with disabilities is understood to include girls

participation in society due to two-fold discrimination, namely on grounds of both gender and disability. Although the general situation of people with disabilities has significantly improved, the benefits of such changes in society are not always equally distributed between women with disabilities and men with disabilities.

The development and implementation of relevant policies and implementation measures should be designed so as to ensure a balance of opportunities between disabled men and women. The specific situation of women and girls with disabilities needs to be taken into account in the development of both disability and gender mainstream policies and programmes at all levels, namely international, national, regional and local.

Action is required to remove obstacles which prevent women with disabilities from enjoying their rights on the same basis as men and other women. This action extends across a broad range of areas including relationships, parenthood, family life, sexuality and protection from violence and abuse. It also includes measures to ensure equal opportunities to participate in political and public life, education, training, employment and social and cultural life. Many of these policy areas are covered by action lines in this Action Plan but must be considered in terms of how factors affecting the participation of women and girls with disabilities can be addressed by member states.

4.3. People with disabilities in need of high level of support⁵

One of the more vulnerable groups of people with disabilities is the group of individuals with disabilities who, due to the severity and complex nature of their impairment, require a high level of support. Their quality of life is very much dependent on the availability of appropriate and quality services that respond to their and their families' needs to facilitate their participation in society to the greatest extent possible, rather than a replica of services provided to persons with disabilities generally.

This group tends to be the most likely group to be living in institutional settings or in some cases living with their family but may experience isolation due to little or no contact with service provision and other members of society. For these reasons people of this group require intensive and permanent quality services geared to their specific needs.

Delivery provision needs to be strengthened in order to respond without departing from a model of community based services and equitable access to mainstream provision. Member states need to recognise that this requires intensive planning

and co-ordination across relevant authorities, government agencies and service providers both at national and local levels.

4.4. Children and young people with disabilities

with disabilities.

5 Community living for people with disabilities in need of a high level of support, op. cit.

The Convention on the Rights of the Child is based on four fundamental principles – the child's right not be discriminated against; the best interests of the child to be considered in all decisions; the child's right to life and development; and the right to express its opinion. Boys and girls with disabilities also have the right to access these same rights, member states need to build knowledge about their needs to inform planning, decisions and practices across a wide spectrum of policy areas.

The needs of children with disabilities and their families must be carefully assessed by responsible authorities with a view to providing measures of support which enable children to grow up with their families, to be included in the community and local children's life and activities. Children with disabilities need to receive education to enrich their lives and enable them to reach their maximum potential.

Quality service provision and family support structures can ensure a rich and developing childhood and lay the foundation for a participative and independent adult life. It is important therefore that policy makers take into account the needs of children with disabilities and their families when designing disability policies and mainstream policies for children and families.

Participation and active citizenship is about having the right, the means, the space and the opportunity and where necessary the support to participate in and influence decisions and engage in actions and activities so as to contribute to building a better society. Youth disability organisations should be consulted in the preparation of youth policy and programmes. The voices of young people with disabilities should be heard in all matters which concern them.

Young people with disabilities still face considerable barriers in accessing all aspects of their life: education, work, sports, culture, entertainment, and community life. These issues can only be addressed on the basis of a comprehensive strategy. Ways to ensuring their full participation in society, taking into account their specific needs, must be addressed in the preparation of any youth policy. In accordance with the European Charter on the participation of young people in local and regional life, the active participation of young people in decisions and actions at local and regional level is essential for building more democratic, inclusive and prosperous societies.

4.5. Ageing of people with disabilities

The ageing of people with disabilities, particularly those requiring more intensive support due to the nature of their impairment, presents new challenges for societies across Europe. This includes support for individuals and for their families especially where elderly parents are the main carers. Innovative approaches are required to meet these challenges across a wide range of policy and service areas. Council of Europe reports identify key issues for this group and proposals for the way forward. Co-ordinated action which can respond to specific needs with the aim of enabling ageing people with disabilities to remain in their community to the greatest extent possible. This requires an assessment of individual needs and forward planning as well as the availability of required services. Disability issues should also be taken into account when designing policies for older people.

