

**Council of Europe**  
**Conseil de l'Europe**



**European Union**  
**Union européenne**

**JOINT EUROPEAN UNION-COUNCIL OF EUROPE PROGRAMME**

Setting up an active network of  
independent non judicial human rights structures

*“The role of national human rights structures  
in promoting and protecting  
the rights of persons with disabilities”*

2-3 December 2008 Budapest (Hungary)

***WORKSHOP DEBRIEFING PAPER***

University of Padua  
Interdepartmental Centre on  
Human Rights and the Rights of Peoples



Université de Padoue  
Centre Interdépartemental pour  
les Droits de la Personne et les Droits des Peuples





The present publication<sup>1</sup> was prepared by STEFANO VALENTI of the Interdepartmental Centre on Human Rights and the Rights of Peoples of the University of Padua, on the basis of a document drafted by the International Centre for Democratic Transition<sup>2</sup>.

This publication was funded by the Council of Europe and the European Union. The content of this publication is the sole responsibility of the authors and can in no way be taken to reflect the views of the Council of Europe or the European Union.

---

<sup>1</sup> *The electronic version of this publication is also available at [www.centrodirittiumani.unipd.it](http://www.centrodirittiumani.unipd.it)*

<sup>2</sup> *<http://www.icdt.hu>*

## *Contents*

*page*

<b>INTRODUCTION</b> .....	7
<b>CHAPTER 1 - Definition: who are the people with disabilities?</b> .....	11
<b>CHAPTER 2 - Concrete examples of barriers to the full enjoyment of human rights by persons with disabilities</b> .....	15
List of barriers in accessing National Human Rights Structures' services by persons with disabilities: .....	15
<b>CHAPTER 3 - Rights of persons with disabilities: applicable international standards</b> .....	19
International standards: General International Instruments.....	19
International Standards in relation to persons with disabilities.....	21
Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention .....	23
European Standards: the Council of Europe .....	27
European Standards: European Union .....	38
<b>CHAPTER 4 - Rights of persons with disabilities: the fight against discrimination</b> .....	41
Combating discrimination of persons with disabilities in the field of education .....	41
Rights of persons with disabilities: the importance of addressing the right to legal capacity.....	44
<b>CHAPTER 5 - Rights of persons with disabilities: monitoring the respect of the rights of person with disabilities</b> .....	51

**CONCLUSIONS**.....61

**APPENDIXES**.....65

    List of background documents .....65

    Workshop programme.....69

    List of participants.....72







## INTRODUCTION

Co-financed by the Council of Europe and the European Union, the “Peer-to-Peer Project” consists of a work programme to be implemented by the Council of Europe’s Directorate General of Human Rights and Legal Affairs (DGHL) and the Interdepartmental Centre on Human Rights and the Rights of Peoples of the University of Padua (Human Rights Centre). The main tool of the programme is the organisation of workshops for staff members of the National Human Rights Structures (NHRSs), in order to convey information on the legal norms governing priority areas of NHRS action and to proceed to a peer review of relevant practices used or envisaged throughout Europe.

In 2008, the fifth workshop of the Peer-to-Peer project was entitled “*The promotion and protection by national human rights structures of the rights of persons with disabilities*”. It was organised at the European Youth Centre in Budapest on 2-3 December and was attended by a total of 47 persons, including participants, speakers and organisers.

The workshop consisted of five working sessions. During the first session, participants identified obstacles preventing persons with disabilities from the full enjoyment of their rights, and discussed how to ensure that persons with disabilities have access to the NHRSs. This was followed by a session giving an overview of the international legal standards. Two substantive rights - namely the right not to be discriminated against, particularly in the field of education, and the right to legal capacity – were then discussed more in detail. The last session covered the role of independent national mechanisms, as laid down in Article 33 of the UN Convention on the Rights of Persons with Disabilities, and how to conduct visits to places where persons with disabilities are deprived of their liberty.

As a follow-up to this event, it was decided to produce this workshop debriefing paper which aims at summarizing the findings of the workshop and at providing practical information on the topic to the NHRs, as well as references to documents concerning the role of NHRs in promoting and protecting the rights of persons with disabilities.



1]

**CHAPTER 1***Definition: who are the people with disabilities?*

The two major approach models to disability are the *medical model* and the social model.

The *Medical Model of Disability* considers persons with disabilities as persons with physical problems that need to be cured and provided with special services. This regards persons with disabilities as patients: it is them who need to be changed not the society.

The *Social Model of Disability* considers persons with disabilities as persons unable to do something because of the barriers that exist in society. It regards persons with disabilities as right-holder citizens: it is the society that needs to be changed not the person with disabilities.

**TRADITIONAL APPROACH TO DISABILITY**

*In the past, persons with disabilities suffered from a relative “invisibility”, and tended to be viewed as “objects” of protection, treatment and assistance rather than subjects of rights. As a result of this approach, persons with disabilities were excluded from mainstream society, and provided with special schools, sheltered workshops, and separate housing and transportation on the assumption that they were incapable of coping with either society at large or all or most major life activities. They were denied equal access to those basic rights and fundamental freedoms (e.g. health care, employment, education, vote, participation in cultural activities) that most people take for granted.*

<http://www2.ohchr.org/english/issues/disability/intro.htm>

The *UN Convention on the Rights of Persons with Disabilities (CRPD)* is a groundbreaking convention, because it addresses disability issues in a human rights context as opposed to the traditional approach, which casts disability in a medical, charity, or social welfare model.

The Office of the High Commissioner for Human Rights (OHCHR) elaborated the meaning of the rights-based approach to disability. It is about viewing persons with disabilities as subjects of law. Its final aim is to empower disabled persons and to ensure their active participation in political, economic, social, and cultural life in a way that is respectful and accommodating of their difference.

Core values of right-based approach to disability are:

1. *Dignity* of each individual, who is deemed to be of inestimable value because of his/her inherent self-worth, and not because s/he is economically or otherwise “useful”;
2. *Autonomy* or self-determination, which is based on the presumption of a capacity for self-directed action and behaviour, and requires that the person be placed at the centre of all decisions affecting him/her;
3. *Inherent equality* of all, regardless of any difference;
4. *Ethic of solidarity*, which requires society to sustain the freedom of the person with appropriate social supports.



2]



## CHAPTER 2

### *Concrete examples of barriers to the full enjoyment of human rights by persons with disabilities*

During the first working session experiences were shared on concrete examples of barriers hindering persons with disabilities from the full enjoyment of their human rights. The discussion pointed out the urgent need for a proactive role of the NHRSS.

Such barriers can be physical or legal, or connected to attitudes and stigma. For example, the possibility to be politically active may be circumscribed by legal barriers, inaccessible voting procedures or simply because public information is not provided in an accessible format. In addition, persons with disabilities face problems when trying to claim their rights. Particularly, persons under guardianship and/or detained in institutions are prevented from access to courts or other complaints mechanisms in several countries.

### *List of barriers in accessing National Human Rights Structures' services by persons with disabilities:*

#### **PHYSICAL BARRIERS**

- Lack of Braille leaflets, publications
- Lack of blind- friendly websites
- Lack of interpretation into sign language
- Inaccessible buildings
- Lack of time
- Language barriers

### **ATTITUDINAL BARRIERS**

- Low awareness of rights
- Fear of stigmatization

### **MEDICAL BARRIERS**

- Extreme side effects of medication

### **INFRASTRUCTURAL BARRIERS**

- Lack of support for people to make complaints
- Low intensity of outreach to people
- Sedation
- Institutionalization
- Confinement
- Fear of reprisals
- The concept of “*learnt helplessness*”

### **BARRIERS IN ACCESSING THE AUSTRIAN OMBUDSMAN OFFICE IN THE PAST:**

- *Special needs for disabled children not yet accommodated;*
- *Long duration of processes;*
- *Special financial supports are not based on a legal claim, but are considered on an individual basis. The decisions on special financial support are not subject to appeal.*

### **INCREASED ACCESS TO THE AUSTRIAN OMBUDSMAN OFFICE:**

- *Complaints can be submitted in writing, email, phone or in person;*
- *In person meetings with the Office of the Austrian ombudsman are available throughout Austria;*
- *No formal requirement for submitting complaints;*
- *Complaints of persons deprived of legal capacity are also accepted;*
- *Complaints can also be launched by welfare organizations.*

**SPECIAL MEASURES TAKEN IN THE LAST YEARS TO IMPROVE THE ACCESS TO PUBLIC SERVICES: THE EXAMPLE OF AZERBAIJAN**

- *Easy access to public transportation is increased by ramps and new means of transport;*
- *Awareness raising on persons with disabilities campaign launched on TV;*
- *Special TV program designed for deaf people;*
- *Special traffic signals with sound installed for deaf people;*
- *Free of charge access to medical, legal and leisure services.*

3]

## CHAPTER 3

### *Rights of persons with disabilities: applicable international standards<sup>3</sup>*

Important developments in standard setting have taken place over the last few years both at the UN and at the European levels. This section aims at giving an overview of the new standards.

#### *International standards: General International Instruments*

All human rights conventions include a provision protecting against discrimination. However the UN Convention on the Rights of Persons with Disabilities is the only convention that specifically recognizes the need to protect against discrimination on the grounds of disability.

#### **The Universal Declaration of Human Rights (1948)**

<http://www.un.org/Overview/rights.html>

- Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of [...] other status.
- Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 6: Everyone has the right to recognition everywhere as a person before the law.
- Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

---

<sup>3</sup> Based on the presentation of AZÉDINE LAMAMRA, Lawyer, Member of the Luxembourg Advisory Committee on Human Rights.

