

# Inclusion Europe

The European Association of Societies of Persons with Intellectual Disability and their Families  
L'Association Européenne des Organisations des Personnes Handicapées Mentales et leurs Familles

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## Position Paper

### Basic Principles for a Disability-Specific Directive on Non-discrimination

Key demands from the perspective of persons with intellectual disability and their families

With the inclusion of disability in Article 13 of the Amsterdam Treaty on the European Union, Europe made an important step forward in the fight against discrimination of people with disabilities. The horizontal Directive on Equal Treatment in Employment and Occupation adopted by the European Union established important basic conditions for non-discrimination measures in its area of application.

While Inclusion Europe welcomes the actions of the European Union, we stand together with the European disability movement in a request for a specific Directive that would allow for more targeted measures in the fight against discrimination on the grounds of disability.

Disabled people face many specific forms of discrimination, which are not experienced by the other groups mentioned in Article 13. Examples include accessibility of the built environment, of transport systems and of information, the latter being of specific importance for people with intellectual disability. Furthermore, disabled people experience discrimination not only in the areas of employment and occupation, but also in most other areas of life.

There is a law against discrimination in Europe.  
Discrimination is when people are treated badly because they are different.  
The law prohibits discrimination at work.

All disability organisations in Europe want a new law against discrimination.  
This law should be only for disabled people.

Disabled people experience many forms of discrimination:

- Sometimes people in a wheelchair cannot get into a building.

The Working Group on Non-discrimination of Inclusion Europe has developed some basic principles which should be included in a disability-specific Directive to make it effective for persons with intellectual disability and their families. These basic principles will serve as a basis for the development of more specific proposals for the text of the new Directive in the future.

## **Background**

- **Persons with intellectual disability are in specific danger of social exclusion and discrimination**

Because of the nature of their disability, most persons with intellectual disability depend to various degrees on support services. This makes them especially vulnerable to social exclusion and discrimination.

The Directive should therefore make specific references to persons with intellectual disability in order to recognise this danger of social exclusion.

- **Recognition of contribution of disabled persons to society**

Disabled people contribute a lot to the social, cultural and economic life of any society. It is important that the Directive explicitly recognises this contribution.

Member states should be encouraged to enable disabled persons to contribute to the largest possible extent to the life of society.

- Sometimes disabled people are bullied or called names.
  - Information is often much too difficult for people with intellectual disability.
- Discrimination takes not only place at work.

Inclusion Europe has some basic demands for the new law.  
They are written in this paper.  
We will work on the basis of these demands in the future.

People with intellectual disability often suffer from discrimination.  
They often depend on the support of persons or services.  
We believe that the new law must mention people with intellectual disability in its text.

Disabled people give a lot to the society.  
They work, earn money, pay taxes, help other people, can be artists...  
The countries should help disabled people to be as active as possible.

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## The Definition of Disability

- **The Directive must recognise explicitly persons with intellectual disability and their families**

While understanding the difficulty of agreeing on a Europe-wide definition of disability, Inclusion Europe maintains that a definition should include not only those disabled persons who receive social welfare benefits. Any definition used in the context of combating discrimination must also include children and older people and all those who might experience discrimination on the grounds of disability, but do not receive any disability benefits.

Furthermore, it is important that the Directive explicitly recognises that parents and other family members of disabled children and adults might be subject to discrimination as well, for example in their economic situation or by the demand of providing unpaid care for their disabled child.

- **Persons with intellectual disability as workers in sheltered employment**

Many persons with intellectual disability in Europe are working in sheltered employment services. In some member states of the European Union these working places are not considered to constitute regular employment, thus excluding these disabled workers from rights enjoyed by other workers.

The disability-specific Directive should clarify the role of these disabled workers in sheltered employment.

## Principal issues

- **Reasonable Accommodation**

The principle of reasonable accommodation as defined in the horizontal Directive for the areas of employment and occupation should be applied equally to the other areas of life which should be the scope of the new Directive. This would commit not only employers, but also other actors in society to accommodate the needs of disabled persons.

Inclusion Europe also maintains that the failure to provide reasonable accommodation must be recognised as discrimination.

All disabled people and their families should be protected by the new law.

This should include also disabled children or old people.

Also families of disabled people can suffer from discrimination.

For example when a mother cannot work, because she has to help her disabled child. This discrimination of family members should be mentioned in the new law.

Many people with intellectual disability work in sheltered workshops.

Sometimes countries do not see this as a real job.

The new law should make clear that these workers are also protected against discrimination.

“Reasonable accommodation” means that things are adapted to the abilities of disabled persons.

For example, when a person gets more time to learn and to understand something.

This should be possible in all areas of life. Everybody should accommodate the needs of disabled people.

If this is not the case, it is discrimination.

