

## **THE DISABLED PEOPLE'S RIGHTS IN INTERNATIONAL LAW**

SZILVIA KELLNER

PhD student, Széchenyi István University  
dr.kellner.szilvia@citromail.hu

### **Introduction**

“In the EU, nearly 38 million people – 10 percent of the population – live with any kind of disability. Despite continuous improvement in the situation, there are still many obstacles they face, such as transportation, access to buildings, or school, for inclusion in the workplace.”<sup>1</sup> Handicapped live all over the world, who are mostly excluded from contemporary societies, inclusion and importance. The importance of the integration of persons with disabilities is twofold. First, because like all people they have the right to enjoy personal freedom, self-determination and self-realization. On the other hand, by integrating them to be able to connect to the social production, which would boost the country's economy. For disabled persons, we can create the possibility of self-preservation, so that they can safely keep themselves and their families, the State should not be a level of financial assistance to be provided, such as that it is not. In order to achieve better integration more sectors should be disabled-oriented.

What does that mean? It means, inter alia, the need to develop an industrial policy that would in healthy persons with disabilities an equal footing with their peers. However, this is not enough, but also through the education and development of the transport to be achieved.

### **1. International conventions dealing with the rights of disabled**

#### ***1.1. Universal Declaration of Human Rights***

In 1948, this declaration was adopted by the UN member states in the Palais de Chaillot in Paris, which means the international catalog of human rights.<sup>2</sup> Relevant to this, it is only a recommendation, or to states does not create any international obligations. This Convention is to “embody a general recognition that the fundamental rights and freedoms of the human being naturally belong, inalienable and equal to everyone, and that we are all born free, with equal rights and human dignity. Let us be of any nationality, sex, national or ethnic affiliation, skin color, religion, wherever we live, speak any language, or be in any other situations, the international community stated on 10<sup>th</sup> December 1948<sup>th</sup>, we're committed to dignity and a reinforcement.”<sup>3</sup> The agreement can not be located on disability rights, but the right to life, human dignity, respect for the right to education and ensure the realization

---

<sup>1</sup> Serédiné Balogh Zsuzsanna: e-Polgárok-e a fogyatékos emberek Magyarországon napjainkban? p. 30. Szeged, 2004, <http://starweb.hu/blog/downloads/e-polgarok-e-a-fogyatekos-emberek-magyarorszagon-napjainkban.pdf> (2012.04.10.).

<sup>2</sup> Bruhács János: Nemzetközi jog II. Különös rész. Dialóg Campus Kiadó, Budapest, 2004, p. 194.

<sup>3</sup> <http://www.unis.unvienna.org/> (2012.09.17.)

of this right subject to the third generation. A disabled person in respect of these rights is violated, if not secured to the barrier-free access. When a disabled person is not able to get into public institutions, schools, the workplace, or to go to post office, then his/her rights to life, human dignity and the right to education are harmed, as well. Life is not merely to be understood as biological existence, but also for independent living and participation in society.

### ***1.2. The Economic, Social and Cultural Rights, the International Covenant***

December 16, 1966<sup>th</sup> was adopted by the UN Member States. This Convention does not contain any explicit rights of the disabled persons, but declares the broad range of rights protected and sets out the need for international cooperation. “States Parties to the present Covenant recognize everyone’s right to education. They agree that education of the human person and human dignity, a sense of the full development of the human rights and fundamental freedoms, respect for the strengthening of action. They also agree on the States Parties also in that education, all persons should enable a useful role in a free society, promote understanding, tolerance and friendship of all nations and all racial, ethnic and religious groups and support United Nations for the maintenance of peace in order to work out.”<sup>4</sup> 6<sup>th</sup> section of the Agreement Article lays down the right to work everyone is entitled to freely choose the right mind. People with disabilities are also entitled to this right, so that States have a duty to society of this right without discrimination to ensure appropriate conditions. You should know that the “economic rights, the right to work and the general employment rights are the social rights of the most important social security, the right to social security and social and medical assistance right includes the right to health or the protection of rights of certain vulnerable groups, cultural rights include the right to education and the right to culture in the narrow sense.”<sup>5</sup>

Because of the economic, social and cultural rights-related areas, the question arises as to whether the economic decline of the social and cultural rights need to be returned. The answer is that to decline because of the economic situation affects the budget (suficit-deficit, inflation, deflation, and is able to increase the tax fall) and so – if we are talking about a declining economy – to reduce social assistance.

The fact that every person should be able to become a useful member of society, including the integration of people with disabilities. People with disabilities in the society of the conditions under which the enforcement of their help. The deterioration of the economic situation can not perform these tasks as an excuse, because if you can connect to people with disabilities in social production, it is likely the state will be reduced by the amount of social assistance must be provided. Disabled people will be able, at least the majority of them, to sustain themselves and their families, as well.