- Article 8: Right to effective remedy
- Article 17: Right to property
- Article 25: Right to an adequate standard of living
- Article 27: Right to education

### **ILO, C111 Discrimination (Employment and Occupation) Convention (1958)**

<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C111>

Article 5.2: *“Any Member may, after consultation with representative employers’ and workers’ organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination”.*

### **The International Convention on the Elimination of All Forms of Racial Discrimination (1965)**

<http://www2.ohchr.org/english/law/cerd.htm>

### **The International Covenant on Economic, Social and Cultural Rights (1966)**

<http://www2.ohchr.org/english/law/cescr.htm>

- Article 2: Non discrimination
- Article 10: Non discrimination against children

### **The International Covenant on Civil and Political Rights (1966)**

<http://www2.ohchr.org/english/law/ccpr.htm>

- Article 2: Non discrimination
- Article 10: Non discrimination against children

### **The Convention on the Elimination of All forms of Discrimination Against Women (1979)**

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

**The Convention Against Torture (1984)**

<http://www2.ohchr.org/english/law/cat.htm>

**The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)**

<http://www2.ohchr.org/english/law/cmw.htm>

**The International Convention for the Protection of All Persons from Enforced Disappearance (2006)**

<http://www2.ohchr.org/english/law/disappearance-convention.htm>

State Party's obligation to *“punish enforced disappearance by appropriate penalties which take into account its extreme seriousness [...] without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of [...] persons with disabilities [...].”* (Article 7 b).

*International Standards in relation to persons with disabilities*

**The Declaration on the Rights of Disabled Persons (1975)**

<http://www2.ohchr.org/english/law/res3447.htm>

**The World Programme of Action concerning Disabled Persons (1981)**

<http://www.un.org/disabilities/default.asp?id=23>

**The Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993)**

<http://www.un.org/esa/socdev/enable/dissre00.htm>

It sets rules on the:

- Preconditions for equal participation (medical care, rehabilitation and support services);

- Target areas for equal participation (accessibility, education, employment, income maintenance and social security, family life and personal integrity, culture, recreation and sports and religion);
- Implementation measures;
- Monitoring mechanism.

### **ILO, C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention (1983)**

<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C159>

- A “*disabled person*” is an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.
- Principles of vocational rehabilitation and employment policies for disabled persons:
  - *State obligation* to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons;
  - *Available measures* to all categories of disabled persons;
  - *Equal opportunity* between disabled workers and workers;
  - *Consultation* with representative organizations of employers, workers on the implementation of the said policy, including the measures to be taken to promote cooperation and coordination between the public and private bodies engaged in vocational rehabilitation activities together with the representative organisations of and for disabled persons.



## *Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention*

The Convention on the Rights of Persons with Disabilities is a unique Convention representing both a development and a human rights instrument: it is a cross-disability and cross-sectors policy instrument and it is legally binding.

### CONVENTION STRUCTURE

*Preamble*

*1. Purpose*

*2. Definitions*

*3. General principles*

*4. General obligations*

*5. Equality and non-discrimination*

*6. Women with disabilities*

*7. Children with disabilities*

*8. Awareness-raising*

*9. Accessibility*

*10. Right to life*

*11. Situations of risk and humanitarian emergencies*

*12. Equal recognition before the law*

*13. Access to justice*

*14. Liberty and security of the person*

*15. Freedom from torture or cruel, inhuman or degrading treatment or punishment*

*16. Freedom from exploitation, violence and abuse*

*17. Protecting the integrity of the person*

*18. Liberty of movement and nationality*

*19. Living independently and being included in the community*

*20. Personal mobility*

*21. Freedom of expression and opinion, and access to information*

*22. Respect for privacy*

*23. Respect for home and the family*

*24. Education*

*25. Health*

*26. Habilitation and rehabilitation*

*27. Work and employment*

*28. Adequate standard of living and social protection*

*29. Participation in political and public life*

*30. Participation in cultural life, recreation, leisure and sport*

*31. Statistics and data collection*

*32. International cooperation*

*33. National implementation and monitoring*

*34 to 40. International monitoring mechanism*

*41 to 50. Final clauses*

*Optional protocol*

## **A PARADIGM- SHIFT: FROM “OBJECTS” TO “SUBJECTS”**

The UN Convention does not view persons with disabilities as “objects” of charity, medical treatment and social protection; rather as “subjects” with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent, as well as being active members of society.

The Convention gives universal recognition to the dignity of persons with disabilities.

### **A. DEFINITIONS**

The CRPD does not particularly define the terms “*disability*” or “*persons with disabilities*”, however its preamble and Article 1 suggest that:

“*Disability*” is an evolving concept and results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis.

The definition “*Persons with disabilities*” includes those who have long-term physical, mental, intellectual or sensory impairments that in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (Article 1).

*“The Convention wanted to have an inclusive approach to disability and people with disabilities and that is why the drafters were unable to provide a formal definition of disability. Advocates who understand this inclusive evolving approach to disability are in the position to demand from government’s substantive explanations, if they exclude some groups of people who experience barriers in their participation on an equal basis with others in society. Therefore, the ‘non-definition’ enables advocates to be proactive and demand from governments explanations why they understand disability in a narrower sense than the very inclusive approach inferred in the Convention”<sup>4</sup>.*

---

<sup>4</sup> GÁBOR GOMBOS, *Equal Rights Review Volume Two* (2008), <http://www.equalrightstrust.org/ertdocumentbank/interview.pdf>

## B. THE GUIDING PRINCIPLES OF THE CONVENTION

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women;
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

**FULL AND EFFECTIVE PARTICIPATION  
AND INCLUSION IS RECOGNIZED IN  
THE CONVENTION AS:**

- *A general principle (article 3)*
- *A general obligation (article 4)*
- *A right (articles 29 and 30)*

## C. PROVISIONS REINFORCING THE RIGHTS- BASED APPROACH

Equal accessibility includes accessibility to information, to communication and to other services (Article 9);

- Equal recognition before the law (Article 12) regards persons with disabilities as citizens with full rights;
- Article 19 suggests that inclusion has to become real through effective and appropriate measures;
- Freedom of expression and opinion (Article 21) also includes the right to access information: It reflects the need for real access to information for persons with disabilities;
- The right to participation in cultural rights (Article 30) involves rights that are generally forgotten when talking about the rights of persons with disabilities.

## RIGHTS IN THE CONVENTION

- *Equality before the law without discrimination (article 5)*
- *Right to life, liberty and security of the person (articles 10 & 14)*
- *Equal recognition before the law and legal capacity (article 12)*
- *Freedom from torture (article 15)*
- *Freedom from exploitation, violence and abuse (article 16)*
- *Right to respect physical and mental integrity (article 17)*
- *Freedom of movement and nationality (article 18)*
- *Right to live in the community (article 19)*
- *Freedom of expression and opinion (article 21)*
- *Respect for privacy (article 22)*
- *Respect for home and the family (article 23)*
- *Right to education (article 24)*
- *Right to health (article 25)*
- *Right to work (article 27)*
- *Right to adequate standard of living (article 28)*
- *Right to participate in political and public life (article 29)*
- *Right to participation in cultural life (article 30)*

## D. IMPLEMENTATION AND MONITORING OF THE CONVENTION

*Individual communication procedure* (Article 2) permits individuals and groups of individuals, of a State party to the Optional Protocol, to complain to the Committee on the Rights of Persons with Disabilities that the State has breached one of its obligations under the Convention.

- *Inquiry procedure* (Article 6) allows the Committee to conduct an inquiry after receiving reliable information indicating grave or systematic violations of the provisions of the Convention by a State party. The inquiry is confidential and has to be conducted with the full cooperation of the State concerned.
- *National implementation and monitoring* (Article 33) requires states parties to establish “a framework, involving one or more independent mechanisms to promote, protect and monitor implementation of the Convention”.
- *Committee on the Rights of Persons with Disabilities* (Article 34) is the body of independent experts, which monitors implementation of the

Convention by the States Parties. The Optional Protocol to the Convention gives the Committee competence to examine individual complaints with regard to alleged violations of the Convention by States parties to the Protocol.

- *Periodic reporting* (Article 35) obliges States parties to submit regular reports to the Committee on how the rights are being implemented. States must report initially within two years from accepting the Convention and thereafter every four years. The Committee examines each report and shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned.
- *Conference of States Parties* meets in order to consider any matter with regard to the implementation of the Convention (biennially or upon decision by the Conference).
- *Special Rapporteur on Disability* was created in 1993 with the unanimous adoption on the Standard Rules for the Equalization of Opportunities for Persons with Disabilities.

### *European Standards: the Council of Europe*

#### **European Convention on Human Rights**

<http://conventions.coe.int/Treaty/en/Treaties/Html/177.htm>

While the European Convention on Human Rights (ECHR) does not expressly refer to disability (with the single exception of Article 5 (1) e), applications brought by persons with disabilities have, over the years, given the European Court of Human Rights (ECtHR) the opportunity to elaborate a significant case-law in this area: in particular regarding the prohibition of torture, the right to liberty and security and the right to respect for private and family life. The articles most relevant to the protection of persons with disabilities are:

- Article 3. Prohibition of torture;
- Article 5. Right to liberty and security;

- Article 6. Right to a fair trial;
- Article 8. Right to respect for private and family life;
- Article 14. Prohibition of discrimination;
- Protocol No. 1 Article 1. Right to peaceful enjoyment of possessions;
- Protocol No. 12 Article 1. General prohibition of discrimination.

### **European Social Charter and European Social Charter (revised)**

<http://conventions.coe.int/treaty/en/treaties/html/035.htm>

All provisions of the Charter are applicable to persons with disabilities. Article E of the Charter, the non-discrimination clause, provides: “The enjoyment of the rights set forth shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.” This prohibits discrimination, inter alia, on the ground of disability. It requires that persons with disabilities have equal access to the rights guaranteed by the Charter. Article E not only covers direct discrimination but also all forms of indirect discrimination. Indirect discrimination may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all.

In addition the Charter contains a specific article guarantying:

- The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement (Article 15). This article implies:

The right to education and training: all persons with disabilities have a right to education and training. Education encompasses general education, basic compulsory education and further education as well as vocational training in the traditional sense.

The right to employment: this provision requires States to guarantee access to employment on the open labour market for persons with disabilities. States enjoy a margin of appreciation in the measures they

adopt to enable this, however anti-discrimination legislation and protection against dismissal is required.

The right to social integration and participation in the life of the community: the third paragraph of Article 15, as included in the Revised Charter, obliges States to adopt a coherent policy in the disability context, such as positive action measures to overcome the barriers to communication (which includes telecommunications and new information technology) and mobility in order to enable access to transport (land, rail, sea, air) housing (public, social and private), cultural activities and leisure (social activities and sporting activities).

