Report on Violence and Discrimination against disabled people

“States should recognise the rights of organisations of persons with disabilities to represent persons with disabilities at national, regional and local levels. States should also recognise the advisory role of organisations of persons with disabilities in decision-making on disability matters.”

Rule 18 of the United Nations Standard Rules on the Equalisation of Opportunities for Persons with Disabilities:
DOC EDF 99/5 “Report on Violence and Discrimination against disabled people”

This study is based on the response by the EDF membership to a questionnaire sent out in 1996.

The document is available in English and French, and on diskette or in large-print upon demand from the EDF Secretariat, and on the EDF Website at: http://www.edf.unicall.be

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PREFACE

In 1993 a European Parliament resolution called upon the EU institutions to investigate further the situation of violence against disabled people, and in the framework of the HELIOS programme, this study was developed. It is based on replies to a questionnaire sent out to EDF National Councils. The report shed new light on violence in its many forms.

In 1997 the independent European Disability Forum put new focus on the situation of disabled women, by highlighting various aspect of double discrimination facing them. The Manifesto by Disabled Women in Europe, developed and adopted in February 1997, by the EDF Working group on Women and Disability. The Manifesto was subsequently translated into all 11 EU working languages, and has been circulated widely in Europe. It has also It is now also available on the EDF Website on:

http://www.edf.unicall.be/women/manifesto/

In 1999, the EU year against violence against women, the issue of violence against disabled women and men, girls and boys is still very much a reality. In the light of this year's focus the European Disability Forum has decide to re-launch the report. This year we endeavour to publish an update of this report, focussing especially on violence against women.

The EDF has also been instrumental in ensuring that the theme of the European Day of Disabled People in 1999 is violence against disabled people. EDF has suggested that the Day will give particular emphasis to violence against disabled girls and women, disabled people in institutions, disabled people with complex dependency needs and disabled people using different communication methods and socio-economic factors.

Johan Wesemann, EDF Chair, March 1999.
1 INTRODUCTION

1.1 Background

In Resolution B3-580/93 of 22 April 1993 on the upsurge of violence against handicapped people, the European Parliament called on the Commission to set up a forum bringing together disabled people from the various Member States, charged with the tasks of:

1. investigating the extent of attacks on disabled persons;

2. drawing up an annual report on the situation of disabled persons in the Member States; and

3. investigating on the possibility of introducing anti-discrimination laws based on the US model.”

The Commission considered that the European Disability Forum, set up under the HELIOS II programme, would be the appropriate organisation for examining the points raised by the European Parliament.

1.2 Methodology

With a view to responding to points 1. and 2. of the resolution, the Forum decided to draw up a questionnaire covering all forms of violence against disabled people and to invite the national disability councils of each Member State to produce a report on the basis of that questionnaire.

The Forum also felt that to provide a proper response to the third point of the resolution, it was necessary to consider not only physical and psychological violence, but also other forms of discrimination which undermine the fundamental rights of disabled people.

In most cases of discrimination, the underlying motive is not openly acknowledged and many people do no realise that their attitudes and prejudices can lead to discriminatory behaviour. For this reasons, there is a risk that the real extent of discrimination could be underestimated. It therefore seemed useful to carry out an in-depth inquiry into the disadvantages experienced by disabled people.
Fourteen national councils have replied to the questionnaire. An examination of these answers submitted reveals a major diversity in the approach and the interpretation of the questions asked.

Furthermore, the information obtained seems rather scarce, particularly as a result of the little amount of time foreseen for the answers and the limited means which could be invested into it. Also, it has seemed that most countries lack reliable facts and statistics on the issue. Violence against and discrimination of disabled people are not yet subject of systematic attention in most of the Member States.

Consequently, the present report certainly does not represent a thorough evaluation of the issue. It endeavours, however, to provide the European Parliament with a first picture of the difficulties encountered by disabled people. Therefore, the report leaves out purely individual testimonies and focuses on the significant results of studies mentioned by the national councils.

It has also seemed advisable not to specify the countries where these studies have been undertaken, as the aim of the report is not to accuse particular Member States and because the information provided for each Member State is rather unequal. Moreover, the conclusions of surveys determined for one particular country can more or less be applicable to most other Member States.