### ***1.3. The vocational rehabilitation and employment (disabled persons) of the Convention on the Rights of Disabled***

The agreement in Geneva, 20 June 1983, was established by the UN member states. The Convention on the rights of persons with disabilities in employment law regulates in detail. “The majority of the disability laws in the area of labor law arises because the jobs and

<sup>4</sup> Article 13

<sup>5</sup> <http://alkotmanyjog.jogiforum.hu/curriculum/chapter/1283/heading/1284#1284> (2012.09.12.)

related employment rehabilitation is a key element of the social integration of people with disabilities.”<sup>6</sup> The first article defines the concept of labor rights of disabled persons approach. States are obliged, under this provision, taking into account the fact that “the vocational rehabilitation objective is to disabled people enabling suitable employment, retention, and which must move forward, so as to allow those persons to social reintegration and reintegration.”<sup>7</sup>

Consecutive four articles discuss the employment policy of the disabled, which establishes the equality of men and women, of working conditions in which it is possible to employ the disabled. Article number 8 pays special attention to even the geographical location, states the following:

“Measures should be taken to rural and remote communities of disabled persons living in vocational rehabilitation and employment services for the establishment and development.”

The competitive economy, which is difficult to achieve, however, is desirable. In today's society, the companies are profit-driven, confined to mass production, which need a good workforce. A disabled person will not be able to meet such a target attainment of the economic, but in addition to having employed “healthy” workers, it should be possible for disabled people, because they are also able to produce a surplus. Not only would it be beneficial to employers, but also for the society, as it has been already mentioned as well as the disabled persons can become taxpayers. Such a move would be considered as an aspect of ensuring human rights, and the return on investment after one step of integration.

#### ***1.4. The Persons with Disabilities and the Convention on the Rights of Disabled***

The Convention 2006th New York on December 13 was adopted by the United Nations General Assembly. “The Convention – as a kind of code – brings together a comprehensive and coherent way that affect the fundamental rights of people with disabilities.”<sup>8</sup> Widely discussed in the preamble of the document the areas in which special attention should be paid to the States after the signing of the Convention. These areas include the human dignity of women and girls with disabilities double disadvantage of poverty and disability relationship, the concept of disability is changing, and so on. In addition, this Agreement refers to the earlier conventions, such as the foundations of the application of this document.

The agreements referred to are as follows:

1. Universal Declaration of Human Rights (1948)
2. On the Elimination of All Forms of Racial Discrimination International Convention (1965)
3. Economic, Social and Cultural Rights and the International Covenant on (1966)
4. International Covenant on Civil and Political Rights (1966)
5. Discrimination against Women, the Convention on the Elimination of All Forms (1979)

---

<sup>6</sup> Jakab Nóra: A fogyatékkal élő emberek egyes alkotmányos jogainak gyakorlati érvényesülése Magyarországon a rendszerváltás után. In: Sectio Juridica et Politica, Miskolc, Tomus XXIV, 2006, p. 225.

<sup>7</sup> Article 1, point 2

<sup>8</sup> <http://www.szmm.gov.hu/main.php?folderID=16485> (2012.09.04.)

6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention against (1984).
7. Convention on the Rights of the Child (1989)
8. Migrant Workers and Members of their Families International Convention on the Protection of the Rights (1990).

Discrimination against Women, the Convention on the Elimination – 1979th December 18 New York – is closely connected to it. 16<sup>th</sup> article of the Convention clearly establishes the right of women to freely decide on their children, the number of births between the period of time, and “to have access to all the information, education and means to enable them to exercise these rights. However, it is not always the case with women with disabilities. In history, we can find documents, court cases, which have shown that women with disabilities have been artificially involuntary sterilization.<sup>9</sup> This kind of abuse is now discontinued, but are discouraged in most cases having a child with disabilities, or call them comments. The other problem is that before and after the birth did not take into account the health care provider of the employee due to disability, handicap, and not adapted to disabled people - for example, a blind mother the navel-treatment.<sup>10</sup>

Agreement on the Rights of the Child – 1989th November 20 New York, the “disabled child to” promote self-reliance “and” active participation in community life, “allowing the living conditions should be provided. Paragraph 2 and 3 states the disabled child “special care” to the right, once again underlining the support of the development of the disabled child “really benefit from” a variety of benefits, “such that they ensure the fullest possible community integration and personality fullest unfolding ... 4 shall promote the exchange of information on international calls for States Parties to improve their opportunities and their skills.”<sup>11</sup>

The rights of disabled persons' agreement has specific measures related to children. Some practically in line with the CRC contained measures, such as the disabled children's evolving capacities on compliance (Article 3, h), the child's best interests to respect the principles and the freedom of expression and their corresponding weights (7 in Article 2, paragraph 3). The other measure goes further, more specific requirements are supported to provide adequate level of support inclusive education system at all levels (24), and that the child of one or both parents under disability must not be separated from parents (Article 23, paragraph 4.).<sup>12</sup>

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also refers to the International Convention on the Rights of People with Disabilities Convention. The prohibition of torture appears in Article 15<sup>13</sup>. The significance of this is in the medical research field, since it is known from history that research

<sup>9</sup> Dósa Ágnes: Összehasonlító egészségügyi jog Complex Kiadó, Budapest, 2012, p. 51.