### **Disability Action Plan (2006-2015)**

[http://www.coe.int/t/DG3/default\\_en.asp](http://www.coe.int/t/DG3/default_en.asp)

The Council of Europe Action Plan 2006-2015 aims to promote the rights and full participation of people with disabilities in society<sup>5</sup>. The Action Plan is complementary to the UN Convention in so far as it suggests specific measures, which would facilitate the ratification and the implementation of the UN Convention. It 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, by adopting the same paradigm shift as enshrined in the UN Convention: from a health-related to a social and human rights-based approach to disability; from “patient” to “citizen”.

The Disability 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. In this respect, the Committee of Ministers clearly recommends that governments co-operate with

---

<sup>5</sup> *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, referred to as the Council of Europe Disability Action Plan 2006-2015.*

civil society, involving, in particular, NGOs of persons with disabilities. The action plan sets:

- 15 key action lines covering all aspects of the life of disabled persons;
- Some 40 objectives;
- More than 160 specific actions to be carried out by member States.

### 15 KEY ACTION LINES

- |                                                        |                                                  |
|--------------------------------------------------------|--------------------------------------------------|
| 1. <i>Participation in political and public life</i>   | 8. <i>Community living</i>                       |
| 2. <i>Participation in cultural life</i>               | 9. <i>Health care</i>                            |
| 3. <i>Information and communication</i>                | 10. <i>Rehabilitation</i>                        |
| 4. <i>Education</i>                                    | 11. <i>Social protection</i>                     |
| 5. <i>Employment, vocational guidance and training</i> | 12. <i>Legal protection</i>                      |
| 6. <i>The built environment</i>                        | 13. <i>Protection against violence and abuse</i> |
| 7. <i>Transport</i>                                    | 14. <i>Research and development</i>              |
|                                                        | 15. <i>Awareness raising</i>                     |

Council of Europe member States have the responsibility of implementing the Action Plan, in close cooperation with the civil society. In practice, this means that they will first have to evaluate their existing disability policies, to identify the current gaps and to develop specific actions to overcome them. The member States' future disability policies will have to be in line with the Council of Europe Disability Action Plan and in accordance with adequate country's financial resources.



## Case-law of the European Court of Human Rights<sup>6</sup>

<http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database>

### Article 2 (Right to life)

- *Kılavuz v. Turkey*, 21 October 2008, application No. 8327/03  
Complaint: the applicant alleged that prison warders had killed her son and that if he had committed suicide it was because the prison authorities had failed in their positive obligation to protect the life of her son against that risk. She alleged a violation of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment).  
Findings of the Court: the Court found that there was insufficient evidence against the Turkish State to support the allegation that the applicant's son had been murdered. The Court therefore saw no plausible reason to depart from the Turkish authorities' finding that he had indeed committed suicide. The Court noted that the prison authorities could not have denied that the applicant's son, Baybars Geren, had manifested sufficiently severe signs of mental distress to raise fears that he was putting his own life or the life of others at risk. Given his volatile mental state, he had clearly needed close supervision; there was nothing to show, however, that the prison authorities had given the staff on duty on the day of the incident an instruction of any kind capable of preventing a sudden deterioration in Baybars Geren's state; ultimately, he had committed suicide unsupervised by anyone. Accordingly, the Court held that there had been a violation of Article 2, in relation to the deceased, on account of the failure by the prison authorities to do what could reasonably have been expected of them to prevent the incident.
- *Renolde v. France*, 16 October 2008, application No. 5608/05  
Complaint: relying on Articles 2 (right to life) and 3 (prohibition

---

<sup>6</sup> *Summaries of case-law relevant to mental disability are available in English, Czech, Estonian, Hungarian and Russian at the Mental Disability Advocacy Centre (MDAC)'s website: <http://www.mdac.info/en/ECHR-Case-Summaries>*

of inhuman or degrading treatment), the applicant alleged that the French authorities had not taken the necessary measures to protect her brother's life and that his placement in a punishment cell for 45 days had been excessive in view of his mental fragility.

Findings of the Court: the Court held that from 2 July 2000 onwards the authorities had known that the applicant's father, Joselito Renolde, was suffering from psychotic disorders capable of causing him to commit acts of self-harm. In the light of the State's obligation to take preventive operational measures to protect an individual whose life was at risk, it might have been expected that the authorities, faced with a prisoner known to be suffering from serious mental disturbance and to pose a suicide risk, would take special measures geared to his condition to ensure its compatibility with continued detention. The Court observed that placement in a punishment cell isolated prisoners by depriving them of visits and all activities, and that this was likely to aggravate any existing risk of suicide. It reiterated that the vulnerability of mentally ill people called for special protection. This applied all the more where a prisoner suffering from severe disturbance was placed, as in the present case, in solitary confinement or a punishment cell for a prolonged period, which would inevitably have an impact on his mental state, and where he had actually attempted to commit suicide a few days previously. The Court therefore concluded that the authorities had failed to comply with their obligation to protect Joselito Renolde's right to life, in breach of Article 2.

### **Article 3 (Prohibition of inhuman or degrading treatment)**

- *Vincent v. France, 24 October 2006, application No.6253/03*

Complaint: the applicant, paraplegic since an accident in 1989, complained that the conditions in which he was detained were not adapted to his disability. He relied in particular on Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment).

Findings of the Court: the Court noted that the applicant and the French Government both acknowledged that Fresnes Prison, a very

old building, was particularly unsuited to the imprisonment of persons with a physical handicap who could move about only in a wheelchair. There was no evidence of any positive intention to humiliate or debase the applicant. However, the Court considered that to detain a handicapped person in a prison where he could not move about and, in particular, could not leave his cell independently, amounted to “degrading treatment” within the meaning of Article 3. Accordingly, the Court concluded that there had been a violation of Article 3 in that respect.

- *Renolde v. France*, 16 October 2008, application No. 5608/05  
Complaint: relying on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), the applicant alleged that the French authorities had not taken the necessary measures to protect her brother’s life and that his placement in a punishment cell for 45 days had been excessive in view of his mental fragility.  
Findings of the Court: the Court was struck by the fact that the applicant had been given the maximum penalty for the most serious category of offence, with no consideration to his mental state: a penalty of this kind entailed the prohibition of all visits and all contact with other prisoners. It considered that the penalty imposed was not compatible with the standard of treatment required in respect of a mentally ill person and constituted inhuman and degrading treatment and punishment, in breach of Article 3.

#### Article 5 (Right to liberty and security)

- *Winterwerp v. the Netherlands*, 24 October 1979, application No. 6301/73  
Complaint: a mayor ordered the applicant to be detained in a Psychiatric Hospital. The applicant complained that whilst detained he was not allowed to be heard by various courts to review his detention, nor was he notified of their orders. He also objected to the fact that he had no legal assistance and that he had no opportunity to challenge the medical reports.

Findings of the Court: it is essential that the person concerned should have access to a court and the opportunity to be heard either in person or, where necessary, through some form of representation, failing which he will not have been afforded “*the fundamental guarantees of procedure applied in matters of deprivation of liberty.*’ [...] *Mental illness may entail restricting or modifying the manner of exercise of such a right [...], but it cannot justify impairing the very essence of the right. Indeed, special procedural safeguards may prove called for in order to protect the interests of persons who, on account of their mental disabilities, are not fully capable of acting for themselves.*” An excessive interval between an application for discharge and the court hearing might constitute a restriction of access to the courts. Where the public prosecutor exercised his power of refusing to refer a detained person’s application for discharge to the court, the person was denied the right to court proceedings embodied in Article 5(4). A court’s discretion, when the public prosecutor had referred an application, to decide whether or not to hear the detained person did not protect the fundamental guarantees of procedure, which must be applied where liberty had been deprived

- *Gajcsi v. Hungary*, 3 October 2006, application No. 34503/03

Complaint: in November 1999 the applicant was committed to hospital for compulsory psychiatric treatment under the Health Care Act. In January 2003 Nagyatád District Court reviewed his detention and prolonged his treatment for an indefinite period. The applicant complained, in particular, that his treatment was unjustified and that was not given reasons for his confinement. He relied on Articles 5 (right to liberty and security), 13 (right to an effective remedy) and 6 § 1 (right to a fair hearing).

Findings of the Court: the Court noted that although the relevant domestic law required that compulsory hospitalisation and treatment had to be justified by a patient’s “dangerousness”, the domestic courts’ decisions did not assess the applicant’s alleged or potential “dangerous conduct”. In those circumstances, the Court considered that law did not prescribe the prolongation of the applicant’s compulsory treat-

ment. The Court held unanimously that there had been a violation of Article 5 § 1 and that there was no need to examine separately the further complaints made by the applicant.

#### **Article 6 (Right to a fair hearing)**

- *H.F. v. Slovakia, 8 November 2005, application No. 44672/98*  
Complaint: relying on Article 6 § 1 (right to a fair hearing), the applicant complained of the unfairness of the procedure by which she had been deprived of her legal capacity. She alleged that the courts had not properly established the facts or given sufficient reasons for their decisions.  
Findings of the Court: the Court considered that appropriate procedural safeguards that would have enabled her rights to be protected and her interests to be taken into account should have surrounded the proceedings, the outcome of which was extremely important to the applicant. The Slovakian courts had not acted with the necessary diligence or assembled sufficient evidence to make an assessment of the applicant's faculties and to avoid any miscarriage of justice. The Court therefore held unanimously that there had been a violation of Article 6 § 1.

#### **Article 8 (Right to respect for private and family life)**

- *Shtukaturov v. Russia, 27 March 2008, application No. 44009/05*  
Complaint: the case concerned the applicant's allegation; in particular, that he was deprived of his legal capacity without his knowledge and confined to a psychiatric hospital by his mother so that she could claim possession of property he had inherited from his grandmother. In the hospital he was unable to obtain a review of his status or meet his lawyer and he received medical treatment against his will. As a legally incapable adult, the applicant was not allowed to work, marry, join associations, travel or sell or buy property. In his complaint He relied among other Articles of the ECHR on Article 8 (right to respect for private and family life).