It is considered that these issues and factors affecting the participation of ageing people with disabilities in daily life and activities should be taken into account when devising actions across the action lines set out in this Action Plan.⁶

4.6. People with disabilities from minorities and migrants

People with disabilities from minority groups, disabled migrants and refugees may experience multiple disadvantages because of discrimination or lack of familiarity with public services.

As an example, despite increased attention paid to Roma in Europe, further action is needed to recognise their status as full and equal members of society. Inside their own community, disabled people are considered as invisible and are therefore a specifically vulnerable group.

Education, employment, social health services and cultural life are particularly important areas to address for all groups.

Member states should ensure that support for people with disabilities takes account of their language or cultural background and the particular needs of such minority groups.

5. Implementation and follow-up

5.1. Introduction

The governments of member states have the primary responsibility for implementing disability policies at national level, and in particular for implementing the specific actions referring to them under each action line.

This Action Plan acknowledges that anti-discrimination policy, administrative machinery, resources, demography, etc., differ from country to country. It therefore allows member states to decide national priorities and to take a progressive approach to implementation by whatever means are appropriate to them.

It is intended that when implementing the specific actions contained within this Action Plan, that member states will take full account of:

- the principles underpinning the Action Plan, including in particular the rights of individuals to protection against discrimination, to equal opportunities and to the respect of their rights as citizens;

- cross-cutting aspects including the specific needs of women and

⁶ Framework for the qualitative and quantitative analysis of data on the ageing of people with disabilities, Council of Europe Publishing, Strasbourg, 1998, ISBN 92-871-3327-1.

girls with disabilities, children and young people with disabilities, people with disabilities in need of a high level of support, ageing people with disabilities, migrants with disabilities and people with disabilities from minorities, in addition to the crucial role that quality services and training play in relation to the provision of services to people with disabilities;

– the involvement of representative disability organisations in all stages of implementation, monitoring and evaluation at European, national, regional and local levels which is considered a key element.

5.1.1 Universal Design

Equality of access is essential for the development of a fully inclusive society. The design of buildings, the environment, products, communication and electronic systems is particularly important to facilitate the participation and independence of people with disabilities in all aspects of life.

Universal Design is an effective way to improve the accessibility and the quality of the built environment, services and products. It focuses on the importance of ensuring that design of the environment, buildings and everyday products is right from the start rather than adapting them at a later stage. Whilst it may not always be possible to make older or historic buildings completely accessible, there are still too many obstacles that impede disabled people from taking part in all aspects of society and making use of all its facilities. Promoting the principle of Universal Design, its wide application and user participation in all design stages is of paramount importance for improving the accessibility of the built environment, transport and communication systems and the usability of products.

5.1.2. Quality of services and training of staff

Quality and training are key principles which underpin the action lines in this Plan. Many European countries are already systematically working on improving quality of services and training of staff and personnel. It is considered essential that all policies, services and actions be underpinned by high quality standards and delivered by competent, trained personnel. People with disabilities should be the focal point of the services provided. Client satisfaction should be the primary motivation for viable quality policies. It is vitally important that people with disabilities, the service users, should be active participants in quality assurance and monitoring of services.

Training is also an essential element of quality service. This not only includes appropriate training for the personnel involved in service delivery, both disability specific and mainstream services, but also for those who have a role in developing policies which affect the lives of people with disabilities. Training should incorporate awareness of the human rights of people with disabilities.

5.1.3. Mainstreaming or sector responsibility

A mainstreaming approach, or sector responsibility, in policy development and service delivery plays an important role in promoting a more inclusive society and is a key, underlying principle of this Action Plan. Mainstreaming involves the integration of services for people with disabilities with those for other citizens. The goal is to move away from policies which support segregation towards integration in the mainstream wherever possible. However, mainstreaming does not preclude the existence of disability specific policies, where they are in the best interests of persons with disabilities (the so called twin-track approach).