As such, the present report does not pretend to be of scientific value, but rather tries to develop a general image of the phenomena's of violence and discrimination in the Union.

1.3 Concepts of violence and discrimination

Violence, as considered in this report, concerns all forms of passive and active behaviour, such as:

- physical violence (blows, bruises, fractures, etc.)
- psychological abuse (mental cruelty, insults, etc.)
- exploitation (financial mismanagement, etc.)
- medical abuse (inappropriate medication, etc.)
- negligence (lack of care, malnutrition, etc.)

The concept of discrimination is drawn from the general comments on the United Nations standard rules for the equalisation of opportunities, which define discrimination against disabled people as “including any distinction, exclusion, restriction or preference or denial of reasonable accommodation
based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights”.

2 VIOLENCE AGAINST DISABLED PEOPLE

2.1 Violence in general

The reports show that most disability association are “aware” of physical, sexual or psychological violence against disabled people. However, despite numerous specific examples, revelations, references to notorious scandals and official enquiries, awareness of violence against this group, in most countries, usually rests on anecdotal evidence only.

Nevertheless, a limited number of surveys carried out in some countries have revealed that disabled people are the victims of a high number of incidents and a variety of forms of violence and discrimination.

One survey concludes that a disabled person is three times more likely to be the victim of a criminal act. It also shows that crime is by far the main concern of disabled people, beyond any other consideration. Fear of assault and insecurity on the street are preoccupations which, for many disabled people, prevail over the prospect of not being able to provide for everyday needs. The feeling of insecurity at home also ranks higher than worries relating to work, debts, housing or transport.

This sense of insecurity is most widespread among people with restricted mobility or visual handicaps.

The same report, along with others, showed that the fear of assault increases the isolation of disabled people within society. It makes them more likely that other people to take precautions and cut themselves off from the rest of the community. Most disabled people avoid going out in the evening unaccompanied or without taking additional precautions.

The defencelessness felt by disabled people is corroborated by the results or other surveys, which demonstrate that handicap makes people more vulnerable to crime.

For instance, a survey carried out on a limited sample - which can therefore provide indications only rather than statistically demonstrable conclusions - bears out this feeling.

The survey shows that over 50% of the people interviewed experienced some form of violence or harassment in the 12 months prior to the survey. Most of
them felt that the violence was primarily motivated by the fact that they were disabled.

The most common form of violence reported was psychological, a category which includes verbal abuse and insults (46%). 21% of the people surveyed had suffered physical violence. 60% of respondents knew a disabled person who had been the victim of violence during the previous 12 months.

Another inquiry has drawn attention to the frequency with which people with learning difficulties are subject to sexual abuse. Whereas for young people under the age of 18 the risk of experiencing sexual abuse is 12% for women and 10% for men, the figures are four times higher for young people with learning difficulties. The same study reveals that, in 99% of cases, those inflicting sexual abuse are from the victim’s immediate circle: family, neighbours, educators, etc. The authors of the report believe that the risk factor is increased by abuse of the group’s psychological vulnerability and the inadequate provision of emotional and sexual education for disabled people.

A study in one country has revealed not just the existence but a positive upsurge of violence against disabled people as a result of the increasing spread of aversion on the part of certain social groups.

This trend is reflected in the numerous reports of physical assault, usually committed by groups of young people aged 18 to 25 and professing extreme right wing ideologies. The study also points up the fact that verbal abuse is becoming increasingly commonplace among people from all social backgrounds. According to the authors of the study, this new wave of violence should be viewed in the context of public debate on euthanasia, fuelled by recent publications putting forward theories that heavily dependent disabled people are useless and a burden to society. This violence also takes root in the economic and social crisis which is making society more individualistic and undermining solidarity, and the policy of segregation which for many years has kept disabled people on the sidelines of society and helped perpetuate public prejudice.

Lastly, the above surveys all show that a majority of violent incidents go unreported, often because the victims lack faith in their ability to take effective action and believe they will not be taken seriously or fear reprisals. Most of those who did report violence felt that the response was unsatisfactory. It has been noted in particular that the police seem reluctant to dealing with this kind of crime.