Findings of the Court: the Court noted that the interference with the applicant's private life had been very serious: it had resulted in him having become fully dependant on his official guardian in almost all areas of his life for an indefinite period. Nor could that interference be challenged other than through his guardian, who had opposed any attempts to discontinue the measure. In such cases, Russian legislation only made a distinction between full capacity and full incapacity of mentally ill persons. It made no allowances for borderline situations. The Court referred, in particular, to a Recommendation issued by the Council of Europe's Committee of Ministers, which outlined a set of principles for the legal protection of incapable adults in which it recommended that legislation be more flexible by providing a "tailor-made" response to each individual case. The Court therefore concluded that the interference with the applicant's private life had been disproportionate to the legitimate aim pursued by the Russian Government of protecting the interests and health of others, in violation of Article 8.

### **Case-law of the European Committee of Social Rights on the right to education and non-discrimination<sup>7</sup>**

[http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp)

- *Autism-Europe v. France, 4 November 2003, complaint No. 13/2002*  
Complaint: the complaint, lodged on 27 July 2002, relates to Article 15 (the right of persons with disabilities), Article 17 (the right of children and young persons to social, legal and economic protection), and to Article E (non-discrimination) of the Revised European Social Charter. It is alleged insufficient educational provision for autistic persons constituting a violation of the above provisions.  
Decision of the ECSR: "... the Committee notes that in the case of autis-

---

<sup>7</sup> See also the *European Committee of Social Rights Case law Digest, article 15 (pages 110-115 and 297-299)*

[http://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008_en.pdf)

*tic children and adults France has failed to achieve sufficient progress in advancing the provision of education for persons with autism. The proportion of children with autism being educated in either general or specialist schools is much lower than in the case of other children, whether or not disabled. It is also established, and not contested by the authorities, that there is a chronic shortage of care and support facilities for autistic adults".* The situation in France as regards the right to education of children and adults with autism constitutes a violation of Articles 15§1 and 17§1 whether alone or read in combination with Article E of the Revised Charter.

- *Mental Disability Advocacy Centre (MDAC) v. Bulgaria, 3 June 2008, complaint No. 41/2007*

Complaint: the complaint registered on 20 February 2007 relates to Article 17§2 (the right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E (non-discrimination) of the Revised European Social Charter. It is alleged that children living in Homes for Mentally Disabled Children in Bulgaria receive no education.

Decision of the ECSR: there is a violation of Article 17§2 of the Revised Charter because children with moderate, severe or profound intellectual disabilities residing in homes for mentally disabled children (hereafter "HMDCs") do not have an effective right to education; there is a violation of Article 17§2 of the Revised Charter taken in conjunction with Article E because there is discrimination against children with moderate, severe or profound intellectual disabilities residing in HMDCs as a result of the low number of such children receiving any type of education when compared to other children.

## *European Standards: European Union*

### **The Lisbon Treaty and the Charter of Fundamental Rights (2007)**

<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML>

- Article 21: “non- discrimination”
- Article 26: “integration of persons with disabilities”

### **The Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation**

[http://ec.europa.eu/employment\\_social/news/2001/jul/directive78ec\\_en.pdf](http://ec.europa.eu/employment_social/news/2001/jul/directive78ec_en.pdf)

### **The case-law of the European Court of Justice (ECJ) Luxembourg**

[http://curia.europa.eu/jcms/jcms/Jo1\\_6308/](http://curia.europa.eu/jcms/jcms/Jo1_6308/)

### **S. Coleman v. Attridge Law, Steve Law (ECJ, Case C-303/06)**

<http://curia.europa.eu/en/actu/communiqués/cp08/aff/cp080053en.pdf>

In this case the Luxembourg Court observes that the directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, defines the principle of equal treatment as meaning that there is to be no direct or indirect discrimination whatsoever on the grounds, inter alia, of disability, and that it applies to all persons in relation to employment and working conditions, including dismissals and pay.



## THE DEVELOPMENT OF LEGAL PROTECTION OF PERSONS WITH DISABILITIES IN HUNGARY:

*The highest legal protection of persons with legal disability were adopted by the UN General Assembly on the 13 December 2006. Hungary signed the UN Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol on 30 March 2007, and was the second State to ratify the Convention and first to ratify the Optional Protocol on 25 June 2007.*

### THE HUNGARIAN SYSTEM:

- *Constitutional protection of persons with disabilities:*
  - *Art. 54: right to life and the dignity of a person; prohibition of torture*
  - *Art. 70/a: non- discrimination*
- *Act XXVI of 1998 On Provision of the Rights of Persons Living with Disability and Their Equal Opportunities, protects people with disability in special fields:*
  - *Health care*
  - *Education and training*
  - *Employment*
  - *Housing*
  - *Culture and sports*
- *Equal Treatment Act 2003:*
  - *Direct negative discrimination (Article 7)*
  - *Negative Discrimination (Article 8)*
  - *Positive Discrimination (Article 11)*
  - *Establishes the Authority for Equal Opportunities*
  - *Shifts the burden of proof on the perpetrator*
- *Resolution of the parliament NO 10/2006 (II. 16) on the new national program relating to disability: active participation in society through labour organisations of persons with disabilities.*
- *Act XCII of 2007 on the ratification of the UN Convention on Persons with Disabilities.*

4]

## CHAPTER 4

### *Rights of persons with disabilities: the fight against discrimination*<sup>8</sup>

#### *Combating discrimination of persons with disabilities in the field of education*

Even though child's right to education is enshrined in international law, there are still children of school age who are considered to be "uneducable" in some countries and are denied their right to education. Such discrimination not only limits the children's options to support themselves as adults, but also their possibilities to become independent and active citizens. In this context, the workshop aimed at exploring the importance of protecting the enjoyment of two particular rights without discrimination: the right to education and the right to legal capacity.

#### **INTERNATIONAL LEGAL STANDARDS PROTECTING THE RIGHT TO EDUCATION WITHOUT DISCRIMINATION:**

- UN International Covenant on Economic, Social and Cultural Rights:
  - Article 13: Right to education
- UN Convention on the Rights of the Child:
  - Article 28: Right to Education
  - Article 23: Full recognition of mentally or physically disabled child to enjoy a full and decent life
- UN Convention on the Rights of Persons with Disabilities:
  - Article 24: Right to Education

---

<sup>8</sup> Based on the presentation of ANNA NILSSON, Legal Advisor, Office of the Swedish Disability Ombudsman.

## UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) ARTICLE 24- EDUCATION

*1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:*

- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;*
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;*
- (c) Enabling persons with disabilities to participate effectively in a free society.*



## EUROPEAN LEGAL STANDARDS PROTECTING THE RIGHT TO EDUCATION WITHOUT DISCRIMINATION

- European Convention on Human Rights:
  - Protocol No. 1, Article 2: Right to education
  - Article 14: Prohibition of Discrimination
- European Social Charter (revised)
  - Article 15: Right to education and vocational training of persons with disabilities
  - Article 17: Right to free primary and secondary education
  - Article E: Prohibition of Discrimination

**STATE OBLIGATION UNDER ARTICLE 24 CRPD:**

- *To ensure an inclusive education system;*
- *The education system should enable pupils to fully develop according to their potential and enable them to participate in society;*
- *To ensure that children with disabilities are not excluded from primary or secondary education on the basis of their disability;*
- *Reasonable accommodation in accordance with the individual's requirements should be provided;*
- *Pupils with disabilities should get the support they need, within the general, inclusive education system.*

**CASE- LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS**

<http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database>

- D.H. and others v. the Czech Republic (Application No. 57325/00, 7 February 2006)
- D.H. and others v. the Czech Republic (Application No.57325/00, 13 November 2007)

In these cases, the complainants alleged that in the Czech city of Ostrava, Roma children were 27 times more likely to be placed in “special schools” for the mentally disabled than non-Roma children. The European Court of Human Rights ruled that this pattern of segregation violated non-discrimination protections in the European Convention on Human Rights.

**DECISIONS FROM THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS**

[http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp)

- Autism-Europe v. France, 4 November 2003, complaint No. 13/2002
- Mental Disability Advocacy Centre (MDAC) v. Bulgaria, 3 June 2008, complaint No. 41/2007

### EDUCATION OF PERSONS WITH DISABILITIES IN GREECE (ACCORDING TO THE GREEK NHRS)

- *Substandard diagnostic level;*
- *Inadequate offer of specific welfare and educational needs;*
- *Lack of support or special integration classes particularly in secondary schools;*
- *Lack of specialized educational institutions.*

### EDUCATION OF PERSONS WITH DISABILITIES IN ARMENIA (ACCORDING TO THE ARMENIAN NHRS)

- *Not all disabled children are enrolled in the education system;*
- *Education at home is substandard and is lacking sufficient and specialized staff;*
- *Unequipped educational institutions;*
- *High physical inaccessibility;*
- *Lack of special programs, training aids, and experts.*

### *Rights of persons with disabilities: the importance of addressing the right to legal capacity<sup>9</sup>*

Removal or restriction of legal capacity by placing an adult under guardianship affects an individual's right to vote, to decide where to live, how to spend money, whether and with whom to get married. In several member States, adults are still deprived – on the basis of a medical diagnosis – of their legal capacity to take legally relevant decisions. The result of such procedures is that these persons can no longer make such decisions with legal effect. Sometimes they cannot even access a court to challenge this legal incapacitation.

---

<sup>9</sup> *Based on the presentations of Anna Nilsson, Legal Advisor, Office of the Swedish Disability Ombudsman, and Oliver Lewis, Executive Director of MDAC*

The capacity to make an own decision is crucial in the enjoyment of other rights.

### OVERVIEW OF STANDARDS ON LEGAL CAPACITY

- UN Convention on the Rights of Persons with Disabilities:
  - Article 12: Equal recognition before the law
  - Right to legal capacity
  - Right to receive assistance to exercise legal capacity
- European Convention on Human Rights:
  - Article 6: Right to a fair trial
  - Case of Shtukaturov v. Russia, 27 March 2008
- CoE Committee of Ministers Recommendation No. 4 of 1999 on the principles concerning the legal protection of incapable adults:
  - Maximum preservation of capacity
  - Maximum respect for choices
- CoE Committee of Ministers Recommendation No. 10 of 2004 on the protection of human rights and dignity of persons with mental disorders:
  - Standards of involuntary placement and treatment
- CoE Committee of Ministers Recommendation (2006)5 on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society 2006-2015 (Disability Action Plan).