In practice this approach means that disability policies are no longer seen as solely the responsibility of a specific ministry or department. It is the responsibility of all ministries to ensure that their initiatives take into account the rights of persons with disabilities. Co-ordination across and between government sectors and the creation of a focal point for all disability issues should be promoted to enhance and develop the mainstream approach.

5.2. Implementation

The governments of member states have the primary responsibility for implementing disability policies at national level, and in particular for implementing the specific actions referring to them under each action line.

Member states should start with an evaluation of their existing disability policy programmes and underlying basic principles against the blueprint of the Council of Europe Disability Action Plan to identify in which areas progress has yet to be made and which specific actions will have to be carried out.

Based on that evaluation member states should set up strategies to ensure that their own co-ordinated disability policy programmes, strategies and actions are progressively advanced in line with the Council of Europe Disability Action Plan and national financial resources.

The prioritisation and the establishment of a timetable to progress measures outlined are the responsibilities of each member state.

It is important that the implementation of the Plan by member states is supported by a co-ordinated approach involving relevant stakeholders, including non-governmental organisations of people with disabilities, as appropriate.

As part of the implementation, member states should consider the issue of the definition of disability, as appropriate.

Member states will translate the Action Plan into their official languages and make these translations available in alternative formats. Member states will promote the Action Plan involving all relevant stakeholders in order to ensure long-term support.

Upon request, the Council of Europe will assist member states with implementing the Action Plan. Member states should consider co-operation with the Council of Europe Development Bank (CEB) and present bankable projects aimed at implementing the Action Plan at national level.

5.3. Follow-up

The governments of member states have the primary responsibility for the follow-up to be given to the Council of Europe Action Plan at national level, where they decide on appropriate review and follow-up arrangements. To that end, member states should consult with relevant stakeholders, in particular non-governmental organisations of people with disabilities.

At European level, the follow-up of this Action Plan should focus on strengthening co-operation in the field of disability and should allow for effective exchange of information, experience and best practice in a structured way.

Effective follow-up to this Action Plan requires member states to regularly provide the Council of Europe with relevant information. In that context, national government reports to parliament, as well as reports and surveys provided by non-governmental organisations, are of particular interest and relevance.

The forum designated to follow up the Action Plan will manage that process, including the necessary procedures, the establishment of a timetable and a possible mid-term review.

This forum could suggest to member states specific priority issues to be analysed in depth. It will ensure that the Committee of Ministers is regularly informed about progress made in the implementation of this Action Plan.

International non-governmental organisations of people with disabilities will participate in this process within the given rules of procedure. Furthermore, other relevant stakeholders could be invited to contribute to the process, in a way to be specified in the terms of reference for the designated forum.

Appendix 1 to the Action Plan

Malaga Ministerial Declaration on People with disabilities
“Progressing towards full participation as citizens”

(Adopted at the Second European Conference of Ministers responsible for integration policies for people with disabilities, Malaga, Spain, 7-8 May 2003)

1. We, the Ministers responsible for integration policies for people with disabilities, gathered from 7 to 8 May 2003 in Malaga on invitation of the Spanish Government, at the Second European Conference of Ministers, organised by the Council of Europe,

1. Aware of:

2. the Council of Europe's aim, as enshrined in its Statute, is "to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress";

3. the outcome of the first Conference of Ministers responsible for policies for people with disabilities, held in Paris, 7 and 8 November 1991, entitled "Independent Living for people with disabilities", which led the Committee of Ministers of the Council of Europe to adopt Recommendation No. R (92) 6 on a coherent policy for people with disabilities;

4. the fact that protection and promotion of human rights and fundamental freedoms, and their full enjoyment are essential for the active participation of people with disabilities in society, and that the principle of equality of opportunities for people with disabilities represents a basic value shared by all Council of Europe member states;

