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Equality and inclusion for people with disabilities

Report¹

Committee on Equality and Non-Discrimination

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Summary

There are more than 80 million people with disabilities in Europe and with the ageing of the population, this number is likely to increase in the years ahead. Numerous international legal instruments and programmes of action have been developed. However, the international standards are not reflected in the actual situation of people with disabilities.

People with disabilities are often invisible to the rest of society and are confronted with multiple forms of discrimination. Accessibility is a prerequisite for the enjoyment by people with disabilities of their right to independent living and full participation in public life. Access to employment is limited despite the measures taken at national level. In addition, in times of economic crisis, people with disabilities are made especially vulnerable by the combined effect of the low rate of employment and austerity measures. Legal capacity is also a key issue because it determines the enjoyment of fundamental rights. However, substitute decision-making mechanisms remain in the vast majority of the member States. Lastly, violence against people with disabilities, in particular women and children, are of major concern. This phenomenon is often taboo and overlooked by the national authorities.

The member States should develop policies for people with disabilities by closely involving them in the process. They should also put an end to the culture of institutionalisation and start introducing supported decision-making mechanisms. Disability should be mainstreamed in national policies against violence. Likewise, measures should be taken to encourage access to employment. Finally, the Committee of Ministers should assess the Council of Europe Action Plan 2006-2015 and define a new road map on this basis.

1. Reference to committee: [Doc. 13256](#), Reference 3986 of 30 September 2013.

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A. Draft resolution²

1. There are more than 80 million people with disabilities in Europe. Almost all human beings may suffer a temporary or permanent impairment at some point in their lives. However, equality and inclusion for people with disabilities are rarely seen as priorities. People with disabilities are often excluded from society and are invisible to the rest of the population. Apart from the many obstacles which they face, people with disabilities are particularly seriously affected by the austerity measures taken by member States.
2. The Parliamentary Assembly reasserts that it is the various barriers encountered by people with impairments which create the situation of disability. Measures must be taken to secure the rights of people with disabilities to equality and full participation in society, as enshrined in the European Convention on Human Rights (ETS No. 5), the European Social Charter (revised) (ETS No. 163) and the United Nations Convention on the Rights of Persons with Disabilities.
3. 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 must serve as the reference framework for member States. The Assembly believes that particular attention must be paid to certain areas with a view to moving decisively towards equal rights and inclusion for people with disabilities.
4. The Assembly therefore calls on the Council of Europe member States to:
 - 4.1. ratify, if they have not yet done so, the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, and take the necessary measures to implement them;
 - 4.2. ratify, if they have not yet done so, the European Social Charter (revised) and accept in full Article 15 on the right of persons with disabilities to independence, social integration and participation in the life of the community;
 - 4.3. closely consult and actively involve the organisations representing people with disabilities in the development of policies and measures for people with disabilities;
 - 4.4. introduce mechanisms for evaluating national policies and measures for people with disabilities, in particular by establishing independent monitoring mechanisms, and ensure their sufficient funding;
 - 4.5. allocate sufficient funding to policies and measures designed to foster the full participation of people with disabilities in society, in particular the accessibility of premises and services;
 - 4.6. support people with disabilities and their families financially to enable them to access the services and care which they need, thereby taking into account General Comment No. 2 of the Committee on the Rights of Persons with Disabilities on Article 9 of the United Nations Convention on the Rights of Persons with Disabilities.
5. With regard to legal capacity, the Assembly reiterates [Resolution 1642 \(2009\)](#) on access to rights for people with disabilities and their full and active participation in society, and calls on member States to start replacing substitute decision-making mechanisms by supported decision-making mechanisms, in line with their international commitments.
6. The Assembly calls on member States to give up the culture of institutionalisation, in particular by putting an end to the construction and public funding of large institutions for people with disabilities, and to give consideration to alternatives to care in institutions, taking account of the choices of people with disabilities.
7. The Assembly is concerned about the scale of the problem of violence against people with disabilities, in particular women and children, and recommends that national parliaments ensure that disability is fully taken into account in their monitoring of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210). The Assembly also calls on the Council of Europe member States to:
 - 7.1. ratify, if they have not yet done so, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;
 - 7.2. take account of the specific situation of women and children with disabilities in their policies to combat violence against women.

2. Draft resolution adopted unanimously by the committee on 3 December 2014.

8. With regard to access to employment, the Assembly encourages member States to develop policies to foster the employment of people with disabilities and, in particular, to:
 - 8.1. introduce incentive, awareness-raising and support measures for employers so as to help people with disabilities find employment and stay in it;
 - 8.2. protect people with disabilities against discrimination in hiring and throughout their careers and make specific provision in their legislation for the requirement for accessibility of workplaces and/or working conditions, as well as for reasonable accommodation.
9. Lastly, the Assembly calls on member States to conduct and/or encourage awareness-raising campaigns for the public, teaching staff and employers so as to overcome the stereotypes and prejudices surrounding disability.

B. Draft recommendation³

1. The Parliamentary Assembly refers to its Resolution ... (2015) on equality and inclusion for people with disabilities.
2. The Assembly welcomes the contribution of 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 to the development of national policies which take account of the rights of people with disabilities. The Action Plan has also helped to make people see disability as a human rights issue.
3. The Assembly notes, however, that the full enjoyment of the rights of people with disabilities has by no means yet been achieved in Council of Europe member States. The principles set out in the international instruments are not reflected in the actual situation of people with disabilities. Resolute action by the Council of Europe and the member States in the field of disability is therefore necessary.
4. The Assembly therefore recommends that the Committee of Ministers:
 - 4.1. evaluate the implementation of the Action Plan for people with disabilities 2006-2015 and draw lessons from the ten years of implementation of the Action Plan in the member States;
 - 4.2. define on this basis a new road map for the period from 2016 to 2020, in close consultation with the organisations representing people with disabilities;
 - 4.3. focus this new road map on priority issues such as the legal capacity of people with disabilities and measures to ensure their dignity and full inclusion in society;
 - 4.4. invite the Council of Europe Development Bank to make compliance with accessibility requirements a condition for granting loans for construction and renovation projects and not to finance the construction of large institutions for people with disabilities;
 - 4.5. ensure that disability is taken into account in the specific activities conducted by the Council of Europe, in particular in Council of Europe activities and campaigns to combat violence and hate speech.