## CRPD ARTICLE 12: SUPPORTED DECISION MAKING

### CRPD ARTICLE 12

- *Recognition as a person before the law*
- *Enjoy legal capacity on an equal basis with others*
- *Access to support*
- *Safeguards*
  - *respect the rights, will and preferences of the person;*
  - *free of conflict of interest and undue influence;*
  - *tailored to the person's circumstances;*
  - *apply for the shortest time possible;*
  - *subject to regular review by a competent, independent and impartial authority or judicial body.*



Article 12 of the UN Convention is one of the key provisions for the paradigm shift. While the medical model of disability often denies the right to make own decisions, the social model of disability advocates for supported decision making. It establishes that persons with disabilities should enjoy their right to legal capacity. Instead of treating them as “objects” of life and deprive them from decision making, it considers them as “subjects” of life. In contrast to guardianship, supported decision-making constructs legal capacity without reference to evaluation of capabilities. It is based on the principles that:

- all individuals of legal age are persons before the law and have a right to self-determination and respect for their autonomy, irrespective of disability;
- all adults are entitled to the presumption of capacity (and identity) irrespective of disability, and to the decision-making supports necessary to exercise capacity and reveal identity;



- decisions (and identity) made interdependently with family, friends, and trusted others chosen by the individual, will be recognized and legally validated;
- individuals are entitled to the supports and services necessary for full participation and equality: the provision of such supports will lessen the need for legal intervention in decision making;
- third party interests and liability concerns do not provide a valid justification for removing a person's decision-making rights.

State parties undertake the obligation to ensure accessibility to people with disabilities in order to accommodate supported decision-making. State Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that:

- measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence;
- are proportional and tailored to the person's circumstances;
- apply for the shortest time possible and
- are subject to regular review by a competent, independent and impartial authority or judicial body.

This safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

**CRITERIA FOR THE SUCCESSFUL IMPLEMENTATION OF ARTICLE 12 - SUPPORTED DECISION:**

- Intact legal capacity
- Voluntarily chosen guardianship
- Tailor made guardianship
- Special arrangements recognized by law
- Respect for self-determination
- Verifiable status
- Safeguards and supports

## CRPD ARTICLE 29 PARTICIPATION IN POLITICAL AND PUBLIC LIFE

*States parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected.*

## TYPES OF GUARDIANSHIP IN HUNGARY

1. *General limitation: adult's capacity to act is generally limited in all areas of life if his/her discretionary power to conduct his/her own affairs is permanently or periodically reduced to a great extent as a result of his/her mental state, intellectual disability or addiction (E.g. Alcohol or drugs).*
2. *Limitation by matters: there are certain areas in the life (groups of matters) based on which he/she classifies as a person with disability. The adult has full legal capacity in all areas of life except the (groups of) matter(s), in which his/her capacity is limited.*
3. *67% of adult persons with disabilities are under full guardianship.*

## TYPES OF GUARDIANSHIP IN SWEDEN

*Only children are placed under guardianship.*

*Adults with disabilities in need of help can choose:*

1. *Appointed mentor: acts in within the areas established by court and can be discharged any time.*
2. *Trustee system: it is a measure of last resort; trustee can act without the adult's consent within areas established by the court. All other rights remain intact.*



5]

## CHAPTER 5

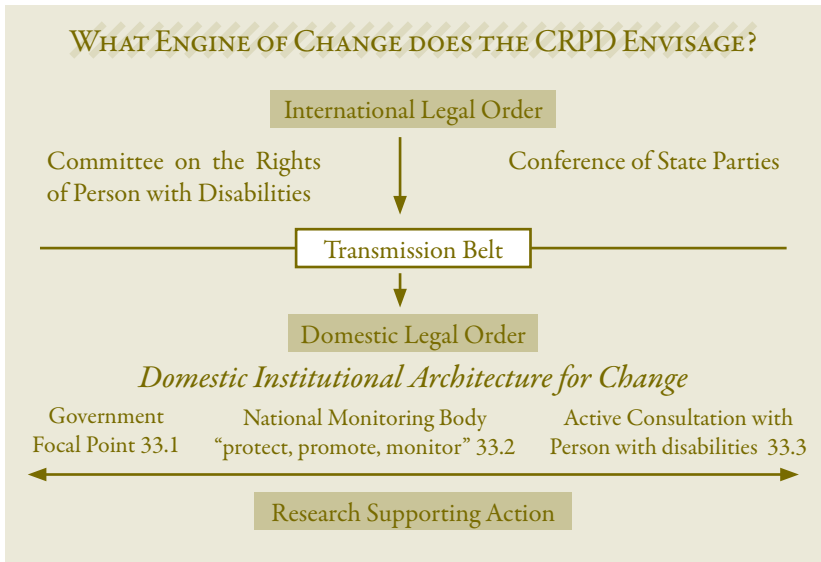
*Rights of persons with disabilities: monitoring the respect of the rights of person with disabilities*

The last session focused on the monitoring of the rights of persons with disabilities. Some new mechanisms have been created by international instruments, such as Article 33 of the UN Convention on the Rights of Persons with Disabilities (CRPD or the UN Convention), according to which States must designate one or more independent mechanisms, to promote, protect and monitor implementation of the Convention. Most countries that have ratified or are considering ratification of the UN Convention, are now debating how to implement Article 33. Some States intend to designate NHRs as these independent mechanisms.

## CRPD ARTICLE 33 - NATIONAL IMPLEMENTATION AND MONITORING

1. *States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.*
2. *States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.*
3. *Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.*

However, the implementation of Article 33 is not clear, due to the absence of common guidelines for the establishment of the independent mechanism. NHRSs have therefore a role to play promoting the establishment of independent mechanisms and can be an engine for change at national level.



**The three main functions of Article 33 are:**

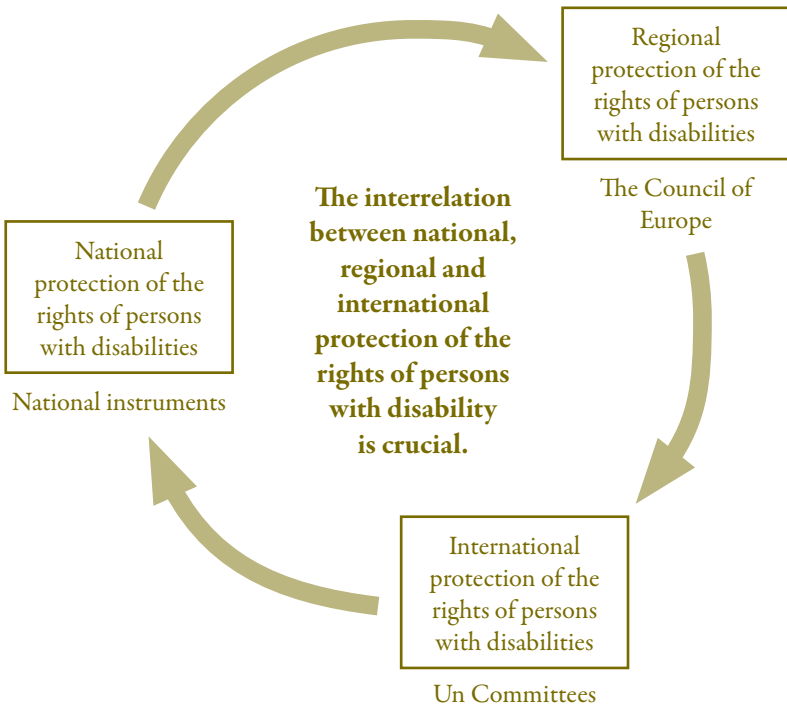
- To promote: in order to emphasise the paradigm shift;
- To protect: it authorizes intervention in litigation;
- To monitor: national institutions to reflect the monitoring role in their legal instruments.

**National Monitoring Bodies should be:**

- Singular or plural clusters;
- Genuinely independent;
- Using their assigned power to promote, protect and monitor;
- Engaging in active consultation.

**Critical factors to successful implementation of Article 33:**

- State parties together with civil society need to be strongly committed to a dynamic change;
- There must be frequent and sufficient reviews of the relevant institutions;
- State parties must create their own national plan tailored to their circumstances;
- State parties must develop policy learning tools;
- State parties must adopt a new approach based on active listening and active consultation with all relevant sectors of society;
- State parties need to actively participate in the Conference of States.



## *The role of NHRs*

NHRs have an important role in promoting and protecting the rights of persons with disabilities. In fact, the UN Convention does not create new rights: it just clarifies pre-existing obligations for the States. As a consequence, the NHRs have an important task in this field, independently from the ratification of the Convention by the State. The adoption of the Convention in itself gives the NHRs the legitimacy to develop their action and to be proactive in this field.

**ON THE BASIS OF THE CONVENTION, THE NHRs CAN PROMOTE, PROTECT AND MONITOR, DEPENDING ON THEIR RESPECTIVE MANDATES, BY:**

- *mainstreaming protection of persons with disabilities in their everyday work;*
- *advocating for ratification of the Convention, and for no reservation;*
- *intervening in individual cases (litigation, mediation, recommendations);*
- *conducting studies, tracking legislations and recommending amendments.*

*Concerning the specialized institutions where persons with disabilities are deprived of their liberty, the Optional Protocol to the UN Convention against Torture (OPCAT) established a system of regular visits to places of detention carried out by independent international and national bodies. The OPCAT expressly requires that such National Preventive Mechanisms (NPMs) be designated by the States parties, and details some of the basic powers and protections necessary for an NPM to be effective. Some States have decided to designate NHRs as NPM. The discussions also focussed on the consequences of the designation of NHRs as national mechanisms under article 33 of the Convention or under OPCAT<sup>10</sup>.*

<sup>10</sup> *Concerning OPCAT see the other workshop debriefing paper on “Rights of persons deprived of their liberty: the role of national human rights structures which are OPCAT mechanisms and of those which are not”.*



*CRPD Article 19: the right to live independently and to be included in the community*

**CRPD ARTICLE 19**

*States parties to this Convention recognise the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:*

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;*
- (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;*
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.*

The experience of institutionalization of persons with intellectual disabilities over the past several centuries has in many countries resulted in exclusion from economic, social and political participation. Frequently, the need for support or assistance is used to argue that placement in an institution is necessary, or that the person is ineligible to live in the community and in the living arrangement of their choice. However, it is not the level of disability or ability that determines whether a person can live in the community, but rather the determinant factor is the supports to which they have access. This will of support is again reaffirmed in the UN Convention. Under Article 19 State parties are also obliged to ensure the equal rights of all persons with disabilities to live independently in the community, with choices equal to others, and shall take effective measures to facilitate full enjoyment by persons with disabilities of this right, and their full inclu-

sion and participation in the community. Persons with disabilities should be able to choose their own living arrangements, and have rights to protection against involuntary institutionalisation.