5. the contribution of the European disability movement to the Council of Europe Second Ministerial Conference on disability "From words to deeds", adopted at the European NGO Forum on 8 April 2003 in Madrid;

6. the existence of substantial variations among Council of Europe member states as regards their political, economic and social situation and of the fact that a number of countries, particularly those with economies in transition, may be less well equipped to meet the demands of modern disability policies and need more advice and further assistance;

7. the fact that policies for people with disabilities are faced with certain political, economic, social, demographic, cultural and technological challenges, since, in the last decade, Europe has been undergoing various changes, which affect the quality of life of the population and raise multiple challenges whilst offering new opportunities for the development of coherent policies for people with disabilities;

8. the fact that two aspects are especially relevant in relation to people with disabilities: on the one hand, the increasing number of the European elderly population, which must be taken into account in any future strategy for social cohesion, based on prevention of dependency on support services over the life course and preservation of quality of life in old age; on the other hand, the fact that, as result of

scientific advances in the health field and the improvement of living conditions, persons with physical and mental impairments live longer and fuller lives, generating new needs in relation to the provision of services, economic support and protection of their human rights;

9. the fact that 2003 has been proclaimed European Year of People with Disabilities by the European Union, and that its main aim is to raise awareness of the rights of people with disabilities to equal opportunities and promote full and equal enjoyment of these rights;

10. the works of the UN Ad Hoc Committee “to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities”;

11. the work carried out by the Council of Europe Committee on the Rehabilitation and Integration of People with disabilities, enhancing intergovernmental co-operation in the framework of the Partial Agreement in the Social and Public Health Field;

12. the achievements of the Council of Europe and other international organisations, institutions or events as listed in the Appendix to this Declaration;

2. Reaffirm:

13. our commitment to securing human rights and fundamental freedoms for everyone under our countries' jurisdiction, as set out in the European Convention on Human Rights, and that all human beings are born free and equal in dignity and rights, and with a potential to contribute constructively to the development and well-being of society, and that all persons are equal before the law and entitled to equal protection of the law;

14. that arrangements for the full and effective implementation of all human rights, as enshrined in European and other international human rights instruments, must be applicable without any discrimination or distinction on any ground, including disability;

15. our will expressed in the 1st Conference of Ministers responsible for policies for people with disabilities, held in Paris in 1991, to promote a coherent and integrated policy for persons with disabilities, and that Recommendation No. R (92) 6 on “A coherent policy for people with disabilities” has inspired countries to adopt legislative and policy measures leading to progress on the way to full participation, and that it is a basic reference document which should serve as a platform for future action;

16. that enhancing citizenship and full participation of people with disabilities requires empowerment of the individual so that he/she

can take control of his/her own life, which may require specific support measures;

3. Consider:

17. that our main aim in the next decade is to improve the quality of life of people with disabilities and their families, putting the emphasis on their integration and full participation in society, since a participative and accessible society is of benefit to the whole population;

18. that measures aimed at improving the quality of life of people with disabilities should be based on a sound assessment of their situation, potential and needs, developing innovative approaches in services, taking account of their preferences, entitlements and circumstances;

19. that appropriate strategy to reach this aim should be expressed in a future Action Plan to promote the elimination of all forms of discrimination against people with disabilities of all ages, with special focus on disabled women and people with disabilities in need of a high level of support, so that they will all be able to enjoy their human rights, fundamental freedoms and full citizenship;

20. that it is necessary to adopt an integrated approach towards the elaboration of national and international disability policies and legislation, and to duly reflect the needs of people with disabilities in all relevant fields of policies, particularly in key areas such as access to housing, education, vocational guidance and training, employment, the built environment, public transport, information, health care, and social protection;

21. that it is a basic objective to develop economic, social, educative, employment, environmental and health measures in order to maintain every disabled individual's maximum capacity over the life course and in order to help prevent disability;