3. Draft recommendation adopted unanimously by the committee on 3 December 2014.

C. Explanatory memorandum by Ms Quintanilla Barba, rapporteur

1. Introduction

1. Disability can affect all of us. Ban Ki-moon, Secretary General of the United Nations, has rightly pointed out that disability is part of the human condition and that almost everyone will be temporarily or permanently impaired at some point in life. People with disabilities currently represent 10% to 15% of the population in Europe. With the ageing of Europe's population, the number of people with disabilities is likely to increase substantially in the years ahead.

2. People with disabilities are confronted with a multitude of challenges in their daily life, as well as multiple forms of discrimination, which affect their access to basic rights and services and their full enjoyment of life in society. Over the past decade, special attention has been given to their rights, culminating in the adoption and subsequent entry into force of the United Nations Convention on the Rights of Persons with Disabilities. The convention marks a paradigm shift in that it looks at disability from the perspective of human rights and inclusion rather than from the near-exclusive perspective of health and social security.

3. However, although a number of States have in recent years implemented specific policies, the situation of people with disabilities is not perceived as a priority by the governments of Council of Europe member States. It should also be noted that budget cuts resulting from the economic crisis affecting European States have an impact on social programmes and investment intended to facilitate the participation of people with disabilities in the life of the community.

4. Consequently, there is a strong feeling that much remains to be done. The rights of people with disabilities are still all too often invisible to the rest of society. In this report, I would like to highlight three issues which clearly illustrate this lack of visibility: access to employment, legal capacity and violence towards people with disabilities. This report does not claim to be exhaustive but to raise awareness, through concrete examples, of the urgent need to guarantee people with disabilities their most basic rights.

5. The general reference in this report to "people with disabilities" reflects the emphasis placed on individual rights and the barriers to the exercise of those rights. It should also be noted that people with disabilities are not a homogeneous group. There are different types (physical, intellectual, sensory, psycho-social) and degrees of disability. Ignoring the differences can be a source of discrimination when identical policies are applied to people who are not in the same situation.

2. State of play

6. The international legal framework has expanded considerably in recent years, with the adoption of numerous instruments and programmes of action promoting the rights of people with disabilities. However, their implementation by States remains insufficient.

2.1. The international legal framework for disability rights

2.1.1. The United Nations Convention on the Rights of Persons with Disabilities

7. The UN Convention on the Rights of Persons with Disabilities may certainly be described as an historic treaty. It is the first global treaty on the rights of people with disabilities. The convention, which came into force in 2008, was the outcome of a long process embarked upon in the 1970s and of a high degree of mobilisation by disability rights associations.⁴ With 151 States Parties as at 25 November 2014, it is one of the most widely ratified of the United Nations human rights treaties.

8. The convention does not create new rights or rights specific to people with disabilities but adapts existing fundamental rights to the situation of people who have disabilities in order to ensure that they have full enjoyment thereof. It contains a definition of disability which marks a fundamental change of approach, with the emphasis no longer on what people cannot do but on the fact that it is the barriers encountered by those persons which create the situation of disability. The convention also translates into legal terms the disability

4. See: G. Quinn, "A short guide to the United Nations Convention on the Rights of Persons with Disabilities", *European Yearbook of Disability Law*, No. 1, 2009, pp. 89-114.

rights movement's slogan: "Nothing about us without us" by obliging the States Parties to engage in close and active consultation with the organisations representing people with disabilities when they develop and implement legislation and policies in order to apply the convention.

9. The convention set up a committee comprising 18 independent experts, which is responsible for monitoring the implementation of the convention. Where the States which have ratified the Optional Protocol to the convention are concerned, the committee may also receive and examine individual and collective petitions.

10. The UN Convention is currently the reference instrument in the field of disability, in the light of which measures taken at international and national levels are evaluated. All the Council of Europe member States which have not yet done so should ratify the convention.⁵

2.1.2. Council of Europe instruments and initiatives

11. The Council of Europe has been very active in upholding and protecting the rights of people with disabilities through various instruments, among which I would mention the European Convention on Human Rights (ETS No. 5) and its Protocol No. 12 (ETS No. 177), under which disability is a prohibited ground of discrimination, and the European Social Charter (revised) (ETS No. 163), Article 15 of which affirms the right of persons with disabilities to independence, social integration and participation in the life of the community.

12. 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 was adopted by the Committee of Ministers in April 2006. It contains a set of principles and actions that member States are invited to apply in their policies, legislation and practices. The Action Plan involves regional implementation of the rules and principles set out in the UN Convention on the Rights of Persons with Disabilities. The completion of the Action Plan in 2015 should afford an opportunity to take stock of the measures adopted by the Council of Europe member States in this field and to draw up a new post-2015 action plan on that basis.

2.1.3. European Union instruments and initiatives

13. The European Union is also very active in the field of disability rights, in particular through its 2010-2020 strategy for people with disabilities. In December 2010, it also ratified the UN Convention on the Rights of Persons with Disabilities, giving rise to a number of specific legal obligations. In particular, this requires the European Union to adopt legislation consistent with the convention, which is binding on European Union member States and compliance with which is supervised by the Court of Justice of the European Union.

14. The European Union is currently drafting a European Accessibility Act. However, its finalisation by the European Commission, initially scheduled for 2012, has been postponed several times. The adoption of such an act would be an important step with a view to equality and inclusion for people with disabilities, provided that it presents a minimum level of ambition and has added value compared to the rules and regulations already in force in European Union member States.

2.2. Measures taken at national level

15. It lies primarily with member States to adopt an appropriate legal framework and implement measures to ensure equal rights and their effective enjoyment by all persons within their jurisdiction. Many laws, policies and measures have been adopted by Council of Europe member States and progress can be noted in various sectors. However, their overall implementation and their impact in ensuring equal rights and the inclusion of people with disabilities remain insufficient for various reasons, in particular the lack of financial resources earmarked for disability, the lack of political resolve and the persistence of legal barriers to the full participation of people with disabilities in public life.

16. The state of implementation of the Council of Europe Action Plan by member States shows that member States by no means comply with the action lines identified by the Committee of Ministers in 2006. The obstacles to the full participation of people with disabilities remain and the need to improve their situation is often not considered to be a priority. For example, with regard to the accessibility of public buildings, in April 2014 the French Government decided to defer the obligation to bring public buildings up to standard to beyond 2015,

5. At 25 November 2014, six member States had not yet ratified the convention: Finland, Iceland, Ireland, Liechtenstein, Monaco and the Netherlands.

the deadline fixed by the law of 11 February 2005 on equal rights and opportunities, participation and citizenship of persons with disabilities. In France, only 15% of public buildings meet accessibility standards for people with disabilities,⁶ despite the pledges made by the public authorities over the last few decades.