2.2 Crime and institutions

The term “institution” covers various forms of collective accommodation, such as hospitals, psychiatric institutions, boarding houses, nursing homes, retirement homes, etc.

It should be noted that there are two conflicting views on institutional violence. The first sees institutions mainly as places of refuge for disabled people,
where they receive care and appropriate services and where violence may occur to a greater or lesser extent but is not beyond remedy. The other school of thought regards institutionalisation as intrinsically encroaching on individual freedom and human dignity and inevitably having a negative influence on human development.

Whichever point of view one adopts, hundreds of thousands of disabled people in Europe live in institutions, with no possibility of returning to live in the community. There is considerable evidence to suggest that many institutions do not meet minimum standards on human rights.

For instance, a survey conducted in one country has shown that the most extreme forms of violence, exploitation and abuse are committed against people with mental health problems in hospitals and institutions, and that there are no legal provisions limiting or preventing violations of patients’ privacy. The latter do not usually have the right to prevent personal information on them being recorded without their knowledge or consent.

In another case, an official inquiry revealed that patients in psychiatric institutions were frequently the victims of assaults and cruel jokes. It was shown that not only did the staff make no attempt to prevent suicide, but their behaviour actually encouraged it.

Another survey of women in psychiatric institutions showed that 59.8% had experienced physical violence as adults - a slightly higher percentage than those who had been victims during childhood (56.6%).

Other investigations reveal, above all, the widespread nature of psychological violence and negligence suffered by disabled people in institutions. A common form of psychological abuse is convincing disabled people that they are worthless.

Other surveys bear witness to the high incidence of various types of negligence, such as physical negligence in the form, for example, of refusal or failure to provide for dietary or medical needs, and emotional or developmental negligence, where people are deprived of the basic human interactions needed for normal development. Prohibition of emotional relationships is also widespread, along with the practice of enforced sterilisation and contraception without residents’ knowledge.

Studies on institutional violence highlight the extreme imbalance of power between staff and residents. In the most extreme cases, staff have control over waking times, bedtimes, mealtimes, bath times, leisure time and all other aspects of the residents’ lives. Although these imbalances are not universally perceived as abusive, they inevitably lead to other more serious forms of abuse.

Few countries have implemented appropriate protection mechanisms. One of the main reasons is that institutions are perceived as services designed to protect disabled people. In some countries, provisions on patients’ rights
entitle disabled people in healthcare institutions to lodge complaints for any kind of injury, but these provisions rarely apply to welfare institutions.

2.3 Conclusion

We live in a society where violence is widespread. Many studies have shown that some population groups are more at risk than others. Although it has been demonstrated that in all countries children are more vulnerable than adults, and girls more than boys, and there is plenty of evidence to suggest that disabled people are more at risk than other citizens, there is a dearth of specific surveys in most countries. There is legitimate cause for concern over the reasons for this apparent lack of interest.

Many countries do not make adequate provision for the protection of disabled people, who are potential victims of violence and cruelty. Yet the helplessness of some disabled citizens calls for specific protective measures which are often simply not taken. It has been observed that:

- their impairment makes them more vulnerable;
- violence often has far more severe consequences where the victim is disabled;
- disabled people are often the victims of the very people entrusted with their well-being.

Although initiatives and specific measures have been observed in all countries, nowhere has a comprehensive strategy been implemented to prevent violence against disabled people. According to the various views put forward, such a strategy would require:

- suitable education and training for disabled people to prepare them to prevent and confront violence;
- training for the social services staff and careful selection of people responsible for helping disabled people;
- appropriate training and awareness-raising for the police force and public prosecutors;
- equal access for disabled people to justice and adapted legal protection, ideally within the framework of comprehensive anti-discrimination legislation;
- a police geared to integrating disabled people into society and allowing them to live in as open an environment as possible;
• public awareness-raising and education regarding disabled people in order to combat what has been referred to as “handicapism”, i.e. a set of beliefs and practices which encourage unequal or unjust treatment of disabled people on the ground of apparent or presumed physical or mental disabilities.