22. that education is a basic instrument of social integration and efforts should be made to give the opportunity to children with disabilities to attend a mainstream school, if it is in the interest of the child, to facilitate the transition from school or higher education to employment, and to develop the concept of life-long learning;

23. that equality of access to employment is a key element for social participation; therefore progress should be made towards the integration of people with disabilities in the labour market, preferably in the open market, shifting our focus to assessing abilities and implementing active policies, and that having a diverse workforce by promoting access of people with disabilities in the ordinary labour

markets is an added value for society;

24. it vital to understand the social nature of technology and to make the best use of the potential of new technologies, with the aim of increasing autonomy and interactions of people with disabilities in all areas of life;

25. that as a result of scientific advances in the health field and the improvement of living conditions, persons with physical, psychological and intellectual impairments live longer, generating new needs and challenges in relation to the provision of care services, which should be met with innovative approaches;

26. the need to ensure that the benefits of living longer do not result in an increasingly higher number of persons dependent on support services, by fostering, among the population from an early age, healthy habits and life conditions which enable a good state of physical and mental health at a later stage in life;

27. that progress is required to provide for the removal of barriers and the adoption of the universal design principle to ensure that new barriers are not created;

28. that there is a small but growing number of people with disabilities in need of a high level of support and we therefore recognise the need to strengthen structures around those individuals and their families without departing from a model of community-based services;

29. that the situation of women with disabilities in Europe deserves higher visibility and more specific attention in order to guarantee their independence, autonomy, participation and social integration and that action taken should support a gender mainstreaming approach to disability policy development;

4. Undertake:

30. to work within anti-discriminatory and human rights frameworks towards mainstreaming equality of opportunity for people with disabilities throughout all policy areas;

31. not to discriminate on the grounds of the origin of the disability or the identity of the disabled person;

32. to enhance the possibilities of people with disabilities to carry on an independent life, within the community, through the progressive adoption of the principles of inclusive technologies and universal design inter alia in the building of environments, public facilities, communication systems and housing;

33. to work towards strengthening co-ordination across and between government departments; with a particular commitment to promoting equity in mainstream service provision, health care and the legal system as well as improving accountability between local, regional and national areas of responsibility;

34. to promote the provision of quality services, responding to the needs of individuals with disabilities which are accessed via published eligibility criteria, based on thorough and equitable assessment, shaped by the disabled person's own choices, autonomy, welfare and representation, with proper safeguards, regulation and access to independent adjudication of complaints, and to consolidate and strengthen measures already in place;

35. to champion the inclusion of people with disabilities in all walks of life through education and by making a commitment to people with disabilities as citizens with control over their life;

36. to progress the integration of people with disabilities into the labour market by moving the focus to assessing abilities, in particular vocational abilities, and by making vocational guidance and training as well as employment more accessible;

37. to take full account of the needs of children with disabilities and their families as well as of elderly people with disabilities without detracting from the current commitments to disabled adults of working age, whether or not they are in employment, noting that employment cannot be allowed to stand as the only measure of citizenship, arena for participation and route to human dignity;

38. to continue supporting basic and applied scientific research particularly in the area of new information and communication technologies, in order to improve aids that enable interactive participation in all areas of life;

39. to implement the means necessary for an effective balancing of opportunities between men and women and active participation of persons with disabilities, with special focus on women and girls within the areas of education and training, employment, social policy, participation and decision-making, sexuality, social representation, motherhood, home and family life, and on prevention of violence;

40. to carry out further analyses of the scope of measures and provisions that would effectively improve community living for people with disabilities in need of a high level of support, and to collect the statistical data necessary for the definition and evaluation of disability policies;