- **The right to inclusive services**

People with intellectual disability are depending on support services to varying degrees. Especially persons with severe and profound disability might need also small residential services. However, any citizen of the European Union should have the possibility to live integrated in society.

States must assure that every disabled person has access to the services this person needs. States must assure that these services are integrated in society and are not a source of segregation. Services which lead to segregation constitute a form of discrimination.

- **Economic and social discrimination of families with disabled members**

Families with disabled members, and especially those with complex needs, are often in danger of social exclusion and discrimination. Negative attitudes of society are often expressed against the whole family whose economic situation is often negatively affected by the extra costs of disability. Care of a disabled family member often reduces the economic activity of the care-taker.

Therefore Inclusion Europe proposes to prohibit the discrimination of families with disabled members with the following two main focuses:

- a) States must assure that the disability of a family member does not affect the economic situation of the whole family.
- b) Families cannot be expected to undertake unpaid care of disabled members in excess to the care families would provide to any non-disabled member.

## **Scope of a Disability-Specific Directive**

- **Education is a cornerstone of any non-discrimination policy**

Education is one of the most important areas in the life of any citizen and disabled people have the right to access to education. Furthermore, disabled people should not be confined to segregated special schools, but accommodations have to be made to enable their participation in mainstream education.

Disabled people need services to support their needs.

They also want to live together with others in society.

Sometimes some special services are necessary.

Governments must make sure that these services are integrated in society.

Families of disabled people can suffer from discrimination.

For example when a mother cannot work, because she has to help her disabled child.

Often the society thinks badly about the family.

And some help for the disabled member has to be paid by the family.

We want that a disabled member does not mean that the family has less money.

We also want that care of the disabled family member is paid for by the government.

Education is very important for disabled people.

They do not want to go to special schools.

Every disabled child in the European Union should have the right to go to school as long as other children.

All member states of the European Union must guarantee the right to education for the obligatory period for every child, regardless of disability.

Member states should further ensure that adequate support systems exist for all disabled people to fully participate in the education obligatory in each country. Special education services should be available only in specific cases and for limited periods of time.

- **Social protection is especially important for persons with intellectual disability**

Persons with intellectual disability often have difficulties to represent themselves. States must ensure that adequate support systems exist to enable them to live as independently as possible in society. If necessary, flexible models for guardianship or mentorship with concrete legal rights should be available that leave to the disabled person the largest possible freedom of decision-making.

- **Information provision**

Information provision is a key area for the equal participation of persons with intellectual disability in the life of society. Most information, however, is not accessible at all for persons with intellectual disability.

Member states therefore should establish a clear strategy to identify the basic information that is necessary to participate actively in the life of society and to provide this information in formats that are accessible for persons with intellectual disability.

- **Access to insurance systems**

Disabled people must be entitled to participate without discrimination in any insurance system established in the member states.

## **Conciliation Procedures and Promotion of Non-Discrimination**

- **Conciliation procedure by an Ombudsman**

For persons with intellectual disability conciliation procedures are clearly more accessible in their fight against discrimination than legal proceedings. Without prejudice to the possibilities of legal proceedings, Inclusion Europe therefore advocates the appointment of independent Ombudsmen by the national Parliaments. They should have the mandate of establishing accessible and effective complaints procedures for disabled individuals.

Normal schools should provide help to disabled children.

Special schools should be used only for a short time.

People with intellectual disability often have difficulties to speak for themselves.

There should be help for them to live independently.

Guardians should be there to help them.

It is important that people with intellectual disability get information they understand.

Countries should find out which information is important for everybody.

This information must be translated into easy-to-read.

Disabled people should be able to take insurances as anybody else.

People with intellectual disability often find courts very complicated.

This is why they do not complain against discrimination in court.

We want that the parliaments appoint special people who can protect disabled people from discrimination.

Such a person is called "Ombudsman".

Ombudsmen should also have the right to start legal proceedings on behalf of disabled individuals, if they consider it appropriate. Also organisations of disabled people and their families should have this right.

- **Promotion and implementation of the principle of equal treatment by Ombudsmen in cooperation with disability organisations**

Inclusion Europe sees independent Ombudsmen appointed at the highest political level by the Parliaments of the member states as the most effective means to ensure that a disability-specific Directive is promoted and implemented. The office of the Ombudsman must be given adequate power and resources to serve as an effective advocate of disabled people who suffer from discrimination.

The diversity of needs and abilities of different groups of disabled people is best taken into account through a structured and institutionalised dialogue of the office of the Ombudsman with all those civil society organisations representing disabled people and their families. This would ensure a real democratic representation of and contacts with all those grassroots organisations of disabled people who are committed to fight against discrimination at the level where most cases of discrimination occur.

They should make sure that people with intellectual disability understand their work. They also should be allowed to go to court for a disabled person.

The Ombudsmen must also see that everybody knows about the law against discrimination. They should work together with all disability organisations. The disability organisations know best what their members want.