17. Significant measures have been taken in recent years in the Russian Federation, which is home to 13 million people with disabilities according to official statistics. For instance, the Federal Law on Social Protection of Persons with Disabilities includes many safeguards. It has, however, been noted that there is a lack of clear enforcement mechanisms at the federal level whereby enforcement is left up to the discretion of regional and city governments.⁷ In spite of the law and the ambitious accessible environment plan (2012-2015), people with disabilities all too often remain confined to their homes because public and private buildings and transport facilities are not accessible. Moreover, people with disabilities in Russia are faced with regional inequality, as their situation varies greatly depending on the regions where they live.

18. In Romania, the situation of people with disabilities is of particular concern. The Commissioner for Human Rights of the Council of Europe recently noted that many persons with disabilities are isolated from society in a growing number of institutions, where they often face inhuman and degrading treatment and, in some cases, deliberate abuse.⁸ The particularly dramatic case of a young man with a severe mental disability, who was an orphan and HIV-positive, who died in a psychiatric hospital, was brought before the European Court of Human Rights. The Court unanimously concluded that there had been a violation of Article 2 of the convention on the right to life because of his placement in a psychiatric hospital and the absence of appropriate care and treatment.⁹ The living conditions of people with disabilities in Romania are frequently criticised. The national authorities must take robust measures to remedy this appalling situation and the Romanian Parliament must ensure that Romania's commitments to international institutions are translated into practical action.

19. The economic crisis and the austerity measures currently being taken in Europe have a particular impact on people with disabilities and place a heavy economic burden on their families. A study of the impact that these measures have on people with disabilities in the European Union has shown that the risk of poverty is 21.1% for people with disabilities compared to 14.9% for persons without disabilities.¹⁰ For women with disabilities, this risk is two to three times higher depending on the country. The Commissioner for Human Rights has also pointed out that "austerity budgets have restricted the access of people with disabilities to community living, education, primary care and assistance, posing barriers to de-institutionalisation".¹¹

20. In such conditions, the implementation of international and national instruments promoting the rights of people with disabilities is a particularly onerous task. Nevertheless, we must not lose sight of the objective of full equality and inclusion of people with disabilities. Each Council of Europe member State has a duty to comply with its commitments and to ensure that people with disabilities are not treated as second-class citizens.

3. Invisible citizens: difficulties for people with disabilities in participating in public life

21. In order for people with disabilities to be fully integrated they must be able to participate in public life. However, significant barriers prevent their full participation and effective exercise of their rights, making people with disabilities invisible to the general public.

3.1. Accessibility: the main prerequisite for full inclusion in the community

22. Accessibility is the main prerequisite for inclusion in the community. It is obvious that the full inclusion of people with disabilities requires first and foremost that they have access to public facilities. However, accessibility does not only mean access to buildings. The aim is also to ensure full inclusion in the community

6. Inspection générale des affaires sociales (Igas), "Rapport sur les modalités d'application des règles d'accessibilité du cadre bâti pour les personnes handicapées", October 2011.

7. Human Rights Watch, "Barriers everywhere. Lack of Accessibility for People with Disabilities in Russia", September 2013, p. 6.

8. Report by Nils Muižnieks, Commissioner for Human Rights, following his visit to Romania (31 March-4 April 2014), CommDH(2014)14.

9. *Centre of Legal Resources v. Romania*, Application No. 47848/08, judgment of 17 July 2014 (Grand Chamber).

10. European Foundation Centre, "Assessing the impact of European governments' austerity plans on the rights of people with disabilities", October 2012, p. 23.

11. Council of Europe Commissioner for Human Rights, "Safeguarding human rights in times of economic crisis", Issue Paper, May 2014, p. 25.

by ensuring that they have access to education, employment, cultural and sporting activities, the political sphere, etc. This is the approach taken by the UN Convention on the Rights of Persons with Disabilities, which is based on the idea that disability results from the interaction between people with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society.

23. The Council of Europe introduced at European level the concept of “universal design”, which has become a recognised benchmark in the field of disability and intergenerational facilities. Universal design is a strategy which aims to make the design and composition of different environments, products, communication, information technology and services accessible and understandable to, as well as usable by, everyone, without the need for adaptation or specialised solutions. This concept is also at the heart of Article 9 of the UN Convention on the Rights of Persons with Disabilities concerning accessibility.

24. It is often argued that the implementation of universal design is too costly given the economic and financial difficulties facing European countries. I believe the issue should be approached from a different angle. Council of Europe member States have entered into a number of commitments in terms of accessibility, both at national level and in organisations such as the Council of Europe, the United Nations and the European Union. Adapting the built environment to make it accessible to people with disabilities is undeniably expensive and entails a substantial amount of work. I therefore firmly believe that such costs could be cut to a minimum, if not avoided, if universal design were applied from the very moment buildings, services and other products are designed.

25. Public procurement policies should include conditions of accessibility. As the United Nations Committee on the Rights of Persons with Disabilities points out in its general comment on Article 9 on accessibility, it is unacceptable to use public funds to create or perpetuate the inequality that inevitably results from inaccessible services and facilities.¹²

26. One example of good practice is provided by the European Union, which, in 2014, reviewed its legislation on the award of public contracts and included criteria of accessibility for people with disabilities or design for all users among the technical specifications that have to appear in public tenders. Similarly, the legislation of the European Union concerning the granting of European structural and investment funds (ESIF) for the period 2014-2020 stipulates that all products, goods, services and infrastructures that are open or provided to the public and are co-financed by the ESI Funds must be accessible to all citizens, including those with disabilities. Accessibility for people with disabilities is therefore now one of the criteria examined by the European Commission prior to allocating funding for a project.

27. The Council of Europe Development Bank also funds numerous projects for the conversion of buildings in the fields of health and education to make them accessible to people with disabilities. A further step could be taken by including the criteria of accessibility in the conditions for the granting of loans by the Bank, as the Parliamentary Assembly already requested in [Recommendation 1592 \(2003\)](#) “Towards full social inclusion of persons with disabilities”.

28. Accessibility is a key principle, as it determines the effective enjoyment of rights. Without accessible transport or accessible buildings, people with disabilities cannot exercise their right to education or employment. Accessibility also enables people with disabilities to break out of the situation of invisibility in which our societies all too often force them to live. I firmly believe that full participation in the life of the community, in schools and work is not only a right but also a means of changing our perception of disability.

