

Strasbourg, 3 November 2008
CommDH/Speech(2008)15

**“Protecting and promoting the rights of people with disabilities in Europe: towards full participation, inclusion and empowerment”
Council of Europe conference**

*Statement by Thomas Hammarberg, Council of Europe Commissioner for Human Rights
Strasbourg, 29 October 2008*

Dear friends,

Thank you for the invitation to speak at this important conference on the theme of protecting and promoting the rights of people with disabilities in Europe. My approach will be a human rights perspective, as the organisers of the conference have asked me to provide.

Let me start by saying that for a too long policies concerning persons with disabilities have been focusing on institutional care, medical rehabilitation and welfare benefits. Such policies built on the premise that persons with disabilities are victims, rather than subjects able and entitled to be active citizens. The result has been that men, women and children with disabilities have had their civil, cultural, economic, political and social rights violated. Fortunately, over the last few decades a shift in thinking has taken place in some part of the Council of Europe. Persons with disabilities are no longer seen as objects of charity but as citizens with equal rights, who have an active role to play in our societies.

The disability movements worldwide have played an important and active role in the development of the UN Convention on the Rights of Persons with Disabilities and the the Council of Europe Disability Action Plan 2006-2015. Currently there are 41 ratifications of the Convention and 136 signatories to the convention. The Optional Protocol has 25 ratifications and 78 signatories.

Participation of persons with disabilities in all decisions affecting their lives, both at the individual level and through their organisations, is one of the fundamental

principles in both these instruments. I'm thus glad to see that 'cooperation between the governmental side and civil society' will be discussed during one of the workshops tomorrow.

- **National implementation of UN Convention**

Now that the UN Convention is in force, and the standards set at the highest level possible, we can say that it is undisputable that rights of persons with disabilities are human rights. States have a responsibility to respect, ensure and fulfill these rights.

However, one can see that persons with disabilities face a number of barriers when participating in society and using these rights. Children with physical disabilities can not play with other children on the public playground because of its inaccessible design. TV programmes without subtitles exclude persons with hearing impairments. Persons put under plenary guardianship are prevented to act in almost all areas of life. They can often, for example, not vote, not buy or sell things, decide where to live, work, travel or marry.

Achieving inclusive societies takes thus further planning and systematic work. It is therefore encouraging that many European states have adopted national disability plans and strategies. Every country will need to develop such plans tailored to its own circumstances. It is a tried and tested method for setting priorities, concrete aims and objectives, time-limits and allocating responsibility and budget for implementation with positive results in several countries.

- **Concrete concerns related to persons with disabilities**

In the remainder of my speech I would like to share with you some of the situations I have come across during my visits to the member states. I am glad to see that you have included some these concerns in your programme and workshop offer.

- 1) Children with disabilities

Many children with disabilities are still not accepted in ordinary schools because the schools are not equipped to meet their needs. The same thing happens at day-care centres,

sometimes forcing parents to choose between leaving their children in institutional care or giving up their job in order to care for their child.

The situation for children without parental care is particularly serious. Life in an institution, separating children and adults from their family and their social context, almost inevitably leads to exclusion. More resources need to be invested in supporting families, especially families living in poverty and single-parent households to enable children to grow up in their family environment. Childcare centres and schools should be open to all children and equipped to meet different needs. Social services and health care providers in the community must be accessible and competent to care for persons with different disabilities. Such reforms are challenging and require commitment and re-allocation of resources.

The right to education is equally important to all children. Even though every child's ability to learn is undisputed, there are still children in Europe of school age who are considered to be "uneducable" and denied any form of education. Such practices do not only limit the children's options to support themselves as adults, but also their possibilities to become independent and participate in society. Persons with disabilities have the right to receive quality education and no one should be excluded from ordinary schools because of his or her disability.

2) Women and girls

There is more and more research showing that persons are discriminated on multiple grounds. For example, women with disabilities tend to have lower salaries and less representation in management positions compared with men with disabilities and women without disabilities.

Women and girls with disabilities face particular problems. A woman, who is dependent on her perpetrator in daily life, may be reluctant to report abuse. Surveys indicate that the police do not always take women with mental disabilities seriously. On top women's shelters are often not accessible for women with disabilities. All these problems need to be discussed and addressed.