<sup>10</sup> <http://www.mr1-kossuth.hu/hirek/gyermekvallalas-fogyatekos-nokent.html> (2012.09.05.)

<sup>11</sup> [http://www.tegyesz.hu/file/Szakmai\\_informaciok/Szakirodalmi\\_kitekintes/konyv.pdf](http://www.tegyesz.hu/file/Szakmai_informaciok/Szakirodalmi_kitekintes/konyv.pdf) p. 234. (2012.09.05.)

<sup>12</sup> [http://www.tegyesz.hu/file/Szakmai\\_informaciok/Szakirodalmi\\_kitekintes/konyv.pdf](http://www.tegyesz.hu/file/Szakmai_informaciok/Szakirodalmi_kitekintes/konyv.pdf) p. 235. (2012.09.05.)

<sup>13</sup> “1. Torture and other cruel, inhuman or degrading treatment (or punishment) in all persons is prohibited. In particular, no medical or scientific experiments can be done to anyone, without the free consent of the people.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities – on an equal basis with others – torture and other cruel, inhuman or degrading treatment or punishment.”

conducted on individuals who could not consent to the trials. "The first two postwar decades, even during the war, according to the usual rules for continued research in democratic countries. Although the Nazi human experiments had already become widely known, and the Nuremberg Code<sup>14</sup> governing human experimentation was known, all the research practice in democratic countries did not change. Although they knew that the Nuremberg Code, a lot of research on tilt (R concede unable disabilities on psychiatric patients, persons held in etc), which are democratic countries after World War II is widely done, though, the researchers majority, and the public believed that the Nuremberg Code basically applies to them, but condemning the Nazi experiments on human document."<sup>15</sup>

#### *1.4.1. The rights stated in the Convention on the Rights of Disabled*

The first article defines what is the purpose of the Convention. The aim is that the states of all human rights and fundamental freedoms and to full and equal exercise to protect and to ensure to all persons with disabilities and to promote respect for their inherent dignity. In order to achieve this endeavor – as is implicitly included in the first article – is not sufficient to state a passive attitude, but also actively to ensure the enforcement of these rights. This positive obligations 4 Article b), f) and g), we find that the States Parties shall undertake all appropriate measures to ensure the rights of persons with disabilities, whether legislative action is taken when a law, modify, delete, or research to support the development.

Connection with this Agreement, to draw attention to the sixth and 7 article, because they focus specifically on persons with disabilities within the multiple disadvantage groups, women's and children's rights.

The women would be less discrimination as to employment – as it is known to often in the same job role tasks of women in lower wages of these than men – but if you have disabled lives, this discrimination. The disabled child in respect of both naturally reflected in the healthy child's best interests in mind, but an injured child in respect of that interest more vigorous efforts should be a priority, and secondly, because a child's additional needs attention, need special arrangements.

A disabled child in the nature of things there are additional requirements, such as rehabilitation aids etc. to ensure.

The Convention, in particular, emphasizes the personal freedom and the right to security and cruel and degrading treatment are prohibited. These rights is in fact argues that no deprivation of liberty may be the reason for the disability, and otherwise lawfully detained persons with disabilities should also be provided the guarantees that are healthy, persons deprived of their personal liberty enjoy.

The agreement reaffirms the fundamental human rights and specifically the rights of persons with disabilities is attributed to declare. Such independent living and the right to personal mobility, which in the 19th and 20 Articles can be found.

This Article is related to the two in my opinion, since the 20th article declared the law aids and personal assistance in advance boosts achievement of independent living.

---

<sup>14</sup> 1947. december 22.

<sup>15</sup> Kovács József: Az emberen végzett kutatás és szabályozásának története etikai szemszögből. In: *Lege Artis Medicinae* 2012, 22 (3) p. 227.

States should take all effective measures to do so, “in order that the persons with disabilities for all walks of life are addressed in the maximum independence, full physical, mental, social and vocational ability, and its full inclusion, participation, achievement and retention.”