3.2. People with disabilities and employment

29. I have already pointed out that the economic crisis and austerity measures are having a particular impact on people with disabilities to the extent that they have become part of the “vulnerable groups” category. Account must also be taken of the fact that the families of people with disabilities have to bear heavy financial costs to enable them to perform everyday acts like other people. It has been noted that the level of employment of people with disabilities within the European Union has dropped, that their employment contracts are more likely to be insecure and that they are paid less than people without disabilities.¹³ In a recent report on the Russian Federation, Human Rights Watch quoted a truck driver with a physical disability who summed up his employer’s attitude towards him as follows: “He told me he is taking on extra responsibility in hiring me, and therefore he cannot pay me as much.”¹⁴

12. Document CRPD/C/GC/2 of 11 April 2014, “General comment No. 2 (2014), Article 9: Accessibility”, paragraph 32.

13. European Foundation Centre, op. cit., p. 21.

30. According to a study by the Organisation for Economic Co-operation and Development (OECD), the employment rate of people with disabilities in the organisation's member States in 2010 was approximately 44% (compared to 75% for people without disabilities).¹⁵ The figure is, however, lower in the case of women with disabilities, who are more vulnerable because they are the victims of multiple discrimination which is compounded when account is taken of factors such as being women, being disabled and living in rural areas. The figure also varies depending on the type of disability, and people with intellectual or psycho-social disabilities have the lowest employment rates. Moreover, the overall figure must not hide the great disparities between countries. By way of example, the employment rate of working-age people with disabilities in Serbia in 2011 was 13% according to the United Nations Development Programme (UNDP), while in 2012 it was 18% in Hungary and 20% in the Russian Federation according to those countries' official statistics.¹⁶ The difficulties people with disabilities have in finding and holding down employment make them and their families poorer, but also involve costs for governments in terms of social assistance and protection. In a period of economic crisis, it is therefore in States' interests to identify the barriers to the employment of people with disabilities and measures for giving them greater access to the labour market.

31. There are many reasons for people with disabilities' limited access to the labour market. They may involve the lack of positive measures to promote the employment of people with disabilities, the persistence of stereotypes about the ability of people with disabilities to work or the lack of support services or appropriate means of transport to workplaces. The low employment rate of people with disabilities is also the result of their limited access to higher education and vocational training.

32. The goal should be the participation of people with disabilities in the ordinary labour market. Adjustments sometimes have to be made for that purpose. The principle of reasonable accommodation is a key concept for the equality of people with disabilities. It is included in the UN Convention on the Rights of Persons with Disabilities and also in the European Social Charter (revised) and the European Union directive on equal treatment in employment and occupation. It requires employers to take the necessary measures to ensure equal treatment for workers with disabilities, provided that this does not impose an undue burden on the employers. The measures can apply in material or organisational terms. They may involve the adaptation of workstations or reductions in working hours.¹⁷

33. In some countries, companies which hire workers with disabilities receive assistance for carrying out the necessary adjustments to workstations or covering the cost of travel to work, for instance in Luxembourg. Assistance with travel costs can also be paid directly to the workers, as is the case in the United Kingdom under the government's Access to Work programme. These measures are important, especially those which enable workers to travel to their workplaces, as workers with disabilities are faced with costs which do not affect other workers and can weigh heavily on their incomes if they have to meet them themselves.

34. In Spain, the Spanish National Organisation for the Blind (ONCE) and its Foundation for Co-operation and the Social Inclusion of the Disabled have developed good practices and have succeeded in ensuring the full independence and social inclusion of a large number of people with disabilities through training, job creation and accessibility schemes. Over a 25-year period, the foundation's activities have generated over 80 000 jobs for people with disabilities and raised their profile within Spanish society as citizens who add value.

35. Quotas are among the incentives which are often mentioned. They involve making provision for a given percentage of workers with disabilities in companies. Very many European countries have introduced quotas in their legislation. In Spain, a quota of 7% is in place in the public sector and this represents one of the highest in Europe. However, the way they operate varies greatly from country to country, which makes any comparison very difficult, especially since disability is not defined in the same way in all countries. Differences may also exist within individual countries. In Russia, for instance, the legislation provides for the introduction of quotas in companies with more than 35 employees, but leaves it up to regions to set the rate for the quota, which varies from 2% to 4% depending on the towns and regions. Similarly, the quotas for the employment of people with disabilities in the public service in Belgium vary between the different communities and regions. For instance,

14. Human Rights Watch, op. cit., p. 44.

15. OECD, "Sickness, disability and work: breaking the barriers. A synthesis of findings across OECD countries", 2010.

16. For the Russian Federation, see *The Moscow Times*, "80% of Russia's Disabled Unemployed", 4 December 2012. For Hungary, see the Hungarian Central Statistical Office, "Disabled people in the labour market", May 2012, p. 7.

17. See here the judgment of the European Union Court of Justice, *HK Danmark (Ring and Skouboe Werge)*, C-335/11 and C-337/11 of 11 April 2013. Commentary: L. Waddington, "HK Danmark (Ring and Skouboe Werge): Interpreting EU Equality Law in Light of the United Nations Convention on the Rights of Persons with Disabilities, European Anti-Discrimination Law Review, No. 17, 2013, pp. 13-23.

the figure is 2% in Brussels, 4.5% in Flanders and 3% at federal government level. In contrast, there is no specific requirement concerning employment in the private and public sectors in the German-speaking community. Any statistics which are available are therefore hard to compare.

36. Employment quotas are usually coupled with financial incentives for companies, for instance tax relief, and sometimes with penalties for those which do not comply. In Austria, the Federal Act on the Employment of People with Disabilities provides for a quota of 4% and the payment of fines in the event of non-compliance. In 2010, the compliance rate by firms was 22.8% in the private sector and 66% in the public sector. This means that the majority of firms prefer to pay fines rather than take on people with disabilities. The same situation applies in many other European countries.

37. Other measures exist such as the prohibition of discrimination on the grounds of disability and the protection of workers with disabilities against dismissal. The European Committee of Social Rights requires such measures on the part of the States Parties to the European Social Charter (revised), pursuant to Article 15, paragraph 2. However, the committee makes frequent findings of non-conformity.¹⁸ This is often the result of inadequate information or the lack of statistical data on the employment of people with disabilities. Moreover, some States Parties to the European Social Charter (revised) have not agreed to be bound by Article 15, paragraph 2 (Albania, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria and Georgia). I urge those States to accept the provision without delay.