This last step is all the more important in view of the worrying phenomenon in certain countries of an increasingly open upsurge of intolerance towards disabled people. Violence can take not only active but also passive forms such as euthanasia and eugenics, resulting in particular in compulsory sterilisation, sexual segregation and the development of biotechnology and prenatal diagnosis. This resurgence is not only the fruit of the theories of the far right but is also supported by “philanthropic” arguments and considerations of a purely economic nature.
3 DISCRIMINATION AGAINST DISABLED PEOPLE

3.1 Introduction

This report discusses a series of situations in which disabled people are at a disadvantage, as described in the various national reports. It has not attempted to establish, however, whether these situations constitute cases of discrimination in legal terms. Nor is this list of situations intended to be exhaustive; it describes a selection of areas where it would appear that the risk of discrimination is particularly high.

3.2 Political rights

In many Member States, disabled people would seem to be confronted with a number of obstacles preventing them from participating fully in political life. In particular, the way in which elections are organised does not allow them to fully exercise their right to vote.

For example, in some countries, the inaccessibility of polling stations, difficulties in voting by proxy or post and more limited access to political information restrict disabled people’s ability to make informed political choices and exert the same political influence as other citizens.

There is also evidence that some disabled people who are long-term hospital patients are excluded from electoral rolls and that the majority of people with learning difficulties or mental health problems in institutions are kept off them. For example, a study in one country has shown that only 329 people out of a total of 4,349 living in institutions were included on the electoral roll. There was such a high degree of variation between institutions that it was clear that the election turnout depended not only on the disabled people but on the attitudes of the institutions’ staff.

In other countries, people living in institutions are considered as patients rather than residents; the only option open to them is to vote in a place where they do not live, and they are therefore unable to influence local life. In yet another country, the law allows disabled people living in institutions to vote, but they are subject to conditions which do not apply to disabled people living at home, making them the only social group who must prove that they are able to vote.
In a number of Member States, polling stations are frequently inaccessible. In one country whose legislation provides that polling stations be accessible whenever reasonable and feasible, a study carried out in 1992 showed that only 12% of polling stations were fully accessible.

Moreover, most disabled people are unable to go to polling stations for want of accessible transport.

Those in charge of the polling stations are often unaware of disabled people’s needs or are not obliged to provide assistance. Visually impaired people are faced with particular problems owing to the fact that ballot papers are not usually available in Braille or on magnetic tape; in effect, therefore, they are deprived of the right to a secret ballot.

Generally, disabled people can vote by post or by proxy, but often the option is burdened by needlessly fussy or complex procedures.

The combination of these obstacles encourages the impression that disabled people lack interest in political life, thus promoting the process of exclusion and undermining their political influence. Political parties are accordingly less likely to take the demands of disabled people on board and acknowledge the need to implement a genuine integration policy.

Disabled people wishing to play a more active role in political life come up against additional problems, owing in particular to the location of local, regional and national councils and parliaments in inaccessible buildings.

In general terms, it is true to say that, although there is no direct discrimination regarding freedom of association and movement for disabled people, the lack of positive action by public authorities on transport and accessibility in effect prevents disabled people from exercising this right.

Likewise, although there is no legal restriction on the freedom of expression of disabled people, they are under-represented in the media, these media are predominantly inaccessible and there is no control over how disability is portrayed in them. This implies that disabled people are unable to enjoy the same freedom of expression as their fellow citizens - a point which is all the more crucial since the negative image of disabled people in the media has been identified as a leading factor contributing to the discriminatory attitudes of society.

What is more, freedom of expression is a relative term for some disabled groups such as deaf people, since their form of expression is widely ignored.

### 3.3 Legal protection

Although the law is supposed to ensure equal protection for all citizens, disabled people are among the most disadvantaged groups in this respect. This is clearly apparent from the section on violence in the first part of this report.
The survey shows that in many countries access to justice for disabled people is often restricted by problems relating to both the physical and social accessibility of courts, statutory provisions on evidence, legal procedures and the lack of willingness on the part of magistrates to adapt to the individual differences which result from handicap.

This failure to take differences into consideration poses particular problems for people with learning difficulties or mental health problems. People with mental health problems who are suspected of having committed an offence or a crime are particularly vulnerable to pressure exerted during police questioning, and this can sometimes lead to false confessions and unjustified imprisonment. It would also appear that people with learning difficulties or impairments affecting their memory or ability to communicate are often disadvantaged when giving evidence. The ability of people with learning difficulties to provide valid evidence is often questioned by the courts.