That is why the government is obliged to take these measures, more dimensions. On one side there is the state that functions as explanations, because its task is of ensuring living conditions of people in society. This is paid with the collected taxes of the population from the budget. It is often a reference to the limited budget, the implementation of certain measures. It will be understood that this reference is weak, as the national and ethnic minorities, the state can provide – and it does – conditions, take any action that this social group can promote exercise their rights, such as supporting education. Equal opportunities for the disabled, however, is far behind the European countries compared to the U.S. The disability integration is very important, not only because there are some permanent disabled persons who – as everyone else, will live in the right area, but also because of the aging of societies themselves are “harvested” persons with disabilities, as well as due to an accident. So, anyone can be included in this social group. The members of society should show solidarity to each other as they do to themselves. If the national and ethnic minorities have the opportunity to create the right environment for them to enjoy their rights, for people with disabilities it is even more essential to ensure this. You are born to be national or ethnic minority, but you can be disabled at any time.

The “action” is made in several dimensions and can also be required. First, I refer to the transport, education and the accessibility of public buildings, such as barrier-free built environment for the realization of rights obligations, on the other hand, the expansion of access to information. If the transport and education to improve accessibility is achieved, then the state budget – and at the same time members of society – burden is reduced because disabilities have an opportunity to work, with the result that they will become tax-paying citizens into and valuable members of society.

Independence, however, appears not only in this area, but also in dealing with official matters intézésénél. Public buildings should be unimpeded, and the information should be made available to people with disabilities as well as those without a disability. “Of disability, disability and people with disabilities depend on the relationship between them and their environment. Obstruction is physical, educational, social link level, if you do not have, or only hindered access of people with disabilities, all of which are open to citizens of other community systems.”<sup>16</sup> For example, barrier-free restaurants, cinemas, museums and many more. The Convention establishes a disability affairs committee, which you may want to present very briefly.

#### *1.4.2. The Committee on the Rights of Persons with Disabilities*

“The Convention provides to set up the Committee on the Rights of Persons with Disabilities. The Commission is responsible for the periodic reports submitted by States Parties to assess the evaluation and investigation of individual complaints, as well as general comments and recommendations.

---

<sup>16</sup> Fogytékos személyek jogai és jogsérelmei. Betegjogi, Ellátottjogi és Gyermejjogi Közalapítvány Jogvédelmi füzetek sorozat 9, p. 10.  
<http://www.jogvedok.hu/www/files/5aaf76fc5e89ef6596cbec034201a6c2.pdf> (2012.09.08.)

Initially there were 12 independent experts, as the number of countries which have ratified the Convention reaches sixty, then the number of members increased to 18. The Committee members – who are involved in a personal capacity as committee – appointed by the Conference of the States Parties. The Board members were selected on basis of human rights and the disabled, the state of competence and experience, further criteria for the committee is to have more regions, cultures and legal systems represented, the members of the men and women are equal, and the some members with disabilities should be among the experts.

The States Parties to the convention Committee shall consult with the selection of persons to persons with disabilities and their representative organizations.”<sup>17</sup>

This requirement is logical, as it makes you feel, and to understand more about the problems faced by people with disabilities, as a disabled person. I can also say that they are disability experts in this subject. It is important, however, that a variety of different disability issues, as well, from which it follows directly that the people suffering from various problems and represent themselves on such a committee, or organization.

## **2. Europe for the disabled**

The right of people with disabilities in the European Union is also a high priority. “The EU disability strategy for three main pillars. Theseas follows:

- The European Commission and the cooperation between Member States;
- Full integration of people with disabilities;
- The policy-making aspect of the disability to the fore.”<sup>18</sup>

It is important to note that in the interests of disabled persons they established the European Disability Forum (EDF), which was sixty-six European NGOs and disabled persons from sixteen Member of the National Council.<sup>19</sup> “EDF is an independent and unique in its platform in Europe, which has a pro-active role in the European Union institutions and decision-makers in the direction of which are promoting the protection of the rights of persons with disabilities. The objective of their daily activities is also to pursue an impact on the legal regulation of the European Union, as each EU decision and initiative at all levels have a direct impact on European citizens with disabilities in everyday life as well.”<sup>20</sup>

The EU accession states agreed to jointly decide on certain matters which have an impact on national law. Once the “80% of the economic policy decisions are made by the EU”<sup>21</sup>, so that the budget can occur differently in each state, which implies support for the disabled, a change in the amounts intended to carry as well. “Gábor Kardos tested the legal nature of the rights of persons with disabilities and concludes that since these rights are closer to economic and social rights by nature, it is essential to clarify what those rights

<sup>17</sup> Kőnczei György (sorozatszerkesztő): Fogyatékoságtudományi Tanulmányok XV. Disability Studies: A KIREKESZTÉSTŐL AZ EGYENLŐSÉG FELÉ – A FOGYATÉKOSSÁGGAL ÉLŐK JOGAINAK ÉRVÉNYESÍTÉSE 2009. [www.szimbiozis.net](http://www.szimbiozis.net) (2012.04.04.)