38. Assessment of the various incentive measures is inconclusive and it is impossible to attribute a systematic positive effect in terms of the employment of people with disabilities to a particular type of measure. An employer may, for instance, prefer not to accept financial assistance if the bureaucratic procedures are too cumbersome. The International Labour Organization has noted that a range of measures must be taken to address the various obstacles encountered by people with disabilities in the employment sector and that the active involvement of employers in these measures plays a large part in their success.¹⁹

39. Awareness-raising and information for employers are vital in order to overcome the many negative stereotypes relating to disability. The Office of the United Nations High Commissioner for Human Rights has found that people with disabilities are often seen as unfit for working life and also that the positive measures taken to promote their employment, for instance quotas, may send a message that they are hired solely on the basis of their disability rather than their professional ability.²⁰

40. A study by the International Labour Organization has highlighted various good practices in terms of disability awareness-raising in the workplace. For instance, these may include compulsory disability training for managerial staff, the appointment of a person responsible for hiring staff with disabilities and helping them to adapt their workstations and the preparation of disability guides and their distribution to the entire workforce.²¹ All these measures have had very positive results for the companies, in particular in terms of their image with staff and customers. Lastly, I should like to mention the British employers' organisation, the Business Disability Forum, which was set up in 1986 and supports, advises and trains employers in terms of hiring and relations with workers with disabilities, as well as with consumers and customers with disabilities. The organisation has developed disability standards for companies and provided input for the 1996 and 2010 British legislation on equality and non-discrimination.

41. In conclusion, I should like to underline that it is necessary that member States put in place policies for people with disabilities to maintain and increase their employment rate as a key element of social participation. These policies should provide tools that promote active inclusion, sustainability and quality of employment, cohesion and territorial development. In addition, States should take measures complementing the European legislation on equal opportunities and non-discrimination, including the collection of statistical data on the employment rate of people with disabilities compared to people without disabilities. In this connection, it should

18. In 2012, the European Committee of Social Rights issued eight findings of non-conformity concerning the implementation of Article 15, paragraph 2, of the European Social Charter (revised): Andorra, Armenia, Belgium, Cyprus, the Netherlands, the Republic of Moldova, the Slovak Republic and Slovenia.

19. International Labour Organisation, Contribution to the study by the United Nations Human Rights Council on the employment of people with disabilities, March 2013.

20. Human Rights Council, Thematic study on the work and employment of persons with disabilities, Report by the Office of the United Nations High Commissioner for Human Rights, A/HCR/22/25, 17 December 2012, paragraphs 8 and 39.

21. International Labour Office, "Disability in the Workplace: Company Practices", 2010.

be borne in mind that almost a third of workers develop a disability in the course of their working lives.²² It is therefore in everybody's interest to take measures to enable people to enter and stay in employment and combat stereotypes.

3.3. The legal capacity of people with disabilities

42. The legal capacity of people with disabilities is a fundamental issue, since it largely determines the enjoyment and exercise of their rights. Legal capacity is defined as the capacity to acquire and exercise a right.²³ When people have been deprived of their legal capacity, they may no longer exercise rights, and it is a third party who takes decisions concerning them on their behalf. Without the legal capacity to exercise them, the fundamental rights guaranteed by the European Convention on Human Rights and the UN Convention on the Rights of Persons with Disabilities are just an empty shell.

43. The Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society and the UN Convention on the Rights of Persons with Disabilities both state in identical terms that “[p]eople with disabilities have the right to recognition everywhere as persons before the law”.²⁴ Similarly, in [Resolution 1642 \(2009\)](#) on access to rights for people with disabilities and their full and active participation in society, the Parliamentary Assembly invited member States to ensure that people with disabilities have legal capacity and exercise it on an equal basis with other members of society, particularly by ensuring that their right to make decisions is not limited or substituted by others, that measures concerning them are individually tailored to their needs and that they may be supported in their decision-making by a third person.

44. The European Court of Human Rights has on several occasions ruled on cases relating to legal capacity. In its judgments in the cases of *Shtukurov v. Russia* (2008) and *Salontaji-Drobnjak v. Serbia* (2009), the Court took the view that, in the light of the facts of the case, the complete incapacity imposed on applicants who were suffering from mental disorders was disproportionate to the aim pursued and constituted an infringement of their right to respect for private life as protected by Article 8 of the European Convention on Human Rights. Furthermore, the Court found, in its judgment in the case of *Stanev v. Bulgaria* (2012), that deprivation of legal capacity, even partial, has serious implications in terms of access to the courts, and it pointed out that the right to apply to a court for review of a declaration of incapacity is one of the most fundamental rights for the persons concerned. Lastly, in a recent judgment, the Court held that deprivation, even partial, of legal capacity should be a measure of last resort, applied only where other, less restrictive, measures have been unsuccessfully attempted.²⁵

45. In 2012, the Commissioner for Human Rights noted that the European arrangements relating to legal capacity were out of date and needed urgent reform to bring them into line with the UN Convention.²⁶ He also called for the abolition of the mechanisms providing for full incapacitation and plenary guardianship and for the introduction of supported decision-making mechanisms.

46. No movement in the direction recommended by the different instruments and international institutions can be observed today. The great majority of Council of Europe member States have a guardianship system which is applied to persons with intellectual or psychosocial disabilities. Only two European countries, Germany and Sweden, have abolished their systems of guardianship and put other, less intrusive, forms of support for people with disability in place instead.²⁷ Some countries, such as Cyprus, Ireland and Romania, provide only for complete deprivation of legal capacity as a consequence of the introduction of a guardianship measure. In those countries no alternative exists.

47. In “General comment No. 1” on Article 12 of the UN Convention relating to the recognition of legal personality on an equal basis, the monitoring committee set down the principle that all guardianship systems should be abolished.²⁸ That position is fully in line with the current approach to disability based on human

22. Eurostat, 2011 ad hoc module of the Labour Force Survey.

23. G. Cornu, “*Vocabulaire juridique*”, PUF, 2009, p. 121.

24. Article 12 of the UN Convention; Action Line No. 2 (paragraph 3.12.1) of the Council of Europe Action Plan: “Improving the quality of life of people with disabilities in Europe, 2006-2015”.

25. *Ivinović v. Croatia*, Application No. 13006/13, judgment of 18 September 2014.

26. Council of Europe Commissioner for Human Rights, “Who gets to decide? Right to legal capacity for persons with intellectual and psychosocial disabilities”, Issue Paper, 2012.

27. Fundamental Rights Agency of the European Union, “Legal capacity of persons with intellectual disabilities and persons with mental health problems”, 2013, p. 34.