41. to have the needs of families of children with disabilities carefully assessed by the responsible authorities with a view to providing measures of support to enable children to grow up with their families, to be included in local children's life, and to receive an education;
42. to have the needs of families as providers of informal care thoroughly assessed, especially those with children with disabilities or caring for persons in need of a high level of support, with a view to providing measures of information, training and assistance, including psychological support, to enable life within the family;
43. to work on the development of programmes and resources to meet the needs of persons with disabilities as they age;
44. to foster among the population from early age health habits and life conditions in order to reach active ageing in the highest attainable standard of physical and mental health;
45. to work towards the development of a positive image of people with disabilities in co-operation with various stakeholders, including the media;
46. to involve people with disabilities in decisions affecting them personally, and organisations of people with disabilities in policy making, paying special attention to people with multiple disabilities or complex disorders and those who are unable to represent themselves;
47. to promote the involvement and collaboration of the social partners and all other public and private stakeholders and actors involved in policy-making;

5. Recommend:

48. that the Committee of Ministers of the Council of Europe continues to promote policies aimed at ensuring full citizenship and active participation of people with disabilities, with the full participation of all member states, and to strengthen the role of the Council of Europe as a platform for international co-operation in the field of disability policy-making by inviting the Committee on the Rehabilitation and Integration of People with disabilities and other relevant Council of Europe committees to further mainstream disability policies within their areas of competence;
49. the elaboration, taking into account the considerations raised at this Ministerial Conference, of a Council of Europe Action Plan for people with disabilities: a new European policy framework for the next decade, based on human rights and partnership between different actors, setting up strategic objectives and priority issues in

order to achieve full citizenship and active participation of people with disabilities in the life of the community, through workable, affordable and sustainable policies;

50. that the Council of Europe plays an active role in the negotiations in the context of the forthcoming sessions of the United Nations Ad hoc Committee established “to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities”, by making use of the Council’s extensive experience in human rights matters;

6. Invite:

51. all Council of Europe member and observer states and representatives from European non-governmental organisations to participate in the activities and work of the Council relating to the enhancing of a coherent policy for and through full participation of people with disabilities;

7. Wish:

52. to share the beliefs, values and principles concerning the human rights and fundamental freedoms of people with disabilities, as well as full citizenship and active participation in the life of the community, set out in this Declaration of European Ministers, and identified as common European features, with everybody, including people outside Europe.

* * *

Finally, we thank the Spanish authorities for the excellent organisation of the Conference and for their generous hospitality.

Appendix 2 to the Action Plan

Reference Texts

Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5);

European Social Charter (ETS No. 35) and European Social Charter (revised) (ETS No. 163);

European Code of Social Security (ETS No. 48), Protocol to the European Code of Social Security (ETS No. 48A), European Code of Social Security (revised) (ETS No. 139);

Convention for the Protection of Human Rights and Dignity of the Human Being

with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164);

European Convention on Architectural Heritage (ETS No. 121);

Landscape Convention (ETS No. 176);

“Strategy for Social Cohesion” adopted by the European Committee for Social Cohesion of the Council of Europe on 12 May 2000;

Recommendation No. R (86) 18 of the Committee of Ministers on the European Charter on Sport for all: disabled persons;

Recommendation No. R (92) 6 of the Committee of Ministers on a coherent policy for people with disabilities;

Resolution ResAP(95)3 on a charter on the vocational assessment of people with disabilities;

Recommendation No. R (96) 5 of the Committee of Ministers to member states on reconciling work and family life;

Recommendation No. R (98) 3 of the Committee of Ministers to member states on access to higher education;

Recommendation No. R (98) 9 of the Committee of Ministers to member states on dependence;

Recommendation No. R (99) 4 of the Committee of Ministers to member states on the legal protection of incapable adults;

Recommendation Rec(2001)12 of the Committee of Ministers to member states on the adaptation of health care services to the demand for health care and health care services of people in marginal situations;

Recommendation Rec(2001)19 of the Committee of Ministers to member states on the participation of citizens in local public life;

Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence;

Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making;