Several reports from international monitoring organs, as well as from civil society highlight malpractices, such as keeping persons in bed all day, over-medication and abuse of restraints taking place in such institutions. Institutionalisation as such is also a human rights violation under the UN Convention on the Rights of Persons with Disabilities. As with all closed settings, effective complaints procedures and independent monitoring visits are of crucial importance to ensure that human rights are respected.

In two decades the European Committee for the Prevention of Torture (CPT) has accumulated the world's most intensive experience in the planning and conduct of and reporting on independent, in-depth inspection visits to the various sorts of places where human beings can be deprived of their liberty. The challenge is to make sure that the standards used by the National Preventive Mechanisms are comparable to those used by the CPT.

STANDARDS OF REGULAR VISITS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT<sup>11</sup>

*The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was set up under the 1987 Council of Europe Convention of the same name. The CPT's mandate involves the prevention of torture and inhuman or degrading treatment or punishment, rather than formal condemnation of the treatment of any one detained person. Through visits to places of detention, the CPT assesses the conditions of detention and obtains information on current procedures and practices. The CPT is entitled to visit all places in States bound by the Convention in which persons are – or may be – deprived of their liberty by a public authority. These include places such as prisons and juvenile detention centres, police stations, immigration holding centres, psychiatric hospitals and homes for elderly or disabled persons.*

<sup>11</sup> Based on the presentation of Pétur Hauksson, 2nd Vice-President of the CPT, Council of Europe.

### TWO KINDS OF CPT VISIT

*Visits by the CPT may be either periodic or ad hoc. Periodic visits allow the Committee to visit States on a regular basis, according to a schedule drawn up annually. Initially, the majority of CPT visits have been periodic. New Parties to the Convention can expect a visit by the CPT shortly after they become bound by the treaty.*

*Ad hoc visits can be made if they appear “to be required in the circumstances”. They enable the CPT to respond rapidly when it receives information suggesting a need for prompt attention to a particular issue or place of detention. In addition, ad hoc visits allow the Committee to examine the extent to which earlier recommendations have been implemented. In recent years, short and highly targeted ad hoc visits have been used with increasing frequency by the CPT. On occasion, ad hoc visits are carried out at the request of a State itself.*

### CPT POWERS DURING VISITS

*The Convention requires that a State allow CPT visiting delegations to enter and to have unrestricted freedom of movement in “any place within its jurisdiction where persons are deprived of their liberty by a public authority”. In addition, it grants the Committee the right to conduct private interviews with persons deprived of their liberty and with anyone else who may be able to provide relevant information. There is also a general duty upon States to make available whatever other information the CPT requires in order to carry out its task.*

*The CPT’s right of access to information is subject to a duty to “have regard to applicable rules of national law and –professional ethics”. However, this obligation is to be interpreted in a manner consistent with the purpose of the CPT’s mandate, namely the prevention of ill-treatment. National authorities may seek to attach certain conditions to the provision of information sought; however, they cannot simply refuse to grant access to such information, nor offer access under conditions which would be tantamount to a refusal.*

### CPT’S REPORTING DUTIES

*After each visit, the CPT draws up a report, which sets out its findings and includes, if necessary, recommendations and other advice, on the basis of which a dialogue is developed with the State concerned. The Committee’s visit report is, in principle, confidential; however, almost all States have chosen to waive the rule of confidentiality and publish the report.*

*<http://www.cpt.coe.int/en/about.htm>*

### RELATED POWERS OF THE CROATTIAN OMBUDSMAN OFFICE

*It has the power to initiate regular visits to specialized institutions. Experience shows that there is lack of legal procedures justifying the psychiatric confinement. In addition, the role of the different authorities in cases of hospitalization without consent is unclear.*

### STEPS OF REGULAR VISITS: THE EXAMPLE OF ESTONIA

*In Estonia, the Chancellor of Justice carries out both planned and ad hoc inspections to places of detention, including prisons, mental hospitals and other closed boarding institutions.*

*The steps of an inspection and the respective problems include:*

1. *planning an inspection;*
2. *preparing an inspection;*
3. *conducting an inspection;*
4. *inspection report and proposals;*
5. *follow-up.*





## CONCLUSIONS

The fifth workshop in 2008 of the “Peer-to-Peer” Project on “The promotion and protection by national human rights structures of the rights of persons with disabilities” allowed for vivid discussions between specialized staff members of NHRs and experts, in a “peer to peer” spirit and showed how much this theme, which is in constant development, is of particular interest to NHRs.

The workshop’s discussion focussed on the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol, which is a big step towards the promotion and the protection of persons with disabilities. It formally re-affirms the fundamental principles for the equality of persons with disabilities. The Convention details the content of basic human rights of persons with disabilities and sets obligations for the States to ensure the full enjoyment of these rights. The Optional Protocol provides individuals with a possibility to bring cases before a committee, which is set up to monitor the implementation of the standards.

It was stressed that the Convention’s novelty confirms the important role of NHRs. Article 33 of the Convention requires states parties to establish “*a framework, involving one or more independent mechanisms to promote, protect and monitor implementation of the Convention*” taking the Paris Principles into account.

According to the participants, the Convention’s adoption and the increasing number of ratifications are the start of a very encouraging process. NHRs have now a fundamental role to play, strengthening their capacity to promote and protect the rights of about 100 million Europeans with disabilities. They will have to be proactive, not only during the ratification process, but also in the implementation and monitoring of the Convention.

It will also be useful for NHRs to share their experience in promoting the human rights of persons with disability, as well as relevant experiences derived from other areas of human rights' protection. This experience's sharing will be also in line with the spirit of Article 32 of the Convention<sup>12</sup>, which recognises the importance of international co-operation and calls for States to undertake appropriate measures in this area.

To this end, it is essential for NHRs to make use of their network in order to coordinate and to act jointly when needed, facilitating and supporting capacity-building activity in this field, including training programmes and exchange of good practices. In this context, the discussion during the last part of the workshop indicated as a possible follow-up the organisation of a workshop specifically dedicated to the role of NHRs in promoting and protecting the rights of persons with mental disabilities.

---

<sup>12</sup> 1. "States parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities".







## APPENDIXES

### *List of background documents*

#### UNITED NATIONS

##### TREATIES

- Convention on the Rights of Persons with Disabilities and Optional Protocol  
<http://un.org/disabilities/default.asp?navid=12&pid=150>

##### REPORTS FROM THE UNITED NATIONS SPECIAL RAPPORTEURS

- Report of the Special Rapporteur on the right to education, Vernor Muñoz, The right to education of persons with disabilities, 19 February 2007, A/HRC/4/29  
[http://www2.ohchr.org/english/bodies/chr/special/sp\\_reportshrc\\_4th.htm](http://www2.ohchr.org/english/bodies/chr/special/sp_reportshrc_4th.htm)
- Report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment on “Protecting Persons with Disabilities from Torture”, 28 July 2008, A/63/173  
<http://www2.ohchr.org/english/issues/disability/torture.htm>

#### COUNCIL OF EUROPE

For a first overview on the case-law of the European Court of Human Rights, see in particular the documents (in English, French and Russian) established under the auspices of the Programme HELP (Human Rights Education for Legal Professionals) at:

- <http://www.coehelp.org/course/view.php?id=33> (mental health care)
- [http://www.coehelp.org/file.php/8/resources/eng/case\\_studies/06\\_treatment\\_of\\_a\\_disabled\\_person\\_in\\_detention\\_eng.doc](http://www.coehelp.org/file.php/8/resources/eng/case_studies/06_treatment_of_a_disabled_person_in_detention_eng.doc) (case study on conditions of detention)
- <http://www.coehelp.org/course/view.php?id=10>

##### TREATIES

- European Convention on Human Rights  
<http://www.echr.coe.int>

- European Social Charter  
[http://www.coe.int/t/dghl/monitoring/socialcharter/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp)

#### COMMITTEE OF MINISTERS

- Recommendation (99)4 of the Committee of Ministers to Member States on the principles concerning the legal protection of incapable adults, 23 February 1999  
<http://wcd.coe.int/ViewDoc.jsp?id=407333&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>
- Resolution ResAP(2005)1 on safeguarding adults and children with disabilities against abuse, 2 February 2005  
<http://wcd.coe.int/ViewDoc.jsp?id=817413&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>
- 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, 22 September 2004  
<http://wcd.coe.int/ViewDoc.jsp?id=775685&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>
- 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, 5 April 2006  
<http://wcd.coe.int/ViewDoc.jsp?id=986865&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

#### SELECTED CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS ON DEPRIVATION OF LIBERTY AND LEGAL CAPACITY

[www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database](http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database)

- Winterwerp v. the Netherlands, 24 October 1979, application no. 6301/73
- X and Y v. the Netherlands, 26 March 1985, application no. 8978/80
- Van der Leer v. the Netherlands, 21 February 1990, application no. 11509/85
- Vaudelle v. France, 30 January 2001, application no. 35683/97
- H.L. v. the United Kingdom, 5 October 2004, application no. 45508/99
- Storck v. Germany, 16 June 2005, application no. 61603/00
- H.F. v. Slovakia, 8 November 2005, application no. 44672/98

- Gajcsi v. Hungary, 3 October 2006, application no. 34503/03
- Vincent v. France, 24 October 2006, 6253/03 (Only available in French)
- Shtukaturov v. Russia, 27 March 2008, application no. 44009/05 (Only available in English)
- Kilavuz v. Turkey, 21 October 2008, application no. 8327/03
- Renolde v. France, 16 October 2008, application no. 5608/05