28. CRPD/C/GC/1 of 11 April 2014, “General comment No. 1 (2014), Article 12: Equal recognition before the law”.

rights, which implies a shift from a substitute decision-making paradigm to one that is based on supported decision-making. The committee points out in its General comment that legal capacity is an inherent right of all persons, and says that it needs to be distinguished from the capacity to exercise rights, for which support may be offered when necessary, in accordance with Article 12 of the convention. Consequently, in the committee's view, the States Parties to the UN Convention should, without delay, eliminate from their domestic legal systems the existing substitute decision-making mechanisms.

48. This position is criticised by certain States which consider that it fails to take account of the situation of persons who are in a vegetative state or have very severe intellectual impairments and who are unable to understand decisions and their implications. For those States, the application of full guardianship should not be excluded, as a last resort and subject to all the requisite safeguards.²⁹ They consider that, in such cases, a supported decision-making mechanism would be spurious, since it would in practice be the supporting person who would take decisions and not the person with a disability him or herself.

49. In order to understand the position of the monitoring committee and of numerous organisations active in this field, it needs to be pointed out that the consequences of deprivation of legal capacity are particularly severe. In practice, when a person is subject to full guardianship, he or she is deprived of the enjoyment and exercise of a large number of civil rights, or even of all such rights. For example, in a very large number of European countries, such a person is no longer allowed to vote or to stand for election. In my country, Spain, courts which impose the deprivation of legal capacity, even if only partial, very often impose at the same time the deprivation of the right to vote. As a result, around 80 000 people with disabilities are not allowed to vote in Spain.³⁰ The Fundamental Rights Agency noted in a recent study that only seven European Union member States did not link the right to vote to legal capacity, and it called on member States whose legislation deprives individuals of the right to vote because of their disability to amend it.³¹ Similarly, in Recommendation CM/Rec(2011)14, the Committee of Ministers recommended that Council of Europe member States ensure that their legislation is devoid, at all levels, of provisions depriving persons with disabilities of the right to vote or stand for election.

50. Finally, I should like to mention two supported decision-making systems which have more particularly caught my attention:

- a. Support networks: one example which is often mentioned is that of the Representation Agreement Act, adopted in British Columbia, Canada, in 1996. This allows an adult to conclude an agreement with a network of people who will thereby be allowed to help him or her to take decisions and to be represented in the event that he or she becomes incapable of taking decisions independently.³² A representation agreement may also be concluded by a person with a severe disability who is able to communicate his or her wishes, or who demonstrates trust in the persons designated to help him or her. That constitutes one of the main innovations of this law, since the persons concerned no longer have to establish their legal competence in accordance with the usual criteria, for example by demonstrating their capacity to understand the relevant information.³³
- b. Persons of trust: in Sweden, the institution of "personal ombudsman" (*personligt ombud*) was introduced throughout the country in 2000 for persons with psychiatric disorders. Personal ombudsmen serve their clients and act in accordance with the wishes of those clients, for example in dealings with social services, but also help them to solve more personal issues such as family disputes. Personal ombudsmen are available on a daily basis, visit their clients and are not attached to any psychiatric or social agency. Their independence from the authorities is a vital aspect of the system and facilitates the establishment of a trusting relationship with clients. In 2010, 325 personal ombudsmen were helping

29. Denmark, France and Norway expressed a similar position to the United Nations Committee on the Rights of Persons with Disabilities. See their contributions to the work of the committee:

www.ohchr.org/EN/HRBodies/CRPD/Pages/DGCArticles12And9.aspx.

30. Report by Nils Muižnieks, Commissioner for Human Rights, following his visit to Spain (3-7 June 2013), CommDH(2013)18, paragraph 84. See also: Marta Fernández Maeso, "¿Cómo que no puedo votar?", *El País*, 7 January 2014.

31. The seven States concerned are Austria, Croatia, Italy, Latvia, the Netherlands, Sweden and the United Kingdom. See: EU Agency for Fundamental Rights, "The right to political participation for persons with disability: human rights indicators", 2014, p. 40.

32. Article 2, [RSBC 1996] Chapter 405.

33. Inter-Parliamentary Union (IPU) and the Office of the United Nations High Commissioner for Human Rights, "From Exclusion to Equality: Realising the rights of persons with disabilities – Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and Its Optional Protocol", No. 14, 2007, p. 98.

over 6 000 individuals in every part of Sweden.³⁴ A study by the World Health Organization and the World Bank has assessed this innovative system and found that the “initial costs can be high, as people assert their rights and make full use of the services. But the costs fall as situations are resolved and the need for support declines”.³⁵

51. These two systems are in my view good practices. Undeniably, the question of legal capacity is both complex and sensitive in that it affects legal and cultural traditions which are deeply rooted in member States. I nevertheless feel that it is necessary to start to give thought to the models which exist in our respective countries and to develop alternatives to substitute decision-making mechanisms, drawing on innovative practices.

4. Silent victims: violence against people with disabilities

52. People with disabilities are particularly vulnerable to violence in their homes, at school or in specialised institutions. This is a fact that is both known and often ignored. The European Court of Human Rights ruled on the case, in Croatia, of a woman and her adult son, who had physical and mental disabilities, who for several years were subjected to physical and verbal harassment by children attending the school which also housed the workshop where the young man was employed. Despite their complaints, the competent authorities, including the police, did nothing to put a stop to the harassment. In a judgment handed down in 2012, the Court held that there had been a violation of Article 3 of the European Convention on Human Rights which prohibits inhuman and degrading treatment.³⁶

53. This is not an isolated case. It illustrates a failure to act on the part of the authorities, who can sometimes trivialise the situation. In a study on hate crimes, the Fundamental Rights Agency pointed out that “the criminal justice systems in most European Union member States fail to recognise crimes motivated by a person’s disability as a fully-fledged bias motivation. Persons with disabilities are therefore often unable to seek redress. The offenders may be tried on the basis of, say, grievous bodily harm, leaving the bias that motivated their attack unaddressed”.³⁷ As a result, people with disabilities may be victims of violence because of their disability, but failure to take account of this fact, both in legislation and in the official statistics on crime, means that people with disabilities are silent victims.

54. A good practice exists in the United Kingdom, where particular attention has been paid to disability hate crime for several years now. For instance, a provision whereby an offence motivated by hostility towards an individual because of his or her disability constitutes an aggravating circumstance was added to criminal law in 2005. However, disability hate crimes are still not reported frequently enough, taken seriously enough by the police or prosecuted often enough.³⁸ In October 2014, the Crown Prosecution Service accordingly published an action plan designed specifically to combat disability hate crime. This reflects the authorities’ determination to combat such crime effectively, and I urge all member States to adopt the same approach.