Recommendation Rec(2003)19 of the Committee of Ministers to member states on improving access to social rights;

Recommendation Rec(2004)10 of the Committee of Ministers to member states concerning the protection of the human rights and dignity of persons with mental disorder;

Recommendation Rec(2004)11 of the Committee of Ministers to member states on legal, operational and technical standards for e-voting;

Recommendation Rec(2004)15 of the Committee of Ministers to member states on electronic governance ("e-governance");

Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions;

Resolution ResAP(2001)1 of the Committee of Ministers of the Council of Europe on the introduction of the principles of Universal Design into the curricula of all occupations working on the built environment ("The Tomar Resolution");

Resolution ResAP(2001)3 of the Committee of Ministers of the Council of Europe "Towards full citizenship for people with disabilities through inclusive new technologies";

Resolution ResAP(2005)1 of the Committee of Ministers of the Council of Europe on safeguarding adults and children with disabilities against abuse;

Recommendation 1185 (1992) of the Parliamentary Assembly of the Council of Europe on rehabilitation policies for the disabled;

Recommendation 1418 (1999) of the Parliamentary Assembly of the Council of Europe on the protection of the human rights and dignity of the terminally ill and the dying;

Recommendation 1560 (2002) of the Parliamentary Assembly of the Council of Europe "Towards concerted efforts for treating and curing spinal cord injury";

Recommendation 1592 (2003) of the Parliamentary Assembly of the Council of Europe "Towards full social inclusion of persons with disabilities";

Recommendation 1598 (2003) of the Parliamentary Assembly of the Council of Europe on protection of sign languages in the member states of the Council of Europe;

Recommendation 1601 (2003) of the Parliamentary Assembly of the Council of Europe on improving the lot of abandoned children in institutions;

Recommendation 1698 (2005) of the Parliamentary Assembly of the Council of Europe on the rights of children in institutions;

Resolution 216 (1990) of the Standing Conference of Local and Regional Authorities of Europe (currently the Congress of Local and Regional Authorities of the Council of Europe (Congress)) on the rehabilitation and integration of the disabled: role of local authorities;

Congress Recommendation 129 (2003) and Resolution 153 (2003) on employment and vulnerable groups;

Revised European Charter on the Participation of Young People in Local and Regional Life (Congress), 21 May 2003;

Final Declaration adopted by the Heads of State and Government of the member states of the Council of Europe, meeting in Strasbourg for the Second Summit of the Council of Europe (October 1997), who recognised that “social cohesion is one of the foremost needs of the wider Europe and should be pursued as an essential complement to the promotion of human rights and dignity”;

Final Declaration (Malta Declaration) adopted at the Council of Europe Conference on Access to Social Rights, 14-15 November 2002;

Council of Europe Commissioner for Human Rights contributions;

United Nations Convention on the Rights of the Child (1989);

United Nations International Covenant on Economic, Social and Cultural Rights (1966);

United Nations International Covenant on Civil and Political Rights (1966);

United Nations Universal Declaration of Human Rights (1948);

United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (1993);

UNESCO Salamanca Statement and Framework for Action on Special Needs Education (1994);

International Plan of Action on Ageing, adopted by the Second World Assembly on Ageing, Madrid, 8-12 April 2002;

Regional Implementation Strategy for the Madrid International Plan of Action on Ageing 2002, adopted by the United Nations Economic Commission for Europe Ministerial Conference on Ageing, Berlin, 11-13 September 2002;

International Classification of Impairments, Disabilities and Handicaps (ICIDH) (1980) of the World Health Organisation (WHO);

International Classification of Functioning, Disability and Health (ICF) (2001) of the World Health Organisation (WHO);

Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) of the International Labour Organisation (ILO) (No.C159), 1983, and the corresponding ILO Recommendation on Vocational Rehabilitation and Employment

(Disabled Persons) (No. R168), 1983

Resolution of the Council and the Ministers for Education meeting with the Council of 31 May 1990 concerning integration of children and young people with disabilities into ordinary systems of education;