NB: summaries of the cases are available in English, Czech, Estonian, Hungarian and Russian at the Mental Disability Advocacy Centre (MDAC)'s website: <http://www.mdac.info/en/ECHR-Case-Summaries>

### **SELECTED DECISIONS FROM THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS ON THE RIGHT TO EDUCATION AND NON-DISCRIMINATION**

[http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp)

- Autism-Europe v. France, 4 November 2003, complaint no. 13/2002 (English and French)
- Mental Disability Advocacy Centre (MDAC) v. Bulgaria, 3 June 2008, complaint no. 41/2007 (English and French)
- European Committee of Social Rights Case law Digest, article 15 (pages 110-115 and 297-299)
- Digest de jurisprudence du Comité européen des Droits sociaux, article 15 (pages 110-115 et 297-299)  
[http://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008_en.pdf)

### **THE COMMISSIONER FOR HUMAN RIGHTS**

- Viewpoint “People with disabilities have the right to be fully-fledged members of society” (2006)  
[http://www.coe.int/t/commissioner/Viewpoints/060807\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/060807_en.asp)
- Viewpoint “European countries still fail to respect the rights of persons with disabilities” (2008)  
[http://www.coe.int/t/commissioner/Viewpoints/081020\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/081020_en.asp)
- Issue paper “Human Rights and Disability – Equal rights for all” (2008)  
<http://wcd.coe.int/ViewDoc.jsp?id=1355349&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FF6699>

## **EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)**

- The CPT Standards (CPT/Inf/E (2002) 1 - Rev. 2006), chapter on standards on involuntary placements in psychiatric establishments  
<http://www.cpt.coe.int/en/documents/eng-standards.doc>

## **OTHER USEFUL LINKS AND DOCUMENTS**

- Special file on the Conference “Protecting and promoting the rights of persons with disabilities in Europe: towards full participation, inclusion and empowerment”, 29-30 October 2008, Strasbourg  
[http://www.coe.int/t/dc/files/themes/handicap/default\\_en.asp](http://www.coe.int/t/dc/files/themes/handicap/default_en.asp)
- Prof. GERARD QUINN “The UN Convention on the Rights of Persons with Disabilities, National Institutions as key catalysts of change”, published in national monitoring mechanisms of the Convention on the Rights of Persons with Disabilities, p 123
- Prof. GERARD QUINN “Resisting the ‘Temptation of Elegance’: Can the Convention on the Rights of Persons with Disabilities Socialise States to Right Behaviour?”
- Judgment of the Court of Justice in Case C-303/06 Cleman v Attridge Law and Steve Law, 17 July 2008  
<http://curia.europa.eu/en/actu/communiques/cp08/aff/cp080053en.pdf>
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- Written Comments by the European Group of National Human Rights Institutions, Amicus brief in the European Court of Human Rights, Application no. 13469/06 (D.D. v. Lithuania)
- MDAC’s report “Inspect!” “Social Care Institutions Inspectorates of Mental Health and in the European Union” (English only)  
[http://www.mdac.info/documents/122\\_Inspect.pdf](http://www.mdac.info/documents/122_Inspect.pdf)
- MDAC’s reports on human rights and guardianship in various countries (in English, French and Russian)  
<http://www.mdac.info/en/reports>

## *Workshop programme*

### **MONDAY, 1 DECEMBER 2008**

Arrival of participants at the European Youth Centre

20.30                      Buffet- dinner at the European Youth Centre

### **TUESDAY, 2 DECEMBER 2008**

9.00 – 9.30              **Opening session**

**Opening addresses**

MARKUS JAEGER, Deputy to the Director, Head of the National Human Rights Structures Unit, Office of the Council of Europe Commissioner for Human Rights

TAMÁS MAGYARICS, Executive Vice President of the International Centre For Democratic Transition (ICDT)

#### **Issues addressed by the workshop**

by DELPHINE FREYMANN, Project Manager, National Human Rights Structures Unit, Office of the Council of Europe Commissioner for Human Rights

9.30 – 11.00              **Working session 1 – Concrete examples of barriers to the enjoyment of human rights by persons with disabilities**

**Persons with disabilities' access to the existing systems of protection of their rights: the need for a proactive role of the NHRs**

by OLIVER LEWIS, Executive Director, Mental Disability Advocacy Centre (MDAC)

**Examples of concrete situations that raise concern in the Council of Europe Member States**

**Exchange of experiences with contributions from NHRs, namely from Austria and Azerbaijan**

Discussion

11.00 – 11.30              Coffee break

11.30 – 12.30 **Working session 2 – Rights of persons with disabilities: the applicable international standards**

**An overview of the European and international legal standards and the recent developments in their application**

by AZÉDINE LAMAMRA, Member of the Consultative Commission for Human Rights of Luxembourg

Discussion

12.30 – 14.00 Lunch at the European Youth Centre

14.00 – 14.30 Working session 2 (continued)

14.30 – 17.30 **Working session 3 – Rights of persons with disabilities: the example of the fight against discrimination**

**The right of persons with disabilities to protection against discrimination and to full and equal enjoyment of their human rights**

by PÉTER KEMÉNY, Deputy Head of Department of Disability and Rehabilitation, Ministry of Social Affairs and Labour of Hungary

**Combating discrimination in the field of education**

by ANNA NILSSON, Legal Advisor, Office of the Swedish Disability Ombudsman

Discussion and exchange of experiences, with contributions from NHRs, namely from Armenia and Greece

16.00 – 16.30 Coffee break

20.00 Dinner

### **WEDNESDAY 3 DECEMBER 2008**

9.00 – 12.00 **Working session 4 – Rights of persons with disabilities: the importance of addressing the right to legal capacity**

**Right to legal capacity, supported decision-making and safeguards**

by ANNA NILSSON



**The promotion and protection of the right to legal capacity at the national level**

by OLIVER LEWIS

Discussion and exchange of experiences, with contributions from NHRSs namely from Bulgaria and Hungary

10.15 – 10.45    Coffee break

12.00 – 13.30    Lunch at the European Youth Centre

13.30 – 17.00    **Working session 5 – Rights of persons with disabilities: the role of the national independent mechanisms**

**Article 33 of the UN Convention on the Rights of Persons with Disabilities and its implications for the National Human Rights Structures**

By GERARD QUINN, Professor, Member of the Human Rights Commission of Ireland

15.00 – 15.30    Coffee break

15.30 – 17.00    Working session 5 (continued)

**The CPT Standards concerning deprivation of liberty in psychiatric facilities: the role of the national bodies conducting visits**

By PÉTUR HAUSSON, 2nd Vice-President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Council of Europe

Discussion and exchange of experiences, with contributions from NHRSs namely from Croatia and Estonia

17.00 – 17.30    Winding-up of the workshop

by MARKUS JAEGER

20.00            Dinner

**THURSDAY 4 DECEMBER 2008**

Departure from the European Youth Centre

## *List of participants*

### **I. HUMAN RIGHTS STRUCTURES FROM COUNCIL OF EUROPE MEMBER STATES**

---

#### **ALBANIA**

##### **People's Advocate**

TIRANA (AL) - Blv. "Deshmoret e Kombit" 3

Tel.: +355 4 232 462 - Fax : +355 4 226 095

E-mail: [ap@avokatipopullit.gov.al](mailto:ap@avokatipopullit.gov.al)

Web site: [www.avokatipopullit.gov.al/English/index.htm](http://www.avokatipopullit.gov.al/English/index.htm)

MR. RIZA PODA - Commissioner

MR. FREDERIK PASKALI

---

#### **ANDORRA**

##### **Office of the Ombudsman**

LA VELLA (AD) - 8 C. Prat de la Creu, 2n (despatx 208)

Tel. +376 810 585 - Fax: +376 825 557

E-mail: [raonadordelciutada@andorra.ad](mailto:raonadordelciutada@andorra.ad) - Web site: [www.raonadordelciutada.ad](http://www.raonadordelciutada.ad)

MS. LAURA GIL MARTÍNEZ - Deputy Secretary General

---

#### **ARMENIA**

##### **Office of the Human Rights Defender**

002 YEREVAN (AM) - Pushkin 56a Str

Tel. +374 10 53 88 42 - Fax: +374 10 53 88 42

E-mail: [ombuds@ombuds.am](mailto:ombuds@ombuds.am) - Web site: [www.ombuds.am/main/en](http://www.ombuds.am/main/en)

MS. SIRANUSH HARUTYUNYAN - Assistant to the Human Rights Defender

---

## AUSTRIA

### **Austrian Ombudsman Board**

1015 VIENNA (AT) - P.O. Box 20

Tel. +43 1 515 05 0 - Fax: +43 1 515 05 190

E-mail: [post@volksanwaltschaft.gv.at](mailto:post@volksanwaltschaft.gv.at) - Web site: [www.volksanwaltschaft.gv.at](http://www.volksanwaltschaft.gv.at)

Ms. MARGIT UHLICH

---

## AZERBAIJAN

### **Office of the Ombudsman**

1000 BAKU (AZ) - 40, Uz. Hajibeyov St.

Tel: +99 412 498 23 65; +99 412 493 58 10

E-mail: [ombudsman@ombudsman.gov.az](mailto:ombudsman@ombudsman.gov.az) - Web site: [www.ombudsman.gov.az](http://www.ombudsman.gov.az)

Ms. LALA AZIMOVA - Senior advisor on protection of the rights of prisoners

MR. MUGALIB MAHMUDOV - Senior advisor on scientific and analytical search

---

## BULGARIA

### **Ombudsman Institution**

1000 SOFIA (BG) - 155 Georgi S. Rakovski Street

Tel. +359 2 980 95 10; 810 69 55 - Fax: +359 2 810 69 63

E-mail: [priemna@ombudsman.bg](mailto:priemna@ombudsman.bg); [int@ombudsman.bg](mailto:int@ombudsman.bg);

Web site: [www.ombudsman.bg](http://www.ombudsman.bg)