55. Although all people with disabilities could be the victims of violence, I would now like to take a closer look at the problem of violence against women and children with disabilities.

4.1. Violence against women with disabilities

56. It is estimated that women with disabilities are 1.5 to 10 times more likely to be exposed to violence than women without disabilities.³⁹ The extent of the problem is confirmed by the many studies on violence against women with disabilities.⁴⁰

34. Source: <http://po-skane.org>.

35. World Health Organization and World Bank, “World report on disability”, 2011, p. 155.

36. *Đorđević v. Croatia*, Application No. 41526/10, judgment of 24 July 2012.

37. Fundamental Rights Agency, “Making hate crime visible in the European Union: acknowledging victims’ rights”, November 2012, p. 31.

38. Criminal Justice Joint Inspection, “Living in a different world: joint review of disability hate crime”, March 2013.

39. Human Rights Watch, “Human Rights for Women and Children with Disabilities”, 2012, p. 5.

40. S. Ortoleva, H. Lewis, “Forgotten sisters – a report on violence against women with disabilities: an overview of its nature, scope, causes and consequences”, Northeastern University School of Law, Papers Series No. 104-2012; International Network of Women with Disabilities (INWWD), “Violence against women with disabilities”, 4 October 2010; M. L. Belezá, “Discrimination against Women with Disabilities”, Council of Europe Publishing, 2003, pp. 46-48.

57. This finding has recently been confirmed by the Fundamental Rights Agency survey on violence against women in the 28 member countries.⁴¹ According to this survey, more than one woman in two with a health problem, a disability or with difficulties in their daily life is or has been subjected to psychological violence by their partner or to sexual harassment. A third are victims of physical violence. It should also be noted that violence particularly affects young women (18-29 years old).

58. It should, however, be pointed out that there are very few precise statistics, per country, on violence against women with disabilities. In Spain, the number of women with disabilities who report aggressions does not appear in the statistics. In its Second Action Plan for women with disabilities (2013-2016), the Spanish Committee of Representatives of People with Disabilities (CERMI) noted that “this clearly shows the extent to which women with disabilities are invisible as they are not considered to be potential victims of gender violence, nor perceived by people in general as women”.⁴²

59. There are very few personal accounts by women with disabilities of the violence to which they have been subjected and this only confirms the impression that the subject is taboo:

“One time, he actually took the battery out of this wheelchair I’m in now. He just unplugged it so I couldn’t move and if it wasn’t for a mutual friend that came to the house he wouldn’t have plugged it back in. And I don’t know how long I’d have been staying there with a dead battery. There was no one else that was supposed to be going round to the house... He’d make me wait for help or he’d tut a lot or he’ll say ‘Oh god you have to do it again, Oh come on then, get it over and done with’. And shove me about sometimes.”⁴³

“People pity him because he is taking care of you... People are reluctant to criticise this saint or to think he could be doing these terrible things. And possibly, as well... people don’t really ‘see’ a disabled woman as a wife, partner, mother. So I think for some people it’s hard to think, well, this might be a woman who’s being sexually or physically abused by her partner, is experiencing domestic violence, because disabled women don’t have sex, do they?”⁴⁴

60. Women with disabilities are subjected to the same types of violence as other women. Furthermore, they suffer violence because of their specific situation of vulnerability and dependence on their care providers or the providers of other services. It is in fact often the latter who are the perpetrators of such violence. Isolating and infantilising women with disabilities makes them even more vulnerable to various types of violence.

61. In addition to physical, psychological and sexual abuse, particular types of violence such as neglect or refusal to provide health care, ill-treatment and financial exploitation are very common. Women with disabilities are particularly concerned by forced abortions and sterilisations, whereas such acts are condemned by the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence.

62. At the hearing on violence against women with disabilities held by the Parliamentary Network Women Free from Violence on 24 June 2014, Ms Ana Peláez Narváez, member of the UN Committee on the Rights of People with Disabilities, talked of the “invisible reality” of violence against women with disabilities because such violence often takes place in enclosed spaces where no one else can see what is happening. She also drew attention to the particular vulnerability of women with mental disabilities to abuse and violence and the fact that it is impossible for them to report such violence when they have no legal capacity.

63. Women with disabilities who are victims of abuse face particular obstacles which discourage them from reporting the abuse and violence perpetrated against them. These obstacles include the difficulty in gaining access to information, the very small number of shelters accessible to women with disabilities, the risk that they will no longer receive personal assistance if they leave their home and the fear of being placed in an institution or of losing custody of their children.

64. At the hearing held by the Parliamentary Network Women Free from Violence, Gill Hague, Emeritus Professor at Bristol University (United Kingdom), called for a fundamental change in cultural attitudes towards women with disabilities, both with regard to the way in which they are perceived and the way in which they are

41. Fundamental Rights Agency, “Violence against women: an EU-wide survey. Main results report”, 2014, pp. 187-188.

42. Spanish Committee of Representatives of People with Disabilities (CERMI), A. Peláez Narváez and Pilar Villarino Villarino (ed.), “Action Plan for Women with Disabilities”, December 2013, p. 61 (Council of Europe translation: original text in Spanish).

43. R. Thiara, G. Hague, R. Bashall, B. Ellis and A. Mullender, *Disabled Women and Domestic Violence. Responding to the Experiences of Survivors*, 2012, Jessica Kingsley Publishers, p. 37.

44. *Ibid.*, p. 43.

treated. Funding, monitoring and documenting violence against women with disabilities should be part of national and local strategies to combat violence against women. Professor Hague not only called on the services responsible for helping the victims of domestic violence to improve their assistance to women with disabilities but also on the organisations representing people with disabilities to give more attention to the issue of domestic violence.

65. Studies specifically concerning violence against women with disabilities have been carried out, for example in Germany and in the United Kingdom.⁴⁵ They are examples of good practices because they help collect detailed information so that a more precise picture can be gained of the extent of the problem at national level and so that countries can identify the most appropriate steps to take.

66. The Istanbul Convention does not contain any specific provisions concerning women with disabilities. However, it protects these women through the principle of non-discrimination enshrined in its Article 4, paragraph 3. I trust that the convention's monitoring body (GREVIO) will pay close attention to the situation and the specific needs of women with disabilities who are victims of violence. Given their unprecedented role in monitoring a Council of Europe convention, national parliaments and the Parliamentary Assembly should remain vigilant and ensure that States Parties to the convention take appropriate measures.