<sup>18</sup> Serédiné Balogh Zsuzsanna: e-Polgárok-e a fogyatékos emberek Magyarországon napjainkban? 30. oldal Szeged, 2004. In.: <http://starweb.hu/blog/downloads/e-polgarok-e-a-fogyatekos-emberek-magyarorszagon-napjainkban.pdf> (2012.04.10.).

<sup>19</sup> [http://tasz.hu/files/tasz/imce/fogyatekosmagyar\\_uv.pdf](http://tasz.hu/files/tasz/imce/fogyatekosmagyar_uv.pdf) p.14. (2012.09.11.)

<sup>20</sup> <http://www.1million4disability.eu/admin/wysiwyg/assets/pdf/declaration/HU.pdf> (2012.04.10.).

<sup>21</sup> [http://www.euvonal.hu/index.php?op=kozossegi\\_politikak&id=13](http://www.euvonal.hu/index.php?op=kozossegi_politikak&id=13) (2012.09.10.)

contained therein and the behavior required to fulfill someone. This clarification of the European Social Charter, seems to be a solution ...”<sup>22</sup>

### **2.1. European Social Charter**

The Charter of Turin, 1961. October 18 was adopted by the Member States, which “aims to citizens basic rights and strengthening the social safety.”<sup>23</sup> “The foundations of social rights, or Europe’s conscience – as usual to call Charter – but the 1961st has expanded significantly. Today, in addition to being developed in the case law of the European Social Charter is now complemented by four international conventions as well. Together, the five documents are called “Charter-package”. The newly-formed hands were chronological and concise summary of the contents as follows:

- The Additional Protocol (1988.), Which is essentially the provisions of the Charter of the expansion and modernization of certain services through the incorporation of four new laws, some quarter of a century after the creation of the Charter,
- The Protocol of Amendment (formed in 1991) of the Charter more effective controls mechanism,
- The Collective Panaszjog on the provision of the Additional Protocol (1995). The Charter also controls mechanism more efficiently,
- And finally, in the new millennium, social and economic rights of performing a wide horizon Revised European Social Charter (1996).<sup>24</sup>

It is important to note that the Member States have the possibility to choose the Charter stated right whose agrees to perform, but in a way that “five of the selected seven rights (right to work, to organize law, collective bargaining law, labor rights, social and health assistance, the right to the right of the family to social, legal and economic protection of the rights of migrant workers and their families to protection and assistance), one should avoid.”<sup>25</sup>

The integration of people with disabilities are also shown.

“The support of people with disabilities were treated for a long time with the support of the elderly, since the Second World War, the development of people with disabilities to support special way in the wake of the Anglo-Saxon laws. The traditional principles of aid is now out of date, and the class of persons in respect of this legislation increasingly focuses on vocational training and rehabilitation, in a word, the reintegration into society of focus. The all-important goal is to empower these people back to work and independence. The Charter reflects this principle, and after the 9th and 10 articles refer to people with disabilities, a separate level of its social right of physically or mentally disabled persons to education, vocational rehabilitation and social re-integration right. Such a right is

<sup>22</sup> Jakab Nóra: A fogyatékkal élő emberek egyes alkotmányos jogainak gyakorlati érvényesülése Magyarországon a rendszerváltás után In: Sectio Juridica et Politica, Miskolc, Tomus XXIV (2006). p. 223. [http://www.matarka.hu/koz/ISSN\\_0866-6032/tomus\\_24\\_2006/ISSN\\_0866-6032\\_tomus\\_24\\_2006\\_219-237.pdf](http://www.matarka.hu/koz/ISSN_0866-6032/tomus_24_2006/ISSN_0866-6032_tomus_24_2006_219-237.pdf) (2012.09.23.)

<sup>23</sup>[http://www.euvonal.hu/index.php?op=kerdesvalasz\\_reszletes&kerdes\\_valasz\\_id=100](http://www.euvonal.hu/index.php?op=kerdesvalasz_reszletes&kerdes_valasz_id=100) (2012.09.10.)

<sup>24</sup> A szociális jogok az emberi jogok között. Jogtudatosság a szociális jogok terén. Betegjogi, Ellátottjogi és Gyermejjogi Közalapítvány Jogvédelmi füzetek sorozat 1. szám 2006. június, p. 15 <http://www.jogvedok.hu/www/files/f2494007e20f145bfc08c0c41f23164a.pdf> (2012.09.11.)

<sup>25</sup> Ibid.

inconceivable in the absence of the tools that are to pursue, therefore, the provisions of the Charter includes some of the relevant ILO recommendations are also displayed.”<sup>26</sup>

“Persons with disabilities apart from the origin and nature of their disability have the right to vocational training, rehabilitation and resettlement.”<sup>27</sup> The agreement initially declared general rights as the right to work, the protection of women and children within the employee, and so on, but in the 15th article specifically refers to persons with disabilities.