As regards protecting the goods and property of disabled people, there are numerous examples of cases where disabled people in institutions have had belongings stolen by unscrupulous members of staff, in the absence of suitable measures for legal protection.

The survey also reveals that, in many countries, specific legislation has been passed to ensure the legal protection of disabled people. Yet this is sometimes controversial since it can be interpreted as paternalistic and stigmatising and as encouraging the stereotype that disabled people are intrinsically incompetent. It can also deny disabled people the natural right to expose themselves to legitimate risks. In some countries, for example, people with learning difficulties are denied the right to personal relationships under the pretext of protecting them from sexual abuse.

On the other hand, there are cases where the uniform implementation of legal protection also leads to inequalities. For example, in several cases, adults with learning difficulties require the protection given to minors.

This does not mean, however, that general laws should not apply to disabled people. Better implementation and greater effectiveness of these laws is a precondition for truly equal rights, but these laws should also be complemented by specific protective measures if necessary.

### 3.4 Education

The right of every child to as integrated an education as possible is universally acknowledged. Yet in many countries mainstream education is, generally speaking, not accessible to disabled children. For example, a survey in one country showed that only 18% of secondary schools considered three-quarters of their premises to be accessible. And while 46% of primary schools claimed to be accessible, the survey showed that areas such as recreation grounds, libraries and toilets were not.
On account of the physical and organisational inaccessibility of mainstream education, the majority of disabled children must be streamed into special schooling. According to the Commission report on school integration in the Community (1992), nearly three-quarters of disabled children are in special education.

Special education is widely viewed as being socially divisive. According to most disability associations, the best way of preventing discrimination towards disabled people in education is to achieve optimum integration into mainstream structures. Even where it is of a high standard, separate education tends to breed prejudice and preconceptions.

Moreover, while the special sector is often presented as a way of delivering better education for disabled people, this has frequently been found not to be the case. A number of studies have demonstrated that results obtained by disabled children in mainstream education are as good as - if not better than - those of their counterparts in special schools, and that the diplomas awarded by the latter institutions are generally of a lesser value. However, disabled pupils are at a disadvantage even in mainstream schools. One survey has shown that discrimination is widespread in mainstream institutions. 53% of disabled people having attended mainstream schools felt that they had been treated differently on account of their impairment. 41% considered that their teachers had tended to underestimate their abilities (compared with 43% in special education). 47% of people in ordinary schools and 36% in special schools stated that they had experienced failures which they felt were due to their disability.

Institutionalised discrimination against disabled students in higher education is generally quite obvious since, to take one example, in one country they account for only 0.3% of students. Generally speaking, higher educational establishments make no structural arrangements to cater for disabled students.

### 3.5 Employment

In most Member States, it is difficult to carry out a precise comparison of the numbers of disabled as opposed to non-disabled people in the unemployed population. One major reason is that many disabled people are not included in statistics on job seekers. It is generally thought that the unemployment rate among disabled people is three times the average and that the duration is considerably greater.

Other surveys show that disabled people in work are usually paid less, have lower status and are in less stable jobs. According to a very detailed study carried out in one country, less than a third of disabled people of working age had a job. While 34% of these felt that they were not capable of working, a large number would in fact have been able to hold down a sheltered or part-time job had any been available. Of those who could have worked, over half had stopped looking for a job because of the difficulties encountered. Of those who were no longer considered to be seeking work, 86% had in fact
taken steps to find a job in the past. Finally, the study showed that disabled workers went into retirement before the average retirement age for the population as a whole.

Another survey produced the following findings: 85% of disabled people seeking work believed that employers were reluctant to take them on because of their disability. Of those in work (only 20% of the sample), 71% felt that their employers had shown hesitation when taking them on, because of their disability. 35% of people stated that they had been unable to accept a job because the workplace was inaccessible. Of those in employment, 31% considered themselves overqualified for the tasks they were given, 55% were afraid of losing their jobs because of their disability and 44% felt that they did not have the same promotion opportunities as their colleagues.