4.2. Violence and the stigmatisation of children and teenagers with disabilities

67. A July 2012 study conducted at the request of the World Health Organization reveals that children with disabilities are almost four times more likely to be faced with violence than children without disabilities. It also appears from this study that stigmatisation, discrimination and lack of information about disability, as well as lack of social support for the carers of children with disabilities, are the factors which expose them to a greater risk of violence and rejection.

68. Some forms of violence are specific to children with disabilities. These include, for instance, abuse defined as behaviour modification (electroconvulsive treatment, drug therapy), the practice of forced sterilisation of girls with intellectual or mental disabilities, abandonment and "mercy killing".⁴⁶ The latter may stem from the belief that death is better than the (real or supposed) suffering related to disability. It also reveals the lack of support for people with disabilities and their families and the despair and isolation of the parents of children with disabilities.

69. Violence against children with disabilities is a serious problem. It is estimated that children with mental or intellectual disabilities are 4.6 times more likely to be victims of sexual violence than their non-disabled peers.⁴⁷ Particular attention must be paid without delay to children with disabilities as a group at serious risk of violence. All Council of Europe member States should ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which provides that a child's disability is an aggravating circumstance when he or she is the victim of abuse.

70. Placement in institutions is a major risk factor in terms of physical and sexual violence affecting people with disabilities, in particular children. The current trend towards promoting "deinstitutionalisation" is fully in line with the UN Convention on the Rights of Persons with Disabilities and the position of organisations representing people with disabilities. At a hearing held by the Committee on Equality and Non-Discrimination and the Council of Europe Committee of Experts on the Rights of People with Disabilities (DECS-RPD) on 2 October 2014, Professor Gerard Quinn of the University of Galway (Ireland) condemned the fact that two million children with disabilities lived in institutions worldwide and that they had "disappeared legally", in breach of their right to inclusion in society. The Commissioner for Human Rights also condemned the toxic effects of institutions on individuals and called on Council of Europe member States to put an end to placement in institutions.⁴⁸

45. For Germany, see "Life situations of and pressures on disabled women in Germany", report drafted by the University of Bielefeld on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 20 February 2012 (abridged version in English). For the United Kingdom, see G. Hague, R. Thiara, P. Magowan, A. Mullender, "Making the links. Disabled women and domestic violence", Final report, 2008.

46. UNICEF, "Children and Young People with Disabilities Fact Sheet", May 2013, pp. 25-26.

47. UNICEF, "The State of the World's Children 2013, Children with Disabilities", May 2013, pp. 44-45.

48. CommDH/Speech(2014)9, Deinstitutionalisation in the work of the Council of Europe Commissioner for Human Rights. Address by Nils Muižnieks, Commissioner for Human Rights, at the Joint hearing between the Assembly's Committee on Equality and Non-Discrimination and the Council of Europe Committee of Experts on the Rights of People with Disabilities: One of us? The right of persons with disabilities to live in the community (Strasbourg, 2 October 2014).

71. The issue of life in institutions is vast and complex and I do not intend to address it in detail in this report. However, it needs to be looked at in depth in the member States so as to move away from the culture of institutionalisation and develop alternatives for people with disabilities which take account of their own choices. At the hearing on 2 October 2014, a young man with disabilities underlined that the choice of where to live should be left to the people with disabilities themselves and that they may sometimes prefer to live in institutions where the care and services they need are available and where they feel less isolated. They must, however, have real alternatives to enable them to choose, including, in particular, the ability to access the care and services they need without living in an institution.

72. In conclusion, I should also like to mention schools, where violence against children with disabilities may also take place. Numerous news items regularly draw our attention to this: for example, the case of a teenager with disabilities whose classmate used to burn him with cigarettes (Italy, March 2013) or that of a teenager with a mild mental disability who was filmed while being ill-treated and humiliated by other teenagers, who subsequently posted the video on Facebook (France, February 2014). Cases of bullying are also very common. In 2014, the Institute of Education in London noted that primary school special needs pupils are twice as likely to suffer from bullying as other children.

73. The individuals interviewed by the Fundamental Rights Agency in the context of a project on the basic rights of people with mental disabilities or mental health problems, included a 45-year-old Swedish man who described his schooldays like this: "You were told all the time that you were worthless, you're bad, stupid and all that. So I never had any friends at all." This example shows how the stigmatisation of children and teenagers leads to their isolation in flagrant contradiction of the objective of full inclusion set out in all the international and national instruments on disability.

74. When such things happen at school, the parents of children with disabilities have doubts about the inclusion of their children in ordinary schools and turn to specialised schools, which they consider more capable of meeting their children's needs and of protecting them from violence. This is a normal response from parents who want the best for their children. If the parents of children with disabilities are to be encouraged to register their children in ordinary schools, they must receive guarantees that their children will be protected against violence at school. It is everyone's responsibility to create a peaceful environment at school that is appropriate to teaching and to children's development.

5. Conclusions

75. Protection of the rights of people with disabilities reached a major turning point when the UN Convention on the Rights of Persons with Disabilities came into force in 2008. This invaluable treaty serves as a reference instrument for the work being done in this field by both international organisations, such as the Council of Europe and the European Union, and non-governmental organisations. Implementing it nevertheless presents a challenge to all its States Parties. For example, recognition of the legal capacity of people with disabilities implies a review of the guardianship mechanisms which exist in our member States. The current tendency is in fact towards the development of supported decision-making mechanisms, complementing, or even superseding, substitute decision-making mechanisms. Some good practices exist in this field and deserve our attention.

76. Disability must be included in all the activities, initiatives and policies (education, employment, transport, public procurement, etc.) of all Council of Europe member States and the various international organisations. This is essential if we are to move towards equal rights and the full inclusion of people with disabilities. National parliaments should make sure that austerity measures and budget cuts are designed in such a way that equality policies for people with disabilities are protected as far as possible. It is just as vital that policies and measures in the field of disability are designed and developed in consultation with organisations representing people with disabilities.

77. The Council of Europe's Action Plan for 2006-2015 has contributed to the development of national policies which take account of the rights of people with disabilities, while also helping to make people see disability as a human rights issue. The efforts need to be continued. The Action Plan must be evaluated without delay and the Council of Europe must define new activities in the field of disability. The fundamental issues of legal capacity, deinstitutionalisation of people with disabilities and violence against people with disabilities must be addressed as priorities, including by the Parliamentary Assembly.

78. There are more than 80 million people with disabilities in Europe. We may all suffer from a disability at some point in our lives. People with disabilities should no longer be invisible or go unheard. Equality and inclusion for people with disabilities are everyone's business.