“The right of physically or mentally disabled persons to vocational training, rehabilitation and resettlement, ensuring to exercise their rights effectively, the Contracting Parties undertake to

1. take appropriate measures to ensure training opportunities, where necessary, in the public or private specialized institutions as well;

2. take appropriate measures to physically disabled people to work, such as specialized search services, creating employment, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.”

The 9th and 10th Articles – The right to vocational guidance and training to law – deals with ensuring the rights of the disadvantaged. Disadvantaged include not only national, ethnic minorities, or the poor mothers, but also the disabled. I think we could establish an organization that would help the handicapped people’s career choice according to personal ability (endowments) properly.

## ***2.2. Charter of Fundamental Rights of the European Union***

On 29th November, 2007 the European Parliament approved the Charter of Brussels. “The Union recognizes and respects the right of persons with disabilities to ensure their independence, social and occupational integration and participation in the community life of the community.”<sup>28</sup> Attached to this resolution includes the following: “EU Disability Strategy emphasizes an inclusive, quality education and lifelong learning, equal access to important, which are essential for people with disabilities in social life full participation in preparing and quality of life improvement.” “Available in built environment, transport and thus established information and communication technologies (ICT) in both urban and rural areas are crucial for a society, which is really important to exercise human rights and offer real autonomy to its citizens and provide them with an independent, active economic and social life for the continuation of devices. Such accessibility is not less than the non-discrimination on the basis of an inclusive society is a cornerstone.”<sup>29</sup>

Attached to this resolution includes the following:

“In this large group members have the same rights as any other European citizen. The EU has recognized that the rights of persons with disabilities may require that you pay particular attention to manage the wide range of issues that affect them. The primary objective is to ensure that disabled people can fulfill their role as citizens and perform their

---

<sup>26</sup> Szakképzésről (felnőttek) szóló 88. Ajánlás, 1950 és a Szakmai Rehabilitációról (fogyatékkal élők) szóló 99. Ajánlás, 1955. In.: Lenia Samuel: Alapvető szociális jogok. Az Európai Szociális Karta esetjoga. Európa Tanács Strasbourg, 1997. p. 194

<sup>27</sup> Part I, point 15

<sup>28</sup> Article 26

<sup>29</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:075:0001:0004:HU:PDF> p. 2

related tasks. Similarly, it is important to enjoy the same freedom in decision-making capabilities and management of their lives as non-disabled peers. Initiatives in this area have access, social inclusion and to ensure equal treatment should aim at.

As a result, the Community is a major concern that is available to all who need long-term care and support services under consideration. In addition, the EU's focus on reducing the burden of disability is to provide habilitation and rehabilitation, disability and economic consequences of social and health inequalities. The key responsibilities in this area to reduce social exclusion, barriers and barriers, the promotion of mobility and the means to exploit the opportunities offered by information technology.”<sup>30</sup>

As you can see, the states are treated as a matter relevant to the integration of people with disabilities that requires professional training, specialized institutions to promote and encourage employers. Although it is only a very brief description of the rights of disabled people, and not detailed, it is an important rule of the Charter, since it is also confirmed that the disabled persons should not be excluded, but must be admitted.

### **3. Guidelines and other rules**

#### **3.1. The EU Council Recommendation 86/379/EGK**

The recommendation for employment of persons with disabilities sets out the principle to access employment and occupational training. It emphasizes the elimination of discrimination and to consult<sup>31</sup> with persons with disabilities. “The appendix of the recommendation – which is unusually large - Appendix contains guidelines for positive action to be taken (...)”<sup>32</sup>

#### **3.2. The EU Council Directive 2000/78/EC**

On 27th November, 2000 it was established by the Directive. Its essence is to eliminate discrimination and promote equal working conditions. Banning discrimination of the handicapped, and the protection of such persons appears more than once in the directive and in the introduction. Article 5, however, explicitly specifies an obligation on Member States that the needs of persons with disabilities must be reasonably applied. “The principle of equal treatment in relation to persons with disabilities, reasonable accommodation shall be provided. This means that employers shall take appropriate and any necessary measures to enable the disabled person to enable access to employment, to work in the promotion of the transfer or training, unless such measures disproportionate burden on the employer and

---

<sup>30</sup> [http://ec.europa.eu/health-eu/my\\_health/people\\_with\\_disabilities/index\\_hu.htm](http://ec.europa.eu/health-eu/my_health/people_with_disabilities/index_hu.htm) (2012.04.10.).