Another study has shown that disabled workers employed full-time earned on average 25% less than their non-disabled peers, and that a disabled woman earned a third less than a disabled man.

The fact that disabled people are under-represented in the employed workforce is by and large the result of discrimination which has been highlighted by studies based on the techniques used to identify racial discrimination. For example, fictitious replies to job advertisements revealed that all replied making no mention of disability were acknowledged as opposed to one in six where disability was stated. Another survey showed that a third of workers who became disabled while in a job were put under pressure by their employers to resign.

A government survey of employers found that while 75% of them stated that they did not wish to discriminate against disabled workers, 13% indicated that they were willing to use disabled people for certain jobs only and 6% replied that they did not want to employ disabled people at all. The study also showed that 66% of employers thought that the jobs offered by their company were unsuitable for disabled people - 52% because the workplace was not adapted and 14% on account of problems with access and transport. Overall, a total of 91% of employers believed that they would have difficulties with disabled workers. In spite of a code of good conduct intended to encourage employers to recruit disabled people, only 4% stated that they had taken positive steps in that direction. The fact that in this survey 52% of employers considered that the ability to climb steps was essential to their jobs clearly shows that the so-called objective criteria barring disabled applicants do not stand up to logical analysis.

The survey also reveals numerous cases of discrimination in the field of worker protection. Generally, disabled people are subject to general labour laws, even though the provisions do not take sufficient account of the problems inherent in disability and the specific risks to which disabled workers are exposed.

For instance, regarding working conditions, laws often provide protective measures for young workers (limits on daily and weekly working hours, bans on night work, provision for minimum holiday periods, etc.), but many
countries have no provisions of this kind for disabled workers. Likewise, since disabled people are poorly represented in trade union organisations, their interests are rarely taken into account in collective bargaining agreements. Of course, in many cases, disabled workers can benefit from measures recommended by occupational health specialists, in particular with regard to working hours. Employers are obliged to comply with such recommendations. However, these are individual measures and have to be initiated by the employee, who may be reluctant to do so because of the risks involved: the company manager could dismiss the person concerned if he or she does not think it possible to implement the recommendations.

To address the employment problems of disabled people, most countries have set up sheltered employment structures. The various forms of establishment employ more than 350,000 workers throughout the Union. Nevertheless, this cannot really be regarded as real occupational integration in that these workers are largely outside the mainstream work environment. This situation is all the more unfair since it would seem that most of the persons involved could get a job in a non discriminatory environment.

This state of affairs is encouraged by prevailing economic and social conditions since it provides industry with convenient subcontracting units that can increase profitability. As one researcher pointed out, it is somewhat odd to see people who have been excluded from mainstream production units on account of lower performance, being used to increase business profitability. Public authorities are not the only ones to blame; trade unions have never set a priority on increased access to industry for disabled people.

The status of workers placed in these establishments also raises a number of questions. Although the institutions were originally intended to perform an occupational and education function, they have seen their role slide little by little towards that of production units. Sheltered workshops survive essentially from subcontracting and to get a foothold in the market they have to be competitive. This has led these institutions to adjust to traditional working methods based on high-performance equipment, longer hours, production line work and performance-related pay, and on the concepts of worker discipline, efficiency and responsibility.

One survey showed that production lines were by far the most common form of work organisation. Managers justify the use of this method in terms of its therapeutic value: the line helps to break the work down into simple and repetitive movements, ensuring successful completion of each task. But it also makes it possible to increase the efficiency of disabled people and impose a working rhythm.

Workers in sheltered environments do not therefore seem to be overprotected and free from the constraints of the world of work. It therefore appears completely discriminatory to deny them the right to work. The non-profit-making nature of the associations which manage sheltered workshops and the concern of most managers for the well-being of their workers are in no way a guarantee against abuse.
3.6 Social protection

Discrimination in the field of employment and, generally speaking, the institutionalised discrimination affecting disabled people forces them to be more dependent than others on the State and social services. In one country, a study has revealed that disabled people and their families have substantially lower incomes than the population average, in particular because they are in many cases unemployed and have to meet extra costs on account of their disability. 75% of disabled adults depend on benefits for their subsistence.