3) Disability and age

Some people, when growing older, develop disabilities as a consequence of the ageing process: for instance, reduced vision, reduced hearing or reduced mobility. This has to be taken into account when designing policies and programmes. Innovative approaches and

coordination is called for to respond to specific needs with the aim of enabling ageing people with disabilities to remain in their community to the greatest extent possible.

This includes support for individuals and for their families especially where elderly parents are the main carers. Co-ordinated action which can respond to specific needs with the aim of enabling ageing people with disabilities to remain in their community to the greatest extent possible is needed. This requires an assessment of individual needs and forward planning as well as the availability of required services.

4) Persons with mental disabilities

This is a very problematic area. The situation in psychiatric institutions in several European countries is shockingly bad. I have seen institutions during some of my visits, the conditions of which are so inhuman and degrading that they should be closed down immediately.

Unfortunately, medication is too often used as the only form of treatment. There is an urgent need to apply alternatives, such as different forms of therapy, rehabilitation and other activities. Unclear admission and discharge procedures constitute another problem resulting in what in reality is arbitrary detention.

There are, however, also positive examples and trends to empower patients with mental disabilities by facilitating their active involvement in treatment plans and providing complaints procedures for those who feel that their rights have been violated.

As with all closed settings where the liberty of person(s) is restricted, effective complaints procedures as well as independent monitoring visits are of crucial importance. Apart from the UN Convention on the Rights of Persons with Disabilities, there is another very important instrument in this context, the Optional Protocol to the UN Convention Against Torture and other Inhuman or Degrading Treatment or Punishment. This treaty require states to establish national inspection systems to monitor all places of detention, including mental health and social care institutions.

5. Hate motivated incidents against disabled persons

Finally, persons with disabilities are also victims of hate crime and hate motivated incidents. Violence, harassment and negative stereotyping has a significant negative impact on disabled people's sense of security and wellbeing. It also impacts on their ability to participate both socially and economically in their communities. Research of Human Rights First shows that of the 56 OSCE participating States 39 countries have legislation in place addressing biasmotivated violence as a separate crime or as an aggravating circumstance. Of those 39 only 7 cover 'disability' in their hate crime legislation (against 33 countries covering race/ethnicity). Another research in the UK demonstrated that 90% of people with a learning disability had experienced bullying and harassment. In addition to general awareness raising measures, hate crime against persons with disabilities should be tackled through proactive policing and prompt prosecutions.

- **Best practises and recommendations**

As Commissioner for Human Rights I will continue to closely follow the developments in all the Member states. In my dialogue with governments, I will raise the challenges identified and discuss ways forward to improve the protection against discrimination and exclusion. Full removal of social, legal and physical barriers to the inclusion of persons with disabilities will take time and require resources But it has to be done. We cannot afford keeping barriers that prevent 80 million people from fully participating and contributing to our societies as voters, politicians, employees, consumers, parents and taxpayers like everybody else.

Therefore I recommend member states to:

1. Ratify the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol and start implementing it. Use the Council of Europe Disability Action Plan 2006-2015 as a tool to make the standards a reality.
2. Develop action plans to remove physical, legal, social and other barriers that prevent persons with disabilities from participating in society. Consult with and include persons with disabilities and their organisations in the planning and monitoring of law and policies which affect them.
3. Adopt non-discrimination legislation covering all relevant areas of society.

4. Set up independent Ombudsmen or other equality bodies to monitor that persons with disabilities can fully exercise their rights.
5. Develop programs to enable persons with disabilities to live in the community. Cease new admissions to social care institutions and allocate sufficient resources to provide adequate health care, rehabilitation and social services in the community instead.
6. Review the laws and procedures for involuntary hospitalisation to secure that both law and practise comply with international human rights standards.
7. Set up independent mechanisms equipped to make regular, unannounced and effective visits to social care homes and psychiatric hospitals in accordance with the Optional Protocol to the UN Convention against Torture.
8. Tackle hate crimes against persons with disabilities through proactive policing and prompt prosecutions.