<sup>31</sup> “Continuing and developing systems of national, regional and local authorities' consultation, coordination and participation, including in this exercise the public services and agencies, the voluntary organizations, independent professionals, the two sides of industry and the media as well as disabled people and their families.” <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986H0379:EN:HTML> (2012.09.18.)

<sup>32</sup> In: Kálmán Zsófia - Könczei György: A taigetosztól az esélyegyenlőségig Osiris Kiadó 2002, p. 223

the member states. This burden shall not be disproportionately considered, provided that the Member is sufficiently remedied by measures of disability policy.”<sup>33</sup>

The employer's obligation is to appear on the national level, this obligation includes the provision of flexible working hours, accessibility, assistive technology, making available for the measures discussed by the disabled person and so on. These measures are, of course, implications in the material, however, this is doubtly recovered. “The employer can provide employers rehabilitation assistance to employment require a compensating wage subsidy and cost allowances. The occupational rehabilitation wage subsidies for disabilities employed for salaries and dues in proportion to 40–100% of the cost may provide support to employers who have at least a 50% working capacity change medico-certified employees a good working environment, work organization permit, labor and health and safety conditions for their abiding by the rules. Otherwise work place, job retention at – the specified conditions are met - the less than 50% of jobs in the health-worker can determine a maximum rate of 60% wage subsidy. Another option is to help people directly involved in the work with 100% reimbursement of wages, the proportion of time spent working, if it is justified by the state of employment.”<sup>34</sup> If you are not financially worth it, but morally yes, because the company can develop a positive image and appreciation for the opportunity, is to apply for awards.

### **3.3. The EU Commission Regulation 800/2008/EK**

On 6th August 2008, the Committee took this Regulation which can be found in the introduction of the requirement that the employment of people with disabilities in the State, namely the society as a community of people, through the support of employers. “The disadvantaged and disabled workers, training and support for the location and the employment of disabled workers in compensation for the additional costs of the Community and the Member States' central objective of economic and social policy.”<sup>35</sup> “The wages of disabled workers in the form of grants, support for the disabled worker is calculated based on the degree of disability, or a lump sum may be granted, provided that none of these methods lead to the individual workers concerned, the maximum aid intensity for grants.”<sup>36</sup> This support comes from the Labour Market Fund, which serves to increase employment, so that the grant of the European Community Treaty 87 and 88 the Commission of Article 87 of the Regulation of 800/2008/EK and 88 For the purposes of Article certain categories of aid compatible with the common market in line with declaring.<sup>37</sup>

“The employer for disabilities people in employment relationships in the employment of the labor and social security contributions up to 60% of the amount of support may be up to one year, a minimum of twenty-four months of job seekers registered as individual jobs to a maximum period of two years if the employer

---

<sup>33</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=DD:05:04:32000L0078:HU:PDF> p. 4 (2012.04.10.)

<sup>34</sup> [http://hvg.hu/egyeb/20090623\\_fogyatekkal\\_elok](http://hvg.hu/egyeb/20090623_fogyatekkal_elok) (2012.09.18.)

<sup>35</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:214:0003:0047:hu:PDF> p. 9.

<sup>36</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:214:0003:0047:hu:PDF> p. 10. (2012.04.10.)

<sup>37</sup> <http://www.ohe.hu/blog/tamogatasok-2012> (2012.09.17.)

1. public debt-free,
2. complies with the requirements of sound labor relations,
3. Flt § 8 (6), b) the obligation of jobs in the request for the 6 months prior to the submission complied with, and the job centers mediated by the employment of a person undertakes
4. Support for the 12 months preceding the application for the same or a similar position in relation to the worker arising from operating among ordinary notice did not terminate, and
5. is committed to the employment relationship for the duration of the grant laid down in the preceding paragraph does not eliminate the reason,
6. employment for at least 12 months, undertake
7. or shorter time employment to undertake proportionally less aid [General Block Exemption Regulation 41 (5)]<sup>38</sup>

#### **4. Establishing the European Community, 97/C 340/03 amending treaty agreements**

##### **4.1. Treaty of Lisbon**

In this agreement – 1st December 2009 – the article on disability can be found in it. “In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation discrimination.”<sup>39</sup>

##### **4.2. Madrid Declaration**

“2002 took place in May in Madrid is the European Disability Congress, with more than 400 participants laid a statement of disabled people's vision of future showing the year 2003, that is, the Disabled People European Year of action for the conceptual framework of the European Union, national, regional and local level both. The Madrid Declaration as “an inclusive society based on non-discrimination, coupled with positive action.”<sup>40</sup> The declaration discusses the handicapped accessibility of everyday life and the integration of such persons.

##### **4.3. The Amsterdam Treaty**

Contract – 1999. May 1 – Emphasizes the prohibition of discrimination, which specifically include disability as a ground of discrimination, also are named.<sup>41</sup> In a statement to appear in the contract, which declares that disabled people needs to be considered.