Ms. SILVIA TSANOVA - Head of Sector in the Ombudsman institution

---

## CROATIA

### **Ombudsman Institution**

41000 ZAGREB (HR) - Opaticka 4

Tel. +385 01 4851 855 - Fax: +385 01 6303 014

E-mail: [ombudsman@inet.hr](mailto:ombudsman@inet.hr) - Web site: [www.ombudsman.hr](http://www.ombudsman.hr)

Ms. KSENIJA BAUER - Adviser to the Ombudsman

---

## **ESTONIA**

### **Office of the Chancellor of Justice**

15193 TALLINN (EE) - 16 Tonismagi Street

Tel. +372 693 8400 - Fax: +372 693 8401; +372 646 1049

E-mail: [info@oiguskantsler.ee](mailto:info@oiguskantsler.ee) - Web site: [www.oiguskantsler.ee/?lang=eng](http://www.oiguskantsler.ee/?lang=eng)

MR. IGOR ALJOŠIN - Senior Counsellor for the Estonian Chancellor of Justice

---

## **GREECE**

### **Office of the Ombudsman**

11528 ATHENS (GR) - 5 Hatziyianni Mexi Str.

Tel. +30 210 72 89 600 - Fax: +30 210 729 21 29

Web site: [www.synigoros.gr](http://www.synigoros.gr)

MS RENA PAPADAKIS - Senior Investigator at the Social Protection Department

---

## **HUNGARY**

### **Office of the Parliamentary Commissioners of Hungary**

1051 BUDAPEST (HU) - Nador u. 22

Tel. +36 1 475 7100 - Fax: +36 1 269 1615

E-mail: [panasz@obh.hu](mailto:panasz@obh.hu) - Web site: [www.obh.hu](http://www.obh.hu)

MS. BEÁTA BORZA - Head of Department

MR. SÁNDOR GURBAI - Legal Advisor

MS. ÁGNES LUX - Legal Advisor

MS. ZITA RETKES - Legal Advisor

---

## **LUXEMBOURG**

### **Office of the Médiateur National**

1728 LUXEMBOURG (LU) - 36, rue du Marché-aux-Herbes

Tel. +352 26 27 01 01 - Fax: +352 26 27 01 02

E-mail: [ombudsman@ombudsman.lu](mailto:ombudsman@ombudsman.lu) - Web site: [www.ombudsman.lu](http://www.ombudsman.lu)

MS. SUSIE KIRCH

---

**MONTENEGRO**

**Office of the Ombudsman**

81000 PODGORICA (ME) - Atinska ulica 42, Gorica C

Tel. +382 (0)81 655 285; 655 518 - Fax: +382 (0)81 655 517

E-mail: [ombudsman@cg.yu](mailto:ombudsman@cg.yu)

Web site: [www.ombudsman.cg.yu/eng/index.htm](http://www.ombudsman.cg.yu/eng/index.htm)

Ms. MILICA KOVACEVIC - Independent Advisor

---

**RUSSIAN FEDERATION**

**Office of the Ombudsman of Kaluga Oblast**

MR. YURIY ZELNIKOV - Ombudsman

**Office of the Ombudsman of Republic of Karelia**

MR. VALENTIN SHMYKOV - Ombudsman

---

**SERBIA**

**Office of the Protector of Citizens**

11000 BELGRADE (RS) - Bulevar Mihajla Pupina No.6

Tel. +381 11 301 45 16 - Fax: +381 11 311 28 74

Web site: [www.zastitnik.gov.rs](http://www.zastitnik.gov.rs)

Ms. DRAGICA LAZIC - Counsellor

**Office of the Provincial Ombudsman of Autonomous Province of Vojvodina**

21000 NOVI SAD (RS) - Bulevar Mihajla Pupina 25

E-mail: [office@ombudsmanapv.org](mailto:office@ombudsmanapv.org); [ombudsmanapv@gmail.com](mailto:ombudsmanapv@gmail.com)

MR. DRAGOMIR SEKULIC - Deputy Provincial Ombudsman

---

**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”**

**Office of the National Ombudsman**

1000 SKOPJE (MK) - “Dimitrie Cupovski” 2

Tel.: +389 (0)2 3129 335 - Fax: +389 (0)2 3129 359

E-mail: [skopje@ombudsman.mk](mailto:skopje@ombudsman.mk);

Web site: [www.ombudsman.mk/default.aspx?Lan=EN](http://www.ombudsman.mk/default.aspx?Lan=EN)

MR. NIKO BOJADJIEV - State Councillor

---

**UKRAINE**

**Office of the Parliamentary Commissioner for Human Rights**

01008 KIEV (UA) - 21/8, Instytutska Str.

Tel. +380 44 293 34 37 - Fax: +380 44 226 24 19

E-mail: [foreign@ombudsman.gov.ua](mailto:foreign@ombudsman.gov.ua) - Web site: [www.ombudsman.kiev.ua](http://www.ombudsman.kiev.ua)

MRS. NATALIJA IVANOVA (apologised) - Adviser to the Ombudsman of Ukraine  
Former Deputy Minister of Labour and Social Policy

## II. OTHER PARTICIPANTS

---

### COUNCIL OF EUROPE

Ms. CLEMENTINA BARBARO - Head of Unit, Legal and Human Rights Capacity Building Division, Directorate General of Human Rights and Legal Affairs

Ms. NATALIA LOMOURI - Project Officer, Ministry of Foreign Affairs of Denmark/Council of Europe Project, “Enhancing the Capacity of Public Defender of Georgia”

Ms ANTJE ROTHEMUND - Executive Director, European Youth Centre Budapest, Hungary - E mail: [eycb.secretariat@coe.int](mailto:eycb.secretariat@coe.int)

---

### INTERDEPARTMENTAL CENTRE ON HUMAN RIGHTS AND THE RIGHTS OF PEOPLES

#### University of Padua

35137 PADOVA (IT) - Via Martiri della Libertà, 2

Tel. +39 049 827 1817 - Fax: +39 049 827 1816

E-mail: [info@centrodirittiumani.unipd.it](mailto:info@centrodirittiumani.unipd.it)

Web site: [www.centrodirittiumani.unipd.it](http://www.centrodirittiumani.unipd.it)

MR. STEFANO VALENTI - Project Manager

---

### INTERNATIONAL OMBUDSMAN INSTITUTE

Ms. MARIA ÀNGELS GAYOSO DÍAZ, Advisor, Socials Services Area, Síndic de Greuges Office - ES - BARCELONA

Nominated by the Office of the Ombudsman of Catalonia as representative of the International Ombudsman Institute (I.O.I.)

---

### INTERNATIONAL CENTRE FOR DEMOCRATIC TRANSITION

1022 BUDAPEST (HU) - Árvácska utca 12

Tel. +36 1 438 0820 - Fax: +36 1 438 0821

Web site: [www.icdt.hu](http://www.icdt.hu)

MR. TAMÁS MAGYARICS - Executive Vice President

MR. GÁSPÁR VÁRKONYI - Executive Director, Centre for Democracy Public Foundation

MR. GÁBOR PÁLINKÁS - Project Manager

MR. PETER KOLOSSA - Director for Programs and Development  
Ms. MELANIE FLUEGEL - Chief Communications Officer  
Ms. DÓRA JÁNOSKA - Project Assistant

---

**OFFICE OF THE OMBUDSPERSON INSTITUTION IN KOSOVO<sup>13</sup>**

PRISTINA - Agim Ramadani St, nn. (formerly “Kosovodrvo” building, nn)

Tel. +381 38 501 401, 545 303 - Fax: +381 38 545 302

E-mail: [ombudsperson@ombudspersonkosovo.org](mailto:ombudsperson@ombudspersonkosovo.org)

Web site: [www.ombudspersonkosovo.org](http://www.ombudspersonkosovo.org)

Ms. HUNAIDA PASULI - Senior Lawyer

---

**ST PETERSBURG STRATEGY CENTRE OF HUMANITIES AND POLITICAL SCIENCE**

190005 ST PETERSBURG (RUS) - 25/14 7th Krasnoarmeyskaya Street

MR. EUGENIY BESTUZHEV

---

<sup>13</sup> *All reference to Kosovo, whether to the territory, institutions or population, in this document shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.*



### III. EXPERTS

---

MR. PÉTUR HAUSSON - 2nd Vice-President of the CPT  
101 REYKJAVIK (IS) - Laufásvegi 17

---

MR. PÉTER KEMÉNY - Ministry of Social Affairs and Labour of Hungary  
Deputy Head of Department of Disability and Rehabilitation  
BUDAPEST (HU)

---

MR. AZÉDINE LAMAMRA - Avocat  
Member of The Luxembourg Advisory Committee on Human Rights

---

MR. OLIVER LEWIS - Executive director  
MDAC - 1088 BUDAPEST (HU) - Rákoczi ut 27/B

---

Ms. ANNA NILSSON  
112 39 STOCKHOLM (SE) - Sankt Eriksgatan 12, 5 tr ög

---

MR. GERARD QUINN - Director  
Centre for Disability Law and Policy  
GALWAY (IRL) - National University of Ireland

### IV. ORGANISERS

---

#### OFFICE OF THE COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE - FR - 67075 STRASBOURG Cedex

Fax: +33 (0)3 90 21 50 53

E-mail: [commissioner@coe.int](mailto:commissioner@coe.int) - Web site: [www.commissioner.coe.int](http://www.commissioner.coe.int)

MR. MARKUS JAEGER - Deputy to the Director, Head of the National Human Rights Structures Unit - Tel. +33 (0)3 88 41 23 24

Ms. DELPHINE FREYMANN - Project Manager, National Human Rights Structures Unit

Ms. NADIA SOKOLOVA - Personal Assistant to the Director











Design and layout  
[www.studiopopcorn.it](http://www.studiopopcorn.it)

Printed in March 2010  
by **Tipografia Eurooffset**



---

This publication summarises the findings of the workshop on the “*The role of national human rights structures in promoting and protecting the rights of persons with disabilities*”, which was organised in Padua (Italy) on 9-10 April 2008 within the framework of the so-called “*Peer-to-Peer Project*”, a joint programme between the Council of Europe and the European Union.

This project aims at setting up an active network of independent non-judicial human rights structures in Council of Europe member States.

---