Moreover, since these benefits are not based on insurance contributions, claimants are given a grant which usually involves invasion of their private lives. In general, disabled people who apply for benefits are subjected to two kinds of tests: a means test and a medical examination. The award of the grant is very often based on a medical model whereby the applicant must provide the diagnosis of his or her impairment and undergo a functional test to establish what he or she can and cannot do. In general, this system generates needless stigmatisation and takes no account of the person’s social situation. To receive assistance, people are encouraged to exaggerate their impairments and play down their independence and abilities, and therefore present themselves in the most negative light.

The systems are also highly complex, each benefit having its own eligibility criteria. Disabled people are awarded varying amounts depending on the origin, nature, cause and gravity of their disability, their case history and their place of residence, with no rational justification for the decision.

A survey in one country also shows that over 60% of disabled adults need some degree of personal assistance and that very few countries have established satisfactory systems in this regard. As a consequence, either the burden of providing informal assistance must be borne by the disabled person’s immediate circle, or he or she must be institutionalised.

3.7 Participation in community life

The survey shows that many disabled people are prevented from taking part in a number of social and leisure activities and are unable to gain access to social and cultural events.

The widespread problem of physical accessibility, compounded by prejudice and ignorance, often leads to disabled people being excluded from public buildings, restaurants, museums, concert halls, sport stadium and other places.

The lack of accessibility is partly due to the attitude of managers, who consider that the presence of disabled people in their establishments could put off non-disabled people or spoil their enjoyment.
Some concert halls plead fire precautions as a pretext for banning wheelchair users, while others limit their number or require notice of their presence. And in a number of cases, even where the event is accessible, the toilets are not.

In one country, a survey showed that one disabled person in three was regularly refused access to goods and services. Disabled people had been refused services on the grounds that they were unsightly and one disabled person in six had been refused life insurance without an objective analysis of the risk.

These examples are confirmed by another survey which found that one disabled person in three had been refused service in a public place. 46% of people interviewed in the same survey had had problems obtaining insurance for their vehicles and many people had to pay higher premiums as a result of an incorrect evaluation of the risks.

Public transport is usually inaccessible everywhere. A study in one country showed that 38% of disabled workers found travelling to work extremely difficult, while 9% stated that their journey was much more expensive than it would have been had they not been disabled. Electric wheelchairs users are virtually banned from so-called “public” transport and people with visual or sensory impairments also have difficulties.

A study carried out in a European city in 1986 showed that 450,000 people had difficulties using public transport. 63% of them found it difficult or uncomfortable to use the bus and 20% did not use buses at all.

Poor accessibility and uninformed and uncomprehended staff can make air travel a very frustrating experience for disabled people, who are required to fill in questionnaires about their health and sometimes prove that they are fit to travel.

Despite the inaccessibility of public transport, one survey has shown that families with a disabled member have on average fewer personal vehicles than others, essentially because specially adapted vehicles are much more expensive and insurance premiums higher.

In many countries, specially adapted housing is also in critically short supply. For example, in one country where 4.25 million people had reduced mobility, there were only 80,000 accessible houses.

Lastly, social participation of disabled people is undermined by the image they are given in the media. They are under-represented and given a negative image in audio-visual media. Films and books often portray them as people to be pitied or feared. The media also support a stereotyped, sensationalist and negative image of people with mental health problems, making it even harder for them to gain social acceptance. A study carried out in 1988 showed that disabled people very rarely appeared in the news, unless the subject was a medical cure or treatment, or the achievements of an individual who had overcome his or her disability. Programmes involving the participation of the public were also discriminatory: there was not one disabled person among
the participants or audiences in televised game shows. In the same way, characters in fiction were very rarely disabled.

Disabled people are more present in films but have an unflattering image. A survey of 134 films showed that 72 of them included disabled people. Disabled people had a leading role in 53 of them, and disability was an important issue in 25. However, 13 films gave a rather sentimental and unrealistic picture and only eight touched on issues of prejudice and discrimination. Stereotypes were rife and disabled people were often portrayed as perverse, subhuman or pitiful. The study showed that disabled people were used to influence the atmosphere of a film where it was necessary to underline the idea of deprivation, mystery or threat, because they are not considered “normal”.