“The Conference agrees that Article 100a of the Treaty establishing the European Community, when devising measures to be taken pursuant to the Community institutions take into account the needs of persons with disabilities.” It's basically just a moral obligation. This agreement confirms the Community's social policy.

#### **5. United States of America and the disabled**

Without being exhaustive, I will present only one American law, which declares the rights of the disabled. We should mention a few words about the rights of people with disabilities

<sup>38</sup> Ibid.

<sup>39</sup> Article 5b

<sup>40</sup> Szöllősiné Földesi Erzsébet: Akadálymentes Európa felé? <http://www.megvaltozott.hu/docum/akment.pdf> p. 15. (2012.09.18.)

<sup>41</sup> Article 6a

in American history. "The independent living movement in the U.S. started 1960 years out of Berkeley, California. The movement's founder Ed Roberts, who in 1962, after two years of fighting finally could get into the local university (formerly the California Rehabilitation Office rejected his application, because of severe physical injury). Roberts was not only disabled but still had to use iron lung because of his serious illness (polio). (...) However, the situation changed slowly, which is reflected in the fact that the movement's birth and the 1964 Civil Rights Act (hereinafter the Anti-Discrimination Act) after the adoption of Jacobus tenBroek, professor of Political Science at Berkeley - who is also the founding president of the National Association for the Blind - explained about the importance of community and acceptance of rights: they exist."<sup>42</sup>

The movement sought to persons with disabilities have the opportunity to decide their own destiny and lives hand.

### **5.1. Americans with Disabilities Act**

The rights of disabled people were regulated in the United States for the first time in 1990, the Americans with Disabilities (ADA). This law prohibits discrimination based on disability in community care, commercial facilities, transportation and telecommunications.<sup>43</sup> "The so-called ADA model is based on civil rights, discrimination because of disability as a result of the decisions and employers 'perverse' accommodation reasonable", ie the refusal to provide moderate conditions. Introduction of the Act defines a disability as a minority people ... the ADA in 1998 was taken to strengthen the human resources development, and the ADA, Section 508 of the new Act supplement (Workforce Investment Act of 1998). The purpose of this law is that the electronic and information technology accessibility for disabled employees and customers in order to provide for federal and state organizations, including the postal service, provided this does not result in an "extraordinary burden". In addition, the rehabilitation system is reformed, creating a so-called one-stop integrated service. One-Step Career Centers Network. The point was that an integrated system of vocational rehabilitation, adult education and other socially disadvantaged educational and training programs.<sup>44</sup> If we compare the ADA definition of disability that I previously analyzed by Directive 2000/78/EC<sup>45</sup>, it is clear that the protection of the Directive is broader than the ADA's, since it is not specifically named in the concept of disability, but must articulate itself in the States.

### **5.2. Individuals with Disabilities Education Act**

This law is the possibility of learning disabilities deal. Everyone has the right to education. This fundamental right can be found in all legal systems. In order to meet this fundamental

---

<sup>42</sup> Lovász: i. m. p. 4

<sup>43</sup> "The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications." [www.ada.gov/cguide.htm#anchor62335](http://www.ada.gov/cguide.htm#anchor62335) (2012.04.13.)

<sup>44</sup> Lovász László: A fogyatékos emberek jogi helyzete az USA-ban és a megerősítő intézkedések mint jogintézmény fejlődése p. 7. [www.ncsszi.hu/download.php?file\\_id=430](http://www.ncsszi.hu/download.php?file_id=430) (2012.04.13.)

<sup>45</sup> "Directive within the meaning of the term 'disability' means a korlátozottsággént, in particular from physical, mental or psychological impairments and which hinders the person from participating in professional life." [www.jogiforum.hu](http://www.jogiforum.hu) (2012.04.13.)

fact, we need special rules for the disabled. Of this Act, the Education Program to develop the schools expect that the special remedial education and related services outlined in the children's special needs. It requires the establishment of a school that provides children with disabilities in accordance with the individual if we take into account their needs, education.<sup>46</sup>

### **Completion**

The integration of people with disabilities has not been fully realized, but rather it seems we are at the beginning of this process it seems. Although considerable progress has been made, but they are far from sufficient to achieve full integration in all states. Societies must take responsibility, not only to them but also to the members to one another and for themselves as well, because eventually all of the people should show some of solidarity – sacrifices – ability and willingness. This act may be called love.

---

<sup>46</sup> “The Individuals with Disabilities Education Act (IDEA)... requires public schools to make available to all eligible children with disabilities a free appropriate public education in the least restrictive environment appropriate to their individual needs.” [www.ada.gov/cguide.htm#anchor62335](http://www.ada.gov/cguide.htm#anchor62335)