Communication of the Commission on Equality of Opportunity for People with Disabilities: a New European Community Disability Strategy (COM(96) 406 final);

Resolution of the Council of the European Union and of the representatives of the governments of the member states meeting within the Council of 20 December 1996 on equality of opportunity for people with disabilities;

Council Recommendation of 4 June 1998 on a parking card for people with disabilities (98/376/EC);

Council Resolution of 17 June 1999 on equal employment opportunities for people with disabilities (1999/C 186/02);

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Towards a Barrier Free Europe for People with Disabilities (COM(2000) 284 final);

Council Directive (2000/78/EC) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;

Council Decision (2000/750/EC) of 27 November 2000 establishing a Community action programme to combat discrimination (2001-2006);

Council Decision (2001/903/EC) of 3 December 2001 on a European Year of People with Disabilities 2003;

Council Resolution on 6 February 2003 "eAccessibility" – improving the access of people with disabilities to the knowledge based society, (2003/C 39/03);

Council Resolution of 5 May 2003 on equal opportunities for pupils and students with disabilities in education and training (2003/C 134/04);

Council Resolution on 6 May 2003 on accessibility of cultural infrastructure and cultural activities for people with disabilities (2003/C 134/05);

Council Resolution of 15 July 2003 on promoting the employment and social integration of people with disabilities (2003/C 175/01);

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: eAccessibility (COM(2005) 425 final);

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions:

Implementation, results and overall assessment of the European Year of People with Disabilities 2003 (COM(2005) 486 final);

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the enlarged European Union: the European Action Plan 2006-2007 (COM(2005) 604 final);

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: a European Action Plan (COM(2003) 650 final);

Madrid Declaration "Non-discrimination plus positive action results in social inclusion", adopted at the European Conference of non-governmental organisations held in Madrid, March 2002;

Barcelona Declaration: the City and the Disabled (1995);

Declaration of the European Social Partners on the employment of people with disabilities (Cologne, May 1999);

Declaration of the Social Partners for the European Year of People with Disabilities: Promoting equal opportunities and access to employment for people with disabilities (20 January 2003);

Contribution of the European disability movement to the Council of Europe Second European Conference on disability "From words to deeds", adopted at the European NGO Forum on 8 April 2003 in Madrid.

Appendix C:

IDRM Regional Report of Europe 2007 Report Card Questions

Convention/Optional Protocol Signing

- Q. Has your government signed the Convention on the Rights of Persons with Disabilities and Optional Protocol?

Legal Protection

- Q. Is there a national law that specifically references and protects of the rights of people with disabilities?

Education & Employment

- Q. Is training on teaching children with disabilities included in the curriculum used for all teachers in your country?
- Q. What is the largest employer in the private sector? Do they have a policy that states people with disabilities cannot be discriminated against in employment on the basis of his or her disability?

Accessibility

- Q. Is the public transport system in the capital city accessible?

Health Services & Housing

- Q. Is physician training on provision of care to people with disabilities available during both medical school and residency?
- Q. Is there a center that provides peer counselling and referral services concerning housing (Independent Living Center) to people with disabilities in your country? Who operates these services?

Communication

- Q. Is your prime ministers website WAI compliant (website/caption news)?



The International Disability Rights Monitor (IDRM) Project is an ongoing collaboration between the International Disability Network (IDN), Disabled People's International (DPI), and many other international and national disability groups. The goals of the IDRM project are to promote the full inclusion and participation of persons with disabilities in society and to advance the use of international law to ensure that the rights of persons with disabilities are respected and enforced. The IDRM research seeks to define and quantify issues of importance to people with disabilities internationally, while strengthening a grassroots network to advance the rights and agenda of people with disabilities in the communities where they live.



Center for International Rehabilitation
211 East Ontario St » Suite 300 » Chicago » IL 60611