However, American programmes have a greater tendency to provide a positive and realistic image of disabled people. They are more likely to be portrayed as sociable, extrovert, moral and non-aggressive than dependent, sad and difficult to live with. These programmes often show disabled people in personal or sexual relationships.

Most disabled people also believe that certain fund-raising campaigns reinforce the negative image. Two types of dominant message have been identified: the “philanthropic” formula which portrays the disabled person as an object of pity and the “courage” formula which portrays the disabled person overcoming disabilities and adapting to standards imposed by society. Too few campaigns use a positive message showing the mainstream abilities of the disabled person and emphasising the discriminatory nature of certain patterns of social behaviour.

3.8 Conclusion

Although based on non-exhaustive data and in spite of the great discrepancies between Member States in certain areas, this report sheds light on the nature and extent of institutionalised discrimination against disabled people from taking part in community life on the same terms as other citizens and amounts to a breach of basic human rights.

The social construct, in terms of both the architectural environment and the attitudes and expectations of the population, generates restrictions for certain groups, who are banned from participation in certain areas of community life. Although this can be a result of conscious discrimination, the main cause is society’s failure to take on board the needs of a significant proportion of its population.

Effective protection against discrimination is possible only if a combination of measures are taken in the areas of education and public awareness, through the implementation of mechanisms for positive action and the introduction of anti-discrimination legislation.
Many international conventions can be invoked to combat discrimination, but there should be no mistake: the protection provided is minimal. This is because most international standards lay down very broad-based rights, and none of them specifically or adequately addresses discrimination relating to disability. In addition, most of the guarantees cannot be invoked directly by individuals because they have not been incorporated into national legal systems or supplemented with appropriate supervision mechanisms. Lastly, many rights cannot be invoked vis-à-vis individuals as opposed to public authorities.

There are substantial disparities in legislation between countries. With one exception, there is no specific legislation on discrimination relating to disability. Everywhere else, protection remains piecemeal, limited to individual acts and areas. Most provisions are at the lower legislative level; formal legislative texts are rare.

None of the countries of the Union has implemented appropriate anti-discrimination legislation for disabled people, based on the two factors contained in the concept of disability:

- the physical, sensory or mental impairment of an individual;
- the social environment, where physical barriers and mindsets prevent equal enjoyment of rights.

This definition suggests the need for a three-pronged approach to anti-discrimination legislation with respect to disabled people, which should target:

1. direct discrimination, in the form of less favourable treatment for disabled people on account of their disability;
2. indirect discrimination, in the form of eligibility criteria for a job or services which make them more difficult to obtain for disabled people;
3. unequal burdens resulting from the failure of public authorities or individuals to take reasonable measures to eliminate factors in the social environment which restrict disabled people in the exercise of their rights.

The first two kinds of discrimination are similar to those currently banned by laws against racism or for equal opportunities between women and men. The concept of unequal burdens, however, extend the issue of discrimination against disabled people and calls for appropriate legislation. This should also include adapted mechanisms for evidence and supervision.

Legislation of this kind is currently lacking at both national and Union level.
ANNEX I: About the EDF and other documentation

Al.1 About the EDF

The European Disability Forum (EDF) is a European umbrella organisation with 70 European NGOs and 15 National Councils from all of the EU as members. EDF represents the interests of 37 million disabled citizens in the EU. Our mission is to advance disabled people’s human rights and promote equal opportunities in the EU Institutions and Member States in accordance with principles of non-discrimination.

Al.2 Other relevant EDF documents:

EDF 99/2 ICIDH-2 Beta 1 field test an interim EDF response 1999-01 EN
EDF 98/3 EDF Guide to the Amsterdam Treaty 1998-03 EN/FR/DE/ES
EDF 97/3 Manifesto by disabled women in Europe 1997-2 DA/DE/EL/EN/ES/FI/FR/IT/NL/PT/SV
EDF 97/1 EDF Position on paper on the Alpha version of ICIDH-2 1997-01-27 EN

Reports in the framework of the European Day of Disabled people:

1996 Towards equalisation of opportunities for disabled people: into the mainstream?
1997 A promise to be kept - Implementation of the UNStandard Rules in the European Union

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